



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

**FILED**

11/02/23

04:59 PM

**A2311002**

Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE's Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851.

Application 23-11-\_\_\_\_

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MARKETING AND ACCESS AGREEMENT AND SCE'S ASSIGNMENT OF  
EXISTING AGREEMENTS OR, IN THE ALTERNATIVE, APPROVAL OF THE SAME  
PURSUANT TO PUBLIC UTILITIES CODE SECTION 851**

**REQUEST FOR EXPEDITED SCHEDULE**

CLAIRE E. TORCHIA  
GLORIA M. ING  
Southern California Edison Company  
2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770  
Telephone: (626) 302-1999  
E-mail: Gloria.Ing@sce.com

HENRY WEISSMANN  
Munger, Tolles & Olson LLP  
350 South Grand Avenue, 50<sup>th</sup> Floor  
Los Angeles, CA 90071  
Telephone: (213) 683-9150  
E-mail: Henry.Weissmann@mto.com

Attorneys for  
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: **November 2, 2023**

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**REQUEST FOR EXPEDITED SCHEDULE**

**I.**

**INTRODUCTION**

Through this Application, Southern California Edison Company ("SCE") respectfully requests an Order from the California Public Utilities Commission ("Commission" or "CPUC") involving its current and future business of entering into agreements for limited use of its transmission towers and other utility property by wireless communications carriers and wireless telecommunications site management companies ("Carriers") to attach or install telecommunications<sup>1</sup> equipment, structures, and facilities (the "Proposed Transaction"). In the Proposed Transaction, a third-party buyer would provide SCE an upfront payment and agree to providing SCE a share of future incremental revenue streams in exchange for the assignment of

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<sup>1</sup> In this Application, the terms communications and telecommunications are used interchangeably. Also, references to "Chapters" refer to Exhibit SCE-01, while "Sections" refer to this Application.

certain of SCE's rights under existing agreements with Carriers ("Legacy Agreements"). The buyer would also receive the right to market to and contract with Carriers for new tower sites and new ground sites. SCE's rationale for undertaking the Proposed Transaction is to monetize and potentially increase the revenue stream from this business for the benefit of SCE and its customers.

SCE has filed this Application to confirm that Commission approval pursuant to Section 851<sup>2</sup> is unnecessary because the Proposed Transaction complies with General Order ("GO") 69-C, which gives public utilities authority to grant revocable easements, licenses and permits for certain limited uses of public utility property without seeking further special authorization. SCE believes that both the Legacy Agreements entered into under Section 851 (the "Legacy 851 Agreements") and the other agreements in the Proposed Transaction meet the requirements of GO 69-C—notwithstanding that the Commission previously approved the Legacy 851 Agreements and required approval of undefined "substantive amendments" for two of the agreements in two prior orders—because they grant only revocable, limited-use rights that maintain utility primacy over use of utility property and do not require environmental review.<sup>3</sup> Specifically, the Legacy 851 Agreements and other agreements in the Proposed Transaction (1) grant rights for only a limited use of SCE's property, which is the attachment and installation of communications equipment or communications facilities that are easily removable; (2) allow SCE to revoke a tower or ground site for utility service or business needs, if deemed necessary by SCE or mandated by SCE's regulators; (3) ensure that the use permitted does not interfere with SCE's utility operations or provision of utility services to customers; and (4) preserve compliance with GO 159-A and do not require approval under the California Environmental Quality Act ("CEQA").

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<sup>2</sup> All statutory provisions refer to the California Public Utilities Code unless otherwise noted.

<sup>3</sup> Commission approval of the assignment of Legacy Agreements entered pursuant to GO 69-C is not required and is not part of the relief requested in this Application.

In the alternative, SCE requests authority under Section 851 to execute the Proposed Transaction, including assigning rights under the Legacy 851 Agreements, and to allow the buyer to enter into future agreements with Carriers using the forms of agreement included as exhibits to the Site Marketing and Access Agreement, attached to this Application as Appendix C, without further approval under Section 851. Should approval be necessary under Section 851, and because SCE intends to conduct the marketing process in parallel with the Commission's review of this Application, SCE proposes to submit the final signed agreements with the buyer via a Tier 2 Advice Letter for approval by Commission staff following a decision on this Application and to close the Proposed Transaction upon such staff approval.

Finally, regardless of whether the Proposed Transaction is found to meet the requirements of GO 69-C or is approved under Section 851, SCE proposes that, consistent with GO 69-C, no ongoing reporting requirements are necessary with respect to either the Legacy Agreements (including the Legacy 851 Agreements) or future agreements using the forms of agreement included with this Application entered into following the closing.

SCE plans to conduct the marketing process for the Proposed Transaction in parallel with this Application. SCE has designed this approach with the assistance of its financial advisor, PJT Partners ("PJT"). Filing this Application before entering into a signed agreement with a buyer is intended to provide greater confidence to potential buyers that the Proposed Transaction will be consummated as quickly as possible after signing and lessen the delay and risk that accompanies the interim period between signing and closing. Thus, SCE believes its approach will help ensure that SCE and its customers receive full value and maximum benefit from the Proposed Transaction.

SCE submits that the Proposed Transaction will serve the interests of SCE, its customers, and the public. SCE expects the Proposed Transaction to accelerate and potentially increase the overall value derived from Carriers and to increase their use of tower and ground sites, which will benefit SCE and its customers financially. The upfront payment and future revenues from the Proposed Transaction will be shared with SCE customers through the Gross Revenue Sharing

Mechanism (“GRSM”) for Non-Tariffed Products and Services (“NTP&S”). Additionally, the Proposed Transaction is designed to promote the deployment of wireless technologies and networks for customers and the public. Moreover, the Proposed Transaction will not change any safety or other operational compliance obligations of SCE or Carriers, including under General Orders 95 and 159-A, and does not pose any risk of harm to customers or to SCE’s ability to provide safe and reliable electric service.

In sum, SCE requests that the Commission approve the Proposed Transaction under GO 69-C as in the public interest, because (a) it makes productive use of otherwise unused space on utility property and accelerates the development and deployment of advanced wireless network infrastructure, in furtherance of the goals of both Commission and state; (b) it provides short- and long-term economic benefits to customers, which will be realized through operation of the GRSM; and (c) it preserves the primacy of utility uses of the property in question, and creates no risk of any disruption of regulatory compliance or utility services to customers.

## **II.**

### **DESCRIPTION OF LEGACY AGREEMENTS WITH CARRIERS AND THE PROPOSED TRANSACTION**

SCE discusses its current Legacy Agreements with Carriers in Section A below, and the terms of the Proposed Transaction and related agreements to be entered into with the buyer and Carriers in Section B. SCE discusses the rights it would reserve in the assignment of the Legacy Agreements and under the Proposed Transaction to ensure the primacy of utility operations, safety, and customer service in Section C. Finally, SCE describes the services it will provide to the buyer following closing of the Proposed Transaction in Section D.

#### **A. SCE’s Existing Tower and Ground Site Agreements with Carriers**

In connection with its utility operations, SCE has constructed a substantial number of transmission towers and uses a substantial number of real estate parcels. Over the last several



decades and as permitted by the Commission, SCE has entered into the Legacy Agreements with Carriers, which allow Carriers to make use of temporarily available space on towers or at certain ground sites for the attachment or installation of equipment, structures, and facilities used by Carriers to provide services to their customers. Specifically, SCE has entered into limited-use agreements with Carriers and other entities for (a) the attachment of communications equipment on, under and around electric transmission towers and other structures (the “Legacy Tower Sites”); and (b) the construction, installation, and operation of monopoles<sup>4</sup> or other communications facilities at ground sites (the “Legacy Ground Sites,” and together with the Legacy Tower Sites, the “Legacy Sites”). The Legacy Sites are governed by terms and conditions set forth in the Legacy Agreements through master and site-specific agreements with Carriers and in some cases in stand-alone agreements with Carriers.<sup>5</sup>

The Legacy 851 Agreements are license-to-lease conversions that were approved by the Commission in six prior decisions under Section 851,<sup>6</sup> while other Legacy Agreements have been entered into pursuant to GO 69-C. All Legacy Agreements, including Legacy 851 Agreements, provide only a limited use to the applicable Carrier and reserve rights to SCE that prevent interference with SCE’s public utility operations, consistent with the requirements of GO 69-C.

## **B. Overview of the Proposed Transaction and Primary Agreements**

The Proposed Transaction consists of an assignment and grant of rights to a buyer through two primary agreements, a Purchase and Sale Agreement (PSA) and a Site Marketing

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<sup>4</sup> A monopole is a single freestanding pole designed and installed to support communications equipment. Monopoles are not used for electric transmission.

<sup>5</sup> At closing of the Proposed Transaction, SCE will deliver a schedule of the Legacy Agreements being assigned to the buyer.

<sup>6</sup> See D.02-12-023; D.02-12-024; D.02-12-025; D.04-02-041; D.04-02-042; *see also* SCE-01, Chapter II at A.1 and A.2.

Access Agreement (SMAA), along with certain other forms of agreement to be used at or after closing of the Proposed Transaction.<sup>7</sup>

Under the PSA, SCE would assign to a single third-party buyer SCE's rights and obligations under the Legacy Agreements, other than SCE's reserved rights, as discussed below. The rights and obligations that would be assigned to the buyer include the right to receive the annual rent and use fees for each assigned Legacy Site for the period following the closing of the Proposed Transaction until the end of the rental term under the SMAA.

In addition, under the PSA and SMAA, SCE would grant rights to the buyer with respect to three categories of sites, as described in Chapter III.C of Exhibit SCE-01. First, SCE would grant exclusive rights for a limited period of time to the buyer to market, manage, and execute new agreements for Carrier facilities on new tower sites.<sup>8</sup> Second, SCE would grant non-exclusive rights for a limited period of time to the buyer to market, manage, and execute agreements for Carrier facilities on new ground sites. Third, SCE would grant the buyer the right to administer and manage the Legacy Agreements for the Legacy Sites, which would include billing, collecting, and managing payments from the Carriers and other counterparties, and the renewal or termination of Legacy Sites.<sup>9</sup>

The PSA and SMAA also provide the terms and conditions that govern the activities of the buyer and SCE. For new sites, both tower and ground, the buyer would enter into new

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<sup>7</sup> SCE and the buyer will also enter into a Master Lease Agreement and a Master License Agreement, which are intended to convey the leasehold interest and real property license rights to the buyer to enable it to sublease or sublicense the tower sites and ground sites for the proposed limited use, as contemplated by the SMAA. These are attached as Appendix E. Forms of the PSA, SMAA, and the other agreements are attached as Appendices B through E to this Application.

<sup>8</sup> For purposes of applicable real estate law, SCE will grant to the buyer a lease for sites located on property owned in fee title by SCE, and a license for sites located on property in which SCE holds a non-fee title interest (e.g., an easement or license). These new tower sites may be located on SCE's transmission towers that do not already have Carrier equipment attached, or on towers or other structures on which Carrier equipment is located at the closing of the Proposed Transactions (which could involve a co-location site between two Carriers).

<sup>9</sup> The buyer would not be permitted to use the Legacy Agreements to grant rights to new sites to Carriers.

agreements with Carriers, the forms of which are attached to the SMAA. These consist of an agreement between SCE and the buyer, and a corresponding agreement between the buyer and the Carrier, pursuant to which the Carrier is allowed to attach or install equipment at the new site for a limited period of time. As discussed in more detail in Section C below and in Exhibit SCE-01, the PSA, SMAA, and the forms of agreements reserve the same rights for SCE as the rights SCE currently reserves under the Legacy Agreements.

Under the Proposed Transaction and as described in Chapter III.E of Exhibit SCE-01, the buyer will have rights of varying duration. For the Legacy Sites, as well as those sites for which an application with SCE by a Carrier is pending at the time of closing (“Pipeline Sites”), the buyer will have the right to enter into agreements with Carriers for a period to be negotiated with SCE, but which SCE expects may be as long as fifty years or potentially even longer. For new tower sites and new ground sites, the buyer will have the right to market and enter into agreements with Carriers for a period to be negotiated with SCE, but which SCE anticipates will be for a limited number of years. The initial period will be subject to renewal for an additional period if the buyer meets certain installation thresholds. If the buyer does not meet the agreed-upon installation thresholds, then the marketing and contracting rights granted to the buyer under the SMAA will terminate (although the agreements with Carriers entered during such period will not terminate).

In exchange for the foregoing, the buyer will compensate SCE in the form of an upfront payment and a share of future revenue generated by the buyer. Under the SMAA, SCE will also receive revenue for providing certain services to the buyer, discussed below. All of the amounts paid by the buyer to SCE as the upfront payment, as a share of future revenue generated by the buyer, or as payment for services provided by SCE will be treated as revenue from SCE’s NTP&S<sup>10</sup> and shared with customers in accordance with SCE’s GRSM. Ratemaking for the

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<sup>10</sup> The Commission has determined that the placement of third-party communications equipment and attachments on transmission towers, distribution poles, facilities, conduits, etc. as well as the use of  
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revenue from the Proposed Transaction is described further in Section VI, below, and Chapter V of Exhibit SCE-01.

**C. Reservation of Utility Rights**

Consistent with GO 69-C, the Proposed Transaction will ensure that SCE's utility rights and interests will be protected in connection with both the assignment of Legacy Agreements and with future agreements for tower and ground sites entered into between the buyer and Carriers.

As described in Chapter III.D of Exhibit SCE-01, SCE will not assign to the buyer specified rights and obligations contained in the Legacy Agreements, including rights and obligations that are required to be performed by SCE as a utility or that can only be reasonably performed by SCE as a utility. SCE will retain the right to terminate a Legacy Agreement for a tower site or a ground site if required for utility business needs. SCE will also retain rights and obligations to perform work on a transmission tower, to install and remove all communications equipment directly attached to a transmission tower and to access a Legacy Site to provide utility services. The assignment of SCE's contractual rights and obligations related to Legacy Sites to the buyer will therefore not interfere with SCE's operations, practices, and services as a utility.

To ensure that any agreements for new tower sites and new ground sites contain the terms and conditions necessary to protect utility interests, the buyer will be permitted to enter into agreements with Carriers using only agreed-upon forms that contain terms necessary to protect utility interests. Under the SMAA and these form agreements, SCE will deny an application for a new tower or ground site if the proposed new site is infeasible, unsafe, or incompatible with utility operations, and SCE may deny an application for a new ground site in its sole discretion. Moreover, SCE will retain broad rights to terminate specific tower or ground sites for utility business needs or as otherwise required by law. The buyer's right to use a tower or ground site

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communications and computing systems are permissible NTP&S. D.99-09-070, Attachment A; D.02-12-024.

will also be dependent on that site remaining available for utility use. For example, if a specific tower is removed from service as an electric utility asset, SCE may terminate the buyer's and the Carrier's rights to such site.<sup>11</sup>

In addition, consistent with the Legacy Agreements, the right of the buyer and any Carrier to use a tower or ground site will be subordinate to SCE's rights to use the tower and other property in providing electric service to its customers. This includes the right to enter and use the tower and underlying property and to remove towers or property from service as utility assets, SCE's priority over the buyer and Carrier to restore its own equipment and capacity in the event any incident impacts the functionality of a tower, exclusive rights for SCE to perform certain types of work at the site (including any work that requires contact with a transmission tower), termination rights for utility business needs, and adherence to environmental protocols and operational procedures and guidelines provided by SCE.

#### **D. SCE Services to the Buyer**

As described in Chapter III.F of Exhibit SCE-01, the buyer will be required to obtain certain services from only SCE for the continued maintenance and operation of the Legacy Sites and other new tower and ground sites managed by the buyer following the closing. These include review of an application for a new site, engineering and structural analysis to evaluate the feasibility of a new site, and the installation, maintenance, replacement and removal of all communications equipment attached to transmission towers. SCE may also provide certain optional services to the buyer at its discretion, such as engineering and project management support or assistance with obtaining third-party land rights. Similar to the Legacy Agreements, SCE will charge the buyer (who will in turn charge the Carrier) for such services on a cost-plus

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<sup>11</sup> Upon request by the buyer, SCE will attempt to find a new suitable location for the Carrier's communications equipment. If SCE is unable to offer a suitable alternative to the buyer, SCE may be required to pay a termination fee to the buyer if the site terminated is a Legacy Site or a Pipeline Site.

basis, which would include the applicable revenue-sharing-mechanism adjustment pursuant to the GRSM.

### III.

#### **PUBLIC INTEREST AND CUSTOMER BENEFITS OF THE PROPOSED TRANSACTION**

The Proposed Transaction aligns with the Commission's goals to make productive use of unused utility space and to advance the deployment of wireless networks. It also provides tangible economic benefits to customers by accelerating (and potentially increasing) the revenue derived from this business segment. And the Proposed Transaction does so in a manner that preserves the primacy of SCE's use of underlying property for utility service needs and that does not change or lessen current safety, regulatory or environmental obligations. The Commission should therefore find the Proposed Transaction to be in the public interest, as it has with prior similar transactions.<sup>12</sup>

#### **A. The Proposed Transaction Promotes the Public Interest in Advancing the Deployment of Wireless Networks**

The assignment of SCE's rights to the buyer is designed to increase the number of sites used by Carriers, which can help to expand and expedite the deployment of wireless network infrastructure. SCE and its financial adviser, PJT Partners, expect that the buyer will come from a pool of U.S. communications infrastructure investors and U.S. public tower operators with existing tower assets and platforms. These types of investors are principally involved in the communications tower attachment business, and as such have a greater level of operational focus and expertise with respect to marketing attachment sites to Carriers than SCE.

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<sup>12</sup> See D.04-02-042 (Conclusions of Law 4 & 5); D.04-02-041 (Conclusions of Law 4 & 5).

“[T]he Commission has long recognized that the public interest is served when utility property is used for other productive purposes without interfering with the utility’s operations or the provision of utility service to the public,”<sup>13</sup> and has sought to encourage such joint use where appropriate.<sup>14</sup> Such joint use is particularly appropriate, the Commission has determined, with respect to the siting of wireless telecommunications facilities.<sup>15</sup> Indeed, the recent COVID-19 pandemic has further underscored the public need for broadband access. As the Commission has noted, “[t]he COVID-19 pandemic has highlighted the extent to which broadband access is essential for public safety, public health and welfare, education, and economic resilience, adding greater urgency to developing new strategies and expand on existing successful measures to deploy reliable networks with affordable service.”<sup>16</sup>

Not only is the Proposed Transaction designed to advance wireless broadband infrastructure by facilitating the use of unused utility space for telecommunications equipment, but the buyer’s ability pursuant to the SMAA to increase the use of tower and ground space by Carriers can help expand, improve, and update wireless communication networks throughout the region, including advanced 5G and next generation networks, and do so more quickly.<sup>17</sup> As

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<sup>13</sup> D.04-07-023, p. 13; *see id.* at Conclusion of Law 5; D.04-07-021 (Conclusion of Law 16); *accord* D.02-12-025; D.02-12-024; D.02-12-023; D.00-07-010.

<sup>14</sup> D.00-07-010 (Conclusion of Law 1); D.02-03-059 (Conclusion of Law 3); D.02-12-023 (Conclusion of Law 1); D.02-12-025 (Conclusion of Law 1).

<sup>15</sup> *See* GO 159-A (May 8, 1996); D.04-07-021 (cellular system constructions are “in the public interest to use existing utility property for the siting of telecommunications equipment;” D.02-12-018 (referencing “the Commission’s policy of favoring the use of existing utility facilities for the development of telecommunications infrastructure”); D.02-12-025 (deeming it reasonable for California’s energy utilities “to cooperate in this manner with telecommunications utilities that seek to build an updated network”); Rulemaking 20-09-001 (2020) (referencing the Commission goal to “accelerate the deployment of and access to quality, affordable internet for all Californians,” in accordance with “state policy to promote universal and ubiquitous access to advanced telecommunications technologies and services for all Californians”); Cal. Pub. Util. Code § 709 (declaring state telecommunications policy); and Cal. Pub. Util. Code § 281 (directing the Commission, among other things, “to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies”).

<sup>16</sup> D.22-04-055, p. 6.

<sup>17</sup> D.02-12-025; D.02-12-024; D.02-12-023.

recognized by the Commission, building 5G networks is of critical importance and will hold the potential to create three million new jobs in our country and \$500 billion in GDP growth as well as providing additional competition in the market for in-home connectivity.<sup>18</sup> As such, the Proposed Transaction will improve California’s wireless broadband infrastructure and service, while also expanding its reach to a greater number of underserved areas, benefiting all customers and the public.<sup>19</sup> It advances the Commission’s goal to expand upon one such successful measure—the siting of telecommunications equipment on unused utility property—that promises to accelerate the development of critical wireless broadband infrastructure, and thereby advance the public interest.

**B. The Proposed Transaction Benefits Customers in Both The Short-Term and Long-Term**

Customers will receive both short-term and long-term financial benefits from the Proposed Transaction through the operation of the GRSM.<sup>20</sup> In the short-term, the Proposed Transaction has the benefit of accelerating the NTP&S revenue stream from the business. SCE will receive one lump sum payment from the buyer reflecting both (i) the value the buyer places on the future revenue from the Legacy Sites, as well as (ii) the value the buyer places on the rights to enter agreements with Carriers for new sites. Because the buyer is expected to have a focus on the tower attachment business and thus an expertise in identifying potential sites and

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<sup>18</sup> D.20-04-008; Cal. Pub. Util. Code § 709.

<sup>19</sup> See D.04-07-021; *see also* D.02-03-059 (finding the Master Agreement at issue will allow improved service to the Carrier’s customers); *accord* D.02-12-025; D.02-12-024; D.02-12-023; *See* D.16-12-025, at \*92-95 (referencing “The Customers Left Behind” with respect to technological innovations in the telecommunications market); D.22-04-055, p. 6 (“Rural areas of the state often lack the infrastructure for sufficient wireline and wireless broadband Internet access service.”). The Commission is committed to “expand 5G service throughout California, including to rural and unserved areas.” D.20-08-022 (modifying D.20-04-008 by adding Finding of Fact 26).

<sup>20</sup> See generally the discussion of NTP&S and the GRSM in Chapter V of Exhibit SCE-01. Consistent with SCE’s other NTP&S, SCE will track the incremental transaction costs associated specifically with marketing and execution of the Proposed Transaction, so that all such transaction costs are allocated to and borne by SCE’s shareholders, not customers.



executing Carrier agreements, and because the buyer may also have a lower discount rate than SCE, it is expected that the upfront proceeds from the Proposed Transaction will exceed the net present value of the future revenue from Legacy Agreements and Legacy Sites under the status quo. In the long-term, a portion of SCE's negotiated share of revenue for new agreements that the buyer enters into with Carriers will be allocated to customers consistent with the GRSM. The buyer's operational focus on and expertise in the business can expand the potential number of tower and ground sites utilized by Carriers, which in turn would increase incremental NTP&S revenue and benefit customers.

#### IV.

#### **COMPLIANCE WITH OTHER REGULATORY AND STATUTORY OBLIGATIONS**

The Proposed Transaction does not alter the applicability of GO 159-A, concerning land use approval for and environmental review of cellular sites by local government agencies, or GO 95, concerning operational safety in connection with electric transmission and distribution lines. As a result, no environmental review by the Commission is needed in connection with the Proposed Transaction, under CEQA or otherwise. The Proposed Transaction is also consistent with the Commission's environmental and social justice goals. Finally, neither the Tribal Land Transfer Policy nor the change in control regime of Section 854 apply to the Proposed Transaction.

##### **A. The Proposed Transaction Complies with General Order 159-A and Is Not Subject to Any Further Environmental Review**

Under GO 159-A, the Commission permits local government agencies to regulate the location and design of cellular facilities, including in connection with site-specific environmental review, while retaining oversight jurisdiction in cases of conflict with the Commission's goals or

statewide interests or irreconcilable differences.<sup>21</sup> Compliance with GO 159-A obviates any need for further environmental review by the Commission, under CEQA or otherwise. The deferral of “primary authority regarding cell siting issues” to local government agencies under GO 159-A includes the authority to “oversee [CEQA] compliance, and adopt and implement noticing and public comment requirements, if any.”<sup>22</sup> Pursuant to this authority over the regulation of cell siting issues, local government agencies are responsible for “acting as Lead Agency for purpose of satisfying CEQA” and “the satisfaction of noticing procedures for both land use approvals and CEQA procedures.”<sup>23</sup> Thus, “[w]here the agreement is for cellular facilities”—including agreements that provide for the installation of telecommunications equipment and facilities on utility property, like those at issue in the Proposed Transaction—“and where these GO 159-A requirements are met, the agreements are not subject to further environmental review by this Commission.”<sup>24</sup>

The Commission has found each of SCE’s Legacy 851 Agreements to be GO 159-A compliant.<sup>25</sup> Specifically, as provided in GO 159-A, prior to the installation of telecommunications equipment and facilities on utility property, the Legacy 851 Agreements require Carriers to file GO 159-A notices with the Commission stating that the requisite land use approvals have been obtained from local government agencies or that no such approvals are required.<sup>26</sup> The SMAA, and the corresponding forms of agreements for tower site and ground

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<sup>21</sup> See D.96-05-035.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *In re GTE California Inc.*, D.04-03-038, 2004 WL 723870; D.04-07-021, 2004 WL 1686959. See D.02-03-059 (finding that the licensing of property under GO 69-C “for the location of cellular facilities is not improper as long as the parties comply with the provisions of GO 159-A,” in which case “the Commission need not perform further environmental review.”); see also D.02-12-018, at 12 (telecommunications attachment agreements were GO 69-C compliant licenses, not leases requiring approval under Section 851, and “because no Section 851 approval is required in this instance, a review by the Commission under CEQA is also unnecessary.”).

<sup>25</sup> See D.00-07-010, Conclusion of Law 4; D.02-12-023, Conclusion of Law 3; D.02-12-024, Conclusion of Law 2; D.02-12-025, Conclusion of Law 3; D.04-02-041, Finding of Fact 3; D.04-02-042, Finding of Fact 3.

<sup>26</sup> See GO 159-A, Section IV.A.

sites include the same terms, thereby ensuring environmental review by local government agencies as required by GO 159-A. Because the Proposed Transaction is fully compliant with GO 159-A, it is not subject to further environmental review by the Commission, under CEQA or any other statute.

**B. The Transaction Complies with General Order 95 and SCE’s Internal Design and Construction Standards**

The Proposed Transaction will preserve the status quo with respect to applicable safety standards, guidelines, and practices, including the relevant restrictions prescribed by GO 95.<sup>27</sup> Specifically, it will preserve the currently applicable safety and operational procedures for the following: installation and construction of new tower sites; installation and construction of new ground sites; modifications of tower sites and ground sites; removal of communications equipment from tower sites and decommissioning of tower sites; removal of communications facilities from ground sites and decommissioning of ground sites; placement and removal of mobile emergency generators; and installation and removal of semi-permanent emergency back-up generators. Under the SMAA, the buyer will agree to abide by these standards, guidelines, practices, and orders (including GO 95), and will be required to direct Carriers to comply with the same after the closing, ensuring ongoing adherence to the safety requirements and standards that are currently imposed by SCE on Carriers in connection with the tower and ground site business.

**C. The Proposed Transaction Is Consistent with Environmental and Social Justice**

The Proposed Transaction is consistent with the Commission’s action plan for environmental and social justice.<sup>28</sup> By opening up SCE’s vast regional network of transmission

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<sup>27</sup> GO 95 provides the Commission’s rules for Overhead Electric Line Construction.

<sup>28</sup> See California Public Utilities Commission, Environmental & Social Justice Action Plan, Version 2.0 (April 7, 2022), *available at* <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf>.

tower sites for use in the development of advanced wireless communications infrastructure by a buyer with dedicated expertise in that business, the Proposed Transaction has the potential to expand the reach of high-speed broadband access to disadvantaged and disenfranchised communities throughout Southern California, including rural, tribal, and inner city populations. The Proposed Transaction therefore coincides with the goals of both Commission and state “to eliminate the ‘digital divide’ by enhancing broadband infrastructure” and “to provide high speed broadband to all Californians, with a focus on reaching previously underserved communities.”<sup>29</sup> Furthermore, the Commission has long recognized that the joint use of utility facilities by Carriers seeking to build an updated telecommunications network has “obvious” environmental benefits, including the benefit of sparing residents of areas to be served by the wireless network “the disruption of [the Carrier]’s installation of its [equipment] along public streets and roads.”<sup>30</sup> The Proposed Transaction therefore complies with—and, indeed, is in furtherance of—the Commission’s environmental and social justice framework.

**D. The Tribal Land Transfer Policy Is Inapplicable**

When investor-owned utilities (“IOUs”) seek to dispose of real property under Section 851, the Tribal Land Transfer Policy (“TLTP”) requires them to “take affirmative steps to determine whether California Native American Tribes (“Tribes”) are interested in purchasing the property,” and provides the Tribes a right of first offer regarding such property.<sup>31</sup> The TLTP does not apply here, because the Proposed Transaction is consistent with GO 69-C, as explained above. In Resolution E-5076, issued January 14, 2021, the Commission confirmed “that applying the [TLTP] to GO 69-C grants would not advance the stated goal of the TLTP to return

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<sup>29</sup> *Id.* at 11 (citing Executive Order N-73-20, Broadband for All (Aug. 14, 2020)).

<sup>30</sup> D.00-07-010, at 8

<sup>31</sup> E-5076, at 1–2.

ancestral lands to the appropriate Tribe,” and therefore excluded GO 69-C conveyances from the TLTP.<sup>32</sup>

The TLTP also would be inapplicable in the event the Commission considers this Application under Section 851. The TLTP only applies to a “disposition of Real Property.”<sup>33</sup> “Disposition” is defined to mean “the transfer, sale, donation, or disposition by any other means of a fee interest in real property. Easements, licenses, and leases are not considered ‘dispositions’ subject to the Tribal Land Transfer Policy.”<sup>34</sup> Because the Proposed Transaction does not involve any disposition of a fee interest in real property, but rather concerns only the transfer of non-fee agreements regarding tower sites and ground sites and a grant of rights to a buyer to enter similar agreements with Carriers going forward, it is not subject to the TLTP.

**E. Neither Sections 854 Nor 854.2 Are Implicated**

The Proposed Transaction does not implicate Section 854, because it does not involve a merger, acquisition, or change in control of a public utility, nor the sale of all or a material portion of SCE’s assets.<sup>35</sup> Rather, the Proposed Transaction simply facilitates Carriers’ use of what would otherwise be unused space on utility property for the attachment and installation of equipment and facilities employed by Carriers in providing service to their customers.

The Proposed Transaction also does not implicate Section 854.2, because it will have no impact on SCE’s workforce (other than to potentially create additional work for the SCE employees who currently service Carriers in connection with tower and ground sites), and will not result in any “transfer[] of control of the place of employment to [a] successor employer.”<sup>36</sup>

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<sup>32</sup> E-5076, at 37–38.

<sup>33</sup> Tribal Land Transfer Policy.

<sup>34</sup> E-5076, Attachment A (Guidelines to Implement the CPUC Tribal Land Policy), at 1.3(d).

<sup>35</sup> See Cal. Pub. Util. Code § 854(a) (“A person or corporation . . . shall not directly or indirectly merge, acquire, or control, including pursuant to a change in control as described in subparagraphs (D) or (E) of paragraph (1) of subdivision (b) of Section 854.2, any public utility organized and doing business in this state without first securing authorization to do so from the commission.”); *see also* Cal. Pub. Util. Code § 854.2(b)(1)(D).

<sup>36</sup> Cal. Pub. Util. Code § 854.2(b)(2)(A).

While the buyer will manage the Carrier agreements at issue and perform services reasonably necessary to manage the tower and ground sites (both Legacy and new),<sup>37</sup> SCE will reserve the same rights it currently reserves under the Legacy Agreements to perform work at a site, including the exclusive right to perform any work that requires contact with a tower, such as installation and removal of communications equipment directly attached to a tower. Control over the tower and ground sites will remain firmly with SCE, which, as discussed above, will retain the ability to terminate any agreement for a tower or ground site as needed for its utility business and will retain primacy in use of the underlying property to provide utility services.

## V.

### **MARKETING AND SALE PROCESS**

SCE plans to conduct the marketing process in parallel with its request for regulatory approval, and thus is filing this Application before entering into a signed agreement with a buyer. As explained more fully in Chapter IV of Exhibit SCE-01, this parallel approach for marketing and regulatory approval is designed to increase buyer engagement and anticipated value to SCE and its customers by reducing delay and regulatory risk for the buyer between signing and closing. It also is consistent with Commission precedent in prior proceedings, as discussed in Section VII of this Application, below.

The approach for marketing the Proposed Transaction is to use a competitive, multi-round auction process. SCE has designed this approach with the assistance of PJT and in line with the market standard for transactions of this type. Among other goals, this process is designed to (i) maximize value by creating competitive tension among a group of highly qualified potential buyers; (ii) secure more favorable transaction terms; (iii) mitigate risks to SCE by allowing for multiple rounds of due diligence with potential buyers; and (iv) limit disclosure of SCE's business information. The marketing process—from initial outreach to

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<sup>37</sup> See SCE-01, Chapter III.D.4.

signing with the winning bidder—is expected to last approximately four to six months and will be coordinated with the schedule set for the Application. The process will consist of outreach by PJT, followed by initial non-binding bids from potential buyers in round one, and final binding bids from a select number of potential buyers in round two. SCE, with PJT’s assistance, will evaluate these bids and negotiate final definitive documents with the potential buyers, culminating in the selection the winning buyer and definitive transaction documents.

## VI. RATEMAKING

Agreements with Carriers to place telecommunications equipment on unused space on utility tower and ground sites fall within the categories of NTP&S<sup>38</sup> that SCE is authorized to offer.<sup>39</sup> The revenue generated by the Proposed Transaction will therefore be shared between shareholders and customers pursuant to the GRSM, the ratemaking methodology for SCE’s authorized categories of NTP&S approved by the Commission in D.99-09-070.

Under the GRSM, the initial threshold total—set at \$16.672 million—flows entirely to customers on a forecast basis through SCE’s General Rate Case (“GRC”) proceedings, by means of a reduction to SCE’s annual revenue requirement.<sup>40</sup> Incremental NTP&S gross revenue above that threshold is allocated between shareholders and customers based on pre-established percentages: a 70 percent shareholder / 30 percent customer allocation for NTP&S categories featuring “passive” shareholder participation, and a 90 percent shareholder / 10 percent customer allocation for NTP&S categories featuring “active” shareholder participation. Incremental

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<sup>38</sup> Products and services provided by SCE, besides traditional electric utility services, that make secondary or complementary use of available capacity in utility assets or personnel.

<sup>39</sup> See Advice 1286-E-A, Attachment J (April 5, 2000) (“Use of Communications and Computing Systems” includes third-party communication equipment installed on or in SCE transmission and distribution towers and structures, and the associated installation, construction, and maintenance services required to support that equipment); *see also* D.99-09-070 and Advice 1286-E (January 30, 1998), as clarified by Advice 1286-E-A (April 5, 2000) and approved via Resolution E-3639.

<sup>40</sup> See Section 41.1 of SCE’s 2021 GRC decision, D.21-08-036.

NTP&S revenue is not part of SCE's forecast revenue requirement; rather, the actual customer share of such revenue is returned to customers on an annual basis outside of GRC proceedings.<sup>41</sup>

While incremental yearly gross revenue from NTP&S is shared with customers, any incremental costs to provide those products and services are borne entirely by SCE's shareholders. In other words, all incremental costs come out of shareholders' share of incremental NTP&S revenue. As a result, customers are "insulate[d] . . . from all liability associated with [SCE's] product and service offerings."<sup>42</sup> Thus, "[i]n essence, the ratepayers are a limited liability partner in the venture, and in exchange for a lesser amount of the gross revenues, they do not assume the risks."<sup>43</sup> As discussed in Chapter V of Exhibit SCE-01, since its implementation, SCE's customers have benefitted substantially under the GRSM.<sup>44</sup> The Proposed Transaction will continue this trend by providing significant customer benefits pursuant to the operation of the GRSM by means of the shared distribution of incremental NTP&S revenue, consistent with SCE's established ratemaking methodology.

The Commission has determined that, under the GRSM, incremental revenue from tower sites is classified as active since it involves engineering, design and construction work by SCE,<sup>45</sup> incremental revenue from the services SCE provides to Carriers is also classified as active,<sup>46</sup> while incremental revenue from ground sites is considered passive since SCE's involvement is more limited (e.g., allowing Carriers to erect monopoles on SCE property).<sup>47</sup> The Proposed

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<sup>41</sup> D.99-09-070, p. 4 & n.4.

<sup>42</sup> D.99-09-070 (FOF 2).

<sup>43</sup> *Id.* at \*9.

<sup>44</sup> SCE-01, Chapter V, p. V-4 (estimating a total of \$661.1 million in GRSM revenue over the last 20 years and 72 percent of the net benefits).

<sup>45</sup> See D.00-07-010 (determining that the "lease revenues derived from the Master Agreement that is the subject of this application will be subject to the 90% / 10% allocation as approved in D.99-09-070," because "[a]ll revenues derived from the use of communications and computing systems [is] classified as 'active'"); see also D.02-12-023 at 5 (attachment agreements are categorized as active because they "require SCE to design and engineer attachment brackets, construct any required tower modification, install the antennas, and maintain the communication site," and the Carriers "will not be permitted to directly access transmission towers or poles"); D.02-12-024 at 5 (same).

<sup>46</sup> D.02-12-023 at 5; D.02-12-024 at 5.

<sup>47</sup> D.02-12-023 at 5; D.02-12-024 at 5.



Transaction will result in three types of revenue for SCE: (1) an upfront, lump-sum payment paid at the closing pursuant to the terms of the PSA; (2) ongoing payments under the SMAA for SCE's portion of the revenue for each agreement executed between the buyer and Carriers following the closing; and (3) ongoing payments for services provided by SCE to the buyer and Carriers under the SMAA. All of these payments (whether upfront or ongoing) will produce incremental NTP&S revenue that is subject to the GRSM and will benefit customers both in the near-term and on an ongoing basis.

Through the upfront payment by the buyer, the Proposed Transaction will accelerate a portion of incremental NTP&S revenue under the GRSM, which will result in a near-term rate benefit for customers associated with their share of this initial revenue. Because the Proposed Transaction involves a mix of active and passive NTP&S categories, the portion of the upfront purchase price that is allocable to each category would be determined by the buyer's valuation of the sites and the overall transaction and would therefore be determined as a result of negotiations with the buyer. SCE proposes to calculate a "Customer Purchase Price Percentage," derived by calculating the product of the portion of the purchase price allocable to the tower sites and 10 percent, and the product of the portion of the purchase price allocable to the ground sites and 30 percent, then adding those two figures. As described further below and in Chapter V of Exhibit SCE-01, after the Proposed Transaction closes, SCE proposes to reduce customer rates by the total customer share of the upfront purchase price—the product of the Customer Purchase Price Percentage and the overall purchase price.

Through the ongoing payments by the buyer, the Proposed Transaction will also result in continuing incremental NTP&S revenue under the GRSM from new agreements executed with Carriers after the closing as well as for the services SCE provides in support of the tower and ground site business. This will result in additional rate benefits for customers in future years for their share of this ongoing revenue. Customers' share of these ongoing payments by the buyer would depend on how the specific revenue is classified under the GRSM as described above—10 percent for new tower sites and services provided by SCE and 30 percent for new ground sites.

SCE will refund customers' share of the revenue from the Proposed Transaction pursuant to the GRSM's established ratemaking mechanisms. Specifically, the customer share of GRSM revenue is provided through the combination of CPUC-jurisdictional rates and FERC-jurisdictional transmission rates, with 67.46 percent apportioned to CPUC-jurisdictional customers and 32.54 percent apportioned to FERC-jurisdictional customers, per a 2009 settlement before FERC.<sup>48</sup> SCE records the customer share of incremental NTP&S gross revenue under the GRSM in its Gross Revenue Sharing Tracking Account (GRSTA), and the CPUC portion is then transferred to the Electric Deferred Refund Account (EDRA) at the end of each calendar year. Per D.96-12-025, SCE submits an advice letter by January 31 with a refund plan for returning the EDRA balance from the prior calendar year to its CPUC customers.<sup>49</sup>

As described further in Chapter V of Exhibit SCE-01, pursuant to a 2005 settlement agreement adopted by the Commission, SCE uses either a "bill credit refund method" (for balances exceeding \$25 million) or amortizes the EDRA balance in rates (for balances of \$25 million or less), e.g., by transferring the appropriate balance to SCE's Base Revenue Requirement Balancing Account (BRRBA).<sup>50</sup> Since implementation of the GRSM, SCE has always utilized the latter method for refunding customers' share, which has remained below the annual threshold. Because it would be costly and slow to provide a bill credit in the event customers' share of the upfront payment does exceed \$25 million, SCE is proposing to refund the initial EDRA balance via a reduction in rates, rather than a bill credit. In order to accelerate the financial benefit to customers, SCE also proposes to implement the EDRA balance in rates in the next available rate change following approval of the Tier 2 EDRA advice letter that contains

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<sup>48</sup> See Schedule 21 of SCE's 2020 settlement of the Formula Rate and associated transmission revenue requirement and rates in its Transmission Owner Tariff filing, FERC Docket Nos. ER19-1553-000. A portion of the GRSM revenue allocated to FERC-transmission revenue requirements flows to SCE's wholesale customers, while the remainder flows to its retail customers. See Resolution E-4364 (December 16, 2010), at 9.

<sup>49</sup> See D.96-12-025, Ordering Paragraph (OP) 4; see also Resolution E-4364 (December 16, 2010).

<sup>50</sup> D.05-03-022, Section 6(c)(1)(g) of Settlement Agreement; see also *id.* at 18 (OP 1); see, e.g., Advice 4698-E (January 24, 2022). The FERC-jurisdictional portion of the balance in the GRSTA is transferred to FERC customers through the FERC formula.

the initial amount from the Proposed Transaction (as opposed to waiting until January of the following year, which is when the EDRA balance is normally implemented into rates).

## **VII.**

### **SCE’S PRIMARY REQUEST FOR RELIEF IS CONFIRMATION THAT THE PROPOSED TRANSACTION COMPLIES WITH GENERAL ORDER 69-C**

The Proposed Transaction is consistent with GO 69-C, regarding the grant of revocable interests for limited uses of utility property that do not interfere with utility operations. This includes the grant of rights under the SMAA and the assignment of certain rights under the Legacy 851 Agreements, which themselves meet the requirements of GO 69-C. In addition, the Commission should not specify any additional reporting or approval obligations and should waive any such obligations under the orders approving the Legacy 851 Agreements following the closing of the Proposed Transaction.

#### **A. The Proposed Transaction Complies with GO 69-C**

GO 69-C authorizes public utilities to grant revocable easements, licenses and permits for certain limited uses of public utility property without seeking specialized approvals from or otherwise notifying the Commission.<sup>51</sup> To fall within GO 69-C, the limited use of utility property must not interfere with the public utility’s operations, practices, or service. The grant of any such limited-use interest under GO 69-C must also be conditional upon the utility’s right “to commence or resume the use of the property in question whenever, in the interest of its service to its patrons or consumers, it shall appear necessary or desirable to do so.”<sup>52</sup>

GO 69-C therefore establishes a three-part test to determine whether the grant of an interest in necessary or useful utility property is exempt from the requirement of specific

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<sup>51</sup> Guidance Letter for Appropriate Use of General Order 69-C, January 3, 2019. “GO 69-C promotes both reciprocal access and a utility's continuing ability to provide service upon demand.” D.98-10-058 (R.95-04-043), 82 CPUC 2d 510, 1998 WL 1109255 (1998).

<sup>52</sup> GO 69-C.

authorization under Section 851: (1) “The interest granted must be for a ‘limited use’ of utility property”; (2) The interest granted must be revocable at will, i.e., “either upon the order of the Commission or upon the utility’s determination that revocation is desirable or necessary to serve its patrons or consumers”; and (3) “The interest granted must not interfere with the utility’s operations, practices, and services to its customers.”<sup>53</sup> The Proposed Transaction (including the rights to enter into future agreements with Carriers pursuant to the PSA, SMAA, and related forms of agreements and the rights assigned to the buyer under the Legacy Agreements) meets these requirements.<sup>54</sup> SCE therefore requests a finding by the Commission that the Proposed Transaction does not require separate Commission authorization pursuant to Section 851.

# **1. Grant of Limited Use of Utility Property**

In its 2019 Guidance Letter for Appropriate Use of General Order 69-C, Communications Division Staff used “the attachment of equipment owned by others on utility property such as utility poles, towers and buildings,” and the “granting of access to utility rights-of-way,” as examples of the type of “limited uses” that appropriately fall within GO 69-C.<sup>55</sup> This accords with Commission precedent approving agreements with Carriers for tower and ground site communications equipment or facilities. For example, in D.02-03-059, the Commission determined that the attachment of communications antennas and related hardware and supports, small microwave dishes, coaxial cabling, and monopoles on utility property

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<sup>53</sup> *In re GTE California, Inc.*, D.04-03-038, 2004 WL 723870 (2004); *see also* D.04-07-021, 2004 WL 1686959 (framing these as the “three key criteria for permitting a utility to grant minor interests in utility property” under GO 69-C); *accord* Guidance Letter for Appropriate Use of General Order 69-C, January 3, 2019. In addition, the transaction at issue must not require CEQA review. *See* Guidance Letter for Appropriate Use of General Order 69-C, January 3, 2019. This requirement is discussed in connection with the transaction’s compliance with GO 159-A. *See* Section IV.A, *supra*.

<sup>54</sup> To the extent the key provisions for purposes of GO 69-C in SCE’s form transaction documents remain unchanged in the final transaction documents signed by SCE and the buyer, no further Commission review or ongoing conditions or notification requirements would be necessary.

<sup>55</sup> Guidance Letter for Appropriate Use of General Order 69-C, January 3, 2019; *see id.* (“Use of GO 69-C should be limited to only the granting of revocable easements, licenses, or permits for access to rights of way or the attachment of facilities on utility property, or other limited use . . .”).

“consists of minor installations that can be easily removed if necessary,” and therefore “is consistent with the ‘limited uses’ for which GO 69-C is reserved.”<sup>56</sup>

The SMAA accords with this precedent by only allowing for the buyer to enter agreements with Carriers for the attachment or installation of unintrusive and easily removable telecommunications equipment, structures, and facilities on SCE’s transmission towers and other utility property. Thus, the rights granted under the SMAA qualify as limited use rights under GO 69-C.

The Legacy 851 Agreements and assignment of rights thereunder also comply with GO 69-C’s limited-use rights requirement.<sup>57</sup> While styled as leases, the Legacy 851 Agreements comply in substance with the terms of GO 69-C. In D.02-12-018, the Commission determined that “[t]he use of ‘lease’ language is inconclusive as to a party’s intentions to establish a lease,” and that, provided the requirements of GO 69-C are met, the Commission would look beyond such labels to exempt a transaction involving telecommunications attachments on unused utility property from requiring an application and approval under Section 851.<sup>58</sup> Based on this understanding, the Commission found that various agreements between Pacific Gas and Electric Company (“PG&E”) and Carriers establishing terms and conditions for the installation of telecommunications equipment on PG&E’s electric distribution facilities were licenses rather than leases for purposes of the dividing line between Section 851 and GO 69-C. The Commission reasoned that “the Agreements appear to be for limited use in that they authorize only the installation of minor telecommunications equipment on existing electric

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<sup>56</sup> D.02-03-059; *see also* D.02-12-018; D.04-02-041, Conclusion of Law 2 (“The use of Edison property by Cingular under the master attachment agreements is a permissible ‘limited use’ under GO 69-C.”); D.01-06-059 (approving “a Master Agreement that initially gives [a Carrier] a revocable license, consistent with General Order 69-C, to install its telecommunications equipment on PG&E’s electric distribution facilities); D.03-04-010 (discussing the meaning of “limited use” for purposes of GO 69-C).

<sup>57</sup> The Legacy Agreements other than the Legacy 851 Agreements were entered into pursuant to GO 69-C and do not require any further approval from the Commission, nor is any approval sought from the Commission with respect to assignment of rights under those agreements in this Application.

<sup>58</sup> Similarly, in its 2019 Guidance Letter for Appropriate Use of General Order 69-C, Communications Division Staff noted that “Licenses and Leases have been treated synonymously by some utilities.”

distribution facilities, the Agreements can be revoked by PG&E consistent with G.O.69-C, the telecommunications equipment can be easily removed from PG&E's facilities, and the telecommunications equipment will not interfere with PG&E's utility operations, practices or service."<sup>59</sup>

The same reasoning applies here. The Commission has already expressly found that several of the Legacy 851 Agreements proposed to be assigned involve "wireless facilities [that] can be removed readily, if necessary, and constitute a limited use of utility property under GO 69-C."<sup>60</sup> And the remainder likewise provide for the same type of telecommunications attachments and installations that prior Commission decisions have deemed to constitute a limited use of utility property.

## **2. Interests Granted Are Revocable**

As discussed in Section II.C, above, the rights to use and occupy tower and ground sites under the SMAA can be revoked at any time if the tower or ground site is needed for SCE's utility purposes. SCE will retain broad rights to terminate specific tower sites or ground sites for utility business needs or as otherwise required by applicable law. Thus, in the same manner as existing Legacy Agreements have complied with GO 69-C, the rights granted under the SMAA "are subject to termination by [the utility] under the same terms and conditions as contained in GO 69-C."<sup>61</sup>

Similarly, as discussed further in Chapter II.A.3 of Exhibit SCE-01, the Legacy 851 Agreements contain key terms, including termination and revocability rights, that align with the language and policies of GO 69-C.

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<sup>59</sup> D.02-12-018, at 9.

<sup>60</sup> D.04-02-042 (SCE's agreements with Verizon Wireless); *accord* D.04-02-041 (finding that the attachments of "telecommunications antennas and antenna equipment" to SCE's utility property pursuant to its agreement with Cingular Wireless "constitute a limited use" under GO 69-C because the "antennas and associated antenna equipment can be removed readily, if necessary").

<sup>61</sup> D.02-12-018.

**3. No Interference with SCE's Operations, Practices, or Services to Customers**

The telecommunications equipment installed pursuant to agreements entered into under the SMAA will not interfere with SCE's utility operations, practices or services. Under the SMAA, the right of the buyer and any Carrier to use a tower site or ground site will be subordinate to SCE's rights to use the tower and other property in providing electric service to its customers. Thus, the revocable, limited-use rights granted under the SMAA will be subordinate to the primacy of SCE's use of its assets to provide utility services whenever needed.

The Legacy 851 Agreements include comparable protections for the conduct of SCE's utility business as SCE's Legacy Agreements entered into pursuant to GO 69-C and ensure that assignment of the Legacy 851 Agreements will not impact SCE's public service obligations.

As a result, the Commission should find that the grant of rights under the SMAA and the Legacy 851 Agreement complies with GO 69-C, and therefore that the Proposed Transaction, including the assignment of certain rights and obligations under the Legacy 851 Agreements to the buyer, does not require approval under Section 851.

**B. The Commission Should Remove the Conditions and Notification Requirements Imposed in Connection with the Legacy 851 Agreements**

In authorizing SCE to enter into agreements with Carriers for access to and use of tower sites and ground sites under Section 851, the Commission has imposed certain non-uniform notification and approval requirements. These include notifications to the Office of Ratepayer Advocates (now Cal Advocates) and the Commission's Energy Division of all new Standard Agreements and extensions or terminations of Standard Agreements under the Legacy 851 Agreements.

Additionally, two of the Commission's decisions approving certain Legacy 851 Agreements require SCE to file a Section 851 application for approval of any substantive amendments to the applicable agreements. In particular, ordering paragraph 3 of D.04-02-042

(which relates to the Legacy 851 Agreement with Verizon) and ordering paragraph 3 of D.04-02-041 (which relates to the Legacy 851 Agreement with Cingular) require SCE to file a Section 851 application for approval of any substantive amendment of the applicable Legacy 851 Agreement and associated Standard Agreements. Three of the Commission's decisions approving certain of the other Legacy 851 Agreements require SCE to notify Energy Division and Cal Advocates of such substantive amendments in writing.<sup>62</sup>

In ruling that Section 851 approval is not required for the Proposed Transaction, the Commission should remove both these ongoing notification requirements and the requirement of D.04-02-041 and D.04-02-042 to file a Section 851 application for a substantive amendment.

**1. The Ongoing Notification Requirement Should Be Removed**

In approving this Application, the Commission should remove the ongoing requirement to notify Cal Advocates and Energy Division of all new Standard Agreements and extensions or terminations of Standard Agreements under the Legacy 851 Agreements, as well as the ongoing requirement to notify Cal Advocates and Energy Division of any substantive amendments to certain of the Legacy 851 Agreements. If the Commission finds that the Legacy 851 Agreements comply with GO 69-C, then no further conditions, notices, or approvals should be required with respect to those agreements.<sup>63</sup>

This request is particularly justified because, as described above, the buyer will not enter into any *new* site-specific agreements pursuant to the assigned Legacy 851 Agreements following consummation of the Proposed Transaction. Rather, the buyer will only renew,

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<sup>62</sup> D.02-12-025 (AT&T); Decision 02-12-024 (Sprint); and Decision 02-12-023 (Nextel). Pursuant to these three decisions, SCE is providing notice of the Application and Exhibit SCE-01 regarding the Proposed Transaction.

<sup>63</sup> If the Commission finds that the assignment of the Legacy 851 Agreements approved in D.04-02-041 and D.04-02-042 require approval as a substantive amendment, the Commission should nevertheless determine there is no need for further conditions, notices, or approvals, given that the terms of the Proposed Transaction reserve all necessary rights to SCE in the same manner and to the same extent as a GO 69-C agreement.



extend, or terminate *existing* site-specific agreements under a Legacy 851 Agreement, and will do so in compliance with the requirements of the SMAA, which complies with GO 69-C.

**2. The Requirement to File a Section 851 Application for a Substantive Amendment Should Be Removed**

Assignment of the Legacy 851 Agreements previously approved in D.04-02-041 and D.04-02-042 should not require Commission approval for several reasons. First, the rights under the Legacy 851 Agreements that are proposed to be assigned are not themselves property necessary or useful in the performance of SCE's duties as a utility, making Section 851 inapplicable. Second, the proposed assignment complies with the terms of the Legacy 851 Agreements, which do not require Section 851 approval for assignment. Third, as explained above in Section VII.A.1, the terms of the Legacy 851 Agreements meet the requirements of GO 69-C and are no different substantively than other revocable grants of rights under the Legacy Agreements entered pursuant to GO 69-C. In fact, in both decisions requiring Section 851 approval of a substantive amendment, the Commission reached the legal conclusion that "[t]he use of Edison property by [the respective Carrier] under the master attachment agreements is a permissible 'limited use' under GO 69-C." As the Commission itself has determined, the characterization of the right granted by a utility for state property law purposes (i.e., a "lease" instead of a "license") does not control the regulatory determination whether Section 851 approval for granting such a revocable interest is required if the agreement's terms otherwise meet the requirements of GO 69-C.<sup>64</sup> Similarly here, whether the terms of an agreement comply with the requirements of GO 69-C should determine for regulatory purposes whether approval of

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<sup>64</sup> See D.02-12-018 (determining that the reference in certain telecommunications attachment agreements to a "lease" was not dispositive, as "[t]he use of 'lease' language is inconclusive as to a party's intentions to establish a lease," and finding that such leases were in substance licenses for purposes of GO 69-C (citing Beckett v. City of Paris Dry Goods Co. (1939) 14 Cal.2d 633)).

that agreement under Section 851 is required. The Legacy 851 Agreements meet GO 69-C's requirements and those terms will continue to apply following assignment.<sup>65</sup>

**3. The Only Ongoing Reporting Requirements Should Be Under GO 69-C**

Regardless of whether the Commission grants SCE's primary or alternative relief, SCE proposes that the Commission not specify any ongoing reporting obligations with respect to future agreements with Carriers for both Legacy Sites and Pipeline Sites and new tower or ground sites. This proposal is consistent with GO 69-C, which does not specify reporting obligations. In the past, SCE has complied with information requests for annual reporting from Commission staff relating to agreements entered into pursuant to GO 69-C, and SCE and the buyer will comply with similar requests from Commission staff in the future.<sup>66</sup> Given the limited-use rights provided to the buyer, SCE believes that this level of reporting is sufficient both as to the Legacy 851 Agreements and the new agreements entered into under the SMAA, and will reduce burdens and costs on the buyer, which SCE believes will increase the value of the Proposed Transaction.

**VIII.**

**ALTERNATIVE REQUEST FOR RELIEF UNDER SECTION 851**

Although the primary request in this Application is for confirmation that SCE may proceed with the Proposed Transaction under GO 69-C, in the alternative, SCE requests Section 851 authorization for the Proposed Transaction. Specifically, SCE alternatively seeks a Commission decision (1) approving, to the extent necessary, SCE's assignment of the Legacy

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<sup>65</sup> As referenced, any agreements for new sites with Legacy Carriers must be executed by the buyer under the forms of agreement provided in the SMAA, rather than under the Legacy Agreements.

<sup>66</sup> On January 3, 2019, the CPUC's Communications Division Director, Cynthia Walker, directed SCE and other public utilities to report on transactions handled under GO 96-C "for calendar year 2019, no later than April 1<sup>st</sup> of 2020 and going forward respond by April 1<sup>st</sup> for each subsequent calendar year." SCE complied with this requirement until December of 2022, when SCE was notified by email that such reporting was no longer required.

851 Agreements to the buyer, including to the extent any of these assignments constitute substantive amendments to agreements that were the subject of prior Section 851 orders; (2) approving the forms of the PSA and SMAA and related agreements and authorizing their use to execute agreements with Carriers in the future under Section 851 without further Commission approval or filing requirements; and (3) authorizing SCE to submit the final signed agreements with a buyer for Commission approval through a Tier 2 Advice Letter following issuance of the decision on the Application.

As noted above, among the Legacy Agreements pursuant to which certain rights will be assigned to the buyer are license-to-lease conversions that were approved by the Commission under Section 851 in six Commission decisions between 2000 and 2004.<sup>67</sup> Two of these decisions required SCE to file a further application under section 851 “for approval of any substantive amendment” to various of the master, standalone, and standard lease agreements at issue.<sup>68</sup> Specifically, in D.04-02-041, the Commission addressed two master transmission tower attachment agreements between SCE and Cingular Wireless. The Commission approved the conversion from licenses to leases of 23 sites that had been documented using SCE’s standard form of site agreement and authorized SCE to enter into additional agreements for antenna equipment attachment locations using the same form of agreement. The Commission also ordered SCE to file a Section 851 application for any substantive amendment of either the master or site specific agreements with Cingular Wireless.<sup>69</sup> Similarly, in D.04-02-042, the Commission approved the conversion from licenses to leases of 25 sites with Verizon Wireless, authorized SCE to enter into additional agreements for tower or ground sites using SCE’s standard site agreement, and ordered SCE to file a Section 851 application for any substantive amendment of the agreements with Verizon that were the subject of D.04-02-042. Because those

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<sup>67</sup> See D.00-07-010; D.02-12-023; D.02-12-024; D.02-12-025; D.04-02-041; D.04-02-042.

<sup>68</sup> D.04-02-041 (Ordering Paragraph 3); D.04-02-042 (Ordering Paragraph 3).

<sup>69</sup> The First Master Attachment Agreement had been supplanted by the time of the Application; SCE therefore only sought authorization to enter into additional leases under the second agreement. D.04-02-041 at 3.

two Commission decisions do not define what constitutes a “substantive amendment,” SCE filed this Application to confirm that Commission approval is not necessary because the relevant agreements qualify under GO 69-C, or in the alternative, to request approval under Section 851.

As discussed in Section III, above, SCE believes that the Proposed Transaction and assignment of certain rights under the Legacy 851 Agreements should be approved under Section 851 as being in the public interest. In addition, if the Commission requires approval under Section 851, for the reasons explained above, SCE requests that the Commission reach the same determination described in Section VII.B.3 with respect to ongoing reporting related to the Proposed Transaction and the Legacy 851 Agreements.

If the Commission determines that the agreements do not meet the requirements of GO 69-C, and therefore require approval under Section 851, then, following receipt of such approval, SCE will submit the signed PSA, SMAA, and related forms of agreements to the Commission via a Tier 2 Advice Letter, and the buyer’s obligation to close under the PSA will be subject to the approval of such Advice Letter by Commission staff. SCE believes that this post-decision advice letter process will minimize delay and regulatory uncertainty for potential buyers and maximize the value of the Proposed Transaction for the benefit of SCE and its customers.

Precedent transactions successfully executed by means of a similar phased marketing and regulatory approval process provide justification for SCE’s request. For example, the sales of gas-fired plants by the major California IOUs in the late 1990s were also executed via a multi-round bidding process, and featured Commission approval of the transactions before the auction commenced, followed by a streamlined process to approve the purchaser and the final transaction documents.<sup>70</sup> More recently, the schedule for the proceeding to approve the sale of PG&E’s

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<sup>70</sup> See D.97-09-046, 75 CPUC 2d 340 (interim decision authorizing PG&E’s auction for initial natural gas-fired power plant divestitures); D.98-07-092, 81 CPUC 2d 347 (interim decision authorizing PG&E’s auction for second round of divestitures); *see also* D.21-08-027 (decision authorizing sale of PG&E’s headquarters building; PG&E filed the application in September 2020, entered into a proposed settlement in April 2021, modified the settlement following ALJ comments, signed the contract to sell in May 2021, and Commission issued decision approving the sale in August 2021)..

headquarters building in San Francisco called for the testimony and briefing prior to executing the purchase and sale agreement with the winning buyer, followed by a streamlined review and approval process after submitting the signed agreement.<sup>71</sup> And in its pending application for a new generation-only utility, A.22-09-018, PG&E has sought approval of the transaction prior to the proposed submission of signed transaction documents with the winning buyer via advice letter. While the Commission has not yet issued a final decision in that proceeding, PG&E has pursued this same parallel two-step process for marketing and regulatory approval.<sup>72</sup>

## **IX.**

### **COMPLIANCE WITH THE COMMISSION’S RULES OF PRACTICE AND PROCEDURE**

#### **A. Statutory And Other Authority – Rule 2.1**

Rule 2.1 requires that all applications: (1) clearly and concisely state the authorization or relief sought; (2) cite the statutory or other authority under which that relief is sought; and (3) be verified by the applicant. Rules 2.1(a), 2.1(b), and 2.1(c) set forth further requirements that are addressed separately below. The relief being sought is summarized in this Application, and is further described in testimony preliminarily identified Exhibit SCE-01, which includes the following Chapters:

- Chapter I: Policy
- Chapter II: Description of Rights to be Assigned
- Chapter III: Proposed of Proposed Transaction
- Chapter IV: Description of Proposed Marketing and Sales Process
- Chapter V: Ratemaking

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<sup>71</sup> A.20-09-018, Assigned Commissioner’s Scoping Memo and Ruling, pp. 3-4 (Dec. 15, 2020).

<sup>72</sup> A.22-09-018, Application of Pacific Gas and Electric Company and Pacific Generation LLC for Approval to Transfer Certain Generation Assets and Related Determinations, pp. 15-19 (Sept. 28, 2022).

- Chapter VI: Witness Qualifications

The statutory and other authority under which this relief is being sought include General Order 69(D) and California Public Utilities Code Sections 701 and 851, the Commission's Rules of Practice and Procedure, and prior decisions, orders, and resolutions of this Commission, including but not limited to D.99-09-070, D.04-02-041, and D.04-02-042. This Application has been verified by SCE's Chief Financial Officer Aaron Moss, as provided in Rule 1.11.

**B. Legal Name and Principal Place of Business – Rule 2.1(a) and 3.6(a)**

SCE's full legal name is Southern California Edison Company. SCE is a corporation organized and existing under the laws of the State of California, and is primarily engaged in the business of generating, purchasing, transmitting, distributing, and selling electric energy for light, heat, and power in portions of central and southern California as a public utility subject to the jurisdiction of the California Public Utilities Commission. SCE's properties, which are located primarily within the State of California, consist mainly of hydroelectric and thermal electric generating plants, together with transmission and distribution lines and other property necessary in connection with its business. The location of SCE's principal place of business is 2244 Walnut Grove Avenue, Rosemead, California, 91770.

**C. Correspondence – Rule 2.1(b)**

Pursuant to Rules 2.1(a) and 2.1(b),<sup>73</sup> Southern California Edison Company (SCE) is a public utility organized and existing under the laws of the State of California.

SCE's principal place of business is 2244 Walnut Grove Avenue, Rosemead, California, and its post office address and telephone number are:

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<sup>73</sup> Rule 2.1(a) requires the application to state the exact legal name of the applicant and the location of its principal place of business, and, if a corporation, the state under the laws of which the applicant is organized. Rule 2.1(b) requires the application to state the name, title, address, telephone number, facsimile transmission number, and e-mail address of the person to whom correspondence or communications in regard to the application are to be addressed.

Southern California Edison Company  
Post Office Box 800  
Rosemead, California 91770  
Telephone: (626) 302-1212

SCE's attorneys in this matter are Claire E. Torchia and Gloria M. Ing from SCE and Henry Weissmann from Munger, Tolles & Olson LLP. Correspondence or communications regarding this Application should be addressed to:

Claire E. Torchia  
Gloria M. Ing  
Senior Attorney  
Southern California Edison Company  
P.O. Box 800  
2244 Walnut Grove Avenue  
Rosemead, CA 91770  
Telephone: (626) 302-1999  
E-mail: [Gloria.Ing@sce.com](mailto:Gloria.Ing@sce.com)

SCE Case Administration  
Southern California Edison Company  
8631 Rush Street  
Rosemead, CA 91770  
Telephone: (626) 302-0449  
E-mail: [Case.Admin@sce.com](mailto:Case.Admin@sce.com)

Henry Weissmann  
Munger, Tolles & Olson LLP  
350 South Grand Avenue, 50<sup>th</sup> Floor  
Los Angeles, CA 90071  
Telephone: (213) 683-9150  
E-mail: [Henry.Weissmann@mto.com](mailto:Henry.Weissmann@mto.com)

**D. Proposed Categorization, Need For Hearings, Issues To Be Considered, Proposed Schedule – Rule 2.1(c)**

Commission Rule 2.1(c) requires that all applications shall state the “proposed category for the proceeding, the need for hearing, the issues to be considered including relevant safety considerations, and a proposed schedule.”<sup>74</sup> SCE proposes that this Application be designated a “ratesetting” proceeding, as defined in California Public Utilities Code § 1701.1(c)(3) and Rules 1.3(g) and 7.1(e)(2), even though approval of SCE's Application will result in no impact to SCE's revenue requirement.<sup>75</sup>

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<sup>74</sup> TITLE 20 CAL. CODE REGS. §2.1(c).

<sup>75</sup> “Ratesetting cases, for purposes of this article, are cases in which rates are established for a specific company, including, but not limited to, general rate cases, performance-based ratemaking, and other  
Continued on the next page

SCE proposes that this proceeding consider all of the issues that are encompassed within the determinations and authorizations requested in Section X below. SCE does not believe hearings will be necessary but recognizes that the need for hearings will depend in large part on how parties respond to SCE’s request and will ultimately be determined by the assigned Administrative Law Judge. Based on the assumption that hearings will not be required and consistent with SCE’s request for an expedited schedule as explained in Appendix A, SCE’s proposed procedural schedule is shown below:

Event	Date
Application Filed	November 2, 2023
Responses to Application	~December 4, 2023
Reply to Responses	December 14, 2023
Prehearing Conference	January 2023
Scoping Memo <sup>76</sup>	Jan/February 2024
Proposed Decision	April/May, 2024
CPUC Decision	May/June, 2024
If required, Tier 2 Advice Letter with final transaction documents	June/July, 2024

In D.16-01-017, the Commission adopted an amendment to Rule 2.1(c) requiring utilities’ applications to clearly state the relevant safety considerations. The Commission has previously explained that the “[s]afe and reliable provision of [utility services] at predictable rates promotes public safety.”<sup>77</sup> Safety is SCE’s priority. As noted in Section VII above, the Proposed Transaction will not interfere with utility operations and will comply with regulatory and statutory obligations, including GO 95. The Proposed Transaction does not have implications for safety.

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Continued from the previous page

ratesetting mechanisms.” Cal. Pub. Util. Code §1701.1(c)(3). “‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities) or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). Ratesetting proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. Other proceedings may be categorized as ratesetting, as described in Rule 7.1(e)(2).” TITLE 20 CAL. CODE REGS. §1.3(g).

<sup>76</sup> If the Commission determines that evidentiary hearings are needed, additional dates will need to be set for intervenor testimony and rebuttal testimony, along with dates for the evidentiary hearings.

<sup>77</sup> D.14-12-053, pp. 12-13.



**E. Appendices to This Application**

The following are appended to this Application:

Appendix A – Request for Expedited Schedule

Appendix B –Purchase and Sale Agreement (PSA)

Appendix C – Site Marketing Access Agreement (SMAA) (Exhibit A to the PSA)

Appendix D – Form of Assignment and Assumption Agreement for Legacy Sites (Exhibit E to the PSA)

Appendix E – Master Lease Agreement and Master License Agreement

Appendix F – Financial Statements, including Balance Sheet and Statement of Income

**F. Organization And Qualification To Transact Business – Rule 2.2**

SCE is a corporation organized and existing under the laws of the State of California, and is primarily engaged in the business of generating, purchasing, transmitting, distributing and selling electric energy for light, heat and power in portions of central and southern California as a public utility subject to the jurisdiction of the California Public Utilities Commission. SCE's properties, which are located primarily within the State of California, consist mainly of hydroelectric and thermal electric generating plants, together with transmission and distribution lines and other property necessary in connection with its business.

A copy of SCE's Certificate of Restated Articles of Incorporation, effective on March 2, 2006, and presently in effect, certified by the California Secretary of State, was filed with the Commission on March 14, 2006, in connection with Application No. 06-03-020, and is incorporated herein by this reference pursuant to Rule 2.2 of the Commission's Rules of Practice and Procedure.

A copy of SCE's Certificate of Determination of Preferences of the Series D Preference Stock filed with the California Secretary of State on March 7, 2011, and presently in effect, certified by the California Secretary of State, was filed with the Commission on April 1, 2011, in connection with Application No. 11-04-001, and is incorporated herein by this reference.

A copy of SCE's Certificate of Determination of Preferences of the Series E Preference Stock filed with the California Secretary of State on January 12, 2012, and a copy of SCE's Certificate of Increase in Authorized Shares of the Series E Preference Stock filed with the California Secretary of State on January 31, 2012, and presently in effect, certified by the California Secretary of State, were filed with the Commission on March 5, 2012, in connection with Application No. 12-03-004, and is incorporated herein by this reference.

A copy of SCE's Certificate of Determination of Preferences of the Series F Preference Stock filed with the California Secretary of State on May 14, 2012, and presently in effect, certified by the California Secretary of State, was filed with the Commission on June 29, 2012, in connection with Application No. 12-06-017, and is incorporated herein by this reference.

A copy of SCE's Certificate of Determination of Preferences of the Series G Preference Stock filed with the California Secretary of State on January 24, 2013, and presently in effect, certified by the California Secretary of State, was filed with the Commission on January 31, 2013, in connection with Application No. 13-01-016, and is incorporated herein by this reference.

A copy of SCE's Certificate of Determination of Preferences of the Series H Preference Stock filed with the California Secretary of State on February 28, 2014, and presently in effect, certified by the California Secretary of State, was filed with the Commission on March 24, 2014, in connection with Application No. 14-03-013, and is incorporated herein by this reference.

A copy of SCE's Certificate of Determination of Preferences of the Series J Preference Stock filed with the California Secretary of State on August 19, 2015, and presently in effect, certified by the California Secretary of State was filed with the Commission on October 2, 2015, in connection with Application No. 15-10-001, and is incorporated herein by this reference.

A copy of SCE's Certificate of Determination of Preferences of the Series K Preference Stock filed with the California Secretary of State on March 2, 2016, and presently in effect, certified by the California Secretary of State, was filed with the Commission on April 1, 2016, in connection with Application No. 16-04-001, and is incorporated herein by this reference.

A copy of SCE's Certificate of Determination of Preferences of the Series L Preference Stock filed with the California Secretary of State on June 20, 2017, and presently in effect, certified by the California Secretary of State, was filed with the Commission on June 30, 2017, in connection with Application No. 17-06-030, and is incorporated herein by this reference.

Copies of SCE's latest Annual Report to Shareholders and Edison International's latest proxy statement was sent to its stockholders and has been sent to the Commission with an Energy Division Central Files Document Coversheet dated March 17, 2023, pursuant to General Order Nos. 65-A and 104-A of the Commission.

**G. Financial Statements, including Balance Sheet And Income Statement – Rule 2.3 & Rule 3.6(e)**

Appendix F to this Application contains copies of SCE's Balance Sheet and Income Statement for the period ending September 30, 2023, the most recent period available.

**H. CEQA Compliance – Rule 2.4**

See Section IV.A of this Application.

**I. Other Compliance – Rule 3.6(b) – 3.6(f)**

In compliance with Rule 3.6(a), SCE provides the information above in IX.B.

In compliance with Rule 3.6(b), please see Section II.A of this Application for a summary of the Proposed Transaction. There is no book value associated with the property.

In compliance with Rule 3.6(c), please see Sections II and III and SCE's testimony in Exhibit SCE-01 for the reasons for entering into the Proposed Transaction.

In compliance with Rules 3.6(d) and 3.6(f), copies of the form agreements are found in Appendices B through E of this Application. For the reasons discussed in Sections II, III, and V above, and in Chapters III and IV of the supporting testimony in Exhibit SCE-01, a decision on the Application will occur before the definitive agreements and sale price for the Proposed

Transaction are finalized. As explained in Section VIII, if necessary, SCE proposes to submit the sale price and final PSA for the Proposed Transaction in a compliance advice letter soon after it is executed.

**J. Service Of Notice – Rule 3.2**

Commission approval of this Application would not lead to an increase in SCE's rates, and therefore no notice is required under Public Utilities Code § 454.

**K. Service List**

A copy of this Application, including appendices, is being served on the Commission's Communications Division and Cal Advocates, along with the service lists identified in the attached Certificate of Service.<sup>78</sup>

**X.**

**CONCLUSION/REQUEST FOR COMMISSION DETERMINATIONS AND  
AUTHORIZATIONS**

SCE respectfully requests that the Commission rule as follows:

- Approval under Section 851 is not required for SCE to enter into the PSA, SMAA, and related agreements because they convey only limited-use rights that meet the requirements of GO 69-C.
- Except as required by GO 69-C or by the PSA, SMAA, and related agreements, no conditions, notifications, or approvals are required for the entry into new tower site and ground site agreements under the PSA, SMAA, and related agreements.
- The Legacy 851 Agreements meet the requirements of GO 69-C.

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<sup>78</sup> SCE is serving this application on the service lists associated with the Commission decisions in the following proceedings: D.04-02-042, D.04-02-041, D.02-12-025, D.02-12-024, 02-12-023, D.00-07-010.

- Approval under Section 851 is not required to assign rights under the Legacy 851 Agreements, including those approved in D.04-02-041 and D.04-02-042.
- All conditions and notification requirements set forth in the ordering paragraphs of the applicable Commission decisions approving the Legacy 851 Agreements under Section 851 are waived.<sup>79</sup>
- Approval of SCE's ratemaking proposal that, pursuant to the GRSM adopted in D.99-09-070, SCE will provide customers their share of incremental NTP&S revenues from the Proposed Transaction consistent with the established active and passive designations for tower and ground sites and that SCE may implement the initial EDRA balance following the Proposed Transaction via a reduction in customer rates, rather than a bill credit.

In the alternative, SCE respectfully requests that the Commission:

- Approve the Proposed Transaction under Section 851.
- Approve the forms of agreements under the SMAA, such that SCE need not return to the Commission for approval upon execution of future agreements that conform to those approved form agreements.
- Except as required by GO 69-C or by the PSA, SMAA, and related agreements, no conditions, notifications, or approvals are required for the entry into new tower site and ground site agreements under the PSA, SMAA, and related agreements
- Approve under Section 851, to the extent necessary, the assignment of rights under the Legacy 851 Agreements, including approval of a substantive amendment in D.04-02-041 and D.04-02-042 under ordering paragraph 3 of D.04-02-041 and D.04-02-042.

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<sup>79</sup> See D.02-12-023 (OP 2, 3, 4, 8); D.02-12-024 (OP 2, 3, 4, 8); D.02-12-025 (OP 2, 3, 4, 8); D.04-02-041 (OP 2, 3); D.04-02-042 (OP 2, 3).

- Waive notice and approval obligations in the Commission decisions approving the Legacy 851 Agreements.
- Approval of SCE's ratemaking proposal that, pursuant to the GRSM adopted in D.99-09-070, SCE will provide customers their share of incremental NTP&S revenues from the Proposed Transaction consistent with the established active and passive designations for tower and ground sites and that SCE may implement the initial EDRA balance following the Proposed Transaction via a reduction in customer rates, rather than a bill credit.

SCE also requests an expedited schedule, as set forth in Appendix A of this Application.

Respectfully submitted,

CLAIRE E. TORCHIA  
GLORIA M. ING  
HENRY WEISSMANN

/s/ Henry Weissmann

By: Henry Weissmann

Attorneys for  
SOUTHERN CALIFORNIA EDISON COMPANY

November 2, 2023

### **VERIFICATION**

I am an officer of the applicant corporation herein and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing document are true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2<sup>nd</sup> day of November, 2023, at Rosemead, California.

*/s/ Aaron Moss*

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Aaron Moss

Senior Vice President and Chief Financial Officer  
SOUTHERN CALIFORNIA EDISON COMPANY

**Appendix A**

**Request for Expedited Schedule**



## **Appendix A: Request for Expedited Schedule**

Pursuant to Rule 2.9 of the Commission's Rules of Practice and Procedure, SCE respectfully requests an expedited schedule for the Commission's consideration of this Application. Rule 2.9 provides for an expedited schedule where there is a "a threat to public safety or the need to resolve a financial matter expeditiously to avoid ratepayer harm." SCE requests an expedited schedule in order to avoid ratepayer harm and to accelerate the benefits of the Proposed Transaction for customers. As referenced in this Application and Chapters I and IV of Exhibit SCE-01, SCE is filing an application for approval before entering into a signed agreement with a buyer for the Proposed Transaction. Conducting the marketing process in parallel with the Application approval process is designed to increase buyer engagement and anticipated value to SCE and its customers. SCE and its financial partner, PJT Partners, will initiate two rounds of marketing, the first in the Spring of 2024 and the second after the proposed decision on the Application. Accordingly, it is in customers' strong interest that the Commission adopt a process and schedule that will maximize sale price.

The Proposed Transaction has the potential to create benefits to customers and to promote broadband throughout the state. As noted in the Application and testimony, the Proposed Transaction will accelerate the revenue being derived from SCE's communications attachment and facilities business, increase the value of that future revenue stream on a net present value basis, and result in additional rate benefits from the future revenue stream associated with new tower and ground sites. Customers will therefore benefit both in the near-term and over the long-term as the buyer further develops this business. The Proposed Transaction hinges on Commission approval, so the sooner that approval is obtained, the sooner customers stand to benefit from the increased revenue stream.

The Proposed Transaction also represents a tool to improve and expand California's wireless broadband infrastructure and service, which will benefit customers and the public. Creating the opportunity to increase communications equipment attachments and installation on SCE towers and real estate by offering a buyer the right to market temporarily available tower

sites and ground sites will help to advance the public interest by facilitating the rollout of 5G infrastructure as well as future developments in wireless technology and upgrades to existing 4G infrastructure. The Proposed Transaction can thereby contribute to connecting more Californians to these advanced wireless networks and help facilitate wireless broadband access for disadvantaged and disenfranchised communities throughout the state, including rural and tribal areas, and disadvantaged populations, such as rural, inner-city, low-income, and disabled Californians.

SCE respectfully requests that the Assigned Commissioner determine that this application merits an expedited schedule and designate it as expedited, and accordingly that, pursuant to Rule 2.9, the Assigned Commissioner or Administrative Law Judge “notice a prehearing conference no later than 20 days from the date of preliminary categorization of the proceeding under Rule 7.1(a), and hold a prehearing conference no later than 30 days from the date of preliminary categorization.”

**Appendix B**

**Purchase and Sale Agreement (PSA)**

**PURCHASE AND SALE AGREEMENT**  
**BETWEEN**  
**SOUTHERN CALIFORNIA EDISON COMPANY**  
**AND**  
**[•]**  
**DATED AS OF [•]**

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## PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this “Agreement”) is made as of [•] (the “Effective Date”), by and between [•] (“Buyer”), and Southern California Edison Company, a California corporation (“Utility”).

### RECITALS

WHEREAS, Utility is a public utility company regulated by the California Public Utilities Commission and is principally engaged in the business of providing electric services to its customers throughout its service territory in California;

WHEREAS, Utility owns or has rights to properties, including electric transmission towers and other structures, within its service territory that are used for electric utility purposes, and Utility currently leases or licenses sites on certain such properties to wireless telecommunications carriers for the placement of communication and other ancillary equipment and ground leases sites to wireless telecommunications carriers and intermediaries with wireless telecommunications carriers for the installation of communication facilities;

WHEREAS, Utility has determined that other such properties may in the future be suitable sites for the placement and operation of communication equipment by wireless telecommunications carriers;

WHEREAS, Utility currently (a) leases or licenses approximately [•] tower sites on, under or around its electric transmission towers and other structures to Carriers (as defined below) to install and use Tower Equipment (as defined below) and (b) leases or licenses [•] ground sites to Carriers for the installation and use of communications facilities (including communications equipment cabinets and monopoles) on Utility’s property;

WHEREAS, Utility desires to assign to Buyer such leases and licenses with Carriers pursuant to assignment and assumption agreements, which include assignment to the Buyer of the Utility’s rights to leasing and licensing revenues under such leases and licenses; and

WHEREAS, Utility further desires to sell and grant to the Buyer (x) rights to market additional sites on, under and around Utility’s electric transmission towers for the purpose of subleasing such sites to wireless telecommunications carriers for the installation and use of



communication equipment and other ancillary equipment and (y) rights to propose to Utility potential subleases of additional ground sites on Utility's property for the installation and use of communications facilities, in accordance with the terms set forth in this Agreement and a Site Marketing and Access Agreement, substantially in the form of Exhibit A (the "SMAA").

NOW THEREFORE, in consideration of the representations, warranties, covenants and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

## **ARTICLE 1 DEFINITIONS AND INTERPRETATION**

1.1. **Definitions.** In addition to the terms defined elsewhere herein, the following terms shall have the following respective meanings when used in this Agreement with initial capital letters.

"Affiliate" (and, with a correlative meaning, "Affiliated") means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. As used in this definition, "control" means the beneficial ownership (as such term is defined in Rules 13d-3 and 13d-5 of the Securities Exchange Act of 1934, as amended) of 50% or more of the voting interests of the Person.

"Base Equipment" means equipment (excluding Communication Equipment) installed on, under and around the Tower and used to operate, or otherwise related to, Communication Equipment installed on such Tower.

["Burdensome Condition" means any term, condition, liability, obligation, commitment, sanction or undertaking (including any settlement, stipulation, operational restriction, hold separate order, divestiture or otherwise) imposed by the CPUC as a condition to the effectiveness of the CPUC Advice Letter Disposition that would, individually or in the aggregate, (a) have or reasonably be expected to have a material adverse effect on Utility or (b) be or reasonably expected to be material and adverse to the economic benefits of the transactions contemplated hereby to Utility.]<sup>1</sup>

"Business Day" means any day other than a Saturday, a Sunday, a federal holiday or any other day on which banks in California are authorized or obligated by Law to close.

"Buyer Material Adverse Effect" means any state of facts, change, effect, condition, development, event or occurrence that (i) has a material adverse effect on Buyer's ability to consummate the Contemplated Transactions, or (ii) is materially adverse to the assets, financial condition or results of operations of Buyer and its Subsidiaries, taken as a whole, except to the extent resulting from or relating to (A) changes to the wireless communications industry in the United States or California generally or to the tower ownership, operation,

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<sup>1</sup> NTD: To be removed if the CPUC determines that the transaction is GO 69-C compliant or otherwise does not impose disposition by advice letter prior to the Closing.

leasing, management and construction business in the United States or California generally, (B) the announcement or disclosure of the Contemplated Transactions, (C) general economic, regulatory or political conditions in the United States or changes or developments in the financial or securities markets, (D) changes in GAAP or their application, (E) acts of war, military action, armed hostilities or acts of terrorism, (F) earthquakes, fires (regardless of origin), hurricanes, tsunamis, typhoons, lightning, blizzards, tornadoes, floods, mudslides, droughts, natural disasters, weather conditions or the severity thereof, epidemics, pandemics (including the COVID-19 pandemic), disease outbreaks, public health emergencies and other force majeure events; (G) changes in Law or (H) the taking of any action by any Person which is required to be taken pursuant to the terms of this Agreement, unless any of the facts, changes, effects, conditions, developments, or occurrences set forth in clauses (A), (E) or (F) hereof disproportionately impacts or affects Buyer and its Subsidiaries, taken as a whole, as compared to other participants in the industries and businesses in which Buyer and its Subsidiaries operate.

“Carrier” means (a) in case of a Tower Site, a wireless telecommunications carrier and (b) in case of a Ground Site, a wireless telecommunications carrier or a wireless telecommunications site management company that is in the business of offering wireless telecommunications sites to wireless telecommunications carriers.

“Carrier Revenue” shall mean any amounts payable to Utility by Carriers pursuant to the Legacy Contracts and Generator Sublicense Agreements for the use of Utility Property by a Carrier for the location of Communication Equipment or a Communications Facility on an Included Site, whether designated as lease payments, license payments, revenue, annual fees and whether payable in a lump sum, in installments, as a fixed periodic increase in lease fees, license fees or otherwise. “Carrier Revenue” shall not include any upfront cost reimbursement or fees for services provided by Utility regardless of when such costs or fees accrued, were due, or were paid.

“Claims” means any claims, demands, assessments, actions, suits, damages, obligations, fines, penalties, liabilities, losses, adjustments, costs and expenses (including reasonable fees and expenses of attorneys and other appropriate professional advisers).

“Communication Equipment” means (a) as to a Tower Site, equipment installed by or on behalf of a Carrier on a Tower Site for the provision of wireless communication services, including voice, video, internet and other data services, which equipment includes, but is not limited to, antennas (including microwave antennas), switches, panels, conduits, cables, radios, amplifiers, filters, ancillary tower-mounted equipment, batteries, and all associated software and hardware and (b) as to a Ground Site, equipment installed by or on behalf of a Carrier on a Communications Facility for the provision of wireless communication services, including voice, video, internet and other data services, which equipment includes, but is not limited to, antennas (including microwave antennas), switches, panels, conduits, cables, radios, amplifiers, filters, ancillary equipment, batteries, and all associated software and hardware.

“Communications Facility” means improvements made on Utility Property and equipment (other than Communication Equipment) installed by or on behalf of a Carrier

pursuant to a Legacy Carrier Agreement, which may include monopoles, self-supporting lattice towers, communication equipment cabinets, buildings, or other structures mounted in or upon a supporting structure, for the purpose of locating or attaching Communication Equipment.

“Confidentiality Agreement” means that certain [Confidentiality and Non-Disclosure Agreement], dated as of [•] by and between Utility and [•].

“Contemplated Transactions” means all of the transactions contemplated by this Agreement and the other Transaction Agreements.

“CPUC” means the California Public Utilities Commission or any successor agency thereto.

[“CPUC Advice Letter Disposition” means the CPUC’s disposition of the Advice Letter to be submitted by Utility.]<sup>2</sup>

“CPUC Proceeding” means the proceeding in front of the CPUC regarding Application 23-11-\_\_\_\_, the Application of Southern California Edison Company Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE’s Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851.

“Data Room” means the virtual data room maintained on [•] on behalf of Utility under the name “[•]”, to which Buyer has been given access.

“Emergency Generator” means a Generator used to provide emergency back-up power for a Tower Site or Ground Site approved by Utility for use at a given Tower Site or Ground Site. As of the Effective Date, Utility has approved the use of mobile emergency generator and semi-permanent emergency back-up generators used to provide emergency back-up power for a Tower Site or Ground Site, subject to the applicable standards and guidelines of Utility.

“Environmental Law” or “Environmental Laws” means any federal, state or local statute, Law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning protection of the environment, the public, endangered species, cultural heritage or workplace health and safety as may now or at any time hereafter be in effect, including the following, as the same may be amended or replaced from time to time, and all regulations promulgated under or in connection therewith: the Superfund Amendments and Reauthorization Act of 1986; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; the Clean Air Act; the Clean Water Act; the Toxic Substances Control Act of 1976; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act; the Hazardous Materials

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<sup>2</sup> NTD: To be removed if the CPUC determines that the transaction is GO 69-C compliant or otherwise does not impose disposition by advice letter prior to the Closing.

Transportation Act; the Occupational Safety and Health Act of 1970; Proposition 65 administered by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency; the Endangered Species Act and the Native American Graves Protection and Repatriation Act.

“Excluded Site Access Agreements” means the Legacy Carrier Agreements, and the standard tower agreements, standard agreements, site access agreements or similar agreements executed pursuant to a Legacy Carrier Agreement and any stand-alone agreements between Utility and a Carrier prior to the Closing and set forth on Exhibit B.

“FMB Indenture” means that certain Indenture of Mortgage or Deed of Trust, dated as of October 1, 1923, by and between Utility and the FMB Trustees, as amended, amended and restated, supplemented or otherwise modified from time to time.

“FMB Trustees” means the Person or Persons that are named as trustees in or pursuant to the FMB Indenture from time to time. As of the date of this Agreement, The Bank of New York Mellon Trust Company, N.A. and Reginald Brewer are the FMB Trustees.

“GAAP” means generally accepted accounting principles for financial reporting in the United States.

“Generator” means a stand-by generator and associated attached fuel tank, batteries, fuel tanks or any other equipment installed on Utility Property for the sole purpose of providing back-up power for Communication Equipment, in case of a service interruption to Communication Equipment from Utility’s or another electric service provider’s electric distribution system. Generators shall include Emergency Generators.

“Generator Sublicense Agreement” means a sublicense agreement from Utility to Carrier permitting a Carrier to use a Site or Utility Property adjacent thereto for the installation, operation and maintenance of Generators.

“Governing Documents” means with respect to any particular entity, (a) if a corporation, the articles or certificate of incorporation and the bylaws; (b) if a general partnership, the partnership agreement and any statement of partnership; (c) if a limited partnership, the limited partnership agreement and the certificate of limited partnership; (d) if a limited liability company, the articles of organization and operating agreement; (e) if another type of Person, any other charter or similar document adopted or filed in connection with the creation, formation or organization of the Person; (f) all equityholders’ agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements or other agreements or documents relating to the organization, management or operation of any Person or relating to the rights, duties and obligations of the equityholders of any Person; and (g) any amendment or supplement to any of the foregoing.

“Governmental Approvals” means all licenses, permits, franchises, certifications, waivers, variances, registrations, consents, approvals, qualifications, determinations and other authorizations to, from or with any Governmental Authority.

“Governmental Authority” means, any foreign, domestic, federal, territorial, state, tribal or local governmental authority, administrative body, quasi-governmental authority, court, government or self-regulatory organization, commission, board, administrative hearing body, arbitration panel, tribunal or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing, including the CPUC.

“Ground Rights Agreement” means, as to any Non-Fee Tower Property or as to any Non-Fee Ground Site Property, the lease, ground lease, sublease, grant, easement, license, offer letter or other agreement or instrument pursuant to which Utility holds a leasehold or subleasehold interest, leasehold or subleasehold estate, easement, license, franchise, sublicense or other real property interest in such Non-Fee Tower Property or Non-Fee Ground Site Property, including all amendments, modifications, supplements, assignments, guarantees, extensions, option exercises, side letters, offer letters and other documents related thereto.

“Ground Rights Holder” means, as to any Non-Fee Tower Property or as to any Non-Fee Ground Site Property, the Person that has granted, agreed to, or permitted a leasehold or subleasehold interest, leasehold or subleasehold estate, easement, license, franchise, sublicense or other real property interest to Utility under the Ground Rights Agreement relating to such Non-Fee Tower Property or Non-Fee Ground Site Property.

“Ground Rights Mortgage” means any mortgage, deed of trust or similar Lien encumbering the interest of a Ground Rights Holder.

“Ground Site” means the portion of Utility Property on which Communications Facilities are installed or are intended to be installed.

“Ground Site Equipment” means Communication Equipment, Generators, Emergency Generators and any ancillary equipment, including cables, pipes and conduits, owned by a Carrier and installed at a Ground Site.

“Ground Site Property” means the real property upon which a Ground Site is located, including, without limitation, the physical space occupied by the Ground Site, and to the extent of Utility’s interest therein, real property related or proximate thereto to the extent reasonably used or usable in connection with the operation and maintenance of a Communications Facility (and Ground Site Equipment located thereon) by a Carrier on such Ground Site, and/or access thereto.

“Ground Site Rights” means, in reference to a Ground Site, (i) with respect to a Carrier party to a Legacy Carrier Agreement for such Ground Site, the Carrier’s right to enter upon, access and use those portions of such Ground Site and rights of vehicular and pedestrian ingress and egress (by way of any roads, lanes and rights-of-way on the Ground Site, as the same may exist from time to time) to and from such Ground Site, in each case to the extent, on the terms and for the purposes with respect to which the applicable Carrier is authorized and holds rights to do so under such Legacy Carrier Agreement, and (ii) with respect to Buyer, Buyer’s right to enter upon, access and use those portions of such Ground Site and rights of

vehicular and pedestrian ingress and egress (by way of any roads, lanes and rights-of-way on the Ground Site, as the same may exist from time to time) to and from such Ground Site, for purposes of performing its obligations and exercising its rights under the SMAA and such Legacy Carrier Agreement.

“Hazardous Materials” means and includes petroleum products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls or any hazardous, toxic or dangerous waste, substance or material, in each case, defined as such (or any similar term) or regulated by, in or for the purposes of Environmental Laws, including Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

[“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.]

“Included Site” means each Legacy Site and each Pipeline Site; *provided, however*, that an Included Site subject to a Permitted Site Termination pursuant to the SMAA shall cease to be an Included Site as of the applicable Permitted Site Termination Date.

“Knowledge” means (a) with respect to Utility, the actual knowledge of the individuals set forth on Schedule 1.1(a), and (b) with respect to Buyer, the actual knowledge of the individuals set forth on Schedule 1.1(b).

“Law” means any law, statute, common law, rule, code, regulation, ordinance or Order of, or issued by, any Governmental Authority.

“Legacy Carrier Agreements” mean the Legacy Carrier Lease Agreements and the Legacy Carrier License Agreements.

“Legacy Carrier Assignment and Assumption Agreement” means an agreement substantially in the form of Exhibit E, pursuant to which certain terms set forth in each Legacy Carrier Agreement will be assigned to and assumed by the Buyer at the Closing, which will, among other things, specify the rights and obligations of the parties thereto relating to such Legacy Carrier Agreement, including the rights and obligations that will be retained by Utility. Pursuant to a Legacy Carrier Assignment and Assumption Agreement, a Legacy Carrier Agreement will be a SMAA Permitted Carrier Agreement of Buyer with the relevant Carrier following the Closing. All rights under an Excluded Site Access Agreement (and to the extent necessary to exercise the rights under an Excluded Site Access Agreement, the rights applicable to such Excluded Site Access Agreement under the applicable Legacy Carrier Agreement) shall be Retained Rights under and as defined in the applicable Legacy Carrier Assignment and Assumption Agreement, and all obligations under an Excluded Site Access Agreement (and the obligations applicable to such Excluded Site Access Agreement under the applicable Legacy Carrier Agreement) shall be Retained Obligations under and as defined in the applicable Legacy Carrier Assignment and Assumption Agreement.

“Legacy Carrier Lease Agreements” mean the lease agreements between the Utility and certain Carriers set forth on Exhibit C to this Agreement, including all amendments to such agreements.

“Legacy Carrier License Agreements” mean the license agreements between the Utility and certain Carriers set forth on Exhibit D to this Agreement, including all amendments to such agreements.

“Legacy Contracts” means, collectively, the Legacy Carrier Agreements and the Legacy Site Access Agreements.

“Legacy Ground Site” means each Ground Site set forth on Exhibit F leased or licensed to a Carrier as of the Effective Date and as of the Closing Date pursuant to the Legacy Carrier Agreements. For the avoidance of doubt, Utility may add sites to or remove sites from Exhibit F prior to the Closing to reflect all Legacy Ground Sites as of the Closing Date.

“Legacy Site” means each Legacy Tower Site and Legacy Ground Site.

“Legacy Site Access Agreements” means the standard tower agreements, standard agreements, site access agreements or similar agreements providing for access to an identified Site executed prior to the Closing pursuant to those Legacy Carrier Agreements for the Legacy Sites that are styled as “master agreements” or otherwise are applicable to more than one Site, including all amendments to such agreements, but excluding the Excluded Site Access Agreements.

“Legacy Tower Site” means each Tower Site set forth on Exhibit G leased or licensed to a Carrier as of the Effective Date and as of the Closing Date pursuant to the Legacy Carrier Agreements. For the avoidance of doubt, Utility may add sites to or remove sites from Exhibit G prior to the Closing to reflect all Legacy Tower Sites as of the Closing Date.

“Legacy Towers” means the electric transmission towers, tubular steel poles, A-frames and other structures set forth on Exhibit H to this Agreement.

“Lien” means, with respect to any asset or property, any mortgage, deed of trust, lien, pledge, security interest, charge, attachment, encumbrance, lease, reservation, restriction, servitude, charge or similar right and any other lien of any kind in respect thereof.

“Material Adverse Effect” means any state of facts, change, effect, condition, development, event or occurrence that (i) has a material adverse effect on Utility’s ability to consummate the Contemplated Transactions, (ii) is materially adverse to the Included Sites, the Tower Property Rights or Ground Site Rights associated with the Included Sites or the Included Site Carrier Revenue, taken as a whole, or (iii) has a material adverse effect on the enforceability of the Legacy Contracts taken as a whole or the economic benefits to be transferred to the Buyer pursuant to the SMAA, except to the extent resulting from or relating to (A) changes to the wireless communications industry in the United States generally or the tower ownership, operation, leasing, licensing, management and construction business in the United States or California generally; (B) the announcement or disclosure of the Contemplated Transactions; (C) general economic, regulatory or political conditions in the

United States or changes or developments in the financial or securities markets; (D) changes in GAAP or their application; (E) acts of war, military action, armed hostilities, acts of terrorism, riots, insurrection, sabotage or violent demonstrations; (F) earthquakes, fires (regardless of origin), hurricanes, tsunamis, typhoons, lightning, blizzards, tornadoes, floods, mudslides, droughts, natural disasters, weather conditions or the severity thereof, epidemics, pandemics (including the COVID-19 pandemic), disease outbreaks, public health emergencies and force majeure events; (G) changes in Law, (H) the merger, consolidation, acquisition or other transaction involving any Carriers or their Affiliates; and (I) the taking of any action by any Person which is required to be taken pursuant to the terms of this Agreement, unless (1) with respect to the foregoing clauses (A), (E) or (F) (other than clause (F) with respect to fires) any of the facts, changes, effects, conditions, developments or occurrences set forth in such clauses disproportionately impacts or affects the Included Sites, the Tower Property Rights or Ground Site Rights associated with the Included Sites or the Included Site Subleasing Revenue, taken as a whole, as compared to other similar portfolios of Sites in the same geographic area, or (2) with respect to clause (F) as it relates to fires, due to such fires, Carriers are not obligated to pay any amounts constituting Carrier Revenue for Tower Sites located on more than [•] percent ([•]%) of the Legacy Towers in operation as of the Effective Date.

“New Site Access Agreement” means the standard tower agreements, standard agreements, site access agreements or similar agreements providing for access to an identified Tower Site executed on or following the Closing Date pursuant to the Legacy Carrier Agreements for the Legacy Sites and the Pipeline Sites.

“Non-Fee Ground Site Property” means Ground Site Property upon which is located a Ground Site and with respect to which Utility does not own fee simple title to the land underlying the applicable Ground Site and/or the Ground Site Rights associated with such Ground Site.

“Non-Fee Tower Property” means a Tower Property upon which is located an Included Site and with respect to which Utility does not own fee simple title to the land underlying the applicable Tower and/or the Tower Property Rights associated with such Included Site.

“Order” means an administrative, judicial, or regulatory injunction, order, decree, judgment, sanction, award or writ of any nature of any Governmental Authority.

“Permitted Liens” means, collectively, (i) Liens in respect of property Taxes or similar assessments, governmental charges or levies that are not yet due and payable or are being contested in good faith, (ii) Liens of laborers, shippers, carriers, warehousemen, mechanics, materialmen, repairmen and other like Liens imposed by law that arise in the ordinary course of business and secure obligations that are not yet due and payable or are being contested in good faith, (iii) any easements, rights of public utility companies (including Utility and its Affiliates), rights-of-way, covenants, conditions, licenses, restrictions, reservations of mineral rights (with surface rights being waived) or similar non-monetary encumbrances that do not impair the use or operation of the applicable Legacy Site by Site Sublessee as contemplated by the applicable Legacy Contract, (iv) agreements with Governmental



Authorities related to the construction, use or operation of a Legacy Site or a Tower, (v) the Ground Rights Agreements, (vi) zoning, land use or similar laws related to the use and operation of towers similar to the Towers, (vii) Ground Rights Mortgages, (viii) the Legacy Contracts, (ix) Liens not prohibited pursuant to the terms of the FMB Indenture, and (x) without limiting the foregoing, such other matters filed in the public real estate records that do not materially impair the use or operation of a Legacy Site by Site Sublessee as contemplated by the applicable Legacy Contract.

“Permitted Site Termination” has the meaning set forth in the SMAA.

“Permitted Site Termination Date” has the meaning set forth in the SMAA.

“Person” means any individual, corporation, limited liability company, partnership, association, trust or any other entity or organization, including a Governmental Authority.

“Pipeline Site” means each Site set forth on Exhibit I for which an application has been submitted by a Carrier to Utility prior to the Closing, for which a New Site Access Agreement under a Legacy Carrier Agreement is reasonably expected to be signed following the Closing, and which is set forth on Exhibit [•] to the SMAA by an addendum executed by Utility and Buyer following the Closing and that is added to the Acquired Rights. For the avoidance of doubt, Utility may add sites to Exhibit I prior to the Closing if it receives an application from a Carrier prior to the Closing.

“Post-Closing Carrier Revenue” means that portion of Carrier Revenue paid by a Carrier to Utility prior to the Closing Date that is properly allocated to any period following the Closing Date, determined in accordance with GAAP applied using the accounting methods, practices, principles, policies and procedures utilized by Utility as of the Effective Date.

“Pre-Closing Carrier Revenue” means that portion of Carrier Revenue paid by a Carrier to Buyer on or after the Closing Date that is properly allocated to any period prior to and including the Closing Date, determined in accordance with GAAP applied using the accounting methods, practices, principles, policies and procedures utilized by Utility as of the Effective Date.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private).

“Representatives” means, with respect to a Person, its directors, officers, employees, attorneys, accountants, consultants, bankers, financial advisers and any other professionals or agents acting on behalf of any such Person.

“Services Agreements” means, collectively, all of the contracts and agreements to be entered into between Utility and Buyer, pursuant to which Utility will provide services for the Sites.

“Site” includes a Tower Site, a Ground Site, a Legacy Site and a Pipeline Site.

“Site Material Liability” means a condition or event resulting in (i) a Claim at a single Included Site of more than \$[•] or (ii) Claims at one or more Included Sites in the aggregate of more than \$[•].

“Site Sublessee” means, as to any Legacy Site, any Carrier that leases from Utility use of such Legacy Site pursuant to a Legacy Carrier Agreement.

“SMAA Permitted Carrier Agreement” means an “Authorized Site Agreement” as defined in the SMAA.

“Subsidiary” means, with respect to any Person, any other Person (i) of which at least 50% of the securities or ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other persons performing similar functions is directly or indirectly owned or controlled by such Person or by one or more of its Subsidiaries or (ii) of which such Person is the general partner.

“Tax” (and, with correlative meaning, “Taxes”) means all forms of taxation, whenever created or imposed, whether imposed by a local, municipal, state, foreign, federal or other Governmental Authority, and whether imposed directly by a Governmental Authority or indirectly through any other Person and includes any federal, state, local or foreign income, gross receipts, ad valorem, excise, value-added, sales, use, transfer, franchise, license, stamp, occupation, withholding, employment, payroll, property or environmental tax, levy, charge, assessment or fee together with any interest, penalty, addition to tax or additional amount imposed by a Governmental Authority or indirectly through any other Person, as well as any liability for or in respect of the Taxes of, or determined by reference to the Tax liability of, another Person under Treasury Regulation § 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, by contract or otherwise.

“Tower” means the Legacy Towers and the Transmission Towers.

“Tower Equipment” refers to Communication Equipment, Base Equipment and Generators owned by a Carrier and installed at a Tower Site.

“Tower Property” means the Utility Property upon which a Tower is located, including, without limitation, the physical space occupied by the Tower, and to the extent of Utility’s interest therein, real property related or proximate thereto to the extent reasonably used or usable in connection with Utility’s operation and maintenance of such Tower or the operation and maintenance of Communication Equipment by a Carrier, and/or access thereto.

“Tower Property Rights” means, in reference to a Tower Property, (i) with respect to a Carrier party to a Legacy Carrier Agreement for such Tower Property, the Carrier’s right to enter upon, access and use those portions of such Tower Property and rights of vehicular and pedestrian ingress and egress (by way of any roads, lanes and rights-of-way on the Tower Property, as the same may exist from time to time) to and from such Tower Property, in each case to the extent, on the terms and for the purposes with respect to which the applicable Carrier is authorized and holds rights to do so under such Legacy Carrier Agreement, and (ii) with respect to Buyer, Buyer’s right to enter upon, access and use those portions of such

Tower Property and rights of vehicular and pedestrian ingress and egress (by way of any roads, lanes and rights-of-way on the Tower Property, as the same may exist from time to time) to and from such Tower Property, for purposes of performing its obligations and exercising its rights under the SMAA and such Legacy Carrier Agreement.

“Tower Site” means each location on Utility Property on which Tower Equipment is installed or is capable of being installed.

“Transaction Agreements” means this Agreement, the SMAA, the Legacy Carrier Assignment and Assumption Agreements, the Services Agreements, and each other agreement executed and delivered by and between Utility and Buyer at the Closing.

“Transfer Taxes” means sales, use, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, and recording fees.

“Transmission Towers” means electric transmission towers, tubular steel poles, A-frames, and other transmission structures of Utility other than the Legacy Towers.

“Utility Property” means the real property and real property rights utilized by Utility for its gas and electric and other services businesses, which is owned, operated, leased, occupied, used or controlled by Utility pursuant to subsisting grants, deeds, easements, leases, franchises, licenses, or other arrangements.

1.2. **Terms Defined Elsewhere in this Agreement.** In addition to the terms defined in Section 1.1, the following terms are defined in the Section or part of this Agreement specified below:

<u>Defined Term</u>	<u>Section</u>
AAA	Section 9.4(b)
Acquired Rights	Section 2.2
Agreement	Introduction
Buyer	Introduction
Buyer Fundamental Representations	Section 7.8(d)
Buyer Indemnified Party	Section 7.2
Buyer Post-Closing Statement	Section 2.4(c)
Cap	Section 7.8(b)
Chosen Courts	Section 9.3
Closing	Section 2.5
Closing Date	Section 2.5
Closing Date Purchase Price	Section 2.3
De Minimis Claim	Section 7.8(a)
Deductible	Section 7.8(a)
Defense Notice	Section 7.4(a)
Direct Claim	Section 7.5
Direct Claim Notice	Section 7.5
Disputed Amounts	Section 2.4(f)
Effective Date	Introduction

Estimated Purchase Price	Section 2.4(a)
Final Purchase Price	Section 2.4(b)
Guaranteed Obligations	Joinder and Guaranty
Guarantor	Joinder and Guaranty
Guaranty	Joinder and Guaranty
Indemnified Party	Section 7.4(a)
Indemnifying Party	Section 7.4(a)
Independent Accountants	Section 2.4(f)
Initial Resolution Period	Section 2.4(e)
Legacy Agreement Assignments	Section 2.1
Outside Date	Section 8.1(b)(i)
Post-Closing Adjustment	Section 2.4(b)
Purchase Price	Section 2.3
Reimbursement	Section 7.10
Review Period	Section 2.4(d)
SMAA	Recitals
Specified Rights	Section 2.2
Statement of Objections	Section 2.4(e)
Survival Date	Section 7.9(a)
Third Party Claim	Section 7.4(a)
Utility	Introduction
Utility Fundamental Representations	Section 7.8(a)
Utility Indemnified Party	Section 7.3
Utility Post-Closing Statement	Section 2.4(c)

1.3. **Construction.** Unless the express context otherwise requires:

- (a) the words “hereof”, “herein”, and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (b) the terms defined in the singular have a comparable meaning when used in the plural, and vice versa, and the singular forms of nouns, pronouns and verbs shall include the plural and vice versa;
- (c) any references herein to “\$” are to United States dollars;
- (d) any references herein to a specific Article, Section, Schedule or Exhibit shall refer, respectively, to Articles, Sections, Schedules or Exhibits of this Agreement;
- (e) any references to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof and, if applicable, hereof;
- (f) any use of the words “or”, “either” or “any” shall not be exclusive;

(g) wherever the word “include,” “includes,” or “including” is used in this Agreement, it shall be deemed to be followed by the words “without limitation”; and

(h) references herein to any gender include each other gender.

## **ARTICLE 2**

### **PURCHASE PRICE; CLOSING**

2.1. **Assignment of Legacy Carrier Agreements.** At the Closing, and subject to the terms and conditions set forth in this Agreement, the SMAA and the Legacy Carrier Assignment and Assumption Agreements, Utility shall assign to Buyer, and Buyer shall assume from Utility, certain rights and obligations of Utility related to the Legacy Carrier Agreements (the “Legacy Agreement Assignments”).

2.2. **Grant of Specified Rights.** At the Closing, and subject to the terms and conditions set forth in this Agreement and the SMAA, Utility and Buyer shall enter into the SMAA, pursuant to which Utility will grant to Buyer (x) rights to market, manage, sublease and sublicense Tower Sites on and about Utility’s Transmission Towers and (y) rights to propose to Utility the sublease or sublicense of Ground Sites to wireless telecommunications carriers for installations of Communications Facilities on Utility Property and the installation and use of Communication Equipment on such Communications Facility (the “Specified Rights” and together with the Legacy Agreement Assignments, the “Acquired Rights”).

2.3. **Purchase Price.** The aggregate purchase price (the “Purchase Price”) for the Acquired Rights, subject to all adjustments, credits and prorations, contained in this Agreement, shall be equal to (a)(i) \$[•] ([•] Dollars), minus (ii) the amount of any Post-Closing Carrier Revenue received by Utility on or prior to the Closing Date, plus (iii) the amount of any Pre-Closing Carrier Revenue received by Buyer following the Closing Date (the “Closing Date Purchase Price”), plus (b) the aggregate amount of additional Purchase Price payable under Section 2.7 with respect to Pipeline Sites. Buyer shall pay the Estimated Purchase Price, as determined pursuant to Section 2.4(a) and subject to adjustment pursuant to Section 2.4(a), to Utility at the Closing in immediately available funds by wire transfer to an account designated in writing by Utility to Buyer prior to the Closing. The Estimated Purchase Price shall be subject to adjustment pursuant to Section 2.4.

#### **2.4. Purchase Price Adjustment.**

(a) At least two (2) Business Days before the Closing, Utility shall prepare and deliver to Buyer a statement setting forth its good faith estimate of the Purchase Price (the “Estimated Purchase Price”), which statement shall include Utility’s good faith estimate of the Post-Closing Carrier Revenue. Buyer shall have the right to review the Estimated Purchase Price to confirm the calculations contained therein, and in the event that Buyer disputes any portion of such calculations, the parties shall confer in good faith with respect to such dispute during for two (2) Business Days. In the event that following such period there remains a dispute between Utility and Buyer with respect to the Estimated Purchase Price, the Closing shall nevertheless occur on the basis of the Estimated Purchase Price.

(b) The final Closing Date Purchase Price determined utilizing the amounts of Post-Closing Carrier Revenue and Pre-Closing Carrier Revenue that are finally determined pursuant to this Section 2.4 is referred to herein as the “Final Closing Date Purchase Price”. The “Post-Closing Adjustment” shall be an amount equal to the Final Closing Date Purchase Price, as determined pursuant to this Section 2.4, minus the Estimated Purchase Price. If the Post-Closing Adjustment is a positive number, Buyer shall pay to Utility an amount equal to the Post-Closing Adjustment pursuant to Section 2.4(j). If the Post-Closing Adjustment is a negative number, Utility shall pay to Buyer an amount equal to the absolute value of the Post-Closing Adjustment pursuant to Section 2.4(j).

(c) On the date that is one hundred twenty (120) days after the Closing Date, (i) Utility shall deliver to Buyer a statement setting forth its calculation of the actual amount of Post-Closing Carrier Revenue received by Utility prior to the Closing Date (the “Utility Post-Closing Statement”), and (ii) Buyer shall deliver to Utility a statement setting forth its calculation of the actual amount of Pre-Closing Carrier Revenue received by Buyer on or following the Closing Date (the “Buyer Post-Closing Statement”), together with any amounts that Buyer asserts should have been included or excluded in the Estimated Purchase Price and were not so included or excluded.

(d) During the period ending sixty (60) days following the delivery of each of the Utility Post-Closing Statement and the Buyer Post-Closing Statement (the “Review Period”), each party shall provide to the other party reasonable access to the books and records of such party, the personnel of such party and such party’s accountants, in each case, to the extent relating to the Utility Post-Closing Statement, the Buyer Post-Closing Statement and the Estimated Purchase Price, as applicable, as the other party may reasonably request for the purpose of reviewing the Utility Post-Closing Statement and the Buyer Post-Closing Statement, as applicable, and preparing a Statement of Objections, *provided*, that such access shall be in a manner that does not interfere with the normal business operations of the other party.

(e) On or prior to the last day of the Review Period, Buyer may object to the Utility Post-Closing Statement by delivering to Utility a written statement setting forth Buyer’s objections in reasonable detail, indicating each disputed item or amount and the basis for Buyer’s disagreement therewith, and Utility may object to the Buyer Post-Closing Statement by delivering to Buyer a written statement setting forth Utility’s objections in reasonable detail, indicating each disputed item or amount and the basis for Utility’s disagreement therewith (either such statement, a “Statement of Objections”). If a party fails to deliver the applicable Statement of Objections before the expiration of the Review Period, the Utility Post-Closing Statement or the Buyer Post-Closing Statement, as the case may be, shall be deemed to have been accepted by such party. If a party delivers a Statement of Objections before the expiration of the Review Period, Buyer and Utility shall negotiate in good faith to resolve such objections within thirty (30) days after the delivery of the applicable Statement of Objections (the “Initial Resolution Period”), and, if the same are so resolved within the Initial Resolution Period, the Utility Post-Closing Statement or the Buyer Post-Closing Statement, as the case may be, so resolved with such changes as may have been previously agreed in writing by Buyer and Utility, shall be final and binding.

(f) If Utility and Buyer fail to reach an agreement with respect to all of the matters set forth in each Statement of Objections before expiration of the Initial Resolution Period, then any amounts remaining in dispute (“Disputed Amounts”) shall be submitted to negotiations between a vice president of Utility or his or her designated representative and an executive of similar authority of Buyer. If the Disputed Amounts have not been resolved within sixty (60) days following the expiration of the Initial Resolution Period, the remaining Disputed Amounts shall be submitted for resolution to the office of a Big 4 or national mid-tier firm of independent certified public accountants that is mutually agreed upon and engaged by Utility and Buyer and that shall not have served as principal auditor of Utility or its Affiliates or Buyer or its Affiliates during the previous five (5) years (the “Independent Accountants”). Buyer and Utility will engage the Independent Accountants within twenty (20) days, and if the parties have not agreed upon the Independent Accountants with such twenty (20) days, then each party shall engage a Big 4 or national mid-tier firm of independent certified public accountants, and the two such firms shall pick the Independent Accountants. The Independent Accountants, acting as experts and not arbitrators, shall resolve the Disputed Amounts only and make any adjustments to the Post-Closing Adjustment and the Utility Post-Closing Statement or the Buyer Post-Closing Statement, as the case may be. The parties hereto agree that all adjustments shall be made without regard to materiality. The Independent Accountants shall only decide the specific items under dispute by the parties and their decision for each Disputed Amount must be within the range of values assigned to each such item in the Utility Post-Closing Statement or the Buyer Post-Closing Statement, as the case may be, and the applicable Statement of Objections.

(g) If, at any time prior to the final determination of the Post-Closing Adjustment but after the delivery of the Buyer Post-Closing Statement, Buyer receives payment of any additional Pre-Closing Carrier Revenue (or any payment that is potentially Pre-Closing Carrier Revenue), Buyer shall promptly give notice of such payment to Utility and, if applicable, the Independent Accountants, and such payment shall be taken into consideration by the parties or, if applicable, the Independent Accountants in determining the Post-Closing Adjustment.

(h) The fees and expenses of the Independent Accountants shall be paid equally by Utility and Buyer.

(i) The Independent Accountants shall make a determination as soon as practicable within thirty (30) days (or such other time as the parties shall agree in writing) after their engagement, and their resolution of the Disputed Amounts and their adjustments to the Utility Post-Closing Statement, the Buyer Post-Closing Statement, or the Post-Closing Adjustment, as the case may be, shall be conclusive and binding upon the parties hereto.

(j) Except as otherwise provided herein, any payment of the Post-Closing Adjustment shall (i) be due (A) if there are no Disputed Amounts, within five (5) Business Days following acceptance of the Utility Post-Closing Statement and the Buyer Post-Closing Statement, or (B) if there are Disputed Amounts, then within five (5) Business Days of the resolution described in Section 2.4(i) above; and (ii) be paid by wire transfer of immediately available funds to such account as is directed by Buyer or Utility, as the case may be.

(k) Any payments made pursuant to this Section 2.4 shall be treated as an adjustment to the Purchase Price by the parties for Tax purposes, unless otherwise required by Law.

2.5. **Closing.** The closing of the purchase of the Acquired Rights provided for in this Agreement (the “Closing”) will take place remotely by electronic exchange of documents within five (5) Business Days following the date that the applicable conditions set forth in Article 6 (other than conditions which are to be satisfied by delivery at the Closing), have been duly satisfied or waived or such other date as Buyer and Utility may mutually agree in writing. The date on which the Closing actually occurs is referred to herein as the “Closing Date”.

2.6. **Closing Deliveries.** At the Closing:

(a) Utility will deliver to Buyer:

(i) the SMAA, duly executed by Utility;

(ii) the Legacy Carrier Assignment and Assumption Agreements, duly executed by Utility;

(iii) the Services Agreements, duly executed by Utility; and

(iv) a certificate of an officer of Utility certifying as to the fulfillment of the condition specified in Section 6.2(a).

(b) Buyer will deliver or cause to be delivered to Utility:

(i) the Estimated Purchase Price, to be delivered pursuant to Section 2.3;

(ii) the SMAA, duly executed by Buyer;

(iii) the Legacy Carrier Assignment and Assumption Agreements, duly executed by Buyer;

(iv) the Services Agreements, duly executed by Buyer; and

(v) a certificate of an officer of Buyer certifying as to the fulfillment of the condition specified in Section 6.3(a).

2.7. **Addition of Pipeline Sites.** Within five (5) Business Days following the end of each calendar quarter, with respect to each assignment and assumption agreement executed with respect to a New Site Access Agreement for each Pipeline Site during such calendar quarter, Buyer shall make a payment of additional Purchase Price to Utility in the amount of [•]. Such payment shall be made by wire transfer of immediately available funds to an account designated in writing by Utility to Buyer. Utility shall use commercially reasonable efforts to negotiate and enter into a New Site Access Agreement with respect to each Pipeline Site, but shall have no liability to Buyer for any failure of a New Site Access Agreement to be executed with a Carrier with respect to a Pipeline Site.



2.8. **Certain Payments.** Notwithstanding Section 2.4, if after the date when the Post-Closing Adjustment is finally determined, Buyer receives any payment of Pre-Closing Carrier Revenue, Buyer will forward such payment, as promptly as practicable but in any event within thirty (30) days after such receipt, to Utility and notify the payor of such Pre-Closing Carrier Revenue to remit all future payments of Pre-Closing Carrier Revenue to Utility. If after the date when the Post-Closing Adjustment is finally determined, Utility receives any payment of Post-Closing Carrier Revenue, Utility will forward such payment, as promptly as practicable but in any event within thirty (30) days after such receipt, to Buyer and notify the payor of such Post-Closing Carrier Revenue to remit all future payments of Post-Closing Carrier Revenue to Buyer.

2.9. **Tax Treatment.** [To be determined.]

### **ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF UTILITY**

Utility represents and warrants to Buyer as follows as of the Effective Date and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty is made as of such earlier date):

3.1. **Organization and Good Standing.** Utility is duly organized, validly existing and in good standing under the laws of the State of California, and has all requisite corporate power to carry on its business as presently conducted and to perform the Contemplated Transactions, other than any failure to be in good standing or to have corporate power that individually or in the aggregate would not be reasonably expected to have a Material Adverse Effect.

3.2. **Authority and Enforceability.** Utility has the requisite corporate authority to execute and deliver this Agreement and the other Transaction Agreements to which Utility is a party, to perform all the terms and conditions hereof and thereof to be performed by it, and to consummate the Contemplated Transactions. Assuming due authorization, execution and delivery by each other party hereto and thereto, this Agreement and the other Transaction Agreements constitute the legal, valid and binding obligations of Utility, enforceable against Utility in accordance with its and their terms, except that the enforceability of each of this Agreement and the other Transaction Agreements is subject to applicable bankruptcy, insolvency or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

3.3. **No Conflict.** Except [for the CPUC Advice Letter Disposition and] as [otherwise]<sup>3</sup> set forth on Schedule 3.3, the execution, delivery and performance by Utility of this Agreement and each of the other Transaction Agreements to which it is a party, and the consummation of the Contemplated Transactions, do not, with or without the giving of notice or the passage of time, or both, (a) require the consent or approval of any Governmental Authority or any third party, or (b) conflict with, or result in a breach or violation of, or constitute a default under, or permit the acceleration of any liability under (i) any provision of the articles of incorporation or bylaws of Utility, (ii) any provision of Law, (iii) any Legacy Carrier Agreement (taken as a whole with its

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<sup>3</sup> NTD: To be removed if the CPUC determines that the transaction is GO 69-C compliant or otherwise does not impose disposition by advice letter prior to the Closing.

respective Legacy Site Access Agreements), or (iv) any contract or agreement of Utility that is material to the Legacy Towers or the Legacy Sites or the Tower Property Rights or Ground Site Rights, if any, related thereto, except, in the case of clauses (ii) and (iv), as would not result in a Site Material Liability or a Material Adverse Effect.

#### **3.4. Utility Property.**

(a) Schedule 3.4(a) sets forth each Legacy Tower and whether such Legacy Tower is located upon land for which Utility (i) holds fee simple title to the applicable Tower Property, inclusive of all Tower Property Rights applicable to each Legacy Tower Site related thereto, or (ii) holds a valid and subsisting leasehold, subleasehold, easement, permit, franchise, license or sublicense or other similar valid interest in such Tower Property, in each case free and clear of any Liens other than Permitted Liens and Liens that would not adversely affect the Buyer's ability to exercise its rights with respect to such Legacy Tower Sites under the Acquired Rights in accordance with the SMAA in any material respect.

(b) Schedule 3.4(b) sets forth each Legacy Ground Site and whether such Legacy Ground Site is located upon land for which Utility (i) holds fee simple title to the applicable Ground Site Property, inclusive of all Ground Site Rights applicable to each Legacy Ground Site related thereto or (ii) holds a valid and subsisting leasehold, subleasehold, easement, permit, franchise, license or sublicense or other similar valid interest in such Ground Site Property, in each case free and clear of any Liens other than Permitted Liens and Liens that would not adversely affect the Buyer's ability to exercise its rights with respect to each Legacy Ground Site related thereto under the Acquired Rights in accordance with the SMAA in any material respect.

#### **(c) Ground Rights Agreements.**

(i) Except as set forth on Schedule 3.4(c)(i), Utility holds a valid and subsisting leasehold, subleasehold, easement, permit, franchise, license or sublicense or other similar valid interest in the Non-Fee Tower Properties or Non-Fee Ground Site Properties under the Ground Rights Agreements. As of Closing, Utility has made available to Buyer in the Data Room a true, correct and complete copy of each Ground Rights Agreement.

(ii) Utility's interest in each Non-Fee Tower Property and each Non-Fee Ground Site Property under each applicable Ground Rights Agreement is senior to, or free and clear of, all Liens other than Permitted Liens and Liens that would not adversely affect the Buyer's ability to exercise its rights with respect to the applicable Legacy Tower Sites under the Acquired Rights in accordance with the SMAA in any material respect (but is subject to the terms and conditions of the applicable Ground Rights Agreement).

(iii) Each Ground Rights Agreement is in full force and effect and is valid and enforceable against Utility and, to Utility's Knowledge, against the other parties thereto, in each case in accordance with its terms, except that the enforceability of each Ground Rights Agreement is subject to applicable bankruptcy, insolvency or

other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

(iv) Utility has paid the rent set forth in each of such Ground Rights Agreements (if applicable) on a current basis and there are no material past due amounts.

(d) Except as set forth on Schedule 3.4(d), Utility is not party to any agreement with any Person (other than this Agreement and the Legacy Contracts) to lease, license or transfer all or any portion of any Legacy Site or the Tower Property Rights or Ground Site Rights related thereto, if applicable, (excluding Permitted Liens and Liens that would not adversely affect the Buyer's ability to exercise its rights with respect to such Legacy Sites under the Acquired Rights in accordance with the SMAA in any material respect), subject to the terms and conditions of the applicable Ground Rights Agreement, if any.

(e) Except as set forth on Schedule 3.4(e), to Utility's Knowledge, as of the Effective Date, (i) Utility has not received written notice that any condemnation, or other taking by any Governmental Authority, is pending or has been instituted with respect to any portion of any Legacy Site or the associated Tower Property or Ground Site Property, as applicable, and (ii) in the twelve (12) months preceding the Effective Date, Utility has not received written notice that any re-zoning proceedings are pending or have been instituted with respect to any portion of any Legacy Site or the associated Tower Property or Ground Site Property, as applicable, that would materially impact the use and occupancy of such Legacy Site or the Tower Property Rights or Ground Site Rights, as applicable, related thereto.

(f) Assuming Buyer's compliance with the SMAA and the other Transaction Agreements, [and subject to the effectiveness of the CPUC Advice Letter Disposition,]<sup>4</sup> Utility possesses all rights necessary to grant the Acquired Rights to Buyer pursuant to, and subject to the terms and conditions of, the SMAA, including the Tower Property Rights or Ground Site Rights, if any, applicable to each Legacy Site.

(g) Except as set forth on Schedule 3.4(g), Utility has a fee interest, or Utility or the applicable Carrier has obtained a leasehold, subleasehold, easement, permit, franchise, license, right of way or sublicense or other similar right necessary to provide to Utility or the applicable Carrier sufficient ingress and egress to and from the Legacy Sites and the associated Tower Properties or Ground Site Properties, as applicable, to permit the installation and maintenance of the Communications Facility currently installed at such Legacy Sites and Tower Properties or Ground Site Properties, as applicable.

(h) To Utility's Knowledge, there are no structural defects in any of the Legacy Towers or the Legacy Tower Sites that would or would reasonably be expected to materially impair the use or operation of the applicable Legacy Tower Site as a location for the

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<sup>4</sup> NTD: To be removed if the CPUC determines that the transaction is GO 69-C compliant or otherwise does not impose disposition by advice letter prior to the Closing.

attachment of Communication Equipment, including the lease or license of such Legacy Tower Site to Site Sublessees, except for any such defects that Utility is remediating.

(i) Utility does not own any of the Communications Facilities located at the Ground Sites, and the applicable Carrier, not Utility, is responsible for any such Communications Facilities.

**3.5. Compliance with Law.** Except as set forth in Schedule 3.5, Utility has during the twelve (12) months preceding the Effective Date operated and is operating each Legacy Site and associated Legacy Tower and Tower Property or associated Ground Site Property, as applicable, in all material respects in accordance with all Laws applicable to Utility, except where the failure to be in such compliance, individually or in the aggregate, has not resulted and would not reasonably be expected to result in a Site Material Liability to Buyer. Except as expressly identified in Schedule 3.5, Utility has not received any notification during the twelve (12) months preceding the Effective Date that any Legacy Site or associated Legacy Tower or Tower Property or associated Ground Site Property, as applicable, lacks any necessary Governmental Approvals required to be held by Utility (excluding any Governmental Approval that may be, or is required to be, held by a Carrier) or is not in compliance with any Laws (excluding any Environmental Laws) applicable to Utility and affecting such Legacy Site, Legacy Tower, Tower Property or Ground Site Property, as applicable, or the exercise of the applicable Tower Property Rights or Ground Site Rights, as applicable, except where the failure to have such Governmental Approvals or to be in such compliance, individually or in the aggregate, has not resulted and would not reasonably be expected to result in a Material Adverse Effect. Except as expressly identified in Schedule 3.5, to Utility's Knowledge, all Governmental Approvals necessary for the ownership and present operation and use of the Legacy Towers and the Legacy Sites by Utility have been issued, are fully paid for and are in full force and effect.

**3.6. Environmental Compliance.** Except as set forth on Schedule 3.6, (a) Utility has during the three (3) year period preceding the Effective Date operated and is operating each Legacy Site and associated Legacy Tower and Tower Property or associated Ground Site Property, as applicable, in accordance with all Environmental Laws applicable to Utility, except where the failure to be in such compliance, individually or in the aggregate, has not resulted and would not reasonably be expected to result in a Site Material Liability to Buyer, (b) Utility has not received any written notification from a Governmental Authority that Utility is not in compliance with Environmental Laws applicable to Utility with respect to any Legacy Site or associated Legacy Tower or Tower Property or associated Ground Site Property, as applicable, except where the failure to be in such compliance, individually or in the aggregate, has not resulted and would not reasonably be expected to result in a Site Material Liability or a Material Adverse Effect (after taking into account Utility's rights to indemnification from Carriers pursuant to the Legacy Contracts), and (c) there have been no releases or disposals of any Hazardous Materials by Utility, or any Person acting on behalf of Utility, at any Legacy Site or associated Legacy Tower or Tower Property or associated Ground Site Property, as applicable, that would reasonably be expected to result in liability under applicable Environmental Law, in each case, except as would not, individually or in the aggregate, reasonably

be expected to result in a Site Material Liability or a Material Adverse Effect (after taking into account Utility's rights to indemnification from Carriers pursuant to the Legacy Contracts).

### 3.7. **Contracts.**

(a) Schedule 3.7(a) lists each Legacy Carrier Agreement and each amendment to a Legacy Carrier Agreement, and Utility has made available to Buyer in the Data Room a true, correct and complete copy of each Legacy Carrier Agreement as in effect on the Effective Date; *provided, however*, that no such representations are made with respect to amendments, modifications, supplements, assignments or guarantees to any Legacy Carrier Agreement that are not material to such Legacy Carrier Agreement.

(b) To Utility's Knowledge, Schedule 3.7(b) lists each Legacy Site Access Agreement and each material amendment to a Legacy Site Access Agreement as of the Effective Date. Utility has made available to Buyer a true, correct and complete copy of each Legacy Site Access Agreement in Utility's possession.

#### (c) Legacy Contracts.

(i) Except as expressly identified in Schedule 3.7(c)(i), each Legacy Contract is in full force and effect and is valid and enforceable against Utility and, to Utility's Knowledge, against the other parties thereto, in each case in accordance with its terms, subject to applicable bankruptcy, insolvency or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

(ii) Utility's interests in the Legacy Contracts to be assigned to Buyer at Closing are free and clear of all Liens (excluding Permitted Liens and Liens that would not adversely affect the Buyer's ability to exercise its rights with respect to such Legacy Sites under the Acquired Rights in accordance with the SMAA in any material respect), but subject to the terms and conditions of the SMAA and the Legacy Contracts.

(iii) Except for the rights of Utility and the rights of the Carriers and subtenants pursuant to the Legacy Contracts, no Person other than Buyer will on the Closing Date be in, or have any right or claim to, possession of any of the Legacy Sites.

(iv) Except as set forth on Schedule 3.7(c)(iv), there are no amounts of Carrier Revenue due under the Legacy Contracts that have not been paid within one hundred eighty (180) days from the date of the applicable invoice issued by Utility to the applicable Carrier.

(v) Except as expressly set forth in the Legacy Contracts, no Carrier is entitled to any concessions or abatements for Carrier Revenue for any period subsequent to the Closing Date.

(vi) Except as expressly set forth in the Legacy Contracts, Utility has not been paid any security deposits, or prepaid Carrier Revenue under the Legacy Contracts.

(d) Except as set forth on Schedule 3.7(d), in the twelve (12) months preceding the Effective Date, Utility has not given to or received from the applicable Carrier any notice regarding any material violation or breach of, or material default under, any Legacy Contract, and neither Utility nor, to Utility's Knowledge, the applicable Carrier, is in material default under any Legacy Contract, and, to Utility's Knowledge, there is no event which, with the giving of notice or the passage of time or both, would constitute such a material default.

(e) Except as set forth on Schedule 3.7(e), as of the Effective Date, Utility has not received any written notice of termination of any Legacy Carrier Agreement or Legacy Site Access Agreement.

**3.8. Proceedings; Orders.** Except as set forth on Schedule 3.8, as of the Effective Date, there is no Proceeding pending or, to Utility's Knowledge, threatened against Utility relating to any Legacy Site or Legacy Tower or associated Tower Property or Ground Site Property, as applicable, by or before any Governmental Authority or by any Person that, individually or in the aggregate, has resulted or would reasonably be expected to result in a Material Adverse Effect. Except as set forth on Schedule 3.8, as of the Effective Date, there are no Orders pending or, to Utility's Knowledge, threatened against Utility with respect to the Legacy Sites, Legacy Towers, associated Tower Properties or associated Ground Site Properties, as applicable, or otherwise binding on any Legacy Sites, Legacy Towers, associated Tower Properties or associated Ground Site Properties, as applicable, that, individually or in the aggregate, have resulted or would reasonably be expected to result in a Material Adverse Effect.

**3.9. Taxes and Assessments.** All ad valorem real property taxes and all personal property taxes for the Legacy Towers and the Legacy Sites and associated Tower Properties or associated Ground Site Properties, as applicable, that are due and payable have been fully paid, and Utility has filed all appropriate tax returns for the Legacy Towers, the Legacy Sites and associated Tower Properties or associated Ground Site Properties, as applicable, except for any such taxes as are being contested in good faith. There are no existing or pending special assessments, fees or similar obligations affecting any of the Legacy Sites, Legacy Towers, associated Tower Properties or associated Ground Site Properties, as applicable, or Legacy Contracts, which have been assessed by any Governmental Authority. Utility will be liable for any such special assessments, fees or similar obligations affecting the Legacy Towers and associated Tower Properties that arise prior to the Closing Date. Utility will be liable for any such special assessments, fees or similar obligations affecting the Legacy Sites or Legacy Contracts that arise prior to the Closing Date. Amounts paid or reimbursed by any Carrier with respect to any such special assessments, fees or similar obligations for which Utility is liable pursuant to this section shall be for the account of Utility.

**3.10. Brokers or Finders.** Utility has not engaged any broker, finder, investment banker or other intermediary or incurred any liability for any investment banking fees, financial advisory fees, brokerage fees, finders' fees or other similar fees, in each case for which Buyer would be responsible for payment in connection with the Contemplated Transactions.

3.11. **Accurate Documents.** All contracts, documents, reports, leases, surveys and other items relating to the Legacy Sites, the Legacy Towers, the associated Tower Properties or associated Ground Site Properties, as applicable, or the Legacy Contracts and delivered to Buyer pursuant to this Agreement are, in all material respects, true, correct and complete copies of the originals thereof.

3.12. **No Other Representations or Warranties.** Except for the representations and warranties contained in this Article 3, neither Utility nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Utility, including any representation or warranty as to the accuracy or completeness of any information regarding the Included Sites furnished or made available to Buyer and its Representatives (including any confidential information memorandum, reports of experts, memoranda of counsel, and any information, documents or material made available to Buyer in the Data Room, management presentations or in any other form in expectation of the Contemplated Transactions) or as to the future revenue, profitability or success of the leasing, subleasing, licensing or sublicensing of Included Sites, or any representation or warranty arising from statute or otherwise under Law.

#### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer, on behalf of itself and, where expressly indicated below, on behalf of Guarantor<sup>5</sup>, represents and warrants to Utility as follows as of the Effective Date and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty is made as of such earlier date):

4.1. **Organization and Good Standing.** Buyer is duly organized, validly existing and in good standing under the laws of [•], and has all requisite [corporate][limited liability company] power to carry on its business as presently conducted and to perform the Contemplated Transactions. Guarantor is duly organized, validly existing and in good standing under the laws of [•], and has all requisite [corporate][limited liability company] power to carry on its business as presently conducted and to perform the Guaranty.

4.2. **Authority and Enforceability.** Each of Buyer and Guarantor has the [corporate][limited liability company] authority to execute and deliver this Agreement and the other Transaction Agreements to which it is a party, to perform all the terms and conditions hereof and thereof to be performed by it, and to consummate the Contemplated Transactions. Assuming due authorization, execution and delivery by each other party hereto and thereto, this Agreement and the other Transaction Agreements constitute the legal, valid and binding obligations of Buyer, to the extent Buyer is a party thereto, enforceable against Buyer in accordance with its and their terms, except that the enforceability of each of this Agreement and the other Transaction Agreements is subject to applicable bankruptcy, insolvency or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law). The Guaranty constitutes the legal, valid and binding obligations of Guarantor, enforceable against Guarantor in accordance with its terms, except that the enforceability of the Guaranty is subject to applicable bankruptcy, insolvency

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<sup>5</sup> NTD: Guaranty dependent on identity of Buyer.

or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

4.3. **No Conflict.** The execution, delivery and performance by each of Buyer and Guarantor of this Agreement and each of the other Transaction Agreements to which it is a party, and the consummation of the Contemplated Transactions, do not, with or without the giving of notice or the passage of time, or both, conflict with, or result in a breach or violation of, or constitute a default under, or permit the acceleration of any liability or result in the creation of any Lien upon any of the properties or assets of Buyer or Guarantor under (a) any provision of Buyer's or Guarantor's, as applicable, Governing Documents, (b) any provision of Law or (c) any material contract to which Buyer or Guarantor is a party or by which Buyer or Guarantor or their respective assets are bound, except, in the case of clauses (b) and (c), as would not have a Buyer Material Adverse Effect.

4.4. **Brokers or Finders.** Buyer has not engaged any broker, finder, investment banker or other intermediary or incurred any liability for any investment banking fees, financial advisory fees, brokerage fees, finders' fees or other similar fees, in each case for which Utility would be responsible for payment in connection with the Contemplated Transactions or for which such Person would have lien rights on the Included Sites or related Tower Property Rights or Ground Site Rights, the Legacy Contracts or the SMAA.

4.5. **Governmental Approvals.** Schedule 4.5 contains a list of all Governmental Approvals and other filings, applications or notices required to be made, filed, given or obtained by Buyer or any of its Affiliates (including Guarantor) with, to or from any Governmental Authorities or other Persons in connection with the consummation of Contemplated Transactions, except those approvals, filings, applications and notices the failure to make, file, give or obtain of which do not adversely affect or restrict in any material respect, or would not reasonably be expected to adversely affect or restrict in any material respect, Buyer's ability to consummate the Contemplated Transactions or Guarantor's ability to perform its obligations under the Guaranty.

4.6. **Proceedings; Orders.** Except as set forth on Schedule 4.6, as of the Effective Date, there is no Proceeding pending or, to Buyer's Knowledge, threatened against Buyer by or before any Governmental Authority or by any Person which challenges the validity of this Agreement or which would reasonably be likely to adversely affect or restrict (a) Buyer's ability to consummate the Contemplated Transactions or (b) Buyer's or its Affiliates' ability to sublease or sublicense the Included Sites and related Tower Property Rights or Ground Site Rights to be subleased or sublicensed under the SMAA or the Legacy Contracts or which, individually or in the aggregate, have had or would reasonably be expected to have a Buyer Material Adverse Effect. As of the Effective Date, there are no Orders pending or, to Buyer's Knowledge, threatened that adversely affect or restrict, or would reasonably be expected to adversely affect or restrict (i) Buyer's ability to consummate the Contemplated Transactions or (ii) Buyer's or its Affiliates' ability to sublease or sublicense the Included Sites and related Tower Property Rights or Ground Site Rights pursuant to the SMAA or the Legacy Carrier Agreements or which, individually or in the aggregate, have had or would reasonably be expected to have a Buyer Material Adverse Effect.

4.7. **Solvency.** As of the Effective Date, immediately prior to the Closing, and after giving effect to the Contemplated Transactions, Buyer shall be solvent. No transfer of property is being



made, and no obligation is being incurred in connection with the transactions contemplated by this Agreement with the intent to hinder, delay or defraud either present or future creditors of Buyer or any of its Affiliates.

4.8. **Financial Capability.** Buyer has, as of the Effective Date, and shall have on the Closing Date, sufficient funds to enable Buyer to consummate the Contemplated Transactions, including payment of the Purchase Price and fees and expenses of Buyer relating to the transactions contemplated hereby.

4.9. **Independent Investigation.** Buyer has conducted its own independent investigation, review and analysis of the Included Sites and associated Tower Properties or Ground Site Properties, as applicable. Buyer acknowledges and agrees that: (a) in making its decision to enter into this Agreement and to consummate the Contemplated Transactions, Buyer has relied solely upon its own investigation and the express representations and warranties of Utility set forth in Article 3; and (b) neither Utility nor any other Person has made any representation or warranty as to Utility, its Affiliates, the Included Sites, the associated Tower Properties or Ground Site Properties, as applicable or this Agreement, except as expressly set forth in Article 3.

## **ARTICLE 5 COVENANTS AND AGREEMENTS**

### **5.1. Access to Books and Records.**

(a) Prior to the Closing, but subject to (i) contractual and legal restrictions applicable to Utility, and (ii) applicable Law, Utility shall, upon reasonable advance notice from Buyer to Utility, make its personnel available to Representatives of Buyer and afford to such Representatives reasonable access to Utility's books and records of and relating to the Legacy Sites, including the associated Legacy Towers and Tower Properties or associated Ground Site Properties, as applicable, during normal business hours. All requests for access shall be made to a representative of Utility as designated by Utility from time to time, who shall be solely responsible for coordinating all such requests and all access permitted under this Agreement.

(b) Prior to the Closing, no information provided to Buyer or its Representatives pursuant to this Agreement shall be used for any purpose unrelated to the Contemplated Transactions, or any financings thereof, and all such information shall be held by Buyer, its Affiliates and its Representatives in accordance with, and shall be subject to the terms of, Section 5.3 and the Confidentiality Agreement.

(c) During the period beginning on the Effective Date and ending at the Closing, Utility (i) will conduct its business of leasing or licensing the Legacy Sites, including the associated Legacy Towers and Tower Properties or associated Ground Site Properties, as applicable, in the usual and ordinary course, (ii) will use its commercially reasonable efforts to maintain and preserve the Legacy Sites, the associated Legacy Towers and Tower Properties or associated Ground Site Properties, as applicable, and the Legacy Contracts, and (iii) will not encumber, modify or alter the Legacy Sites, the associated Legacy Towers or Tower Properties or associated Ground Site Properties, as applicable, or the Legacy Contracts

in any material respect, in each case, except (A) for Permitted Liens (solely with respect to such Legacy Towers and such Tower Properties or such Ground Site Properties, as applicable), (B) in the ordinary course of business, or (C) to the extent Buyer has provided prior written approval otherwise, which approval will not be unreasonably withheld or delayed.

## **5.2. Efforts to Close; Cooperation.**

(a) Subject to the provisions of this Agreement, Utility and Buyer shall each use its commercially reasonable efforts to (i) take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective as promptly as practicable the Contemplated Transactions, and to cooperate with the other in connection with the foregoing and (ii) refrain from taking, or cause to be refrained from taking, any action and to refrain from doing or causing to be done, anything which would reasonably be expected to impede or impair the prompt consummation of the Contemplated Transactions, including using its commercially reasonable efforts to (A) obtain all necessary waivers, consents, releases and approvals that are required for the consummation of the Contemplated Transactions, (B) obtain all consents, approvals and authorizations that are required by this Agreement or any other Transaction Agreement to be obtained under any Law, (C) lift or rescind any Order adversely affecting the ability of the parties to consummate the Contemplated Transactions, (D) effect all necessary registrations and filings, including filings and submissions of information requested or required by any Governmental Authority, and (E) fulfill all conditions to this Agreement. With respect to any threatened or pending preliminary or permanent injunction or other Order or Law that would adversely affect the ability of the parties to promptly consummate the transactions contemplated by this Agreement and the other Transaction Agreements, the parties shall use their commercially reasonable efforts to prevent the entry, enactment or promulgation thereof, as the case may be.

(b) [Without limiting the generality or effect of the foregoing, the parties shall make a filing under the HSR Act within [ten (10)] days following the Effective Date and shall take all actions necessary with respect to such filing so that the Contemplated Transactions can be consummated as promptly as practicable. All analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals made by or on behalf of either party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with such filing under the HSR Act shall be disclosed to the other party hereunder in advance of any filing, submission or attendance, it being the intent that the parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals. Each party shall give notice to the other party with respect to any meeting, discussion, appearance or contact with any Governmental Authority or the staff or regulators of any Governmental Authority in connection with such filing under the HSR Act, with such notice being sufficient to provide the other party with the opportunity to attend and participate in such meeting,

discussion, appearance or contact. The filing fee of any filing under the HSR Act shall be paid by Buyer.]<sup>6</sup>

(c) [To the extent the effectiveness of the CPUC Advice Letter Disposition is conditioned on the Utility submitting further documentation following the Effective Date, Utility shall use reasonable best efforts to prepare and file, or cause to be filed, as soon as practicable, but in no event later than [twenty (20)] Business Days from the later of the Effective Date and the date of the CPUC Advice Letter Disposition, except to the extent in conformity with the time period specified in the CPUC Advice Letter Disposition, if any, any such required documentation. Buyer shall assist with such filing as reasonably requested by Utility.

(d) To the extent the effectiveness of the CPUC Advice Letter Disposition is conditioned on any revisions to the Transaction Agreements, the Buyer shall cooperate with Utility in incorporating such revisions in the Transaction Agreements, and Buyer and Utility shall use reasonable best efforts to prepare and file, or cause to be filed, as soon as practicable, but in no event later than [twenty (20)] Business Days from the later of the Effective Date and the date of the CPUC Advice Letter Disposition, except to the extent in conformity with the time period specified in the CPUC Advice Letter Disposition, if any, any documentation evidencing such revisions.

(e) Notwithstanding anything contained in this Agreement (including the obligations set forth in Section 5.2(c)), neither Utility nor any of its Affiliates shall be required to, in connection with the CPUC Advice Letter Disposition, agree or consent to a Burdensome Condition.]<sup>7</sup>

5.3. **Confidentiality.** Buyer and its Representatives shall treat all nonpublic information obtained in connection with this Agreement and the Legacy Contracts and the Contemplated Transactions as confidential in accordance with the terms of the Confidentiality Agreement, which is incorporated into this Agreement by reference; *provided*, that Buyer and its Representatives may disclose information on a confidential basis to the CPUC in connection with the CPUC Proceeding.

5.4. **Public Disclosures.** Without the prior written consent of the other party, each party agrees that it will not, and will cause its Representatives not to, make any release to the press or other public disclosure with respect to either the fact of this Agreement and the Transaction Agreements, or their terms, except for (a) such public disclosure by a party as may be necessary in the opinion of such party, after consultation with its legal counsel, for such party to act consistently with applicable Law, regulations or the rules of any applicable stock exchange or (b) the disclosure of information to any of the Representatives of Buyer or Utility who are bound by duties of confidentiality. Subject to the exception in clause (a) above, the parties agree that any press release or releases to be issued with respect to the signing of this Agreement and the Transaction Agreements or the Closing of the Contemplated Transactions shall be mutually agreed upon prior to the issuance thereof. With respect

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<sup>6</sup> NTD: To be included if required.

<sup>7</sup> NTD: To be removed if the CPUC determines that the transaction is GO 69-C compliant or otherwise does not impose disposition by advice letter prior to the Closing.

to any disclosure of this Agreement pursuant to clause (a) above, the disclosing party agrees to provide the other party with three (3) Business Days' prior notice of such disclosure requirement prior to any such disclosure and shall consider in good faith any items requested by the other party to be kept confidential in any such disclosure of this Agreement. The disclosing party agrees to provide the other party notice of any subsequent communications with any Governmental Authority regarding such confidentiality request and to coordinate with the other party with respect to any response.

5.5. **Exclusivity.** From the Effective Date through the earlier of the Closing Date or the termination of this Agreement, Utility shall not (and shall not cause or permit any of its Representatives to) (a) solicit, initiate, facilitate or encourage the submission of any proposal or offer from any Person relating to the leasing or licensing of the Legacy Sites or, to the extent inconsistent with the Acquired Rights to be granted pursuant to the SMAA, the associated Legacy Towers and Tower Properties or associated Ground Site Properties; or (b) participate in any negotiations regarding, furnish any information with respect to, knowingly assist or participate in, or knowingly facilitate in any other manner any effort or attempt by any Person to do or seek any of the foregoing.

5.6. **Further Assurances.** The parties shall cooperate reasonably with each other and with their respective Representatives in connection with any steps required to be taken as part of their respective obligations under this Agreement, and shall (a) furnish upon request to each other such further information; (b) execute and deliver to each other such other documents; and (c) do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement and the Contemplated Transactions. Nothing in this Section 5.6 shall supersede any provision of the SMAA or limit Buyer's obligations to pay the fees and costs of Utility Services (as defined in the SMAA) pursuant to the SMAA and the Services Agreements.

## **ARTICLE 6 CONDITIONS TO CLOSING**

6.1. **Conditions to Obligations of Utility and Buyer.** The obligations of each of Utility and Buyer to consummate the Contemplated Transactions shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

(a) No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Law or Order that is in effect and has the effect of making the Contemplated Transactions illegal, otherwise restraining or prohibiting consummation of such transactions or causing any of such transactions to be rescinded following completion thereof. No changes in Law shall have occurred that directly, materially and adversely affect Buyer's ability to own and operate the Included Sites, or exercise the related Tower Property Rights or Ground Site Rights and rights under the Legacy Contracts pursuant to the rights granted to Buyer in this Agreement and the SMAA.

(b) No action, suit or proceeding shall have been commenced against Utility or Buyer that would prevent the Closing.

(c) [The CPUC Advice Letter Disposition shall be effective.]<sup>8</sup>

(d) [The waiting period, if any, applicable to the consummation of the Contemplated Transactions under the HSR Act, if applicable, shall have expired or been terminated, and no action shall have been instituted by the United States Department of Justice or the United States Federal Trade Commission challenging or seeking to enjoin the consummation of the transactions contemplated by this Agreement and the Collateral Agreements, which action shall not have been withdrawn or terminated.]

**6.2. Conditions to Obligations of Buyer.** The obligations of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Buyer's waiver, at or prior to the Closing, of each of the following conditions:

**(a) Representations and Warranties.**

(i) The Utility Fundamental Representations shall be true and correct in all material respects (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" or any similar limitation contained in this Agreement), as of the Closing as though made as of the Closing (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date).

(ii) All representations and warranties of Utility set forth in Article 3 (other than the Utility Fundamental Representations) shall be true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" or any similar limitation contained in this Agreement) as of the Closing as though made as of the Closing (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date), except (A) where the failure of such representations and warranties of Utility to be so true and correct would not reasonably be expected to have a Material Adverse Effect and (B) for changes contemplated by this Agreement.

(b) Utility shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement to be performed or complied with by Utility prior to or on the Closing Date.

(c) Utility shall have delivered each of the Closing deliverables set forth in Section 2.6(a).

(d) No Material Adverse Effect shall have occurred between the Effective Date of this Agreement and the Closing Date without the prior written consent of Buyer.

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<sup>8</sup> NTD: To be removed if the CPUC determines that the transaction is GO 69-C compliant or otherwise does not impose disposition by advice letter prior to the Closing.

6.3. **Conditions to Obligations of Utility.** The obligations of Utility to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Utility's waiver, at or prior to the Closing, of each of the following conditions:

(a) **Representations and Warranties.**

(i) The Buyer Fundamental Representations shall be true and correct in all material respects (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" or any similar limitation contained in this Agreement), as of the Closing as though made as of the Closing (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date).

(ii) All representations and warranties of Buyer set forth in Article 4 (other than the Buyer Fundamental Representations) shall be true and correct (without giving effect to any limitation as to "materiality" or "Buyer Material Adverse Effect" or any similar limitation contained in this Agreement) as of the Closing as though made as of the Closing (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date), except (A) where the failure of such representations and warranties of Buyer to be so true and correct would not reasonably be expected to have a Buyer Material Adverse Effect and (B) for changes contemplated by this Agreement.

(b) Buyer shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement to be performed or complied with by Buyer prior to or on the Closing Date.

(c) Buyer shall have delivered each of the Closing deliverables set forth in Section 2.6(b).

(d) No Buyer Material Adverse Effect shall have occurred between the Effective Date of this Agreement and the Closing Date without the prior written consent of Utility.

## **ARTICLE 7 INDEMNIFICATION**

7.1. **Survival.** All representations, warranties, covenants and obligations in this Agreement will survive the Closing, subject to the limitations on survival set forth in Section 7.9.

7.2. **Indemnification by Utility.** Subject to this Article 7, from and after the Closing, Utility shall indemnify, defend and hold Buyer, its Affiliates, and its and their respective officers, directors, employees, agents and other Representatives (each a "Buyer Indemnified Party") harmless from and against all Claims sustained or incurred by a Buyer Indemnified Party resulting from or arising out of:

(a) any breach of a representation or warranty made by Utility in this Agreement;  
or

(b) any breach of a covenant or other agreement made by Utility in this Agreement.

7.3. **Indemnification by Buyer.** Subject to this Article 7, from and after the Closing, Buyer shall indemnify, defend and hold Utility, its Affiliates, and its and their respective officers, directors, employees, agents and other Representatives (each, a “Utility Indemnified Party”) harmless from and against all Claims sustained or incurred by a Utility Indemnified Party resulting from or arising out of:

(a) any breach of a representation or warranty made by Buyer in this Agreement;  
or

(b) any breach of a covenant or other agreement made by Buyer in this Agreement.

7.4. **Indemnification Procedure for Third Party Claims.**

(a) In the event that subsequent to the Closing any Person or entity entitled to indemnification under this Article 7 (an “Indemnified Party”) asserts a claim for indemnification or receives notice of the assertion of any claim or of the commencement of any action or Proceeding by any Person who is not a party to this Agreement or an Affiliate of such a party (including any domestic or foreign court, government, or Governmental Authority or instrumentality, federal, state or local) (a “Third Party Claim”) against such Indemnified Party, against which a party to this Agreement is required to provide indemnification under this Agreement (an “Indemnifying Party”), the Indemnified Party shall give written notice together with a statement of any available information regarding such claim, and copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Third Party Claim, to the Indemnifying Party within thirty (30) days after learning of such claim (or within such shorter time as may be necessary to give the Indemnifying Party a reasonable opportunity to respond to such claim). The Indemnifying Party shall have the right, upon written notice to the Indemnified Party (the “Defense Notice”) within thirty (30) days after receipt from the Indemnified Party of notice of such claim, to conduct at its expense and with counsel selected by the Indemnifying Party the defense against such Third Party Claim in its own name, or if necessary in the name of the Indemnified Party.

(b) In the event that the Indemnifying Party shall fail to give such a Defense Notice within thirty (30) days, then the Indemnified Party may control the defense of such Third Party Claim.

(c) In the event that the Indemnifying Party elects to conduct the defense of the subject claim, the Indemnifying Party will not be required to indemnify the Indemnified Party for legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof, unless the Third Party Claim involves conflicts of interest or substantially different defenses for the Indemnified Party and the Indemnifying Party. The Indemnified Party will cooperate with and make available to the Indemnifying Party such assistance and materials as may be reasonably requested by it, and the Indemnified Party shall have the right

at its expense to participate in the defense assisted by counsel of its own choosing. Whether or not the Indemnifying Party shall have assumed the defense of a Third Party Claim, the Indemnified Party shall not admit any liability with respect to, or settle, compromise or discharge, such Third Party Claim without the Indemnifying Party's prior written consent. Without the prior written consent of the Indemnified Party, the Indemnifying Party will not enter into any settlement of any Third Party Claim or cease to defend against such claim if pursuant to or as a result of such settlement or cessation (i) injunctive or other equitable relief would be imposed against the Indemnified Party, or (ii) such settlement or cessation would lead to liability or create any financial or other obligation on the part of the Indemnified Party for which the Indemnified Party is not entitled to indemnification hereunder.

**7.5. Direct Claims.** If an Indemnified Party shall desire to assert any claim for indemnification provided for under this Article 7 other than a Third Party Claim (a "Direct Claim"), such Indemnified Party shall promptly notify the Indemnifying Party in writing of such Direct Claim, describing in reasonable detail the specific provisions of this Agreement claimed to have been breached, the factual basis supporting the contention that such provisions were breached, the amount or the estimated amount of damages sought thereunder, any other remedy sought thereunder, any relevant time constraints relating thereto and, to the extent practicable, any other material details pertaining thereto (a "Direct Claim Notice"). The Indemnifying Party shall have a period of thirty (30) days within which to respond to any Direct Claim Notice, stating whether it disputes the existence or scope of an obligation to indemnify the Indemnified Party under this Article 7. If the Indemnifying Party does not so respond within such thirty (30) day period stating that the Indemnifying Party disputes its liability for such claim, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement. If the Indemnifying Party disputes all or any part of such claim, the Indemnified Party and the Indemnifying Party shall attempt in good faith for thirty (30) days to resolve such claim. If no such agreement can be reached through good faith negotiation within thirty (30) days, either the Indemnified Party or the Indemnifying Party may act to resolve such dispute in accordance with Section 9.4.

**7.6. Failure to Give Timely Notice.** A failure by an Indemnified Party to give timely, complete or accurate notice, as provided in Sections 7.4 and 7.5, will not affect the rights or obligations of any party hereunder except and only to the extent that, as a result of such failure, any party entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise materially damaged as a result of such failure to give timely notice.

**7.7. Subrogation.** If the Indemnifying Party makes any payment hereunder in satisfaction of any Third Party Claim, the Indemnifying Party shall be subrogated to the Indemnified Party's rights of recovery to the extent of any such Claim satisfied by the Indemnifying Party. In furtherance of Section 5.6 of this Agreement, the Indemnified Party shall execute and deliver such instruments and papers as are necessary to assign such rights and assist in the exercise thereof, including access to books and records as the Indemnifying Party may reasonably request for the purpose of carrying out the intent of this provision.



**7.8. Certain Limitations on Indemnification.**

(a) Utility will have no liability with respect to matters described in Section 7.2(a) with respect to (i) any single Claim less than \$[•] (each, a “De Minimis Claim”), (ii) any Claims unless and until the total of all Claims with respect to such matters exceeds \$[•] (the “Deductible”), at which point Utility will be obligated solely for the amount of all Claims in excess of the Deductible, subject to the other limitations of this Article 7; *provided, however*, this limit shall not apply to (A) Claims arising in respect of Sections 3.1 (Organization and Good Standing) and 3.2 (Authority and Enforceability) (collectively, the “Utility Fundamental Representations”), (B) Claims arising in respect of Section 3.10 (Brokers or Finders) or (C) Claims arising from fraud or intentional misrepresentation by Utility.

(b) In no event shall the aggregate liability of Utility with respect to all Claims of indemnification made pursuant to Section 7.2(a) exceed \$[•] in the aggregate (the “Cap”); *provided, however*, this limit shall not apply to (i) Claims in respect of Utility Fundamental Representations; or (ii) Claims arising from fraud or intentional misrepresentation by Utility.

(c) In no event shall the aggregate liability of Utility with respect to all Claims of indemnification made pursuant to Section 7.2(a) or Section 7.2(b) exceed the Purchase Price.

(d) Buyer will have no liability with respect to the matters described in Section 7.3(a) with respect to (i) any De Minimis Claim, (ii) any Claims unless and until the total of all Claims with respect to such matters exceeds the Deductible, at which point Buyer will be obligated for the amount of all Claims in excess of the Deductible, subject to the other limitations of this Article 7; *provided, however*, this limit shall not apply to (A) Claims arising in respect of Sections 4.1 (Organization and Good Standing), 4.2 (Authority and Enforceability) (collectively, the “Buyer Fundamental Representations”), (B) Claims arising in respect of Section 4.4 (Brokers or Finders) or (C) Claims arising from fraud or intentional misrepresentation by Buyer.

(e) In no event shall the aggregate liability of Buyer with respect to all Claims of indemnification made pursuant to Section 7.3(a) exceed the Cap; *provided, however*, this limit shall not apply to (i) Claims in respect of Buyer Fundamental Representations or (ii) Claims arising from fraud or intentional misrepresentation by Buyer.

(f) In no event shall the aggregate liability of Buyer with respect to all Claims of indemnification made pursuant to Section 7.3(a) or Section 7.3(b) exceed the Purchase Price.

(g) In no event shall any Indemnifying Party be liable to any Indemnified Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple.

(h) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Claim upon becoming aware of any event or circumstance

that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Claim.

#### **7.9. Indemnification Time Limitations.**

(a) Utility will have no liability under Section 7.2(a) unless on or before the first (1st) anniversary of the Closing Date (the “Survival Date”), Buyer notifies Utility of a Claim in accordance with Section 7.4 or Section 7.5; *provided, however*, that the Utility Fundamental Representations shall survive until the expiration of the applicable statute of limitations.

(b) Buyer will have no liability under Section 7.3(a) unless, on or before the Survival Date, Utility notifies Buyer of a Claim in accordance with Section 7.4 or Section 7.5; *provided, however*, that the Buyer Fundamental Representations shall survive until the expiration of the applicable statute of limitations.

(c) None of the covenants or other agreements contained in this Agreement shall survive the Closing Date other than those which have not been fully performed by the Closing Date or that by their terms contemplate performance after the Closing Date, and each such surviving covenant and agreement shall survive the Closing for the period contemplated by its terms.

**7.10. Reduction of Claim.** To the extent any Claim incurred by an Indemnified Party is reduced by receipt of a payment under insurance policies, such payment, less the amount of any costs or expenses of recovery or increase in premium (a “Reimbursement”) shall be credited against such Claim. If any Reimbursement is obtained subsequent to payment by the Indemnifying Party in respect of a Claim, such Reimbursement shall be promptly paid over to the Indemnifying Party. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Claims prior to seeking indemnification under this Agreement.

**7.11. Exclusive Remedy.** Subject to Section 9.9, the parties acknowledge and agree that their sole and exclusive remedy with respect to any and all Claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein shall be (a) pursuant to the indemnification provisions set forth in this Article 7 and (b) prior to Closing, to terminate this Agreement pursuant to Section 8.1(b)(i) or 8.1(c)(i), as applicable. In furtherance of the foregoing, except with respect to Section 9.9, each party hereby waives, to the fullest extent permitted under Law, any and all rights, Claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein that it may have against the other party hereto and its Affiliates and each of their respective Representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this Article 7. Nothing in this Section 7.11 shall limit (a) any Person’s right to seek and obtain any equitable relief to which any Person shall be entitled pursuant to Section 9.9, or (b) any party’s rights or remedies under any other Transaction Agreement.

## ARTICLE 8 TERMINATION

8.1. **Termination.** This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of Utility and Buyer;

(b) by Buyer by written notice to Utility if:

(i) Buyer is not then in material breach of any provision of this Agreement and there has been a material breach of any representation, warranty, covenant or agreement made by Utility that would give rise to the failure of any of the conditions specified in Section 6.1 or Section 6.2 and such breach, inaccuracy or failure cannot be cured by Utility by [•] (the “Outside Date”); or

(ii) any of the conditions set forth in Section 6.1 or Section 6.2 shall not have been fulfilled by the Outside Date, unless such failure shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing; or

(c) by Utility by written notice to Buyer if:

(i) Utility is not then in material breach of any provision of this Agreement and there has been a material breach of any representation, warranty, covenant or agreement made by Buyer that would give rise to the failure of any of the conditions specified in Section 6.1 or Section 6.3 and such breach, inaccuracy or failure cannot be cured by Buyer by the Outside Date; or

(ii) any of the conditions set forth in Section 6.1 or Section 6.3 shall not have been fulfilled by the Outside Date, unless such failure shall be due to the failure of Utility to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by them prior to the Closing.

8.2. **Effect of Termination.** In the event of the termination of this Agreement in accordance with this Article, no party shall have any liability to perform any agreement hereunder, except:

(a) that the provisions of Section 5.3, Section 5.4, and Article 9 shall survive termination of this Agreement; and

(b) that nothing herein shall relieve any party hereto from liability for any intentional breach of any provision hereof.

## ARTICLE 9 GENERAL PROVISIONS

9.1. **Notices.** All notices, requests, demands, waivers and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been delivered (a)

the next Business Day when sent overnight by a nationally recognized overnight courier service, (b) upon transmission of an email (followed by delivery of an original via nationally recognized overnight courier service), or (c) upon delivery when personally delivered to the receiving party. All such notices and communications shall be sent or delivered as set forth below or to such other person(s), email address or address(es) as the receiving party may have designated by written notice to the other party:

If to Utility:

Southern California Edison Company  
[•]  
[•]  
Attention: [•]  
Email: [•]

with a copy (which shall not constitute notice) to:

Southern California Edison Company  
[•]  
[•]  
Attention: [•]  
Email: [•]

and

Munger, Tolles & Olson LLP  
350 S. Grand Avenue  
Suite 5000  
Los Angeles, CA 90071  
Attention: Henry Weissmann  
Judith T. Kitano  
Email: Henry.Weissmann@mto.com  
Judith.Kitano@mto.com

If to Buyer:

[•]  
[•]  
[•]  
Attention: [•]  
Email: [•]

9.2. **Counterparts.** This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

9.3. **Governing Law; Submission to Jurisdiction; Selection of Forum.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA AS TO ALL MATTERS, INCLUDING

MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES. Each party agrees that it shall bring any action or proceeding for adjudication of a preliminary injunction or other provisional judicial remedy or for enforcement of any arbitral award arising out of or related to this Agreement or the transactions contained in or contemplated by this Agreement exclusively in the state and federal courts of and located in California and appellate courts having jurisdiction of appeals from the foregoing (the “Chosen Courts”), and (a) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (b) waives any objection to laying venue in any such action or proceeding in the Chosen Courts, (c) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any party hereto and (d) agrees that service of process upon such party in any such action or proceeding shall be effective if notice is given in accordance with Section 9.1 of this Agreement.

#### **9.4. Dispute Resolution.**

(a) Executive Negotiations. Subject to Section 2.4, Utility and Buyer shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between a vice president of Utility or his or her designated representative and an executive of similar authority of Buyer. Utility or Buyer may give the other party written notice of any dispute, and within twenty (20) days after delivery of such notice, the designated parties shall meet at a mutually acceptable time and place (virtual or in person, as mutually agreed upon by the parties), and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute.

(b) Mediation. If the matter has not been resolved within thirty (30) days of the first meeting (or longer, if agreed between Utility and Buyer), Utility or Buyer may initiate a mediation of the controversy. The mediation shall be facilitated by a mediator that is acceptable to all parties and shall conclude within sixty (60) days of its commencement, unless Utility and Buyer agree to extend the mediation process beyond such deadline. Upon agreeing on a mediator, Utility and Buyer shall enter into a written agreement for the mediation services. The mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association (the “AAA”); provided, each party shall bear its own legal fees and expense.

(c) Arbitration. If the claim has not been resolved within such sixty (60) day period (or longer, if agreed between Utility and Buyer), then either party may commence binding arbitration conducted by one (1) arbitrator mutually agreed upon by Utility and Buyer. Buyer and Utility will request AAA to provide to both parties a list of potential arbitrators with pertinent experience in matters of this type, promptly upon initiation of an arbitration, and if the parties have not agreed upon an arbitrator within thirty (30) days, then AAA shall select the arbitrator in accordance with AAA rules. The arbitration shall take place in Los Angeles, California, in accordance with the AAA rules then in effect, and judgment upon any award rendered in such arbitration will be binding and may be enforced in accordance with Section 9.3; provided, however, that no consequential damages shall be awarded in any such proceeding. The arbitrator shall be required to provide in writing to Utility and Buyer the basis for the award or order of such arbitrator. Each party shall bear its own legal fees and expense.

(d) Confidentiality of Dispute Resolution Process: All negotiations, any mediation, and any arbitration conducted pursuant to this Section 9.4 are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply.

(e) Preliminary Injunction: Notwithstanding the foregoing provisions, either Utility or Buyer may seek a preliminary injunction or other provisional judicial remedy in accordance with Section 9.9 if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo.

(f) Performance of Obligations. Utility and Buyer shall continue to perform their obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

**9.5. Entire Agreement.** This Agreement (including the exhibits hereto) and the other Transaction Agreements constitute the entire agreement between the parties with respect to the subject matter of this Agreement, and supersede all other prior agreements, understandings, representations and warranties both written and oral, among the parties, with respect to the subject matter hereof.

**9.6. Fees and Expenses.** Except as otherwise expressly set forth in this Agreement, whether the transactions contemplated by this Agreement are or are not consummated, all legal and other costs and expenses, including Taxes other than Transfer Taxes, incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such costs and expenses. All Transfer Taxes imposed as a result of the execution of this Agreement and the transactions contemplated hereby shall be paid by the Buyer.

**9.7. Assignment; Successors and Assigns; Third Party Beneficiaries.** This Agreement shall not be assignable, whether by operation of law or otherwise, by either party without the prior written consent of the other party (to be provided or withheld in its sole discretion) and any such assignment in violation of the foregoing shall be null and void. This Agreement shall be binding upon and inure to the benefit of each party and its successors, heirs, legal representatives and permitted assigns. Except as provided in Article 7, this Agreement is not intended to confer upon any Person other than the parties any rights or remedies hereunder.

**9.8. Amendment; Waivers; Etc.** No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the party against which enforcement of the amendment, modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the party granting such waiver in any other respect or at any other time. The waiver by a party of a breach of or a default under any of the provisions of this Agreement or to exercise any right or privilege hereunder, shall not be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder. The rights and remedies herein provided are cumulative and none is exclusive of any other, or of any rights or remedies that any party may otherwise have at law or in equity.

9.9. **Specific Performance.** The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof in any of the Chosen Courts to the extent permitted by applicable Law, in addition to any other remedy to which they are entitled at law or in equity, subject to the terms of this Agreement. Each party hereby waives any requirement for security or the posting of any bond or other surety in connection with any temporary or permanent award of injunctive, mandatory or other equitable relief.

9.10. **Severability.** If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, the parties hereto shall negotiate in good faith to modify this Agreement so as to (i) effect the original intent of the parties as closely as possible and (ii) ensure that the economic and legal substance of the transactions contemplated by this Agreement to the parties is not materially and adversely affected as a result of such provision being invalid, illegal or incapable of being enforced, in each case, in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible. If following the modification(s) to this Agreement described in the foregoing sentence, the economic and legal substance of the transactions contemplated by this Agreement are not affected in any manner materially adverse to any party, all other conditions and provisions of this Agreement shall remain in full force and effect.

9.11. **Schedules.** All section headings in the Schedules correspond to the sections of this Agreement, but information provided in any section of the Schedules shall constitute disclosure by the party to which such Schedule corresponds for purposes of each other section of this Agreement where such information is relevant to the extent the relevance of the information to the other section is reasonably apparent on the face of the disclosure without reference to any agreement or other document described therein. Unless the context otherwise requires, all capitalized terms used in the Schedules shall have the respective meanings assigned to such terms in this Agreement. Certain information set forth in the Schedules is included solely for informational purposes, and may not be required to be disclosed pursuant to this Agreement. No reference to or disclosure of any item or other matter in the Schedules shall be construed as an admission or indication that such item or other matter is required to be referred to or disclosed in the Schedules. No disclosure in the Schedules relating to any possible breach or violation of any agreement or Law shall be construed as an admission or indication that any such breach or violation exists or has actually occurred. The inclusion of any information in the Schedules shall not be deemed to be an admission or acknowledgment by the party to which such Schedule corresponds that in and of itself, such information is material to or outside the ordinary course of the business or is required to be disclosed on the Schedules. No disclosure in the Schedules shall be deemed to create any rights in any third party.

9.12. **Non-Recourse.** This Agreement may only be enforced against, and any claim, action, suit or other legal proceeding based upon, arising out of, or related to this Agreement, or the negotiation, execution or performance of this Agreement, may only be brought against the entities that are expressly named as parties hereto and then only with respect to the specific obligations set forth herein with respect to such party. No past, present or future director, officer, employee, incorporator, manager, member, partner, stockholder, Affiliate, agent, attorney or other Representative of any party hereto or of any Affiliate of any party hereto, or any of their successors

or permitted assigns, shall have any liability for any obligations or liabilities of any party hereto under this Agreement or for any claim, action, suit or other legal proceeding based on, in respect of or by reason of the transactions contemplated hereby.

**9.13. Interpretation.**

(a) The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

(b) The parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

\*\*\*\*\*



IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first written above.

Buyer:

[•]

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

Name:

Title:

Utility:

SOUTHERN CALIFORNIA EDISON COMPANY

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

Name:

Title:

### **Joinder and Guaranty**<sup>9</sup>

This Joinder and Guaranty (this “Guaranty”) is made by [•], a [•] (“Guarantor”), in favor of Southern California Edison Company, a California corporation (“Utility”), and is incorporated into and made a part of the Purchase and Sale Agreement, dated as of the date hereof (the “Agreement”), by and between Utility and [•], a [•] (“Buyer”), a wholly owned subsidiary of Guarantor. Capitalized terms used but not defined in this Guaranty have the meanings set forth in the main body of the Agreement.

1. **Guaranty.** In consideration of the substantial direct and indirect benefits derived by Guarantor from the Contemplated Transactions, and to induce Utility to enter into the Agreement, Guarantor, hereby absolutely, unconditionally and irrevocably guarantees to Utility, on the terms and conditions set forth in this Guaranty, the due and punctual payment, observance, performance and discharge of (a) all of the payment obligations of Buyer under the Agreement, including the payment of the Purchase Price under the Agreement, and (b) any obligation to pay damages for which Buyer is determined to be liable by a court of competent jurisdiction arising from a breach by Buyer of its covenants under the Agreement prior to the Closing (collectively, the “Guaranteed Obligations”).

2. **Nature of Guaranty.** Utility shall not be obligated to file any claim relating to the Guaranteed Obligations in the event that Buyer becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of Utility to so file shall not affect Guarantor’s obligations under this Guaranty. In the event that any payment to Utility in respect of the Guaranteed Obligations is rescinded or must otherwise be returned for any reason whatsoever, Guarantor shall remain liable hereunder with respect to the Guaranteed Obligations as if such payment had not been made. This Guaranty is an unconditional guarantee of payment and performance and not of collection. This Guaranty is a direct guaranty and independent of the obligations of Buyer under the Agreement. Utility may resort to Guarantor for payment and performance of the Guaranteed Obligations whether or not Utility shall have resorted to any collateral therefor or shall have proceeded against Buyer or any other guarantors with respect to the Guaranteed Obligations. Utility may, at Utility’s option, proceed against Guarantor and Buyer, jointly and severally, or against Guarantor only without having obtained a judgment against Buyer. Guarantor hereby unconditionally and irrevocably waives any right to revoke this Guaranty and acknowledges that this Guaranty is continuing in nature and applies to all presently existing and future Guaranteed Obligations, until the complete, irrevocable and indefeasible payment and satisfaction in full of the Guaranteed Obligations.

3. **Waiver of Defenses; Other Provisions.**

(a) Guarantor agrees that Utility may at any time and from time to time, without notice to or further consent of Guarantor, extend the time of payment of the Guaranteed Obligations, and may also make any agreement with Buyer for the extension, renewal, payment, compromise, discharge or release thereof, in whole or in part, and may also make any agreement with Buyer for the extension, renewal, payment, compromise, discharge or release thereof, in whole or in part, or

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<sup>9</sup> Guaranty to be included based on identity of Buyer entity.

for any modification of the terms thereof or of any agreement between Utility and Buyer without in any way impairing or affecting Guarantor's obligations under this Guaranty.

(b) Guarantor agrees that the Guaranteed Obligations under this Guaranty shall not be released or discharged, in whole or in part, or otherwise affected by: (i) the failure or delay of Utility to assert any claim or demand or to enforce any right or remedy against Buyer; (ii) any change in the time, place or manner of payment of the Guaranteed Obligations; (iii) the addition, substitution or release of any Person now or hereafter liable with respect to the Guaranteed Obligations, to or from this Guaranty, the Agreement, or any Transaction Agreement; (iv) any change in the corporate existence, structure or ownership of Buyer or any other Person now or hereafter liable with respect to the Guaranteed Obligations; (v) any insolvency, bankruptcy, reorganization or other similar proceeding affecting Buyer or any other Person now or hereafter liable with respect to the Guaranteed Obligations; (vi) the existence of any claim, set-off or other right which Guarantor may have at any time against Buyer or Utility, whether in connection with the Guaranteed Obligations or otherwise; (vii) the adequacy of any other means Utility may have of obtaining payment of the Guaranteed Obligations; (viii) the value, genuineness, validity, regularity, illegality or enforceability of the Agreement; (ix) any change, restructuring or termination of the corporate structure, ownership or existence of Guarantor or Buyer; (x) any extension, renewal, settlement, compromise, waiver or release in respect of the Guaranteed Obligations by operation of law; or (xi) any other circumstance, act, omission or manner of administering the Agreement or any existence of or reliance on any representation by Utility that might vary the risk of Guarantor or otherwise operate as a defense available to, or a legal or equitable discharge of, Guarantor. Except as set forth in this Section 3(b), Guarantor shall be entitled to assert, as a defense to any claim by Utility under this Guaranty, that any Guaranteed Obligation is not then payable by Buyer, including as a result of any breach of this Agreement by Utility or because all conditions precedent to such Guaranteed Obligation have not been satisfied.

(c) To the fullest extent permitted by Law, Guarantor hereby expressly waives any and all rights or defenses arising by reason of any Law that would otherwise require any election of remedies by Utility. Guarantor waives promptness, diligence, notice of the acceptance of this Guaranty and of the Guaranteed Obligations, presentment, demand for payment, notice of non-performance, default, dishonor and protest, notice of the incurrence of any of the Guaranteed Obligations and all other notices of any kind, all defenses which may be available by virtue of any valuation, stay, moratorium law or other similar Law now or hereafter in effect, any right to require the marshalling of assets of Buyer or any other Person interested in the transactions contemplated by the Agreement, and all suretyship defenses generally.

(d) No failure to exercise and no delay in exercising, on the part of Utility, any right, remedy, power or privilege provided for in this Guaranty shall operate as a waiver thereof, nor shall any single or partial exercise by Utility of any right, remedy, power or privilege under this Guaranty preclude any other or future exercise of any such right, remedy, power or privilege. Each and every right, remedy, power and privilege granted to Utility under this Guaranty or allowed to it by applicable Law shall be cumulative and not exhaustive of any other, and may be exercised by Utility from time to time.

(e) Guarantor agrees to pay on demand all reasonable fees and out-of-pocket expenses (including the reasonable fees and expenses of counsel to Utility) incurred in the enforcement of this Guaranty against Guarantor.

(f) Guarantor waives and shall not exercise any rights that it may acquire by way of subrogation, contribution, reimbursement or indemnification for payments made under this Guaranty until all Guaranteed Obligations shall have been indefeasibly paid and discharged in full.

Guarantor is executing this Guaranty and becoming a party to the Agreement solely for the purpose of this Guaranty.

Guarantor:

[•]

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

Name: [•]

Title: [•]

**Appendix C**

**Site Marketing Access Agreement (SMAA)**

**(Exhibit A to the Purchase and Sale Agreement)**

**SITE MARKETING AND ACCESS AGREEMENT**

**BY AND BETWEEN**

**SOUTHERN CALIFORNIA EDISON**

**AND**

[\_\_\_\_\_]

**DATED AS OF [•]**

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## SITE MARKETING AND ACCESS AGREEMENT

THIS SITE MARKETING AND ACCESS AGREEMENT (this “Agreement”) is entered into this [•] day of [•], [•] (the “Effective Date”), by and between SOUTHERN CALIFORNIA EDISON, a California corporation (“Utility”) and [•], a [•] (“Buyer”). Utility and Buyer are sometimes individually referred to in this Agreement as a “Party” and collectively as the “Parties”.

### RECITALS:

A. Utility is a public utility company regulated by the California Public Utilities Commission and is principally engaged in the business of providing electric services to its customers throughout its service territory in California.

B. Utility owns or has rights to properties, including electric transmission towers and other structures, within its service territory that are used for electric utility purposes, and Utility currently leases or licenses sites on certain such properties to wireless telecommunications carriers for the placement of communication and other ancillary equipment and ground leases sites to wireless telecommunications carriers and intermediaries with wireless telecommunications carriers for the installation of communication facilities.

C. Utility has determined that other such properties may in the future be suitable sites for the placement and operation of communication equipment by wireless telecommunications carriers, and Buyer desires to market and sublease to Carriers such sites;

D. On [•], 20[•], Utility and Buyer entered into that certain Purchase and Sale Agreement (the “Purchase and Sale Agreement”), pursuant to which Utility has, among other things, agreed to (a) assign to Buyer its existing leases and licenses with wireless telecommunications carriers and other entities and (b) grant to Buyer the marketing and contracting rights for future tower sites and ground sites set forth in this Agreement, in each case subject to the terms and conditions set forth in this Agreement and the Purchase and Sale Agreement.

E. Concurrently with this Agreement, Utility and Buyer are entering into the Master Lease Agreement pursuant to which Utility is leasing to Buyer certain sites and is agreeing to lease to Buyer over the term of this Agreement additional sites as identified from time to time.

NOW, THEREFORE, Utility and Buyer agree as follows:

### **Section 1.** Definitions.

(a) Certain Defined Terms. As used in this Agreement, the following terms are defined as follows:

“Additional Ground Rights Agreement” means any agreement, document or other instrument between Buyer or an Authorized Carrier, on the one hand, and a Ground Rights Holder, on the other hand, that grants to Buyer or such Authorized Carrier, as applicable, the Additional Ground Rights for a Managed Site.



“Additional Ground Rights” means easement, lease or license rights from the third party property owner that are necessary for the use of and access to a New Tower Site proposed to be subleased or sublicensed to an Authorized Carrier by Buyer pursuant to this Agreement.

“Affiliate” (and, with a correlative meaning, “Affiliated”) means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. As used in this definition, “control” means the beneficial ownership (as such term is defined in Rules 13d-3 and 13d-5 of the Securities Exchange Act of 1934, as amended) of 50% or more of the voting interests of the Person.

“Applicable Requirements” means any law, code, regulation, ordinance, statute, Government Approval or requirement of a Governmental Authority that applies to the grant or exercise of any rights provided to Buyer or an Authorized Carrier under this Agreement or in an Authorized Site Agreement, as applicable, that is related to the exercise of such rights.

“Assigned Delivered Pipeline Site Obligations” means the duties and obligations of Utility assumed by Buyer pursuant to the Delivered Pipeline Site Assignment Agreements.

“Assigned Legacy Site Obligations” means the duties and obligations of Utility assumed by Buyer pursuant to the Legacy Site Assignment Agreements.

“Assignment and Assumption Agreements” means an agreement between Utility and Buyer, pursuant to which certain terms set forth in each Legacy Agreement (relating to Legacy Sites and Delivered Pipeline Sites) will be assigned to and assumed by the Buyer, which will, among other things, specify the rights and obligations of the parties thereto relating to such Legacy Agreement, including the rights and obligations that will be retained by Utility. .

“Authorized Carrier” means a Carrier that is party to an Authorized Site Agreement.

“Authorized Site Agreement Conditions” means (a) in the case of a Tower Site, the Authorized Tower Site Agreement Conditions and (b) in the case of a Ground Site, the Authorized Ground Site Agreement Conditions.

“Authorized Site Agreement” means, at a given time, the following agreements in effect at such time: (a) a sublease or sublicense from Buyer to Carrier of a Managed Site, for which Utility has granted to Buyer a lease or license of the Managed Site pursuant to Section 8 of this Agreement, and which sublease or sublicense satisfies the Authorized Site Agreement Conditions, (b) any Legacy Agreement assigned to Buyer on the Effective Date pursuant to an Assignment and Assumption Agreement, which has not been amended, modified or extended except in accordance with this Agreement and (c) any Assignment and Assumption Agreements for a Delivered Pipeline Site that are entered into by Buyer and a Carrier following the Effective Date in accordance with the terms of the Purchase and Sale Agreement and which have not been amended, modified or extended except in accordance with this Agreement.

“Base Equipment” means equipment (excluding Communication Equipment) installed on, under and around the Tower and used to operate, or otherwise related to, Communication Equipment installed on such Tower.

“Business Day” means any day other than a Saturday, a Sunday, a federal holiday or any other day on which banks in California are authorized or obligated by Law to close.

“Buyer Default Cure Period” means, [\_\_\_\_].

“Buyer Indemnatee” means Buyer and its Affiliates and its and their respective directors, officers, employees, agents and other Representatives.

“Carrier Revenue” means, for a given Site, all revenue, sublease or sublicense fees and other amounts paid by Carriers to Buyer pursuant to Authorized Site Agreements and Generator Sublicense Agreements (as such Authorized Site Agreements or Generator Sublicense Agreements may be modified or amended in accordance with this Agreement) for the use of the Site, whether designated as “Annual Rent and Use Fee”, payable in a lump sum or periodically, or expressed as a fixed periodic increase in lease or license fees or otherwise. Carrier Revenue shall not include any upfront reimbursement or fees for Utility Services regardless of when such costs or fees accrued, were due or paid, or any costs or fees payable or paid by Carriers pursuant to Legacy Agreements for services performed by Utility under the applicable Legacy Agreements, including any such fees characterized as reimbursable costs of Utility in the applicable Legacy Agreements.

“Carrier” means (a) in case of a Tower Site, a wireless telecommunications carrier and (b) in case of a Ground Site, a wireless telecommunications carrier or a wireless telecommunications site management company that is in the business of offering wireless telecommunications sites to wireless telecommunications carriers.

“Claims” means any claims, demands, assessments, actions, suits, damages, obligations, fines, penalties, liabilities, losses, adjustments, costs and expenses (including reasonable fees and expenses of attorneys and other appropriate professional advisers).

“Commission” means the California Public Utilities Commission or any successor Governmental Authority performing a similar function.

“Communication Equipment” means (a) as to a Tower Site, equipment installed by or on behalf of a Carrier on a Tower Site for the provision of wireless communication services, including voice, video, internet and other data services, which equipment includes, but is not limited to, antennas (including microwave antennas), switches, panels, conduits, cables, radios, amplifiers, filters, ancillary tower-mounted equipment, batteries, and all associated software and hardware and (b) as to a Ground Site, equipment installed by or on behalf of a Carrier on a Communications Facility for the provision of wireless communication services, including voice, video, internet and other data services, which equipment includes, but is not limited to, antennas (including microwave antennas), switches, panels, conduits, cables, radios, amplifiers, filters, ancillary equipment, batteries, and all associated software and hardware. Communication Equipment shall not include Mounting Equipment.

“Communications Facility” means improvements made on Utility Property and equipment (other than Communication Equipment) installed by or on behalf of a Carrier pursuant to a Legacy Agreement, which may include monopoles, self-supporting lattice towers,

communication equipment cabinets, buildings, or other structures mounted in or upon a supporting structure, for the purpose of locating or attaching Communication Equipment.

“Delivered Pipeline Ground Site” means each Ground Site that is described as a Pipeline Site under the Purchase and Sale Agreement and that, following the Effective Date, is located on Utility Property pursuant to a Pipeline Contract and is executed under a Legacy Master Property Agreement and is set forth on Exhibit A by an addendum executed by Utility and Buyer following the Effective Date. Any Replacement Site provided by Utility pursuant to Section 28(b) as a replacement for a Delivered Pipeline Ground Site shall be deemed to be a “Pipeline Ground Site”.

“Delivered Pipeline Site Assignment Agreement” means each Assignment and Assumption Agreement by and between Utility and Buyer delivered following the Effective Date with respect to a Pipeline Contract.

“Delivered Pipeline Site” means each (i) Delivered Pipeline Tower Site and (ii) Delivered Pipeline Ground Site; provided, however, that a Delivered Pipeline Site subject to a Permitted Site Termination shall cease to be a Legacy Site as of the applicable Permitted Site Termination Date pursuant to Section 28.

“Delivered Pipeline Tower Site” means each Tower Site that is described as a Pipeline Site under the Purchase and Sale Agreement and that, following the Effective Date, is located on a Pipeline Tower pursuant to a Pipeline Contract and is set forth on Exhibit B by an addendum executed by Utility and Buyer following the Effective Date. Any Replacement Site provided by Utility pursuant to Section 28(b) as a replacement for a Delivered Pipeline Tower Site shall be deemed to be a “Delivered Pipeline Tower Site”.

“Emergency Generator” means a Generator used to provide emergency back-up power for a Tower Site or Ground Site approved by Utility for use at a given Tower Site or Ground Site. As of the Effective Date, Utility has approved the use of mobile emergency generator and semi-permanent emergency back-up generators used to provide emergency back-up power for a Tower Site or Ground Site, subject to the applicable Utility Wireless Business Guidelines and any other applicable standards and guidelines of Utility.

“Emergency” means any event that causes, has caused or is reasonably likely to imminently cause (i) any bodily injury, personal injury or material property damage, (ii) a failure to comply with any Applicable Requirements for a Managed Site that results in a material adverse effect on the operation of Communication Equipment or other Tower Equipment on a Managed Site, (iii) the suspension, revocation, termination or any other material adverse effect as to any Governmental Approvals reasonably necessary for the use or operation of a Managed Site, (iv) in respect of a Managed Site, the termination of a Ground Rights Agreement or an Additional Ground Rights Agreement for such Managed Site and (v) an abnormal condition or situation that, in Utility’s judgment, adversely affects, or potentially may adversely affect, the integrity of Utility’s electric, gas, or other systems, or safety of workers or the public, or the property or facilities of others.

“Environmental Law” or “Environmental Laws” means any federal, state or local statute, Law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning protection of the environment, the public, endangered species, cultural heritage or workplace health and safety as may now or at any time hereafter be in effect, including the following, as the same may be amended or replaced from time to time, and all regulations promulgated under or in connection therewith: the Superfund Amendments and Reauthorization Act of 1986; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; the Clean Air Act; the Clean Water Act; the Toxic Substances Control Act of 1976; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act; the Hazardous Materials Transportation Act; the Occupational Safety and Health Act of 1970; Proposition 65 administered by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency; the Endangered Species Act and the Native American Graves Protection and Repatriation Act.

“Excluded Site Access Agreements” means the Legacy Agreements, standard tower agreements, standard agreements, site access agreements or similar agreements executed pursuant to a Legacy Agreement and any stand-alone agreements between Utility and a Carrier prior to the Effective Date and set forth on Exhibit C.

“Expansion Ground Site” means each Ground Site that is located on Utility Property and leased or licensed to the Buyer pursuant to this Agreement and subleased or sublicensed by Buyer to a Carrier pursuant to an Authorized Site Agreement following the Effective Date. Expansion Ground Sites do not include the Included Ground Sites.

“Expansion Tower Site” means each Tower Site that is located on an Expansion Tower and leased or licensed to the Buyer pursuant to this Agreement and subleased or sublicensed by Buyer to a Carrier pursuant to an Authorized Site Agreement following the Effective Date. Expansion Tower Sites do not include the Included Tower Sites.

“Expansion Tower” means a Tower on which a Tower Site has not been located as of the Effective Date. Expansion Towers do not include any Towers that are Legacy Towers or Pipeline Towers.

“FAA” means the United States Federal Aviation Administration or any successor federal Governmental Authority performing a similar function.

“FCC” means the United States Federal Communications Commission or any successor Governmental Authority performing a similar function.

“FERC” means the United States Federal Energy Regulatory Commission or any successor federal Governmental Authority performing a similar function.

“FMB Indenture” means that certain Indenture of Mortgage or Deed of Trust, dated as of October 1, 1923, by and between Utility and the FMB Trustees, as amended, amended and restated, supplemented or otherwise modified from time to time.

“FMB Trustees” means the Person or Persons that are named as trustees in or pursuant to the FMB Indenture from time to time. As of the date of this Agreement, The Bank of New York Mellon Trust Company, N.A. and Reginald Brewer are the FMB Trustees.

“Force Majeure” means any of the following: (i) acts of God, earthquakes, adverse weather of greater duration or intensity than normally expected for an area and time of year, fires (regardless of origin), hurricanes, tsunamis, typhoons, floods, other natural catastrophes, lightning, blizzards, tornadoes, floods, natural disasters, weather conditions, epidemics, pandemics (including the COVID-19 pandemic), disease outbreaks, public health emergencies, and force majeure events beyond the reasonable control of a Party or any contractor, subcontractor, supplier or vendor of such Party; (ii) acts of war, military action, armed hostilities, acts of terrorism, blockades, embargoes, civil disturbances, riots, insurrection, sabotage or violent demonstrations; (iii) any suspension, termination, interruption, denial, delay, or failure to issue or renew by any Governmental Authority or official Person having approval rights of any approval or other consent required or necessary for the Utility Services or for either Party to perform any other obligations or responsibilities; (iv) labor disputes, strikes, work slowdowns, work stoppages or labor disruptions, labor or material shortages, or delays or disruptions of transportation; (v) orders and judgments or acts of any court, administrative agency, or Governmental Authority; or (vi) the adoption of, or change in, any federal, state, or local Laws (including permits or licenses), or changes in the interpretation of such Laws.

“Generator Sublicense Agreement” means a sublicense agreement from Buyer to Carrier permitting a Carrier to use a Managed Site or Utility Property adjacent thereto for the installation, operation and maintenance of Generators, and which sublicense agreement sets forth and satisfies, as applicable, the Generator License Conditions.

“Generator” means a stand-by generator and associated attached fuel tank, batteries, fuel tanks or any other equipment installed on Utility Property for the sole purpose of providing back-up power for Communication Equipment, in case of a service interruption to Communication Equipment from Utility’s or another electric service provider’s electric distribution system. Generators shall include Emergency Generators.

“Governmental Approvals” means all licenses, permits, franchises, certifications, waivers, variances, registrations, consents, approvals, qualifications, determinations and other authorizations to, from or with any Governmental Authority.

“Governmental Authority” means, any foreign, domestic, federal, territorial, state, tribal or local governmental authority, administrative body, quasi-governmental authority, court, government or self-regulatory organization, commission, board, administrative hearing body, arbitration panel, tribunal or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing.

“Ground Rights Agreement” means, as to any Non-Fee Tower Property upon which any Managed Tower Site or associated Tower is located or upon which any associated Site Access Rights are granted or required, or as to any Non-Fee Ground Site Property upon which any

Managed Ground Site is located or upon which any associated Site Access Rights are granted or required, the lease, ground lease, sublease, grant, easement, license, offer letter or other agreement or instrument pursuant to which Utility holds a leasehold or subleasehold interest, leasehold or subleasehold estate, easement, license, franchise, sublicense or other real property interest in such Non-Fee Tower Property or Non-Fee Ground Property, as applicable, including all amendments, modifications, supplements, assignments, guarantees, extensions, option exercises, side letters, offer letters and other documents related thereto.

“Ground Rights Holder” means, as to any Non-Fee Tower Property upon which any Managed Site or associated Tower is located or upon which any associated Site Access Rights are granted or required, or as to any Non-Fee Ground Site Property upon which any Managed Ground Site is located or upon which any associated Site Access Rights are granted or required, the Person granting a leasehold or subleasehold interest, leasehold or subleasehold estate, easement, license, franchise, sublicense or other interest under the Ground Rights Agreement relating to such Managed Site, Tower or Site Access Rights, as applicable.

“Ground Site Access Rights” means with respect to each Ground Site and each respective Carrier’s use and enjoyment of a Ground Site under an Authorized Site Agreement, (i) the Carrier’s right to enter upon, access and use those portions of such Ground Site, including the Ground thereon, to the extent, on the terms and for the purposes with respect to which the applicable Carrier is authorized and holds rights to do so under such Authorized Site Agreement, and rights of vehicular and pedestrian ingress, egress and access to and from the Communications Facility and Ground Site Equipment located thereon and other applicable portions of the Ground Site, in accordance with and for the term of each applicable Authorized Site Agreement, and (ii) Buyer’s right to enter upon, access and use those portions of such Ground Site, including the Ground thereon, for purposes of performing its obligations and exercising its rights under this Agreement and with respect to such Authorized Site Agreement and for vehicular and pedestrian ingress, egress and access to and from an applicable Carrier’s Communications Facilities at such Ground site and the Communication Equipment located thereon, by way of any now existing or hereafter constructed roads, lanes and rights-of-way on the Ground Site, as the same may exist from time to time.

“Ground Site Equipment” means Communication Equipment, Generators, Emergency Generators and any ancillary equipment, including cables, pipes and conduits, owned by a Carrier and installed at a Ground Site.

“Ground Site Property” means the real property upon which a Ground Site is located, including, without limitation, the physical space occupied by the Ground Site, and to the extent of Utility’s interest therein, real property related or proximate thereto to the extent reasonably used or usable in connection with the operation and maintenance of a Communications Facility (and Ground Site Equipment located thereon) by a Carrier on such Ground Site, and/or access thereto.

“Ground Site” means the portion of Utility Property on which Communications Facilities are installed or are capable of being installed.

“Ground Work” means any authorized work performed under the direction of Buyer or an Authorized Carrier, including installation and maintenance of Base Equipment. Ground Work shall not include any work that requires contact with a Utility Transmission Tower.

“Hazardous Material” or “Hazardous Materials” means and includes petroleum products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls or any hazardous, toxic or dangerous waste, substance or material, in each case, defined as such (or any similar term) or regulated by, in or for the purposes of Environmental Laws or other applicable Law, including Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Hazardous Materials include any substance known by the state in which the Managed Site or Utility Property is located to cause cancer and/or reproductive toxicity.

“Included Ground Site” means each Legacy Ground Site and each Delivered Pipeline Ground Site; provided, however, that an Included Ground Site subject to a Permitted Site Termination pursuant to this Agreement shall cease to be an Included Ground Site as of the applicable Permitted Site Termination Date.

“Included Site” means Included Tower Sites and Included Ground Sites.

“Included Tower Colocation Site” means each Legacy Tower Colocation Site and Pipeline Tower Colocation Site, which Buyer has subleased or sublicensed, as applicable, to a Carrier pursuant to an Authorized Site Agreement

“Included Tower Site” means each Legacy Tower Site and each Delivered Pipeline Tower Site; provided, however, that an Included Tower Site subject to a Permitted Site Termination pursuant to this Agreement shall cease to be an Included Tower Site as of the applicable Permitted Site Termination Date.

“Law” means any law, statute, common law, rule, code, regulation, ordinance or Order of, or issued by, any Governmental Authority.

“Legacy Agreements” means the Legacy Master Tower Agreements (and any associated Legacy Standard Agreements), the Legacy Master Property Agreements (and any associated Legacy Standard Agreements) and the Legacy Standalone Agreements, except for any Excluded Site Access Agreements.

“Legacy Carriers” means all Carriers that are party to the Legacy Agreements.

“Legacy Ground Site” means each Ground Site set forth on Exhibit F to this Agreement, which is located on Utility Property and is licensed by Utility to a Carrier as of the Effective Date pursuant to the Legacy Master Property Agreements (and Legacy Standard Agreements executed pursuant to the Legacy Master Property Agreements) and the Legacy Standalone Agreements.

“Legacy Master Carrier Agreements” means the Legacy Master Tower Agreements and the Legacy Master Property Agreements.

“Legacy Master Property Agreements” means the master lease or license agreements between Utility and certain Carriers set forth on Exhibit G to this Agreement, including all amendments to such agreements.

“Legacy Master Tower Agreements” means the master lease or license agreements between Utility and certain Carriers set forth on Exhibit H to this Agreement, including all amendments to such agreements.

“Legacy Site Assignment Agreement” means each Assignment and Assumption Agreement by and between Utility and Buyer delivered as of the Effective Date with respect to an Legacy Agreement or an Effective Date Standalone Agreement relating to the Legacy Sites.

“Legacy Site Assignment Agreement” means each Assignment and Assumption Agreement by and between Utility and Buyer delivered as of the Effective Date with respect to an Legacy Agreement or an Effective Date Standalone Agreement and any amendments thereto.

“Legacy Site” means each (i) Legacy Tower Site and (ii) Legacy Ground Site; provided, however, that a Legacy Site subject to a Permitted Site Termination shall cease to be a Legacy Site as of the applicable Permitted Site Termination Date pursuant to Section 28(a).

“Legacy Standalone Agreement” means the lease or license agreements between Utility and the counterparty thereto set forth on Exhibit I to this Agreement, including all amendments to such agreements

“Legacy Standard Agreements” means the standard agreements executed prior to the Effective Date pursuant to the Legacy Master Tower Agreements and the Legacy Master Property Agreements for the Legacy Tower Sites, Legacy Ground Sites, the Delivered Pipeline Tower Sites and the Delivered Pipeline Ground Sites, including all amendments to such agreements, but excluding the Excluded Site Access Agreements.

“Legacy Tower Colocation Site” means each Managed Tower Site that is located on a Legacy Tower and for which an Authorized Site Agreement is entered into between Buyer and a Carrier after the Effective Date. Legacy Tower Colocation Sites do not include the Legacy Tower Sites.

“Legacy Tower Site” means each Tower Site set forth on Exhibit J to this Agreement, which is located on a Legacy Tower and is licensed by Utility to a Carrier as of the Effective Date pursuant to the Legacy Master Tower Agreements (and the Legacy Standard Agreements executed pursuant to the Legacy Master Tower Agreements) and the Legacy Standalone Agreements. Any Replacement Site provided by Utility pursuant to Section 28(b) as a replacement for a Legacy Tower Site shall be deemed to be an “Legacy Site”.

“Legacy Towers” means the Towers set forth on Exhibit K to this Agreement.

“Lien” means, with respect to any asset or property, any mortgage, deed of trust, lien, pledge, security interest, charge, attachment, encumbrance, lease, reservation, restriction, servitude, charge or similar right and any other lien of any kind in respect thereof.



“Manage” or “Management” means the operation and maintenance of a Managed Site in accordance with the Site Management Services, the Operations Standards and the Utility Safety Standards.

“Managed Ground Sites” means each (a) Legacy Ground Site, (b) Delivered Pipeline Ground Site and (c) Expansion Ground Site.

“Managed Sites” means each Managed Tower Site and each Managed Ground Site.

“Managed Tower Sites” means each (a) Legacy Tower Site, (b) Delivered Pipeline Tower Site, (c) Legacy Tower Colocation Site, (d) Pipeline Tower Colocation Site and (e) Expansion Tower Site.

“Modifications” means the construction or installation of Tower Equipment, in the case of a Managed Tower Site, or a Communications Facility [or Communication Equipment thereon], in the case of a Managed Ground Site, on any Managed Site or any part of any Managed Site after the Original Installation Date, or the alteration, replacement, modification or addition to any Tower Equipment on any Managed Tower Site or to any Communications Facility on any Managed Ground Site after the Original Installation Date.

“Mounting Equipment” means equipment that Utility has determined is required for Buyer’s Communication Equipment to be attached to or installed on a Tower at a Tower Site, which equipment Utility (or a contractor, at Utility’s option) obtains, provides and installs on the Tower, and which equipment specifically includes brackets, cross-arm bracing or other steel attachments, supporting or mounting hardware.

“New Ground Site” means, at a given time, a potential new Ground Site located on Utility Property that is not at such time an (i) Included Ground Site or (ii) Expansion Ground Site.

“New Tower Site” means, at a given time, a potential new Tower Site located on Utility’s Towers that is not at such time an (i) Included Tower Site, (ii) Replacement Legacy Tower Site, (iii) Replacement Delivered Pipeline Tower Site, (iv) Legacy Tower Colocation Site, (v) Pipeline Tower Colocation Site or (v) Expansion Tower Site.

“Non-Fee Ground Site Property” means a Ground Site Property upon which is located a Ground Site and with respect to which Utility does not own fee simple title to the land underlying the applicable Ground Site and/or the Site Access Rights associated with such Ground Site.

“Non-Fee Tower Property” means a Tower Property upon which is located a Tower Site and with respect to which Utility does not own fee simple title to the land underlying the applicable Tower and/or the Site Access Rights associated with such Tower Site.

“Order” means an administrative, judicial, or regulatory injunction, order, decree, judgment, sanction, award or writ of any nature of any Governmental Authority.

“Original Installation Date” means, (i) with respect to a Managed Tower Site, the date of completion of the original installation of the Tower Equipment by Buyer or Utility pursuant

to the applicable Authorized Site Agreement or (ii) with respect to a Managed Ground Site, the date of completion of the original installation of Communications Facilities and Ground Site Equipment located thereon by Buyer or Utility pursuant to the applicable Authorized Site Agreement.

“Permitted Use” means (i) with respect to a Tower Site, the use of such Tower Site for attachment and location of Communication Equipment and other Tower Equipment and (ii) with respect to a Ground Site, the use of such Ground Site for the installation, construction and operation of a Communications Facility and the attachment and location of Ground Site Equipment located thereon.

“Person” means any individual, corporation, limited liability company, partnership, association, trust or any other entity or organization, including a Governmental Authority.

“Pipeline Contracts” means the Site Access Agreements entered into after the Effective Date between Utility and a Carrier for the sublease or sublicense of a Delivered Pipeline Tower Site or Delivered Pipeline Ground Site.

“Pipeline Tower Colocation Site” means each Managed Tower Site that is located on a Pipeline Tower and for which an Authorized Site Agreement is entered into between Buyer and a Carrier after the Effective Date and after the location of a Delivered Pipeline Tower Site on such Pipeline Tower. Pipeline Tower Colocation Sites do not include the Delivered Pipeline Tower Sites.

“Pipeline Tower Colocation Sites” means each Site that is located on a Pipeline Tower, other than a Delivered Pipeline Site.

“Pipeline Tower” means any Tower set forth on Exhibit L hereto for which, as of the Effective Date, Utility is in the process of locating a Site for the Carrier identified in such Exhibit L, which Site becomes a Delivered Pipeline Site licensed to such Carrier within five (5) years of the Effective Date.

“Prime Rate” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein selected by Utility and reasonably acceptable to Buyer or any similar release by the Federal Reserve Board selected by Utility and reasonably acceptable to Buyer. Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private).

“Replacement Delivered Pipeline Tower Site” means, at a given time, a Managed Tower Site for which an Authorized Site Agreement is entered into between Buyer and a Carrier after the Effective Date and that, prior to the entering into of such Authorized Site Agreement, was

a Delivered Pipeline Tower Site for which the applicable Pipeline Contract has at such time been terminated and Buyer (or an Authorized Carrier) has fully completed the Site Decommission Procedures. A Modification to a Legacy Tower Site shall not be treated as a Replacement Delivered Pipeline Tower Site.

“Replacement Legacy Tower Site” means, at a given time, a Managed Tower Site for which an Authorized Site Agreement is entered into between Buyer and a Carrier after the Effective Date and that, prior to the entering into of such Authorized Site Agreement, was a Legacy Tower Site for which the applicable Legacy Agreement has at such time been terminated and Buyer (or an Authorized Carrier) has fully completed the Site Decommission Procedures. A Modification to a Legacy Tower Site shall not be treated as a Replacement Legacy Tower Site.

“Representatives” means, with respect to a Person, its directors, officers, employees, attorneys, accountants, consultants, bankers, financial advisers and any other professionals or agents acting on behalf of any such Person.

“Revenue Share Carrier Revenue” means the Carrier Revenue arising from the following types of Sites subject to an Authorized Site Agreement: (i) Replacement Legacy Tower Site, (ii) Replacement Delivered Pipeline Tower Site, (iii) Included Sites (only to the extent any Included Site gives rise to Incremental Modification Revenue following the Effective Date), (iv) Legacy Tower Colocation Sites, (v) Pipeline Tower Colocation Sites, (vi) Expansion Tower Sites and (vii) Expansion Ground Sites, which Sites are subject to sharing of Carrier Revenues between Buyer and Utility pursuant to Section 6.

“Routine Maintenance” means maintenance work to be performed only in or on Buyer’s or an Authorized Carrier’s equipment enclosures, cabinets and ground-mounted equipment and that does not involve electrical work requiring a permit, digging of the ground, or aerial work on any vertical structures (including Utility Transmission Towers). Routine Maintenance includes maintenance work required to address a nuisance to Utility or other Persons, including the removal of trash, weeds, damaged or non-functional equipment, the placement and maintenance of appropriate signage and locks. Routine Maintenance shall not include the addition of any equipment enclosures, cabinets and ground-mounted equipment to Utility Property or the replacement of any such existing equipment.

“Site Access Agreements” means any standard tower agreements, standard agreements, site access agreements or similar agreements providing for access to an identified Tower Site or Ground Site.

“Site Access Rights” means Tower Site Access Rights or Ground Site Access Rights, as applicable.

“Site Decommission Procedures” means (b) in case of a Tower Site, the Tower Site Decommission Procedures and (b) in case of a Ground Site, the Ground Site Decommission Procedures.

“Site” means a Tower Site or a Ground Site.

“Tax” (and with correlative meaning, “Taxes”) means all forms of taxation, whenever created or imposed, whether imposed by a local, municipal, state, foreign, federal or other Governmental Authority, and whether imposed directly by a Governmental Authority or indirectly through any other Person and includes any federal, state, local or foreign income, gross receipts, ad valorem, excise, value-added, sales, use, transfer, franchise, license, stamp, occupation, withholding, employment, payroll, property or environmental tax, levy, charge, assessment or fee together with any interest, penalty, addition to tax or additional amount imposed by a Governmental Authority or indirectly through any other Person, as well as any liability for or in respect of the Taxes of, or determined by reference to the Tax liability of, another Person under Treasury Regulation § 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, by contract or otherwise.

“Tower Equipment” means Communication Equipment, Base Equipment, Generators and any ancillary equipment owned by a Carrier and installed at a Tower Site.

“Tower Property” means the Utility Property upon which a Tower is located, including, without limitation, the physical space occupied by the Tower, and to the extent of Utility’s interest therein, real property related or proximate thereto to the extent reasonably used or usable in connection with Utility’s operation and maintenance of such Tower or the operation and maintenance of Communication Equipment by a Carrier, and/or access thereto.

“Tower Site Access Rights” means with respect to each Tower Site and each respective Carrier’s use and enjoyment of a Tower Site under an Authorized Site Agreement, (i) the Carrier’s right to enter upon, access and use those portions of such Tower Site, including the Tower thereon, to the extent, on the terms and for the purposes with respect to which the applicable Carrier is authorized and holds rights to do so under such Authorized Site Agreement, and rights of vehicular and pedestrian ingress, egress and access to and from the Communication Equipment located or attached thereon and other applicable portions of the Tower Site, in accordance with and for the term of each applicable Authorized Site Agreement, and (ii) Buyer’s right to enter upon, access and use those portions of such Tower Site, including the Tower thereon, for purposes of performing its obligations and exercising its rights under this Agreement and with respect to such Authorized Site Agreement and for vehicular and pedestrian ingress, egress and access to and from an applicable Carrier’s Communication Equipment at such Tower Site, by way of any now existing or hereafter constructed roads, lanes and rights-of-way on the Tower Site, as the same may exist from time to time.

“Tower Site” means each location on a Tower on which Communication Equipment is installed or is capable of being installed.

“Towers” means Utility Transmission Towers, tubular steel pole towers, A-frames, and other transmission structures of Utility.

“Transaction Documents” means the Purchase and Sale Agreement, this Agreement, the Assignment and Assumption Agreements, the Master Lease Agreement and the Master License Agreement.

“Transmission Tower Work” means any work requiring contact with a Utility Transmission Tower. Transmission Tower Work includes the installation by Utility (or its contractors) of Mounting Equipment to a Tower at a Tower Site.

“Utility Fee Property” means real property owned by the Utility in fee on which the Utility Towers, Managed Tower Sites, Managed Ground Sites or Site Access Rights associated with such Managed Tower Sites or Managed Ground Sites are located.

“Utility Indemnatee” means Utility and its Affiliates, and its and their respective officers, directors, employees, agents and other Representatives.

“Utility Property” means the real property and real property rights utilized by Utility for its gas and electric and other services businesses, which is owned, operated, leased, occupied, used or controlled by Utility pursuant to subsisting grants, deeds, easements, leases, franchises, licenses, or other arrangements.

“Utility Revenue Share” means the Utility Replacement Legacy Tower Site Revenue Share, Utility Replacement Delivered Pipeline Tower Site Revenue Share, Utility Incremental Modification Revenue Share, Utility Legacy Tower Colocation Site Revenue Share, Utility Pipeline Tower Colocation Site Revenue Share, Utility Expansion Tower Site Revenue Share and Utility Expansion Ground Site Revenue Share.

“Utility Site Application” means the site application form to be used by Buyer to request approval of a proposed sublease of a Site, in the form attached hereto as Exhibit M.

“Utility Towers” means the Legacy Towers, Pipeline Towers and Expansion Towers.

“Utility Transmission Towers” means any structures erected for Utility’s electrical power transmission, including all attendant equipment.

“Utility Wireless Business Guidelines” means the guidelines, construction manuals and standards maintained by Utility from time to time with respect to the installation, operation, maintenance, repair and removal of Sites, or the management of risk and safety with respect to the Sites, including, as of the Effective Date, the Edison Carrier Wireless Planning, Design and Construction Manual (ECS-WPDC), the ECS Semi-Permanent Generator Policy and the Mobile Emergency Generator Process and Policy.

Any other capitalized terms used in this Agreement shall have the respective meanings given to them elsewhere in this Agreement.

(b) Terms Defined Elsewhere in this Agreement. In addition to the terms defined in Section 1(a), the following terms are defined in the Section or part of this Agreement specified below:

Defined Term	Section
Additional Ground Rights Consent	9(c)(ii)(D)

Defined Term	Section
Agreement Termination Event	28(e)(i)
Agreement Term	25(a)
Alternative Location	24(a)
Alternative Site	24(c)(i)
Assignment Election	25(b)
Auditor	6(g)(i)
Authorized Ground Site Agreement Conditions	8(b)(i)
Authorized Tower Site Agreement Conditions	8(a)(ii)
Buyer Default	28(c)
Buyer Safety Plan	13(i)
Buyer Work	10(a)(iv)(A-D)
Chosen Courts	29(c)
CIAC	18(a)
Decommission Election	25(b)
Defense Notice	20(c)(i)
Delivered Pipeline Tower Site Termination Payment	28(b)(vi)
Direct Claim	20(c)(iv)
Direct Claim Notice	20(c)(iv)
Disputes	20(v)
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(c) Construction. Unless the express context otherwise requires:

(i) the words “hereof”, “herein”, and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement;



(ii) the terms defined in the singular have a comparable meaning when used in the plural, and vice versa, and the singular forms of nouns, pronouns and verbs shall include the plural and vice versa;

(iii) any references herein to “\$” are to United States dollars;

(iv) any references herein to a specific Section, Schedule or Exhibit shall refer, respectively, to Sections, Schedules or Exhibits of this Agreement;

(v) any references to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof and, if applicable, hereof;

(vi) any use of the words “or”, “either” or “any” shall not be exclusive;

(vii) wherever the word “include,” “includes,” or “including” is used in this Agreement, it shall be deemed to be followed by the words “without limitation”; and

(viii) references herein to any gender include each other gender.

**Section 2.** Documents; Certain Principles.

(a) Documents. This Agreement shall consist of the following documents, as amended from time to time as provided herein:

(i) this Agreement; and

(ii) the following Exhibits, which are incorporated herein by reference:

Exhibit A	Delivered Pipeline Ground Sites
Exhibit B	Delivered Pipeline Tower Sites
Exhibit C	Excluded Site Access Agreements
Exhibit D	Managed Tower Sites
Exhibit E	Managed Ground Sites
Exhibit F	Legacy Ground Sites
Exhibit G	Legacy Master Property Agreements
Exhibit H	Legacy Master Tower Agreements
Exhibit I	Legacy Standalone Agreements
Exhibit J	Legacy Tower Sites
Exhibit K	Legacy Towers
Exhibit L	Pipeline Towers

Exhibit M	Form of Utility Site Application
Exhibit N	Form of Replacement Master Tower Form
Exhibit O	Form of Replacement Master Ground Form
Exhibit P	Form of Additional Ground Rights Consent
Exhibit Q	Buyer Insurance Requirements
Exhibit R	Utility Insurance Requirements

**Section 3. Marketing and Contracting Rights.**

(a) Subject to the terms and conditions set forth in this Agreement, Utility hereby grants to Buyer, and Buyer hereby accepts, the following rights and authority (the “Tower Marketing Rights”) for the duration of the Tower Marketing Rights Term:

(i) Rights to engage in marketing activities, including making or causing to be made any communications to Carriers, for the purpose of entering into Authorized Site Agreements for potential New Tower Sites.

(ii) Rights to identify New Tower Sites for the purpose of entering into an Authorized Site Agreement for any such potential New Tower Site.

(iii) Rights to receive a lease from Utility for any New Tower Sites located on Utility Fee Property that are approved as Managed Tower Sites in accordance with the New Site Process, which lease shall be granted to Buyer pursuant to the Master Lease Agreement.

(iv) Rights to receive a license from Utility for any New Tower Sites located on Non-Fee Tower Property that are approved as Managed Tower Sites in accordance with the New Site Process, which license shall be granted to Buyer pursuant to the Master License Agreement.

(v) Rights to engage in discussions or negotiations with Carriers for the purpose of entering into Authorized Site Agreements, which may include negotiations of economic and non-economic terms.

(vi) Authority to enter into any amendments, renewals, extensions or terminations of Authorized Site Agreements, subject to Section 7.

(vii) Authority to negotiate an Additional Ground Rights Agreement related to any New Tower Site or any Managed Tower Site, and to enter into any amendments, renewals or extensions of Additional Ground Rights Agreements related to any Managed Tower Sites.

(b) Utility hereby grants the Tower Marketing Rights to Buyer for the duration of the Tower Marketing Rights Term on an exclusive basis. In connection with the grant of the Tower Marketing Rights, during the Tower Marketing Rights Term, neither Utility nor any party acting by, through or under rights granted by Utility shall possess or exercise any rights or authority constituting Tower Marketing Rights, during the Term.

(c) Subject to the terms and conditions set forth in this Agreement, Utility hereby grants to Buyer, and Buyer hereby accepts, the following rights and authority (the “Ground Marketing Rights”) for the duration of the Ground Marketing Rights Term:

(i) Rights to engage in marketing activities, including making or causing to be made any communications to Carriers or other advertisements, for the purpose of entering into Authorized Site Agreements for potential New Ground Sites; provided, that, for a specific New Ground Site identified by Buyer, Buyer shall first be required to obtain written consent from Utility prior to engaging in marketing activities related to such New Ground Site, and Utility shall be permitted to withhold its consent in its sole discretion.

(ii) Rights to identify New Ground Sites for the purpose of entering into an Authorized Site Agreement for any such potential New Ground Site.

(iii) Rights to receive a lease from Utility for any New Ground Sites located on Utility Fee Property that are approved as Managed Ground Sites by Utility, which lease shall be granted to Buyer pursuant to the Master Lease Agreement.

(iv) Rights to receive a license from Utility for any New Ground Sites located on Non-Fee Utility Property that are approved as Managed Ground Sites by Utility, which license shall be granted to Buyer pursuant to the Master License Agreement.

(v) Rights to engage in discussions or negotiations by any means with Carriers, whether solicited or unsolicited, for the purpose of entering into Authorized Site Agreements, which may include negotiations of economic and non-economic terms.

(vi) Authority to enter into any amendments, renewals, extensions or terminations of Authorized Site Agreements, subject to Section 7.

(vii) Authority to negotiate on behalf of Buyer or a Carrier a Ground Rights Agreement related to any New Ground Site or any Managed Ground Site, and to enter into any amendments, renewals or extensions of Additional Ground Rights Agreements related to any Managed Ground Sites.

(d) Utility hereby grants the Ground Marketing Rights to Buyer for the duration of the Ground Marketing Rights Term on a non-exclusive basis. In connection with the grant of the Ground Marketing Rights, during the Ground Marketing Rights Term, Utility shall continue to possess the Ground Marketing Rights for itself and shall be entitled to exercise any rights or authority constituting Ground Marketing Rights itself. Utility shall further be entitled to grant the Ground Marketing Rights to a third party on a non-exclusive basis during the Ground Marketing Rights Term upon terms and conditions determined by Utility in its sole discretion.

(e) Notwithstanding any other provision of this Agreement, the Tower Marketing Rights and the Ground Marketing Rights (the “Marketing Rights”) granted to Buyer hereunder are expressly subject to such conditions, restrictions and limitations as the Commission has imposed or may impose, including by regulations and orders issued by the Commission. The Marketing Rights granted under this Agreement are subject to the imposition by Utility of such restrictions on access to the Managed Sites and such other conditions as are required to comply with legal,

regulatory, use, and access limitations imposed upon Utility by regulatory agencies (including the Commission and FERC) with respect to Utility Towers and other Utility Property and as are necessary to ensure the safety, reliability, and operating efficiency of Utility's electric and gas utility service. This includes any future changes to General Order No. 69-C, General Order No. 95-A, General Order No. 159-A or any other Law or regulation of the Commission whereby existing and future rights, including the leases or licenses granted to Buyer pursuant to this Agreement, the Master Lease Agreement, the Master License Agreement and the Authorized Site Agreements, may be subject to conditions, restrictions, and limitations (including, without limitation, review and acceptance by Commission).

(f) All rights that are not expressly granted to Buyer in this Agreement are reserved to Utility.

(g) Buyer hereby accepts the Utility Property, the Utility Towers and each Managed Site on an "as-is" and "where-is" basis, without any representation or warranty of or from Utility or any of its respective Affiliates whatsoever as to their condition or suitability to exercise the Marketing Rights or any other particular use, except as may be expressly set forth in the Purchase and Sale Agreement, the remedies for a breach of which shall be solely under and subject to the terms, conditions and limitations thereof, or as may be expressly set forth in this Agreement. Buyer hereby acknowledges that Utility or its agents or Affiliates have not made any representation or warranty, express or implied, with respect to any of the Utility Property, the Utility Towers, New Tower Sites, New Ground Sites, or the Managed Sites, or any portion of such Utility Property, Utility Towers, Tower Sites, New Ground Sites, or the Managed Sites, or the suitability or fitness for the conduct of Buyer's business or for any other purpose, including for purposes of the exercise of the Marketing Rights, except as set forth in the Purchase and Sale Agreement or this Agreement.

#### **Section 4. Site Management Services.**

(a) Subject to the terms and conditions set forth in this Agreement, during the Term, Buyer shall perform the services reasonably necessary to maintain, manage and operate the Managed Sites, including the administration of the Authorized Site Agreements entered into after the Effective Date (the "Site Management Services"). Buyer shall perform such Site Management Services in accordance with the Operations Standards. Buyer shall not be entitled to receive any consideration or payment from Utility for its performance of the Site Management Services other than the consideration described in Section 5 below.

(b) For the Legacy Sites, the Site Management Services shall include the performance on behalf of Utility of the Assigned Legacy Site Obligations, in accordance with the terms and conditions of the Legacy Site Assignment Agreements. For the Delivered Pipeline Sites, Site Management Services shall include the performance on behalf of Utility of the Assigned Delivered Pipeline Site Obligations, in accordance with the terms and conditions of the Delivered Pipeline Site Assignment Agreements. For the Included Sites, Buyer shall use commercially reasonable efforts to ensure that Carriers comply with the terms of the applicable Assignment and Assumption Agreement and that all Managed Sites leased or licensed to Carriers pursuant to the Legacy Agreements are maintained by Carriers in compliance in all material respects with any applicable law and the terms of any applicable Ground Rights Agreement.

(c) For the Managed Sites, Buyer shall invoice Carriers in such manner as may be deemed reasonable and administratively efficient by Buyer for Carrier Revenues due and payable pursuant to the applicable Authorized Site Agreements, and shall use commercially reasonable efforts to collect such Carrier Revenues from Carriers. All calculations of Carrier Revenue shall be based on, or valued as if based on, bona fide arms' length transactions and not on any bundled, loss-leading, or other blended or artificial license or other fee. Buyer shall further perform all duties and obligations required to be performed by Buyer pursuant to the Authorized Site Agreements. For any Authorized Site Agreements or Ground Rights Agreements, other than the Legacy Agreements and the Pipeline Contracts, Buyer shall be permitted to take any action Buyer deems reasonably necessary to enforce the terms of the applicable Authorized Site Agreement or Ground Rights Agreement.

**Section 5.** Consideration for Marketing Rights.

(a) In consideration for the Marketing Rights, Buyer shall pay to Utility, as applicable, the:

(i) [\$\_\_\_\_, which represents the portion of the "Purchase Price" (as described in the Purchase and Sale Agreement) allocated to the Marketing Rights granted to Buyer under this Agreements;]

(ii) Utility Replacement Legacy Tower Site Revenue Share;

(iii) Utility Replacement Delivered Pipeline Tower Site Revenue Share;

(iv) Utility Incremental Modification Revenue Share;

(v) Utility Legacy Tower Colocation Site Revenue Share;

(vi) Utility Pipeline Tower Colocation Site Revenue Share;

(vii) Utility Expansion Tower Site Revenue Share; and

(viii) Utility Expansion Ground Site Revenue Share.

**Section 6.** Carrier Revenues.

(a) Included Site Carrier Revenue. During the Term, Buyer shall be entitled to all of the Carrier Revenue generated by the Included Sites, including all Carrier Revenue received from Carriers under the Legacy Agreements and the Pipeline Contracts accruing from and after the Effective Date, whether paid on or prior to the Effective Date, (the "Included Site Carrier Revenue"). Utility shall not be entitled to any Included Site Carrier Revenue during the Term with respect to periods from and after the Effective Date. In accordance with Section [2.8] of the Purchase and Sale Agreement, Utility shall forward any payments of Included Site Carrier Revenue that is Pre-Closing Carrier Revenue (as defined in the Purchase and Sale Agreement) received by Utility to Buyer.

(b) Payment Instructions for Legacy Agreements. At or promptly following the Closing, Buyer shall provide to Utility written payment instructions for the payment to Buyer by Carriers of Included Site Carrier Revenues pursuant to Section 6(a) of this Agreement. No later than ten (10) Business Days following the later of the Effective Date or receipt by Utility of Buyer's payment instructions, Utility shall notify in writing all Carrier counterparties to the Legacy Agreements of the assignment of the Legacy Agreements to Buyer pursuant to the Legacy Site Assignment Agreements. As part of such written notification, Utility shall direct each Carrier counterparty to make payments of Carrier Revenues due under the Legacy Agreement to Buyer from and after the date of the notification in accordance with payment instructions provided by Buyer to Utility.

(c) Payment Instructions for Pipeline Contracts. Utility shall, no later than ten (10) Business Days following the delivery by Utility and Buyer of a Delivered Pipeline Site Assignment, notify all counterparties to the Legacy Agreements of the assignment of the Pipeline Contract to which such Delivered Pipeline Site Agreement relates, pursuant to the Delivered Pipeline Site Assignment Agreements. As part of such notification, Utility shall direct each Carrier counterparty to make payments due under the applicable Pipeline Contract to Carrier from and after the date of the notification in accordance with payment instructions provided by Buyer to Utility.

(d) Carrier Revenues.

(i) Replacement Sites.

(A) For each Replacement Legacy Tower Site, Buyer shall be entitled to (x) the Carrier Revenue generated by any Replacement Legacy Tower Site minus (y) [ ]% of the Carrier Revenue generated by such Replacement Legacy Tower Site (the "Utility Replacement Legacy Tower Site Revenue Share").

(B) For each Replacement Legacy Tower Site, Utility shall be entitled to the Utility Replacement Legacy Tower Site Revenue Share.

(C) For each Replacement Delivered Pipeline Tower Site, Buyer shall be entitled to (x) the Carrier Revenue generated by such Replacement Delivered Pipeline Tower Site minus (y) [ ]% of the Carrier Revenue generated by such Replacement Delivered Pipeline Tower Site (the "Utility Replacement Delivered Pipeline Tower Site Revenue Share").

(D) For each Replacement Delivered Pipeline Tower Site, Utility shall be entitled to the Utility Replacement Delivered Pipeline Tower Site Revenue Share.

(ii) Modifications to Included Sites.

(A) For each Included Site for which a Modification results in an increase in Carrier Revenue (the resulting increase in Carrier Revenue, the "Incremental Modification Revenue"), Buyer shall be entitled to (x) the Incremental Modification Revenue generated by such Included Site minus (y) [ ]% of the Carrier Revenue generated by such Included Site (the "Utility Incremental Modification Revenue Share").

(B) For each Included Site for which a Modification results in an increase in Carrier Revenue, Utility shall be entitled to the Utility Incremental Modification Revenue Share.

(iii) Legacy Tower Colocation Sites.

(A) For each Legacy Tower Colocation Site, Buyer shall be entitled to (x) the Carrier Revenue generated by such Legacy Tower Colocation Site minus (y) [ ]% of the Carrier Revenue generated by such Legacy Tower Colocation Site (the “Utility Legacy Tower Colocation Site Revenue Share”).

(B) For each Legacy Tower Colocation Site, Utility shall be entitled to the Utility Legacy Tower Colocation Site Revenue Share.

(iv) Pipeline Tower Colocation Site

(A) For each Pipeline Tower Colocation Site, Buyer shall be entitled to (x) the Carrier Revenue generated by such Pipeline Tower Colocation Site minus (y) [ ]% of the Carrier Revenue generated by such Pipeline Tower Colocation Site (the “Utility Pipeline Tower Colocation Site Revenue Share”).

(B) For each Pipeline Tower Colocation Site, Utility shall be entitled to the Utility Pipeline Tower Colocation Site Revenue Share.

(v) Expansion Tower Sites.

(A) For each Expansion Tower Site, Buyer shall be entitled to (x) the Carrier Revenue generated by such Expansion Tower Site minus (y) [ ]% of the Carrier Revenue generated by such Expansion Tower Site (the “Utility Expansion Tower Site Revenue Share”).

(B) For each Expansion Tower Site, Utility shall be entitled to the Utility Expansion Tower Site Revenue Share.

(vi) Expansion Ground Sites.

(A) For each Expansion Ground Site, Buyer shall be entitled to (x) the Carrier Revenue generated by such Expansion Tower Site minus (y) the portion of such Carrier revenue payable to Utility as agreed by Utility and Buyer in connection with the signing of an Authorized Site Agreement for the subleasing or sublicensing, as applicable, of such Expansion Ground Site (the “Utility Expansion Ground Site Revenue Share”).

(B) For each Expansion Ground Site, Utility shall be entitled to the Utility Expansion Ground Site Revenue Share.

(e) Monthly Utility Revenue Payment.

(i) At or immediately following the Effective Date, Utility shall provide to Buyer instructions for the payment by wire transfer from Buyer to Utility of Utility Revenue Share. During the Term, Utility shall be permitted to provide updated payment instructions to Buyer in writing.

(ii) No later than the date that is thirty (30) days following the end of each calendar month during the Term, Buyer shall make payments to Utility of the Utility Revenue Share based on the Revenue Share Carrier Revenue paid by Carriers to Buyer for each such calendar month (the “Monthly Utility Revenue Payment”). Buyer shall make payments of the Monthly Utility Revenue Payment to Utility by wire transfer of immediately available funds in accordance with the most recent payment instructions provided by Utility to Buyer pursuant to Section 6(e).

(iii) Each payment of the Monthly Utility Revenue Payment shall be accompanied by a statement from Buyer setting forth, as applicable, the true and correct Revenue Share Carrier Revenue received by Buyer in the applicable calendar month, and shall include in sufficient detail a breakdown of the Revenue Share Carrier Revenue for each type of Site, and the calculation of the applicable Monthly Utility Revenue Payment for such Site. Such statement shall include a reconciliation of amounts representing Revenue Share Carrier Revenue that are due and payable by Carriers during such calendar month and that have not been actually paid by Carriers to Buyer.

(iv) To the extent any amounts representing Revenue Share Carrier Revenue are due and payable by Carriers during each such calendar month, but have not been actually paid by Carriers when due, Buyer shall use its commercially reasonable efforts to pursue collection of such unpaid Revenue Share Carrier Revenue. For any unpaid Revenue Share Carrier Revenue, if Buyer subsequently receives any payments from Carrier representing Revenue Share Carrier Revenue, Buyer shall include such payments in the next Monthly Utility Revenue Payment payable by Buyer. If, pursuant to the terms of the Authorized Site Agreement, any unpaid Revenue Share Carrier Revenue is subject to accrued interest or a late payment penalty, then any such additional amounts representing interest or penalty shall be treated as Revenue Share Carrier Revenue for purposes of calculating Monthly Utility Revenue Payments.

(v) For purposes of the Monthly Utility Revenue Payment for the partial calendar month that ends on the last day of the Term, such last day of the Term will be treated as if it is the end of the calendar month, and payment will be made no later than thirty (30) days thereafter in accordance with Section 6(e). Buyer’s obligation to make the Monthly Utility Revenue Payments shall survive the expiration or termination of this Agreement.

(vi) Notwithstanding that Utility is subject to the ratemaking authority of the Commission and FERC, no such ratemaking proceeding or decision shall have the effect of altering the Buyer’s rights hereunder to the revenue sharing or Buyer’s payment obligations to Utility under this Agreement.



(f) Books and Records.

(i) Buyer shall maintain a database of the Authorized Site Agreements and the Ground Rights Agreements for any Managed Sites. Buyer shall keep accurate books and records of account of the Managed Sites, which shall indicate for each Authorized Site Agreement the amount of all payments due from the Carrier thereunder and the dates on which such payments are due. Buyer shall maintain records for the Managed Sites in accordance with customary industry practice for managers of properties such as the Managed Sites.

(ii) Buyer shall utilize, or cause to be utilized, an accounting system for the Carrier Revenue for Managed Sites in accordance with its usual and customary practices, and in accordance with GAAP, that accurately records all data necessary to calculate the Revenue Share Carrier Revenues and the Monthly Utility Revenue Payments, and Buyer shall retain, for at least five (5) years after the end of the applicable calendar year, reasonably adequate records conforming to such accounting system showing all data necessary to conduct Utility's audit pursuant to Section 6(g) and to calculate Revenue Share Carrier Revenue for the Managed Sites for a calendar year or other period.

(g) Utility Audit Rights; Cooperation.

(i) Utility, at its own expense, shall have the right, from time to time, during the Term or during the three (3) year period following the termination or expiration of the Term, to nominate a representative of Utility or an independent certified public accountant ("Auditor") to audit and examine Buyer's records (including supporting data and tax returns) reasonably required to verify the Monthly Utility Revenue Payments made or required to be made by Buyer to Utility under this Agreement and the Revenue Share Carrier Revenue payable by Carriers under the Authorized Site Agreements. Buyer shall afford such Auditor access to Buyer's books and records during Buyer's normal business hours for the purpose of verifying such payments. Buyer shall provide reasonable assistance and cooperation to the Auditor to complete any audit or examination requested by Utility.

(ii) Utility shall provide to Buyer a copy of the Auditor's audit report within ten (10) Business Days following Utility's receipt of the report. If the report shows that payments made by Buyer are deficient, Buyer shall pay Utility the deficient amount within ten (10) Business Days after Buyer's receipt of the audit report. If payments made by Buyer are found to be deficient by more than ten percent (10%) in the aggregate over any twelve (12) month period, Buyer shall pay for the cost of the audit.

(iii) Buyer acknowledges that Utility, as a regulated public utility, may be subject to ongoing or periodic audits or inquiries by the Commission and other Governmental Authorities. In connection with any such audits or requests for audits, Buyer shall provide reasonable assistance and cooperation to Utility and its representatives, including complying with reasonable requests of Utility and its representatives relating to information about the Monthly Utility Revenue Payments, the Revenue Share Carrier Agreements, the Purchase Price and the Authorized Site Agreements and shall provide reasonable access to Utility and its representatives to all books, records, data and accounts necessary for any such regulatory audit.

(iv) Buyer further acknowledges that Utility, as a regulated public utility, may be subject to reporting requirements imposed by Governmental Authorities, which may include requirements to submit information to the Commission regarding this Agreement, the other Transaction Documents and the Managed Sites. In connection with any such reporting requirements, Buyer shall provide reasonable assistance and cooperation to Utility and its representatives and shall provide reasonable access to Utility and its representatives to all books, records, data and accounts necessary to obtain information to satisfy any reporting requirements.

(h) Late Payments. Any Monthly Utility Revenue Payments that are not paid by Buyer to Utility when due pursuant to this Section 6 (including any deficient amounts shown by the audit report pursuant to Section 6(g)) shall be subject to late charges, calculated at an interest rate per annum equal to the Prime Rate plus 2% (or the maximum legal rate, whichever is lower), and calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment.

(i) Payment Disputes. Utility and Buyer shall resolve any payment disputes generated by Monthly Utility Revenue Payments or otherwise payable under this Section 6 in accordance with Section 29(h). Upon resolution of any dispute in favor of Utility, Buyer shall promptly pay and discharge the amounts previously in dispute and any late payments accrued pursuant to Section 6(h).

## **Section 7. Authorized Site Agreements.**

### **(a) Legacy Agreements.**

(i) Buyer shall not enter into any agreements to sublease or sublicense New Tower Sites, New Ground Sites or any Managed Sites to a Carrier pursuant to a standard agreement or any similar agreement executed pursuant to the Legacy Agreements. In furtherance of the foregoing, Buyer acknowledges that the Assignment and Assumption Agreements do not permit Buyer to enter into any sublease or sublicense agreements, or similar agreements, pursuant to the assigned Legacy Agreements granting a Carrier or any other person any rights to a Tower Site or Ground Site.

(ii) Buyer shall not be permitted to amend, restate or otherwise modify the terms of the Legacy Master Tower Agreements and the terms of the Legacy Master Property Agreements assigned to Buyer pursuant to the Assignment and Assumption Agreements.

(iii) Buyer shall not be permitted to enter into waivers, amendments, extensions or renewals relating to any Legacy Standard Agreements or Legacy Standalone Agreements without the consent of Utility, other than waivers and amendments (other than to the term or renewal provisions) that (A) do not have a negative impact on Utility, (B) do not require approval of the Commission pursuant to Commission orders or decisions applicable to such Legacy Standard Agreements and (C) are not inconsistent with the terms required for an Authorized Site Agreement. Buyer shall be permitted to amend the Legacy Standard Agreements to change the amount of any Carrier Revenues thereunder, the Carrier's payment terms and similar monetary obligations of any Carrier, provided that any amendments to the Legacy Standard Agreements or Legacy Standalone Agreements to reduce a Carrier's obligation to reimburse or pay Buyer or

Utility for Utility Services shall not reduce Buyer's obligations to reimburse Utility for the Utility Services.

(iv) Buyer shall not be permitted to terminate any Legacy Standalone Agreements or Legacy Standard Agreements prior to the end of the term agreed to therein, except as termination is otherwise permitted in accordance with the terms of the Legacy Standalone Agreements or Legacy Standard Agreements. Upon termination of a Legacy Standalone Agreement or Legacy Standard Agreement, Buyer shall, no later than ten (10) Business Days following the termination thereof, notify Utility of such termination in accordance with Section 29(g) and provide Utility with any information relating to the termination thereof reasonably requested by Utility to enable Utility to comply with any notification requirements or other obligations imposed by Governmental Authorities, including notification requirements pursuant to the Commission's orders and decisions relating to the Legacy Standalone Agreements or Legacy Standard Agreements.

(v) All Legacy Agreements assigned to Buyer on the Effective Date pursuant to the Assignment and Assumption Agreements shall be deemed to be an Authorized Site Agreement as of the Effective Date.

(b) Replacement Carrier Agreements.

(i) Buyer acknowledges and agrees that the Marketing Rights granted to it, including the rights to enter into sublease or sublicense agreements with Carriers for the Permitted Use, are subject to the electric system requirements of Utility and Utility's obligations to provide service to its customers and that Buyer shall not be permitted to enter into any sublease or sublicense agreements that do not contain terms and conditions that are necessary to protect such Utility requirements and obligations. In furtherance of the foregoing, Buyer shall use commercially reasonable efforts to enter into master agreements for Tower Sites with all Legacy Carriers following the Effective Date. Any such new master agreements for Tower Sites shall be substantially in the form set forth in Exhibit N ("Replacement Master Tower Form"), which Replacement Master Tower Form contains the terms and conditions determined by Utility to be necessary to protect its needs and obligations. The Replacement Master Tower Form includes as an exhibit a form standard agreement ("Tower Standard Agreement Form"). Any subleases or sublicenses of Tower Sites granted by Buyer to Carriers in furtherance of the rights granted to it under this Agreement following the Effective Date shall be substantially in the form of the Tower Standard Agreement Form and shall be subject to all the terms and conditions of the Replacement Master Tower Form. Any such sublease or sublicense granted by Buyer to Carriers that does not include the terms and conditions set forth in such forms shall not be an Authorized Site Agreement and shall be an invalid sublease or sublicense hereunder and shall constitute a breach of this Agreement.

(ii) Buyer shall use commercially reasonable efforts to enter into master agreements for Ground Sites with all Legacy Carriers following the Effective Date. Any such new master agreements for Ground Sites shall be substantially in the form set forth in Exhibit O ("Replacement Master Ground Form"), which Replacement Master Ground Form contains the terms and conditions determined by Utility to be necessary to protect its needs and obligations. The Replacement Master Ground Form includes as an exhibit a form standard agreement ("Ground

Standard Agreement Form”). Any subleases or sublicenses of Ground Sites granted by Buyer to Carriers in furtherance of the rights granted to it under this Agreement following the Effective Date shall be substantially in the form of the Ground Standard Agreement Form and shall be subject to all the terms and conditions of the Replacement Master Ground Form. Any such subleases or sublicenses granted by Buyer to Carriers that do not include the terms and conditions set forth in such forms shall not be an Authorized Site Agreement and shall be an invalid sublease or sublicense hereunder and shall constitute a breach of this Agreement.

(c) Buyer may, in an Authorized Site Agreement agree with Carrier for certain obligations of Buyer under this Agreement to be performed by Carrier; provided, that, in the event Carrier (and not the Buyer) performs any obligations set forth in this Agreement, Buyer shall remain responsible for performance of all of its obligations to Utility under this Agreement, including where a Carrier has agreed to perform such obligations pursuant to an Authorized Site Agreement or otherwise. The terms of any Authorized Site Agreement shall comply in all respects with the terms of this Agreement, and Buyer shall perform under each Authorized Site Agreement in accordance with the terms of this Agreement. Buyer shall not cause or require any Carrier to violate any provision of an Authorized Site Agreement that is required by the terms of this Agreement. Buyer shall further remain responsible for compliance by all Authorized Carriers with the terms and conditions of the applicable Authorized Site Agreements. Buyer shall monitor such Authorized Carrier’s compliance with the terms of the Authorized Site Agreement and shall perform inspections of the Managed Sites from to time to ensure compliance by Authorized Carriers with the terms of the Authorized Site Agreements.

## **Section 8. Lease or License of New Sites.**

### **(a) New Tower Sites.**

(i) For any New Tower Site that Buyer wishes to sublease (in the case of a New Tower Site located on Utility Fee Property) or sublicense (in the case of a New Tower Site located on Non-Fee Tower Property) to a Carrier for the Permitted Use, Buyer shall first be required to complete the process and procedures agreed between Utility and Buyer (the “New Tower Site Process”). The New Tower Site Process shall require approval by Utility of a Utility Site Application for the New Tower Site. If, in accordance with the New Tower Site Process, Utility approves Buyer’s Utility Site Application for a New Tower Site, upon successful completion of the New Tower Site Process, Utility shall grant to Buyer (A) if the New Tower Site is located on Utility Fee Property, a lease for the New Tower Site pursuant the Master Lease Agreement or (B) if the New Tower Site is located on Non-Fee Tower Property, a license pursuant to the Master License Agreement.

(ii) Concurrently with, or promptly after, the grant of such lease or license from Utility to Buyer for a New Tower Site, Buyer shall enter into an agreement with a Carrier to sublease (if Utility grants Buyer a lease) or sublicense (if Utility grants Buyer a license) such New Tower Site to a Carrier; provided, that, the sublease or sublicense agreement between Buyer and Utility shall satisfy the Authorized Tower Site Agreement Conditions. “Authorized Tower Site Agreement Conditions” means the following: (i) the sublease or sublicense agreement between Utility and Buyer is entered into pursuant to an agreement that includes all the terms and conditions of the Replacement Tower Master Form and Tower Standard Agreement Form, (ii) the sublease

or sublicense agreement entered into between Utility and Carrier does not include any terms and conditions that are inconsistent with the terms and conditions set forth in the Replacement Tower Master Form and the Tower Standard Agreement Form, (iii) the sublease or sublicense between Utility and Carrier is for the Permitted Use and (iv) the sublease or sublicense agreement is for a term no longer than the Agreement Expiration Date. Any such sublease or sublicense agreement executed and delivered between Utility and Buyer shall be deemed an Authorized Site Agreement under this Agreement.

(iii) Upon execution of an Authorized Site Agreement for a New Tower Site pursuant to Section 7, such New Tower Site shall be deemed to be a Managed Site hereunder. Any sublease or sublicense agreement entered into by Buyer following the Effective Date that does not comply in all material respects with the New Site Process or that does not satisfy the Authorized Site Agreement Conditions shall not be deemed a Managed Site hereunder and shall be an invalid sublease or sublicense hereunder and shall constitute a breach of this Agreement.

(iv) Within five (5) Business Days following the signing of a sublease or sublicense agreement by Buyer and a Carrier, Buyer shall provide to Utility a copy of the signed sublease or sublicense agreement for Utility's records. Buyer shall provide Utility with true, correct and complete copies of each waiver, amendment, extension, modification, and renewal relating to any Authorized Site Agreement within five (5) Business Days following the execution thereof. Buyer shall provide to Utility any other information reasonably requested by Utility in support of the sublease or sublicense agreement or any other Authorized Site Agreement for a Managed Site.

(v) Within ten (10) Business Days following each calendar quarter, Buyer and Utility shall execute and deliver an addendum to Exhibit D to this Agreement to (A) reflect all new Managed Tower Sites for which a sublease agreement or sublicense agreement that is an Authorized Site Agreement is delivered during such calendar quarter and (B) remove all Managed Tower Sites listed on Exhibit D that have been terminated during such calendar quarter. For each new Managed Tower Site, Exhibit D will describe the type of Site based on the categories set forth in this Agreements.

(b) New Ground Sites.

(i) For any New Ground Site that Buyer wishes to sublease or sublicense to a Carrier for the Permitted Use, Buyer shall first be required to complete the process and procedures agreed between Utility and Buyer (the "New Ground Site Process"). If, in accordance with the New Ground Site Process, Utility approves Buyer's application for a New Ground Site, upon successful completion of the New Ground Site Process, Utility shall grant to Buyer (i) a lease (in accordance with the application approved by Utility, and subject to the terms and conditions set forth therein) for the New Ground Site pursuant to the Master Lease Agreement if the New Ground Site is located on Utility Fee Property or (ii) a license (in accordance with the application approved by Utility, and subject to the terms and conditions set forth therein) pursuant to the Master License Agreement if the New Ground Site is located on non-Fee Ground Property. Concurrently with, or promptly after, the grant of such lease or license from Utility to Buyer for a New Ground Site, Buyer shall enter into an agreement with a Carrier to sublease (if Utility grants Buyer a lease) or sublicense (if Utility grants Buyer a license) such New Ground Site to a Carrier; provided, that,

the sublease or sublicense agreement between Buyer and Utility shall satisfy the Authorized Ground Site Agreement Conditions. “Authorized Ground Site Agreement Conditions” mean the following: (i) the sublease or sublicense agreement between Utility and Buyer is entered into pursuant to an agreement that includes all the terms and conditions of the Replacement Ground Master Form and Ground Standard Agreement form, (ii) the sublease or sublicense agreement entered into between Utility and Carrier does not include any terms and conditions that are inconsistent with the terms and conditions set forth in the Replacement Ground Master Form and the Ground Standard Agreement Form, (iii) the sublease or sublicense between Utility and Carrier is for the Permitted Use and (iv) the sublease or sublicense agreement is for a term no later than the Agreement Expiration Date. Any such sublease or sublicense agreement executed and delivered between Utility and Buyer shall be deemed an Authorized Site Agreement under this Agreement.

(ii) Upon execution of an Authorized Site Agreement for a New Ground Site pursuant to Section 7, such New Ground Site shall be deemed to be a Managed Site hereunder. Any sublease or sublicense agreement entered into by Buyer following the Effective Date that does not comply in all material respects with the New Site Process or that does not satisfy the Authorized Site Agreement Conditions shall not be deemed a Managed Site hereunder and shall be an invalid sublease or sublicense hereunder and shall constitute a breach of this Agreement.

(iii) Promptly, but in any event within ten (10) Business Days following the execution of an Authorized Site Agreement following the Effective Date, Buyer shall provide a true, correct and complete copy of such Authorized Site Agreement to Utility. During the Term, Buyer shall provide Utility with true, correct and complete copies of each waiver, amendment, extension, modification, and renewal relating to any Authorized Site Agreement.

(iv) Within ten (10) Business Days following each calendar quarter, Buyer and Utility shall execute and deliver an addendum to Exhibit E to this Agreement to (A) reflect all new Managed Ground Sites for which a sublease agreement or sublicense agreement that is an Authorized Site Agreement is delivered during such calendar quarter and (B) remove all Managed Ground Sites listed on Exhibit E that have been terminated during such calendar quarter. For each new Managed Ground Site, Exhibit D will describe the type of Site based on the categories set forth in this Agreements.

(v) For a Managed Site, Buyer shall have the right, from time to time, to request a license to use Utility Property for the installation, operation and maintenance of Generators for the purpose of sublicensing such Utility Property to Carriers for such use, in accordance with process and procedures agreed between Utility and Buyer. Utility’s grant of a license to use Generators at a Managed Site to Buyer shall be subject to certain terms and conditions required for use of Generators at a Site (the “Generator License Conditions”). Concurrently or immediately following the grant by Utility to Buyer of such a licenses, Buyer and Carrier shall enter into a Generator Sublicense Agreement, which shall contain certain the Generator License Conditions. The Generator License Conditions include compliance with the applicable Utility Wireless Business Guidelines.

**Section 9.** Land Rights for New Tower Sites Identification of Land Rights.

(i) In connection with Buyer's submission of a Utility Site Application for a sublease or sublicense, as applicable, of a New Tower Site, Utility shall identify to Buyer whether it is the fee owner of the Utility Property underlying the New Tower Site and of the Utility Property necessary for Tower Site Access Rights for the New Tower Site. If Utility identifies to Buyer that it is the fee owner of the applicable Utility Property, Buyer shall be responsible for obtaining a copy of Utility's grant deed or any other public information or documents that may be necessary for Buyer's review to confirm ownership. If Utility identifies to Buyer that it is not the fee owner of the applicable Utility Property, Buyer shall be responsible for identifying current fee ownership of the New Tower Site and shall obtain all necessary title documents, vesting deeds, surveys, and other instruments necessary for Buyer's review to confirm ownership. If Buyer is unable, after reasonable effort, to confirm ownership of the applicable Utility Property, Utility shall reasonably cooperate with Buyer with obtaining documents to assist Buyer in completing its review to confirm ownership of the applicable Utility Property necessary for use and access of the New Tower Site.

(ii) Each Utility Site Application submitted by Buyer for a New Tower Site shall clearly identify whether use and access for the New Tower Site shall require rights to Utility Fee Property or Non-Fee Tower Property. Utility may impose additional conditions related to the use and access of a New Tower Site as part of its written acceptance of an Application, and Buyer shall include such restrictions in the Authorized Site Agreement for the New Tower Site.

(b) Land Rights for Utility Fee Property.

(i) In connection with the grant of a lease to Buyer pursuant to the Master Lease Agreement for a New Tower Site located in whole or in part on Utility Fee Property, Utility shall be deemed to grant to Buyer the rights necessary to use the New Tower Site in accordance with the use specified in the Authorized Site Agreement and the Site Access Rights necessary for the New Tower Site, subject to restrictions set forth in this Agreement, the applicable Authorized Site Agreement or communicated in writing by Utility to Buyer in connection with the New Tower Site Process or as part of Utility's written acceptance of an Application.

(ii) Buyer shall use, and shall permit the use by Authorized Carriers of, any such rights to Utility Fee Property for the use and access of a Managed Site subleased or sublicensed to a Carrier pursuant to an Authorized Site Agreement. Buyer's and the Authorized Carrier's use of Utility Fee Property for such purpose shall be charged to Buyer based on the Fee Schedule or as otherwise agreed between Utility and Buyer.

(c) Land Rights for Non-Fee Tower Property.

(i) For a New Tower Site located in whole or in part on Non-Fee Tower Property, Buyer shall review the Ground Rights Agreement and other documents, as appropriate, obtained by Buyer pursuant to Section 9(a) to determine the Additional Ground Rights that may be required for the proposed use and access of a New Tower Site in connection with a Utility Site Application.

(ii) For any such New Tower Site, Buyer shall have the sole responsibility to obtain and maintain, at its sole cost, any Additional Ground Rights for Buyer and Carrier to access

or use the New Tower Site in the manner proposed in the Utility Site Application. Buyer shall have the following responsibilities and authorities:

(A) Buyer shall have the authority to negotiate with the Ground Rights Holder to obtain and maintain the necessary Additional Ground Rights.

(B) Buyer shall be solely responsible to make any payments, including application or license fees, required by the Ground Rights Holder to obtain and maintain the Additional Ground Rights, which payments may be made by Carrier, on behalf of Buyer.

(C) If the Additional Ground Rights are to be documented in an agreement, easement, or similar instrument between Buyer and the Ground Rights Holder, Buyer shall provide a copy of the fully executed agreement, easement, or other instrument with the Ground Rights Holder to Utility and shall attach as an exhibit to the applicable Authorized Site Agreement, a copy of such fully executed agreement easement, or other instrument.

(D) If the Additional Ground Rights are to be documented in a written consent from the Ground Rights Holder, Buyer shall, in consultation with Utility, obtain such consent using the tri-party form attached hereto and incorporated herein as Exhibit P (the “Additional Ground Rights Consent”) and provide a copy of the Additional Ground Rights Consent signed by Buyer and the Ground Rights Holder to Utility. Within ten (10) days of Utility’s receipt of the Consent from Buyer, Utility shall sign the Additional Ground Rights Consent and return the fully executed Additional Ground Rights Consent to Buyer and the Ground Rights Holder and Utility may record such Additional Ground Rights Consent. Buyer shall attach as an exhibit to the applicable Authorized Site Agreement, a copy of such fully executed Additional Ground Rights Consent.

(d) Utility shall reasonably cooperate with Buyer, at Buyer’s sole cost and expense, in providing Buyer with information available to Utility to assist Buyer in negotiating Additional Ground Rights for a New Tower Site. Buyer shall reimburse Utility for all costs incurred by Utility to obtain any Additional Ground Rights, including, but not limited to, labor, materials, and out of pocket expenses, and payments to Ground Rights Holders. Any such reimbursable costs shall be a Utility Optional Service and shall be invoiced to Buyer on a Services Invoice in accordance with fee schedules agreed between Utility and Buyer from time to time. Following receipt of the necessary Additional Ground Rights for a New Tower Site from a Ground Rights Holder, Buyer shall be solely responsible for all costs, obligations and liabilities relating to or arising in connection with, the use, operation, maintenance, repair or replacement of the Managed Site on such property in accordance with the terms of the easement modification, sublease agreement, or other right or interest constituting Additional Ground Rights granted by the Ground Rights Holder.

(e) With respect to each Managed Site located in whole or in part upon Non-Fee Tower Property for which Utility’s existing rights under the Ground Rights Agreements do not include the necessary rights for the purpose of accommodating the presence and operation of the Communication Equipment installed or to be installed at a Managed Site, Buyer shall be responsible, at Buyer’s sole cost and expense, for obtaining and maintaining all such necessary rights for Non-Fee Tower Property from the applicable Ground Rights Holder in accordance with Section 9(c)(ii). Buyer agrees to indemnify, defend and hold harmless Utility from any and all



damage, loss, liability, expense and claim (including but not limited to attorneys' fees and court costs) arising with respect to Buyer's failure to obtain and maintain any necessary Additional Ground Rights for Non-Fee Tower Property. With respect to each Managed Site, inclusive of all Site Access Rights applicable to such Managed Site, located in whole or in part upon Non-Fee Tower Property, Utility shall: (A) comply in all material respects with the terms of each Ground Rights Agreement with respect to which Utility holds rights, (B) not commit any act or omission that would constitute a material default under any such Ground Rights Agreement, (C) use commercially reasonable efforts to maintain in full force and effect each Ground Rights Agreement for the term of such Ground Rights Agreement (including, as applicable, by the timely exercise of any applicable extension or renewal option), and (D) not modify or amend any such Ground Rights Agreement in any manner that would have a material adverse effect on Buyer's rights under this Agreement with respect to such Managed Site, without Buyer's prior written consent.

(f) The right to use any Utility Property for a Managed Site, inclusive of all Site Access Rights applicable to such Managed Site, shall be subject to all applicable procedures, restrictions and special conditions set forth in this Agreement, any procedures, restrictions and special conditions communicated by the Ground Rights Holder to Buyer during the New Site Process or at any other time, any reasonable procedures, restrictions and special conditions communicated by Utility in writing to Buyer during the New Site Process or at any other time and any restrictions set forth in the applicable Authorized Site Agreement for such Managed Site. If a Legacy Agreement relating to the Included Sites contains procedures, restrictions or special conditions that conflict with those contained in this Agreement, such procedures, restrictions or special conditions set forth in the Legacy Agreement shall control; provided, however, that additional procedures, restrictions or special conditions for Legacy Agreements based on new developments or changed circumstances following the Effective Date may be imposed in writing by Utility in its reasonable discretion, or by a Ground Rights Holder in accordance with the applicable Ground Rights Agreement.

#### **Section 10. Utility Safety Standards; Operations Standards.**

(a) Buyer or an Authorized Carrier shall install, operate, maintain, repair, replace, modify and remove Communication Equipment on Managed Sites and perform all other work on Managed Sites pursuant to the following requirements and standards, and the Utility Wireless Business Guidelines (the "Operations Standards"):

(i) Buyer or an Authorized Carrier shall not be permitted to install, maintain, repair, modify or remove any Mounting Equipment attached to a Utility Transmission Tower, which shall be installed, maintained, repaired, modified or removed solely by Utility as a Utility Required Service pursuant to Section 15(a).

(ii) Buyer shall first receive written authorization from Utility before its or an Authorized Carrier's agents, contractors or subcontractors can begin installation, maintenance or removal of Communication Equipment on any Utility Tower or Utility Property (which installation, maintenance or removal shall not, for the avoidance of doubt, include Transmission Tower Work). Utility shall not unreasonably withhold, condition or delay issuance of such written authorization.

(iii) A Utility observer, checker or other qualified representative designated by Utility shall be present at all times when Buyer's or an Authorized Carrier's employees, agents, or contractors are performing work, whether initial installation, maintenance, modification or removal of installed Tower Equipment or Communications Facilities (and any Communication Equipment thereon) on Utility Property. Utility shall make such observer or checker available upon reasonable notice from Buyer.

(iv) The following terms shall apply to any work performed by the Buyer or an Authorized Carrier at a Managed Site (collectively, the "Buyer Work"):

(A) No Buyer Work shall be commenced until Buyer has obtained all Governmental Approvals necessary for such Buyer Work. Utility shall reasonably cooperate with Buyer, at Buyer's sole cost and expense, as is reasonably necessary for Buyer or an Authorized Carrier to obtain such Governmental Approvals.

(B) No Buyer Work may be performed in violation of the Operations Procedures and Utility Safety Standards.

(C) Buyer shall cause the Buyer Work to be performed in accordance with all applicable Laws and then-current tower and telecommunications industry standards.

(D) All Buyer Work shall be performed in accordance with Section 12 (General Conditions for Transmission Tower Work and Ground Work ).

(v) Buyer shall provide and pay for all labor, materials, goods, supplies, equipment, appliances, tools, construction equipment and machinery and other facilities and services necessary for the proper execution and completion of the Buyer Work. Buyer shall be responsible for and shall promptly pay when due all costs and expenses incurred in connection with the Buyer Work and all fees and Taxes required by Law to be paid in connection with the Buyer Work. Buyer may, in its sole discretion, obtain payment for or reimbursement of any of the foregoing costs and expenses in whole or in part by or from an Authorized Carrier, but no such arrangement shall relieve Buyer of its obligations under this Agreement.

(vi) Buyer shall, at its sole cost and expense, perform Routine Maintenance work on equipment enclosures and Base Equipment and shall ensure that such enclosures and Base Equipment are kept clean and free of nuisance. If Utility determines in its reasonable judgment that Buyer's failure to perform Routine Maintenance constitutes a violation of applicable Law, then following written notice from Utility and a reasonable opportunity for Buyer to cure such failure, Utility may perform such Routine Maintenance as a Utility Required Service without Buyer's prior approval, and Buyer shall pay Utility for the same at Utility's actual cost.

(vii) Except for repairs, maintenance or other work constituting Transmission Tower Work, Buyer shall have the obligation, right and responsibility to repair and maintain all of the Managed Sites in accordance with tower and telecommunications industry standards, including an obligation to maintain the structural integrity of all of the Managed Sites and to ensure, in consultation with Utility, that all of the Utility Towers on which Managed Sites are located have at all times the structural loading capacity to hold and support all Communication Equipment then mounted on the Utility Tower; provided, that Buyer shall not be obligated to upgrade or improve

the structural loading capacity of Utility Towers to comply with changes or revisions to telecommunications industry standards implemented after the installation of the applicable Communication Equipment until such time as there is an installation, modification or removal of such Communication Equipment; provided, further, that Buyer shall cooperate with Utility to upgrade or improve the structural loading capacity of Utility Towers to comply with changes or revisions to utility tower industry standards.

(viii) Subject to the other provisions contained in this Agreement, Buyer, at its sole cost and expense, shall monitor, maintain, reinforce and repair each Managed Site such that Authorized Carriers may utilize such Managed Site and related Site Access Rights as contemplated by this Agreement and the applicable Authorized Site Agreement; provided, however, that to the extent such maintenance or repair constitutes a Utility Required Service, Buyer shall have the obligation, right and responsibility to notify Utility that such maintenance or repair is needed but shall not be permitted to perform the maintenance or repair itself.

(ix) All enclosures for Communication Equipment must be constructed by Buyer in accordance with Utility Wireless Business Guidelines where Buyer-owned or leased or Authorized Carrier-owned or leased Communication Equipment or Generators are installed, at Buyer's sole cost and expense. In the event that it is not feasible for Buyer to install its own equipment enclosure at a Tower Site, Utility may, at its discretion, permit Buyer to utilize Utility equipment enclosures at the Tower Site as a Utility Optional Service. Buyer may, or may permit an Authorized Carrier to, use reasonable means to restrict unauthorized access to a Managed Site, including by installing a fence around its Base Equipment and placing a lock and lock box on the gate.

(x) Buyer shall, and shall cause Authorized Carriers, to follow Utility and jurisdictional guidelines including California Fire Regulation Vegetation Clearance Code 1299.03.

(b) For any work performed pursuant to this Agreement or an Authorized Site Agreement, Utility and Buyer shall comply with the following standards ("Utility Safety Standards"):

(i) Utility and Buyer shall stress SAFETY FIRST to their respective employees and contractors in the performance of their duties. Buyer shall further direct all Carriers performing work at a Site to stress SAFETY FIRST. Utility shall, from time to time, make available to Buyer applicable safety guidelines and standards of Utility, including the Utility Wireless Business Guidelines, and Buyer shall, and shall cause the Authorized Carrier to, adhere to such safety guidelines and standards at all times.

(ii) Utility and Buyer shall, and Buyer shall cause each Carrier to, comply with the restrictions prescribed by the Commission's General Order No. 95 for all work performed at a Managed Site.

(iii) Buyer shall comply with all other restrictions communicated by Utility in connection with work performed for the installation, maintenance, modification or removal of a Managed Site, including the distance to maintain from a Utility Tower when performing work or any specifications such as the height of a Communications Facility.

(iv) Buyer or Carriers or their respective contractors, subcontractors or other representatives shall not be permitted to perform any Transmission Tower Work or undertake any activity that involves Transmission Tower Work.

(c) Utility shall be permitted to update the Operations Standards and Utility Safety Standards at any time, in its sole discretion, and Buyer shall, and shall require each Authorized Carrier to, comply with the Operations Standards and Utility Safety Standards then in effect.

#### **Section 11. Access and Use of Managed Sites.**

(a) For each Managed Site, Utility shall provide to Buyer and Authorized Carriers access to the applicable Managed Site, subject to Section 11(b), and subject to any procedures, special conditions and restrictions set forth in the Authorized Site Agreement or otherwise communicated by Utility to Buyer or an Authorized Carrier. Such access shall include the necessary Tower Site Access Rights and Ground Site Access Rights. For each Managed Site, Buyer shall, and shall require the applicable Authorized Carrier to, follow any procedures, special conditions and restrictions set forth in an Authorized Site Agreement and to comply with any restrictions set forth in the Operations Standards and Utility Safety Standards. For Managed Sites located on Non-Fee Tower Property, Ground Rights Holders may provide additional procedures, special conditions and restrictions for access to the Managed Sites. Buyer shall, and shall cause Authorized Carrier, to comply with any such procedures, restrictions and special conditions.

(b) Buyer's use of a Managed Site shall at all times and in all respects be subordinate to Utility's use of a Managed Site and any other Utility Property to provide utility services. For all Managed Sites, Utility shall retain all of its current rights to use the Utility Property, or any portion thereof, including the right to enter under, upon or into a Managed Site, or any portion thereof. Utility shall use reasonable efforts to exercise such rights in a manner that does not unreasonably interfere with Buyer's authorized use of a specific Managed Site under an Authorized Site Agreement. Notwithstanding the foregoing, whenever both Utility's electrical service capacity and an Authorized Carrier's telecommunications capacity are adversely affected by an incident affecting a Managed Site, the restoration of telecommunications capacity may be delayed until Utility is able to restore its electrical service capacity; provided, however, that Utility shall permit Buyer to restore its telecommunications capacity as long as such restoration efforts do not interfere with Utility's restoration activities.

(c) For access to certain Managed Sites, if determined by Utility in its sole discretion, Buyer shall be required to have an observer or checker designated by Utility or other representative of Utility accompany Buyer or an Authorized Carrier's representatives to the Managed Site. Where required, Utility shall, at Buyer's sole cost and expense, make an observer, checker or other representative of Utility reasonably available to assist Buyer with access to the Managed Site. Buyer acknowledges and agrees that, for all work conducted within a substation or at a property associated with a substation, an observer and/or checker shall be required.

(d) None of Buyer, its agents, employees, contractors, subcontractors or other representatives shall be permitted access to, or to perform work on, any Towers where, in Utility's sole judgment, special hazards or risks to persons, property, or the efficient and reliable operation of Utility's business exist. Utility shall communicate such determinations to Buyer promptly and,

to the extent the special hazard or risk is not permanent and is capable of being removed or otherwise resolved, Utility shall use commercially reasonable efforts (including, if appropriate, providing an observer, checker or other representative to accompany Buyer personnel pursuant to Section 11(c) to resolve the issue creating the special hazard or risk and restore Buyer's access to the Towers as soon as reasonably practicable. Under no circumstance shall Buyer's or an Authorized Carrier's employees, agents, contractors, sub-contractors and other representatives be authorized to perform any Transmission Tower Work.

**Section 12.** General Conditions for Transmission Tower Work and Ground Work

(a) For any Managed Sites, Buyer, Authorized Carriers or their respective contractors, subcontractors or other representatives shall not be permitted to perform any Transmission Tower Work or undertake any activity that involves Transmission Tower Work. Any Transmission Tower Work, including Transmission Tower Work required for installation, modification or removal of Mounting Equipment, shall be performed only by Utility (or at Utility's discretion, Utility's contractors). Any Transmission Tower Work performed by Utility shall be performed in compliance with mutually approved plans for such Transmission Tower Work ("Tower Plans"). Installation by Utility of Mounting Equipment shall commence only after Utility issues a notice to proceed to Buyer for such installation, a pre-construction meeting is scheduled, and such installation is officially scheduled by Buyer and Utility. Buyer shall be deemed to authorize Utility to install Mounting Equipment upon Buyer scheduling such installation with Utility. If any Transmission Tower Work performed by Utility fails to conform with requirements of the Tower Plans, then Utility shall correct the Transmission Tower Work, at its sole expense. Utility shall make qualified personnel reasonably available upon prior advance notice from Buyer to perform Transmission Tower Work on a Managed Site, which work shall be performed within a time frame agreed between Utility and Buyer. After Utility completes installation, removal or replacement of Mounting Equipment on a Managed Site pursuant to a Tower Plan, Buyer, the Authorized Carrier and their respective contractors, subcontractors or other representatives shall schedule with Utility to install their Communication Equipment on the Transmission Tower. After such Communication Equipment installation is deemed complete, Buyer, the Authorized Carrier and their respective contractors, subcontractors or other representatives shall have no right to access its Communication Equipment while it is located on the Tower without a Utility observer present.

(b) For any Ground Work performed at a Managed Site, Buyer shall be permitted to use its own personnel or the personnel of Utility-approved subcontractors; provided, that any such Ground Work shall be authorized by Utility. Buyer shall be solely responsible for the work performed by its contractors or subcontractors at a Managed Site and shall ensure that any contractors or subcontractors of Buyer fully comply with the obligations of Buyer under this Agreement. Utility may inspect any portion of the Ground Work, including, without limitation, trenching, foundations, and all grounding connected to the Base Equipment perimeter fence at any time. Buyer shall notify Utility after the Base Equipment is installed and ready to begin operations. Utility may require a safety observer at a Managed Site in connection with the performance of Ground Work.

(c) Prior to initiating any work at a New Tower Site or a Managed Site, Buyer shall obtain approval of Utility's designated representative for such Managed Site to initiate the work, in accordance with the following process. At least thirty (30) days prior to the scheduled start date

for work to be performed by Buyer or an Authorized Carrier at a Managed Site, Buyer (or an Authorized Carrier, at Buyer's direction) shall provide the following information to Utility, including, without limitation: (i) a complete description of all Communication Equipment to be installed at the Managed Site and layout and installation plans for such Communication Equipment; (2) if applicable, an intermod study by Buyer (or at Buyer's direction, the Authorized Carrier) demonstrating no potential for the proposed Communication Equipment to interfere with other uses of the Tower or surrounding property; (iii) construction plans for any ancillary facilities authorized for construction at the Managed Site, such as fences, (iv) copies of any reports or studies prepared by or for Buyer (or the Authorized Carrier) about the condition of the Managed Site, including geological reports, environmental assessment reports or radio frequency emissions test results; (v) information about any arrangements made by Buyer (or at Buyer's direction, the Authorized Carrier) for utility and service connections for the Managed Site; and (vi) Buyer's and the Authorized Carrier's planned route to reach the Managed Site from the public thoroughfares. Any information provided to Utility by Buyer (or at Buyer's direction, the Authorized Carrier) as part of this approval process shall be prepared by appropriate licensed and qualified personnel of Buyer or the Authorized Carrier. The information shall be sufficient in content, detail and form to permit approval and shall be submitted promptly. If Utility determines that any such information is deficient for any reason, then Buyer (or the Authorized Carrier, at the direction of Buyer) shall cure such deficiencies. If Buyer is unable or unwilling to correct any of such deficiencies identified by Utility, then Utility and Buyer shall either (x) agree to cancel the Authorized Site Agreement, without any liability due to such cancellation or (y) the matter shall be submitted for dispute resolution pursuant to Section 29(h); provided, however, that Buyer shall be responsible for reimbursing Utility for any services performed by Utility in reviewing the information submitted by Buyer and coordinating work to be performed by Buyer or an Authorized Carrier. Buyer and any Authorized Carrier shall use the Communication Equipment or any other equipment installed pursuant to an Authorized Carrier Equipment at a Managed Site solely for wireless communications in conformity with all Applicable Requirements. Buyer shall not operate or use any Equipment in a manner that interferes with the use of equipment by Utility or others' pre-existing communications equipment.

(d) At all times that Communication Equipment is installed on a Managed Site, Buyer shall retain title, and risk of loss, for such Communication Equipment and shall retain sole responsibility for its use and operation. Buyer or an Authorized Carrier's Communication Equipment shall be used solely for wireless communications in conformity with the Applicable Requirements. Buyer shall be solely responsible for operating, maintaining, repairing, modifying or replacing Communication Equipment on a Managed Site, including ensuring Communication Equipment is at all times in structurally safe and sound condition and in working order, in accordance with applicable Laws and the general standard of care in the telecommunications industry, and does not result in interference with the rights or activities of Utility or other Persons; provided, that any Transmission Tower Work or other Utility Required Services required to be performed in furtherance of such responsibility of Buyer shall be performed only by Utility in accordance with Section 12(a) and Section 15; and provided, further, that to the extent such responsibilities require Utility Required Services, Buyer shall have the obligation, right and responsibility to notify Utility that such Utility Required Services are needed, but shall not be permitted to perform the Utility Required Services itself.

(e) Buyer shall comply with Utility's requirements for performance of work by Buyer or an Authorized Carrier at a Managed Site, as set forth herein or in Utility's approval of a Utility Site Application, with any Applicable Requirements that pertain to the work and with any conditions imposed due to a Governmental Approval or as a condition of issuance of any Additional Ground Rights or pursuant to a Ground Right Agreement. If, at any time, Utility reasonably believes that Buyer is not in compliance with any such requirements, then Utility may require Buyer to immediately stop the work and notify Buyer of the reasons for stopping work, and upon receipt of Utility's request to immediately stop the work, Buyer shall immediately stop all work at the applicable Managed Site and comply with any instructions provided by Utility at such time. Buyer shall not resume any work, and shall not permit an Authorized Carrier to resume any work, at such Managed Site until notified by Utility that it may do so, and Utility shall not be required to notify Buyer to resume work unless Utility becomes reasonably satisfied that Buyer shall comply with the requirements for performance of work. If Utility is not, in its reasonable judgment, satisfied that Buyer will be able to regain compliance with the requirements for performance of work, Utility may terminate the Marketing Rights (including the lease or license) granted to Buyer for such Managed Site and, at Buyer's sole risk and expense, may direct Buyer to promptly remove any Communication Equipment from the applicable Managed Site or remove the Communication Equipment itself.

(f) None of Buyer, its agents, employees, contractors, subcontractors or other representatives shall be permitted access to, or to perform work on, any Towers where, in Utility's sole judgment, special hazards or risks to persons, property, or the efficient and reliable operation of Utility's business exist. Utility shall communicate such determinations to Buyer promptly and, to the extent the special hazard or risk is not permanent and is capable of being removed or otherwise resolved, Utility shall use commercially reasonable efforts (including, if appropriate, providing an observer, checker or other representative to accompany Buyer personnel pursuant to Section 11(c)) to resolve the issue creating the special hazard or risk and restore Buyer's access to the Towers as soon as reasonably practicable. Under no circumstance shall Buyer's or an Authorized Carrier's employees, agents, contractors, sub-contractors and other representatives be authorized to perform any Transmission Tower Work.

(g) Site Decommissioning Procedures

(i) Upon the termination of a Managed Tower Site, whether pursuant to this Agreement or upon the termination of an Authorized Site Agreement, Buyer shall promptly remove all Base Equipment and arrange with Utility for removal of the Communication Equipment and any other Tower Equipment located on a Managed Tower Site. If Carrier does not promptly remove its Base Equipment from a Managed Tower Site after fifteen (15) days of the termination of the Managed Tower Site, then Utility may remove the Base Equipment itself. Utility shall remove all Communication Equipment and return it to Buyer or, if instructed by Buyer, an Authorized Carrier within thirty (30) days of Buyer or an Authorized Carrier's removal of the Base Equipment installed at such Managed Tower Site. For all such Managed Tower Sites for which a Managed Site terminations, Utility shall further, or shall direct an Authorized Carrier to, demolish and remove all foundations to three (3) feet below grade level, fill all excavations, return the surface to grade, and leave the Managed Tower Site in a neat and safe condition, free from any debris or hazards. Buyer shall reimburse all of Utility's costs to remove, store or dispose of an Authorized Carrier's Base Equipment that has not been removed within such thirty (30) day period.

If requested by Utility, Buyer shall cooperate with Utility to perform any additional actions necessary to restore each affected Managed Tower Site to its original condition, reasonable wear and tear and damage due to casualty not caused by Buyer, if any, excepted. For any work at a Managed Tower Site performed by Buyer or an Authorized Carrier, or their contractors, subcontractors or other representatives, Buyer shall be responsible for the repair of any damage to a Utility Tower or Utility Property incurred in connection with such removal, and shall be obligated to pay Utility for the cost of such repair. Any removal of Tower Equipment by Buyer or an Authorized Carrier from a Managed Site shall be performed in accordance with the Operations Standards and the Utility Safety Standards. For Managed Tower Sites with Generators that are owned or leased by Buyer of an Authorized Carrier, Buyer shall remove such Generators in accordance with specific instructions communicated by Utility to Buyer at such time, in addition to the Operations Standards and the Utility Safety Standards. The procedures described in this Section 12(g)(i) are referred to in this Agreement as the “Tower Site Decommission Procedures”. For Managed Tower Sites, Buyer shall require that Carrier pay the applicable Carrier Revenues until the Tower Site Decommission Procedures for the Managed Tower Site are completed.

(ii) Upon the termination of a Managed Ground Site, whether pursuant to this Agreement or upon the termination of an Authorized Site Agreement, Buyer shall, and shall direct all Authorized Carriers to, promptly surrender possession of the Managed Ground Site and the Communications Facility, except for Ground Site Equipment, to Utility in good and safe condition, reasonable wear and tear excepted, unless otherwise directed by Utility. Buyer shall, and shall direct all Authorized Carriers to, promptly remove all Communication Equipment from the Managed Ground Site. Upon request from Utility, Buyer shall, and shall direct all Authorized Carriers to, demolish and remove the Communications Facility and all foundations to three (3) feet below grade, fill all excavations, return the surface to grade, leave the Managed Ground Site in a neat and safe condition, free from any debris or hazards and restore the Managed Ground Site to its condition prior to its use by Buyer and any Authorized Carrier. If Buyer does not promptly remove its Communication Equipment and Communications Facility, if applicable, from a Managed Ground Site after thirty (30) days of the termination of the Managed Ground Site, then Utility may remove the equipment itself. If requested by Utility, Buyer shall cooperate with Utility to perform any additional actions necessary to restore each affected Managed Ground Site to its original condition, reasonable wear and tear and damage due to casualty not caused by Buyer, if any, excepted. For any work at a Managed Ground Site performed by Buyer or an Authorized Carrier, or their contractors, subcontractors or other representatives, Buyer shall be responsible for the repair of any damage to a Utility Tower or Utility Property incurred in connection with such removal, and shall be obligated to pay Utility for the cost of such repair. Any removal of Communications Facilities or Ground Site Equipment by Buyer or an Authorized Carrier from a Managed Site shall be performed in accordance with the Operations Standards and the Utility Safety Standards. For Managed Ground Sites with Generators that are owned or leased by Buyer of an Authorized Carrier, Buyer shall remove such Generators in accordance with specific instructions communicated by Utility to Buyer at such time, in addition to the Operations Standards and the Utility Safety Standard. The procedures described in this Section 12(g)(ii) are referred to in this Agreement as the “Ground Site Decommission Procedures”. For Managed Ground Sites, Buyer shall require that Carrier pay the applicable Carrier Revenues until the Ground Site Decommission Procedures for the Managed Ground Site are completed.



(h) For Managed Sites, Buyer shall arrange for any utility, fiber or other services it requires at the Site and shall do so in conformity with plans approved by Utility for the specific Site. Buyer shall be solely responsible for any cost, expense, or risk associated with any such services, including any electric services.

**Section 13.** Compliance with Law; Governmental Approvals.

(a) Buyer shall comply with all applicable Laws in connection with the exercise of the Marketing Rights and other rights under this Agreement and the management of the Managed Sites, including the Site Management Services provided by Buyer, under this Agreement. Pursuant to 47 U.S.C. § 224 and the implementation regulations and decisions of the FCC, as well as any similar or related requirements imposed by the Commission, Buyer shall offer any subleases or sublicenses pursuant to this Agreement to Carriers on a reasonable and non-discriminatory basis.

(b) Buyer shall, at its own cost and expense, obtain and maintain in effect all Governmental Approvals required or imposed by Governmental Authorities in connection with its exercise of Marketing Rights and its Management of the Managed Sites under this Agreement, in each case including Governmental Approvals from the FAA and FCC. Utility shall reasonably cooperate with Buyer in Buyer's efforts to provide information required by Governmental Authorities and to comply with all Laws applicable to each Managed Site. Buyer may require an Authorized Carrier to obtain and maintain any such Governmental Approvals where appropriate, but no such requirement shall relieve Buyer of its obligations to Utility under this Agreement. Within five (5) business days of a request by Utility for adequate proof that Buyer has obtained and maintained in effect Governmental Approvals for a Managed Site, or any shorter period required by any Governmental Authority requesting such proof, Buyer shall provide Utility with adequate proof that Buyer has received all the Government Approvals required hereunder.

(c) Prior to commencing construction of a New Tower Site, a New Ground Site or a Managed Site, including construction relating to the installation, modification, repair or removal of Tower Equipment, Communications Facilities or Ground Site Equipment located thereon, Buyer or the relevant Carrier shall first obtain all Governmental Approvals required for such construction (if any), and Buyer shall direct the Carrier to serve a notification letter on the Commission stating that such Governmental Approvals have been obtained or that none are required, in accordance with Section IV.A of General Order (GO) 159-A ("GO 159-A"). In the event that Buyer or such Carrier is not able to obtain such Governmental Approvals from a Governmental Authority other than the Commission, Buyer shall be permitted to file an application with the Commission requesting that the Commission exercise its preemptive authority to approve such construction under Section VII of GO 159-A. In the event that Buyer or the relevant Carrier does not obtain all such Governmental Approvals or such Commission approval for the proposed construction, then (i) in the case of construction proposed for a New Tower Site or New Ground Site, the Utility Site Application for such New Tower Site or New Ground Site shall be rejected, or, (ii) in the case of construction proposed for a Managed Site, the Marketing Rights and any lease or license to Buyer for such Managed Site shall be terminated and Buyer shall, and shall require the Authorized Carrier to, remove all Tower Equipment and Communications Facilities (and any Ground Site Equipment located thereon) from such Managed Site in accordance with the Site Decommission Procedures.

(d) Upon request, Buyer shall provide to Utility a copy of all notification letters served by Carriers on the Commission for New Tower Sites, New Ground Sites or Managed Sites pursuant to GO 159-A. Buyer shall require that all Authorized Carriers comply with all other notice requirements of GO 159-A, including the filing of a tariff list of the locations of all Sites or MTSOs (as such term is defined in GO 159-A) on a quarterly basis with the Commission's Safety & Enforcement Division. Buyer shall, and shall require each Authorized Carrier to, cooperate with the Commission to take any actions to satisfy the requirements of GO 159-A.

(e) Buyer shall not commence any work, and shall not permit an Authorized Carrier to commence any work, at a Managed Site until all required Governmental Approvals necessary to perform that work have been obtained. If Buyer cannot obtain or maintain in effect the required Governmental Approvals for a Managed Site, Utility may terminate the lease granted to Buyer for such Managed Site until such time as the required Governmental Approvals have been obtained and, at Buyer's sole risk and expense, may direct Buyer to promptly remove any Communication Equipment from the applicable Managed Site or remove the Communication Equipment itself.

(f) Buyer shall, at its own cost and expense and in a commercially reasonable time period, provide to Utility any documentation in its possession or control requested by regulatory authorities, required for regulatory filings or that may be necessary for or reasonably requested by Utility to comply with any regulatory reporting requirements relating to the Managed Sites. Buyer shall maintain at all times a single point of contact to address such requests from Utility. If Buyer reasonably requests any such documentation be afforded confidential treatment, Utility will offer to make statements on Buyer's behalf, or to facilitate Buyer's participation, in any such proceeding, regarding appropriate confidentiality treatment.

(g) If, as to any Managed Site, any material Governmental Approval or certificate, registration, permit, license, easement or approval relating to the operation of such Managed Site required to be maintained by Buyer or any Authorized Carrier is canceled, expires, lapses or is otherwise withdrawn or terminated (except as a result of the acts or omissions of Utility or its Affiliates, agents or employees) or Buyer has breached any of its obligations under this Section 13, and Buyer has not confirmed to Utility, within forty-eight (48) hours of obtaining notice thereof, that Buyer is commencing to remedy such non-compliance or, after commencing to remedy such non-compliance, Buyer is not diligently acting to complete the remedy thereof, then Utility shall have the right, in addition to its other remedies pursuant to this Agreement, at law, or in equity, to take appropriate action to remedy any such non-compliance and be reimbursed by Buyer for any reasonable, out-of-pocket costs incurred by Utility, which shall constitute a Utility Service hereunder.

(h) Utility shall be afforded access, at reasonable times and upon reasonable prior notice, to all of Buyer's records, books, correspondence, instructions, blueprints, permit files, memoranda and similar data relating to the compliance of the Managed Sites with all applicable Laws, except privileged or confidential documents or where such disclosure is prohibited by Law. Buyer shall not dispose of any such information before the earlier of five (5) years after the date on which such materials are created or received by Buyer and five (5) years after the expiration or termination of this Agreement as to the subject Managed Site. Any such information described in this Section 13(h) shall be open for inspection upon reasonable notice by Utility, at its cost, and its authorized representatives at reasonable hours at Buyer's principal office.

(i) On or prior to the Effective Date, Buyer shall have provided Utility with its safety plan and any policies and procedures relating to Buyer's operations of towers and other properties (the "Buyer Safety Plan"). Buyer shall update the Buyer Safety Plan from time to time as necessary for it to be compliant with telecommunications industry standards as reasonably determined by Buyer. Buyer shall comply with all provisions of the Buyer Safety Plan applicable to the Managed Sites during the Term.

#### **Section 14. Site Audits.**

(a) Utility may, at any time, perform site audits to determine whether a Managed Site is compliant with applicable Law, including local, state and federal rules, regulations and ordinances, and this Agreement (including the Operations Procedures and Utility Safety Standards), and whether the physical installations on Managed Sites, including, but not limited to, the equipment specification, count and configuration, and size of equipment pad is consistent with the specifications depicted in the Authorized Site Agreement or other applicable documentation for the Authorized Site Agreement. Utility's site audit may also include an audit of Generators, including compliance of the onsite Generator document box with refueling procedures, protocols for any spills or leakages of Hazardous Materials, applicable zoning approvals and verification of shutdown procedures. Any audit or inspection by Utility shall not relieve Buyer of any responsibility, obligation, or liability under this Agreement or any Authorized Site Agreement.

(b) If Utility determines that Buyer is not in compliance with any of the foregoing requirements as they relate to a Managed Site, Utility shall inform Buyer in writing and Utility may remedy such non-compliance at Buyer's expense if Buyer fails to do so within 20 days of its receipt of such notice. Buyer shall be responsible for all costs incurred by Utility to correct Buyer's non-compliance. Unless Utility has already corrected such non-compliance at a Managed Site on Buyer's behalf, Buyer shall have 30 days to correct such non-compliance after its receipt of notice thereof.

(c) In the event Utility identifies a discrepancy between the Managed Site specifications on the applicable documentation for the Authorized Site Agreement and the actual Managed Site, Buyer shall use commercially reasonable efforts to have the Authorized Carrier execute an amendment to the Authorized Site Agreement within thirty (30) days, which amendment shall correct the specifications set forth in the Authorized Site Agreement to conform to the actual Communication Equipment on the Managed Site; provided, that if such discrepancy results in non-compliance, Buyer shall be required to correct such non-compliance in accordance with Section 14(b).

#### **Section 15. Utility Services.**

(a) Utility Required Services. The services set forth below (the "Utility Required Services") shall be provided by Utility to Buyer in respect of Managed Sites and Buyer will not perform any Utility Required Services itself or acquire any Utility Required Services from persons other than Utility. Utility shall update the Utility Required Services from time to time, and shall provide Buyer a copy of such updated Utility Required Services, based on its interpretation of then-applicable Law and regulation, including those of the Commission and FERC, and its determination of safety standards appropriate for a utility in the territories in which it operates.

(i) *Structural Analysis of the Tower.* For any proposed installations, removals, repair and Modifications of Communication Equipment on a Managed Tower Site, a licensed structural engineer of Utility shall analyze the structural integrity and evaluate the structural loading capacity of the applicable Tower.

(ii) *Site Design Review and Approval.* Buyer shall provide to Utility for Utility's review the proposed design and specifications for any proposed installations, removals, maintenance, repair and Modifications of Communication Equipment on a Managed Site. The review by Utility may include, but is not limited to, an engineering analysis of the capacity of the Utility Tower to support the specified Communication Equipment, review of the design of any construction proposed to be made on Utility Property, review of proposed equipment enclosure design and location. Buyer shall obtain Utility's written approval of such design and specifications prior to any construction or any modification of Utility Property, and Utility shall reasonably cooperate with Buyer to provide such approval.

(iii) *Design Engineering and Installation of Tower Brackets.* Utility shall perform design engineering services and shall install Mounting Equipment to Towers for a Tower Site. Utility's services may include the preparation of fabrication drawings of the brackets, fabrication and delivery of the brackets, providing labor and equipment to install Mounting Equipment on to a Tower.

(iv) *Site Audits.* Utility shall perform audits of the Managed Sites in accordance with Section 14.

(v) *Installation, Maintenance, Modification and Removal of Communication Equipment.* Utility shall review and approve Utility Site Applications and Tower Plans to install, maintain, modify and remove Communication Equipment attached to any portion of a Utility Transmission Tower. As set forth in Section 12, Buyer and Authorized Carriers are not permitted to install, maintain, modify or remove any Mounting Equipment attached to any portion of a Utility Transmission Tower.

(b) Utility Optional Services. Utility may, in its sole discretion, provide certain additional services (the "Utility Optional Services") to Buyer, a description of which may be provided to Utility by Buyer from time to time. If Utility agrees to perform Utility Optional Services, Utility shall complete the performance of such Utility Optional Services within a reasonable period following Buyer's request therefore.

(c) Fee Schedule for Utility Services. In connection with the performance of the Utility Required Services and the Utility Optional Services (the "Utility Services") during the Term, Buyer shall pay to Utility fees for the Utility Services set forth in writing on a fee schedule, which fee schedule may be updated from time to time (the "Fee Schedule"). Fees for Utility Required Services shall be calculated on the basis of [Utility's cost plus a margin, with such margin, and the calculation of such costs as agreed in writing by Utility and Buyer]. . Utility shall be permitted to update the pricing set forth in any Legacy Agreement at the times and to the extent permitted by such Legacy Agreement, but only in amounts consistent with past practice, including any customary escalations; provided, that Utility shall provide Buyer not less than thirty (30) days'

prior, written notice of any update and any increase in excess of 5% per annum shall be subject to Buyer's prior, written approval, not to be unreasonably withheld, conditioned or delayed.

(d) Payments for Utility Services. Except as may be set forth on the Fee Schedule, Utility shall deliver an invoice (the "Services Invoice") to Buyer for any Utility Services provided to Buyer for a Managed Site, and each such invoice shall set forth a brief description of such Utility Services, the amounts charged therefor, and, except as Utility and Buyer may agree or as set forth on the Fee Schedule, such amounts shall be due and payable by the Buyer within thirty (30) days after the date of such invoice. Invoices not paid within such 30-day period shall be subject to late charges, calculated at an interest rate per annum equal to the Prime Rate plus 2% (or the maximum legal rate, whichever is lower), and calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment (the "Late Fee"). Payments shall be made by ACH transfer to an account designated in writing from time to time by Utility.

(e) Buyer Cooperation. Buyer shall provide reasonable cooperation in order to facilitate the provision and receipt of the Utility Services. To the extent Utility requires information exclusively within the control of Buyer solely for the purpose of performing any Utility Services, Buyer shall promptly provide such information, or cause such information to be provided, to Utility.

(f) Payment Disputes. If Buyer disputes in good faith any amounts set forth on a Services Invoice, Buyer shall submit the dispute in writing to Utility within thirty (30) days from receipt of the applicable Services Invoice and promptly pay any amounts set forth on the Services Invoice that are not in dispute. Utility and Buyer shall resolve any payment disputes in accordance with Section 29(h). Any disputed amounts that are ultimately determined to have been payable shall be subject to the Late Fee and shall be paid promptly by Buyer.

(g) Non-Payment. If Buyer fails to timely pay a Services Invoice in accordance with Section 15(d) and such non-payment continues for sixty (60) days after the amount invoiced is due and payable, then Utility shall be permitted to cease performance of all Utility Services until such payment has been made; provided, however, that (i) Utility shall not be permitted to cease performance of Utility Services if the unpaid amounts are in dispute pursuant to Section 15(f) and (ii) Utility shall resume performance of all Utility Services upon Buyer's payment in full of the amount due and payable plus the Late Fee.

## **Section 16. Environmental Obligations.**

(a) Environmental Laws. Buyer covenants and agrees that (i) Buyer shall not, and shall cause the Authorized Carrier and any of Buyer or an Authorized Carrier's contractors, subcontractors, licensees, invitees and any other representatives to not, conduct or allow to be conducted upon any Managed Site any business operations or activities, or employ or use a Managed Site to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials in violation of applicable Laws, any Applicable Requirement or other than as commonly used or stored in operating a Tower Site or Ground Site; (ii) Buyer shall carry (and cause each Authorized Carrier and each contractor, subcontractor, licensee, invitee and other representative of Buyer and each Authorized Carrier to carry) on its

business and operations at each Managed Site in compliance with all applicable Environmental Laws; (iii) Buyer shall coordinate with all Authorized Carriers at a Managed Site to facilitate compliance with applicable Environmental Laws applicable to the Managed Site based on information either readily available to Buyer or information provided by other Authorized Carriers to Buyer to promote Managed Site compliance; (iv) Buyer shall not create or permit to be created any Lien against any Managed Site for the costs of any response, removal or remedial action or clean-up of Hazardous Materials; and (v) Buyer shall promptly conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting each Managed Site in accordance with, and to the extent necessary to comply with, all applicable Environmental Laws after the Effective Date, to the extent Buyer or an Authorized Carrier or any of their contractors, subcontractors, licensees, invitees or other representatives caused or permitted the Hazardous Material condition necessitating the remedial actions and provided that such condition did not exist on the Effective Date. Utility may require Buyer to obtain Biological and Archaeological CHRIS Reports for a Managed Site, and Buyer shall, upon request, obtain such reports and provide copies of such reports to Utility.

(b) Warnings. The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly referred to as Proposition 65, requires the Governor to publish a list of chemicals known to the State of California to cause cancer, birth defects or other reproductive harm and requires businesses to provide warnings prior to exposing individuals to listed chemicals. Utility uses lead-based paint on Utility Property and uses wooden utility poles treated with wood preservatives. Lead-based paint and wood preservatives contain chemicals known to cause cancer, birth defects or other reproductive harm. Accordingly, in exercising its rights and performing the work or services contemplated by this Agreement, Buyer, the Authorized Carriers and their respective contractors and subcontractors and their respective employees and agents may be exposed to chemicals on the Governor's list. Buyer shall be responsible for notifying all such persons that work performed hereunder may result in exposures to chemicals on the Governor's list.

(c) Environmental Hazards or Conditions Notifications. Buyer acknowledges that there may be present on Utility Property solid or hazardous wastes, asbestos, polychlorinated biphenyls, special nuclear or byproduct material, radon gas, formaldehyde, lead based paint, other lead contamination, fuel or chemical storage tanks, electric and magnetic fields or other substances, materials, products or conditions (collectively "Environmental Hazards or Conditions"), which are or may be potential environmental hazards or conditions. For each Managed Site, Buyer shall provide in writing to Utility a statement identifying any Environmental Hazards or Conditions which Buyer shall be maintaining on the Managed Site, except to the extent such Environmental Hazards or Conditions existed prior to the Effective Date. This information shall also be included in the Authorized Site Agreement for such Managed Site. If any such Environmental Hazards or Conditions adversely affect Utility's operations, Utility may terminate the Marketing Rights as they relate to the Managed Site following reasonable notice and an opportunity to cure. Notwithstanding the foregoing, any Environmental Hazards or Conditions existing at any Managed Site as of the Effective Date shall be permitted to continue without terminating the Managed Site.

(d) Environmental Indemnification. Buyer and Utility each agree to indemnify, defend and hold harmless the other from any and all damage, loss, liability, expense and claim (including

but not limited to attorneys' fees and court costs) caused by the indemnifying party's release or spill of any Hazardous Materials or waste and for any costs, expenses, and legal liability for environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration, remedial work, penalties, and fines generated by the violation of any local, state, or federal law or regulation, reasonable attorneys' fees, disbursements, and other response costs.

**Section 17.** Frequencies; Non-Interference; Induced Voltages.

(a) For each Managed Site, Buyer shall require, to the extent permitted in the applicable Authorized Site Agreement, the applicable Authorized Carrier to broadcast only the FCC authorized frequencies and transmitting powers specified in the Authorized Site Agreement. Buyer shall require, to the extent permitted in the applicable Authorized Site Agreement, an Authorized Carrier's operations at each Managed Site to be limited to the frequencies permitted by the license issued by the FCC and to the other terms and conditions of such FCC licenses. Buyer shall not, and shall require, to the extent permitted in the applicable Authorized Site Agreement, each Authorized Carrier not to, change or add to these frequencies or transmitting powers at any Managed Site without providing Utility with at least 60 days' prior written notice thereof and any changes to frequencies or transmitting powers shall not otherwise violate any of the terms or conditions set forth in the applicable FCC license or the applicable Authorized Site Agreement. Upon request, Buyer shall furnish Utility with copies of Authorized Carrier's authorizations issued by the FCC.

(b) If any Communication Equipment installed on a Managed Site, inclusive of all Site Access Rights applicable to such Managed Site, after the Effective Date interferes with the operation of Utility's equipment, or with the pre-existing equipment of third parties, Buyer shall promptly, following its receipt of notice thereof, at Buyer's sole cost and expense, subject to the terms of the applicable Authorized Site Agreement, require the applicable Carrier to take reasonable steps necessary or recommended by Utility or regulatory agencies to eliminate the interference. If Carrier is unable or refuses to eliminate the interference within a reasonable period of time (as determined by Utility), Utility may, subject to the terms of the applicable Authorized Site Agreement, require Buyer, and Buyer shall then require the Authorized Carrier, to suspend or discontinue power to the Carrier's equipment (except for intermittent operation for the purpose of testing following any remedial measures) and use diligent efforts to correct the interference. Utility shall inform Buyer of the period of time during which all interference shall be corrected, which period of time shall be reasonably determined by Utility. If remedial measures are unable to permanently eliminate the interference during the period of time determined by Utility and the Authorized Carrier has failed to implement sufficient remedial measures to temporarily eliminate the interference for so long as necessary for the Authorized Carrier to identify and implement permanent remedial measures, Buyer shall, to the extent permitted by the applicable Authorized Site Agreement, require that the Authorized Site Agreement be terminated, and, in the event of termination, Buyer shall ensure that any Communication Equipment is promptly removed from the Managed Site or related Utility Property in accordance with the terms of the Operations Standards or the Generator Guidelines where Generators owned or leased by Buyer or an Authorized Carrier are installed unless the interference can be resolved. Suspension of the Communication Equipment causing the interference shall continue until the interference issue can be resolved. In the event of termination of the Authorized Site Agreement, Buyer's use of the

applicable Managed Site, inclusive of all Site Access Rights applicable to such Managed Site, shall also terminate.

(c) For each Managed Site, Buyer shall, at its sole cost and expense, ensure compliance with all regulations relating to radio frequency emission (“RFE”), all Applicable Requirements concerning RFE and occupational exposure regulations. Prior to permitting an Authorized Carrier to install any Communication Equipment at a Managed Site, Carrier shall ensure that its Communication Equipment, when analyzed in conjunction with other Communication Equipment at or near the Managed Site, is in compliance with any applicable RFE standards. Upon request by Utility, Carrier shall provide Utility with a certificate of compliance with such applicable RFE standards prepared by a qualified radio frequency engineer. If an Authorized Carrier desires to make any changes to its Communication Equipment pursuant to the Authorized Site Agreement, then Buyer shall provide Utility with a new certificate at least thirty (30) days prior to such change. Utility shall permit Buyer to place signage at the Managed Site necessary to ensure compliance with applicable RFE regulations.

(d) Buyer hereby acknowledges that Base Equipment installed at a Managed Site pursuant to the terms of an Authorized Site Agreement may be in close proximity to one or more high voltage (66 kilovolt or above) electric transmission lines, and that such installations may be susceptible to induced voltages, static voltages or related electric fault conditions (“Induced Voltages”) unless appropriate grounding or other mitigation measures are used. If not properly mitigated, Induced Voltages can result in a variety of safety or nuisance conditions, including, but not limited to, electric shocks or other injury to individuals contacting the installations or other utilities connected to the installations (including, but not limited to, natural gas lines, water lines or cable television lines), or interference with or damage to sensitive electronic equipment that is part of an installation. Buyer shall identify any Induced Voltages mitigation measures necessary or appropriate regarding any Base Equipment installations at a Managed Site, and shall implement such mitigation measures at its sole cost and expense.

#### **Section 18. Taxes.**

(a) Buyer shall pay (i) for Managed Tower Sites, increases in real property taxes levied against any Managed Tower Site or any related Utility Property directly attributable to an increase in assessed value of the Managed Site or Utility Property as a result of the Tower Equipment installed or placed thereon; (ii) any increases in real property taxes levied against any Managed Ground Site or any related Utility Property directly attributable to an increase in assessed value of the Managed Site or Utility Property as a result of the Communications Facilities (and any Ground Site Equipment located thereon) constructed thereon; (2) any fee, tax, or other charge that a Governmental Authority may assess against Utility for occupancy or use of the Managed Site by Buyer or a Carrier; or (3) any increase in Utility’s taxes due to an Internal Revenue Service ruling that the attachment of Tower Equipment or the installation of any Communications Facilities (or Ground Site Equipment located thereon) on Utility Property is considered a taxable contribution in aid of construction (“CIAC”). Utility shall invoice Buyer for any amount due hereunder and Buyer agrees to pay such amount, including any income tax component of the contribution (“ITCC”) relating to that property at the prevailing ITCC rate in place at the time that the CIAC is deemed taxable to Utility, as directed by Utility. Buyer may, in its discretion, collect such amounts from Carriers pursuant to an Authorized Site Agreement.



(b) Except as otherwise provided in Section 18(a), all sales, use, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, and recording fees (“Transfer Taxes”) imposed as a result of the execution of this Agreement and the transactions contemplated hereby that take place on the Effective Date or that is attributable to a New Tower Site or New Ground Site shall be paid by Buyer. Buyer shall be responsible for and shall pay any Transfer Taxes attributable to any transfer or assignment of its rights under this Agreement. The Parties intend that any Transfer Taxes attributable to the entry into an Authorized Site Agreement with a Carrier shall be passed through to the Carrier. To the extent permitted by applicable Law, Buyer shall prepare and duly and timely file all Tax returns in respect of such Transfer Taxes and all Tax returns where no Tax is due, but filing is required as a result of the transactions contemplated by this Agreement. Buyer shall promptly notify Utility if Buyer is not permitted by applicable Law to file any such return. Utility shall prepare and timely file all Tax returns in respect of Transfer Taxes that Buyer is not permitted to file under applicable Law. Prior to the filing of any Tax return in respect of Transfer Taxes, the filing Party shall provide such return and a calculation of the associated Transfer Taxes (if any) to the non-filing Party for the non-filing Party’s review and approval, which approval shall not be unreasonably conditioned, withheld or delayed. Where a Party remits Transfer Taxes to the applicable taxing authority, the other Party shall reimburse the portion of such Transfer Taxes for which such other Party is responsible to the first mentioned Party by the earlier of 30 days after the date such Taxes are remitted to the taxing authority or 30 days after the filing due date of the applicable Tax return. To the extent that any Party fails to timely reimburse the other Party for any Transfer Taxes paid by such other Party, the Parties agree that such other Party shall be entitled to offset such unpaid reimbursements against any other amounts due to it. Utility and Buyer agree to cooperate in good faith in order to take actions to minimize, within the fullest extent of the Law, the application or imposition of Taxes imposed on the transactions contemplated by this Agreement, which may include, for example, providing documentation to qualify for exemption from any applicable Tax or agreeing to cooperate in good faith to resolve an audit by a taxing authority involving the operation or application of this Agreement.

#### **Section 19. Limitations on Liens.**

(a) Buyer agrees that, during the Term, it shall not directly or indirectly, incur, grant or permit to exist (and shall cause its Affiliates, contractors and their subcontractors, licensees, invitees and other representatives, and it shall require Authorized Carriers and their respective Affiliates, contractors, subcontractors, licensees, invitees and other representatives not to incur, grant or permit to exist) any Liens on or against any Utility Property, Utility Tower or Managed Site or any part of a Utility Property, Utility Tower or Managed Site.

(b) If any such Lien is incurred, granted or permitted (including as a result of any act or omission) by Buyer, an Authorized Carrier or their respective Affiliates, contractors, subcontractors, licensees, invitees and other representatives with respect to any Utility Property, Utility Tower or Managed Site in violation of Section 19(a), Buyer shall cause such Lien to be discharged by payment, satisfaction or posting of bond promptly, and not later than ten days after Buyer has obtained knowledge of such Lien. If Buyer fails to cause any Lien to be discharged within such time, Utility shall have the right (but not the obligation) to have the Lien discharged by payment of the amount required to discharge the Lien. If Utility elects to discharge a Lien, Buyer shall reimburse Utility for the full amount paid by Utility, together with interest at the

maximum rate allowed by applicable Law from the date of Utility's payment until such payment is made, within ten (10) days after such payment. If Buyer does not pay such reimbursement to Utility within ten (10) days after such payment, Buyer shall pay to Utility, in addition to such amount, a fixed charge of 10% of the amount unpaid plus interest on the unpaid amount at the interest rate set forth in Section 15(d).

(c) Without limiting the foregoing, Buyer shall not file or record, in any public record, secretary of state's office, county recorder's office, local filing office or any other office or place in any jurisdiction, any UCC-1 financing statement, any of the Assignment and Assumption Agreements or any other document relating to this Agreement, the Marketing Rights, any Managed Site or Utility Property, except as set forth in the Master Lease Agreement and Master License Agreement.

**Section 20.** Buyer Indemnity; Utility Indemnity; Procedure For All Indemnity Claims.

(a) Buyer Indemnity.

(i) Without limiting Buyer's other obligations under the Transaction Documents, Buyer agrees to indemnify, defend and hold each Utility Indemnatee harmless from, against and in respect of any and all Claims sustained or incurred by a Utility Indemnatee resulting from or arising out of:

(A) any default, breach or nonperformance by Buyer of its obligations and covenants under this Agreement;

(B) Buyer's actions to exercise the Marketing Rights, Buyer's Management or use of any part of a Managed Site from and after the Effective Date and any default, breach or nonperformance by Buyer of its obligations and covenants under Authorized Site Agreements, except for any Claims caused by the negligence or willful misconduct of a Utility Indemnatee;

(C) any work (including any Buyer Work) at a Managed Site performed by or at the direction of a Buyer Indemnatee, whether pursuant to the Operations Standards or otherwise;

(D) any commission, fee or other payment alleged to be owing to any broker, agent, intermediary or other third party by reason of dealings, negotiations or communications with Buyer or its Affiliates, agents, employees, engineers, contractors, subcontractors, licensees or invitees in connection with this Agreement.

(ii) Buyer further agrees to indemnify, defend and hold each Utility Indemnatee harmless under any other provision of this Agreement which expressly provides that Buyer shall indemnify, defend and hold harmless any Utility Indemnatee with respect to the matters covered in such provision.

(b) Utility Indemnity.

(i) Without limiting Utility's other obligations under this Agreement, Utility agrees to indemnify, defend and hold each Buyer Indemnitee harmless from, against and in respect of any and all Claims sustained or incurred by a Buyer Indemnitee resulting from or arising out of:

(A) any default, breach or nonperformance of its obligations and covenants under this Agreement; and

(B) any commission, fee or other payment alleged to be owing to any broker, agent, intermediary or other third party by reason of dealings, negotiations or communications with Utility or its agents, employees, engineers, contractors, subcontractors, licensees or invitees (excluding any Buyer Indemnitee or its other agents, employees, engineers, contractor, subcontractors, licensee or invitees) in connection with this Agreement; and

(C) any work (including any Utility Required Services) at a Managed Site performed by or at the direction of Utility.

(ii) Utility further agrees to indemnify, defend and hold each Buyer Indemnitee harmless under any other provision of this Agreement which expressly provides that Utility shall indemnify, defend and hold harmless any Buyer Indemnitee with respect to the matters covered in such provision.

(c) Indemnification Claim Procedure.

(i) In the event that any Person or entity entitled to indemnification under this Agreement (an "Indemnified Party") asserts a claim for indemnification or receives notice of the assertion of any claim or of the commencement of any action or Proceeding by any Person who is not a party to this Agreement or an Affiliate of such a party (including any domestic or foreign court, government, or Governmental Authority or instrumentality, federal, state or local) (a "Third Party Claim") against such Indemnified Party, against which a party to this Agreement is required to provide indemnification under this Agreement (an "Indemnifying Party"), the Indemnified Party shall give written notice together with a statement of any available information regarding such claim, and copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Third Party Claim, to the Indemnifying Party within thirty (30) days after learning of such claim (or within such shorter time as may be necessary to give the Indemnifying Party a reasonable opportunity to respond to such claim). The Indemnifying Party shall have the right, upon written notice to the Indemnified Party (the "Defense Notice") within thirty (30) days after receipt from the Indemnified Party of notice of such claim, to conduct at its expense and with counsel selected by the Indemnifying Party the defense against such Third Party Claim in its own name, or if necessary in the name of the Indemnified Party.

(ii) In the event that the Indemnifying Party shall fail to give such a Defense Notice within thirty (30) days, then the Indemnified Party may control the defense of such Third Party Claim.

(iii) In the event that the Indemnifying Party elects to conduct the defense of the subject claim, the Indemnifying Party will not be required to indemnify the Indemnified Party for legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof, unless the Third Party Claim involves conflicts of interest or substantially different

defenses for the Indemnified Party and the Indemnifying Party. The Indemnified Party will cooperate with and make available to the Indemnifying Party such assistance and materials as may be reasonably requested by it, and the Indemnified Party shall have the right at its expense to participate in the defense assisted by counsel of its own choosing. Whether or not the Indemnifying Party shall have assumed the defense of a Third Party Claim, the Indemnified Party shall not admit any liability with respect to, or settle, compromise or discharge, such Third Party Claim without the Indemnifying Party's prior written consent. Without the prior written consent of the Indemnified Party, the Indemnifying Party will not enter into any settlement of any Third Party Claim or cease to defend against such claim if pursuant to or as a result of such settlement or cessation (A) injunctive or other equitable relief would be imposed against the Indemnified Party, (B) such settlement or cessation would lead to liability or create any financial or other obligation on the part of the Indemnified Party for which the Indemnified Party is not entitled to indemnification hereunder, or (C) such settlement or compromise involves an admission of any violation of Law or admission of wrongdoing by Buyer, without Buyer's consent, which may be granted or withheld in Buyer's sole discretion.

(iv) If an Indemnified Party shall desire to assert any claim for indemnification provided for under this Section 20 other than a Third Party Claim (a "Direct Claim"), such Indemnified Party shall promptly notify the Indemnifying Party in writing of such Direct Claim, describing in reasonable detail the specific provisions of this Agreement claimed to have been breached, the factual basis supporting the contention that such provisions were breached, the amount or the estimated amount of damages sought thereunder, any other remedy sought thereunder, any relevant time constraints relating thereto and, to the extent practicable, any other material details pertaining thereto (a "Direct Claim Notice"). The Indemnifying Party shall have a period of thirty (30) days within which to respond to any Direct Claim Notice, stating whether it disputes the existence or scope of an obligation to indemnify the Indemnified Party under this Section 20. If the Indemnifying Party does not so respond within such thirty (30) day period stating that the Indemnifying Party disputes its liability for such claim, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement. If the Indemnifying Party disputes all or any part of such claim, the Indemnified Party and the Indemnifying Party shall attempt in good faith to resolve such dispute in accordance with Section 29(h).

(v) During the Term, for any dispute or litigation that arises during the Term in connection with any Authorized Carrier or any other issue relating to the operation of the Managed Sites following the Effective Date (collectively, "Disputes"), Buyer shall have the right to control, prosecute, settle or compromise such Disputes; provided, however, that Buyer shall not settle or compromise such Disputes (i) for which Buyer is seeking a claim for indemnification under the Purchase and Sale Agreement except in compliance with the terms, conditions and procedures set forth in the Purchase and Sale Agreement or (ii) if the settlement or compromise involves an admission of any violation of Law or admission of wrongdoing by Utility, without Utility's consent, which may be granted or withheld in Utility's sole discretion.

**Section 21.** Buyer's Waiver of Subrogation; Insurance.

(a) Waiver of Subrogation. To the fullest extent permitted by applicable Law, and notwithstanding any contrary provision of this Agreement, Buyer hereby waives any and all rights of recovery, claim, action or cause of action against Utility and its Affiliates, for any loss or damage that occurs or is claimed to occur to its property at any Managed Site, by reason of any cause insured against, or required to be insured against, by Buyer under the terms of this Agreement, regardless of cause or origin. In addition, Buyer shall ensure that any property insurance policy it carries with respect to each Managed Site shall provide that the insurer waives all rights of recovery, claim, action or cause of action by way of subrogation against Utility with respect to Claims for damage to property covered by such policy.

(b) Buyer Insurance. Buyer shall procure, and shall maintain in full force and effect at all times during the Term, the insurance set forth on Exhibit Q (the "Buyer Insurance Requirements"), paying as they become due all premiums for such insurance (it being understood that the insurance required under this Section 21(b) does not represent all coverage or limits necessary to protect Buyer or a limitation of Buyer's liability to Utility pursuant to this Agreement). Buyer shall obtain all such insurance from financially sound and reputable insurers reasonably acceptable to Utility. Utility may, from time to time, review and assess the adequacy of the Buyer Insurance Requirements. If the Utility determines that the Buyer Insurance Requirements are insufficient or are inconsistent with insurance requirements of other third parties performing work on Utility's properties and structures, Utility may, in its sole discretion, update the Buyer Insurance Requirements, provided that Utility shall not be permitted to update the Buyer Insurance Requirements more frequently than once every two years.

(c) Insurance Documentation. Upon request, Buyer shall furnish Utility with certificates of insurance, declaration pages and endorsements (collectively, "Insurance Documentation") of all insurance required hereunder. Insurance Documentation shall be signed and submitted by a person authorized by the applicable insurer to issue certificates of insurance and endorsements on its behalf.

(d) Other Insurance. Buyer shall not, on its own initiative or pursuant to the request or requirement of any Authorized Carrier or other Person, obtain any separate insurance policies concurrent in form or contributing in the event of loss with that required to be carried by Buyer pursuant to this Section 21, unless Utility is named in the policy as an additional insured or a loss payee, if and to the extent applicable. Buyer shall immediately notify Utility whenever any such separate insurance is taken out by it and shall deliver to Utility original certificates evidencing such insurance.

(e) Title and Risk of Loss. Legal title to all Tower Equipment or Communications Facilities constructed or installed on Utility Property or Utility Towers shall remain with the applicable Authorized Carrier, and the applicable Authorized Carrier at all times shall have care, custody, and control of such Tower Equipment or Communications Facilities (and any Ground Site Equipment thereon), subject to the provisions of this Agreement, and such Authorized Carrier shall be responsible for all costs and expenses to replace, repair, remove, or reconstruct any portion or all of any such Tower Equipment or Communications Facilities which is lost, damaged, or destroyed, irrespective of how such loss, damage, or destruction will have occurred, except for

such loss, damage, or destruction which occurs due to the negligence or willful misconduct of Utility.

(f) Utility Insurance. Utility shall procure, and shall maintain in full force and effect at all times during the Term, the insurance set forth on Exhibit R (the “Utility Insurance Requirements”), paying as they become due all premiums for such insurance (it being understood that the insurance required under this Section 21(f) does not represent all coverage or limits necessary to protect Utility or a limitation of Utility’s liability to Buyer pursuant to this Agreement).

## **Section 22. Assignment Rights.**

### **(a) Buyer Assignment Rights.**

(i) Buyer may not assign, sell, convey, transfer, or otherwise dispose of this Agreement or any of its rights, duties or obligations under this Agreement or the Authorized Site Agreements to any Person (including by operation of law) in whole or in part, except (x) with the prior written consent of Utility or (y) pursuant to a Permitted Assignment; provided, that, in no event will Buyer be released from its obligations hereunder.

(ii) “Permitted Assignment” means an assignment, sale, conveyance, transfer or other disposition (1) to a successor Person of Buyer by way of merger or consolidation or a Person acquiring all or substantially all of the assets of Buyer, or (2) to an Affiliated entity of Buyer that is creditworthy, is experienced in the management and operation of communication towers, and has an acceptable safety record in the industry, in each case if Buyer delivers to Utility (x) the agreement of such successor Person or Affiliated entity satisfactory to Utility assuming in full the duties and obligations of Buyer to the extent of such assignment and (y) such information regarding such successor Person or Affiliated entity that Utility, in its reasonable discretion, determines is necessary to demonstrate compliance with the foregoing; provided, that no assignment, sale, conveyance, transfer or other disposition of the Marketing Rights granted to Buyer under this Agreement shall be a Permitted Assignment.

(iii) Notwithstanding the foregoing, Buyer shall be permitted to assign its rights to Carrier Revenues generated from any Authorized Site Agreements pursuant to this Agreement; provided, that Buyer may not assign the portion of Carrier Revenues representing Utility Revenue Share payable to Utility pursuant to this Agreement.

(iv) Buyer hereby agrees that any attempt of Buyer to assign its interest in this Agreement, in whole or in part, in violation of this Section 22 shall constitute a default under this Agreement and such purported assignment shall be null and void ab initio.

### **(b) Utility Assignment Rights.**

(i) Utility may not assign, sell, convey, transfer, or otherwise dispose of this Agreement or any of its rights, duties or obligations under this Agreement in whole or in part without the prior written consent of Buyer (which consent shall not be unreasonably withheld); provided that (A) Buyer’s prior written consent shall not be required in the case of an assignment or deemed assignment by Utility of this Agreement to a successor Person of Utility by way of

merger or consolidation of the Utility; the transfer or distribution of all or substantially all of the stock of Utility; a transfer of the Utility's assets or any of them to an Affiliated entity or a reorganization of Utility; or a sale or transfer of all or substantially all of the assets of Utility; and (B) in the event that Utility transfers any combination of more than [•] Towers on which Managed Sites are located at the time of transfer to any Person that is a regulated electric utility, Utility may assign the portion of its rights and delegate the portion of its obligations under this Agreement, in each case, that correspond to such transferred Towers without the prior written consent of Buyer.

(ii) Utility shall deliver to Buyer documentation reasonably satisfactory to Buyer confirming that any party to which Utility assigns any of its duties and obligations hereunder in accordance with this Agreement shall, from and after the date of any such assignment, assume all such duties and obligations to the extent of any such assignment.

(iii) Utility hereby agrees that any attempt of Utility, respectively, to assign its interest in this Agreement or any of its rights, obligations or duties under this Agreement, in whole or in part, in violation of this Section 22 shall constitute a default under this Agreement and such purported assignment shall be null and void ab initio.

#### **Section 23. Broker and Commission.**

(a) Each of Buyer and Utility warrants and represents to the other that there are no commissions, fees or other compensation payable to any broker, finder, investment banker or other intermediary ("Financial Advisor") in connection with this Agreement by reason of such Party's dealings, negotiations or communications for which the other Party would be responsible. All fees and expenses of any Financial Advisor incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses.

(b) Each of Buyer and Utility agrees to indemnify, defend and hold harmless the other from any and all damage, loss, liability, expense and claim (including but not limited to attorneys' fees and court costs) arising with respect to any commission, fee or other compensation payable or alleged to be payable by the Indemnified Party to a Financial Advisor by reason of any action or agreement of the Indemnifying Party.

#### **Section 24. Damage or Destruction; Condemnation; Relocation Requests.**

(a) If a Managed Site, or Utility Tower or Utility Property on which such Managed Site is located, is damaged or destroyed, for any reason other than as a result of an act or omission by Buyer or an Authorized Carrier, and as a result there is a material interference with an Authorized Carrier's Permitted Use of a Managed Site or related Site Access Rights for a period of 90 days, then Utility shall notify Buyer if it intends to commence the repair of the damaged or destroyed Utility Tower, Utility Property or Managed Site in a manner expected to eliminate such material interference with the Managed Site. If Utility does not provide such notification that it will repair the damaged or destroyed Utility Tower, Utility Property or Managed Site to Buyer within 120 days after the date of the damage or destruction, Buyer may request in writing to relocate (the "Relocation Request") the subject Managed Site to a Ground Site (if the affected Managed Site is a Managed Ground Site) or Tower Site (if the affected Managed Site is a Managed Tower Site)

located on an alternative Tower or alternative Utility Property that is adequate for the Authorized Carrier's Permitted Use of the subject Managed Site (the "Alternative Location"). If Utility does not promptly commence, and diligently proceed to complete the repair of the damaged or destroyed Utility Tower, Utility Property or Managed Site in a manner that eliminates the material interference with the Managed Site or related Site Access Rights or, if pursuant to a Relocation Request, the subject Managed Site has been relocated pursuant to Section 24(c), the Marketing Rights as they relate to the subject Managed Site and the lease to Buyer for such Managed Site shall automatically terminate. Upon such termination, (i) the subject Managed Site shall be deemed removed from Exhibit A, B, D, E, F, or J, as applicable, and Buyer shall no longer have any Marketing Rights or any other rights relating to such subject Managed Tower Site and (ii) if applicable, the Utility Tower damaged or destroyed shall no longer be a Utility Tower for purposes of this Agreement. If the subject Managed Site is a Legacy Site, and Utility rejects such request, a Permitted Site Termination with respect to the Managed Site shall be deemed to have occurred and Utility shall promptly pay to Buyer the Legacy Tower Site Termination Payment (determined in accordance with Section 28(b)(v)) with respect to such Managed Site. If the subject Managed Site is a Delivered Pipeline Site, and Utility rejects such request, a Permitted Site Termination with respect to the Managed Site shall be deemed to have occurred and Utility shall promptly pay to Buyer the Delivered Pipeline Tower Site Termination Payment (determined in accordance with Section 28(b)(vi)) with respect to such Managed Site.

(b) If a Utility Tower, Managed Site or any material Site Access Rights related thereto are appropriated or acquired by condemnation or the power of eminent domain by a public or quasi-public authority or other Governmental Authority (a "Taking"), or use thereof involuntarily discontinued in anticipation of a Taking, then the Marketing Rights granted to Buyer for such Managed Site, including related Site Access Rights, and the lease or license granted to Buyer for such Managed Site, shall terminate to the extent of the Taking. In the event of such termination, Buyer may provide a Relocation Request. If a Relocation Request has been provided and Utility is unable to relocate the Managed Site pursuant to Section 24(c), the Marketing Rights as they relate to the affected Managed Site, including related Site Access Rights, shall terminate. Upon such termination, (i) the subject Managed Site shall be deemed removed from Exhibit A, B, D, E, F, or J, as applicable, and Buyer shall no longer have Marketing Rights or any other rights relating to such subject Managed Site, including related Site Access Rights, and (ii) the Utility Tower subject to a Taking, if applicable, shall no longer be a Legacy Tower for purposes of this Agreement. Notwithstanding the foregoing, Utility shall advise Buyer in a reasonably timely manner of all condemnation proceedings or prospective condemnation proceedings affecting a Managed Site of which Utility receives notice in order that Buyer may fully protect and prosecute its rights and claims against the condemning authority relating to the Managed Site. If the whole of the Managed Site shall be taken or condemned by, or transferred in lieu of condemnation to, any Governmental Authority with the power of condemnation during the Term of this Agreement, Buyer shall be entitled to separately seek an award from the condemning authority based upon its interest as set forth in this Agreement and the Authorized Site Agreements, along with the value of all Buyer's or an Authorized Carrier's improvements and personal property that are taken. In the event only a portion of the Utility Property or Utility Tower, which portion does not include the whole of the Managed Site or material Site Access Rights related thereto, shall be taken or condemned by, or transferred in lieu of condemnation to any governmental or quasi-governmental authority or agency with the power of condemnation during the Term of this Agreement, Buyer shall have the option to either: (1) terminate this Agreement with respect to such Managed Site; or



(2) continue in possession of the property pursuant to the terms of this Agreement with a proportionate reduction in Revenue Share Carrier Revenue based on that portion, if any, of the Managed Site so taken, condemned or transferred in lieu of condemnation. In either event, Buyer shall be entitled to seek a separate award from the condemning authority based upon its interest in the portion of the Managed Site or Site Access Rights condemned, taken or transferred in lieu of condemnation, along with the value of all Buyer's improvements and personal property that are taken, including, but not limited to, trade fixtures, fixtures, moving expenses, business damages, business interruption, business dislocation, or other losses or expenses as may be incurred. Buyer shall have no right or interest in any award or compensation received by or payable to Utility in connection with any condemnation or taking by eminent domain, but nothing contained herein shall prohibit Buyer from making its own claims against any condemning authority for any losses or damages Buyer shall incur as a result of a condemnation, or sale in lieu of condemnation, of the whole or any portion of the Utility Property or Towers.

(c) Relocation Request Process.

(i) Upon receipt of a Relocation Request pursuant to Section 24(a) or Section 25(b), Utility shall reasonably cooperate with Buyer to relocate the subject Managed Site to Alternative Property. The Alternative Property may be a Utility Tower or, at Utility's sole discretion, a Tower that is not a Utility Tower. If the Alternative Property is acceptable to Buyer and Authorized Carrier, then Utility shall advise Buyer of the process for relocation to the Alternative Property, provide information about the new Site on the Alternative Property (the "Alternative Site") and the costs associated with such relocation. Buyer shall be responsible for all costs relating to the relocation, including any costs relating to the operation of Communication Equipment in responding or adjusting to such relocation. Costs incurred by Utility in connection with relocating any Tower Equipment, or Communication Equipment relating to a Managed Ground Site, from the subject Managed Site to the Alternative Site, including the cost of removing and reinstalling any such equipment, shall be treated as a Utility Service and invoiced to Buyer in accordance with Section 15.

(ii) All Alternative Sites shall be deemed to be Managed Sites and shall be subject to all other applicable terms and conditions of this Agreement. For purposes of the Utility Revenue Share, each Alternative Site shall retain the character of the subject Managed Site. For example, if the subject Managed Site was a Pipeline Tower Colocation Site, then the Replacement Site shall be a Pipeline Tower Colocation Site.

(iii) If the Alternative Property is not a Utility Tower, then, except as required by the Authorized Site Agreement for the subject Managed Site relocated to the Alternative Site, Buyer shall not have any Marketing Rights with respect to the Alternative Property.

**Section 25.** Term of Agreement; End of Term Procedures.

(a) This Agreement shall terminate on the earlier to occur of (i) \_\_\_\_\_, 20\_\_\_\_, which is the date \_\_\_\_ years from the Effective Date ("Agreement Expiration Date"), (ii) the date upon which Utility terminates the Agreement pursuant to Section 28(e) in connection with an Agreement Termination Event and (iii) the date upon which Utility and Buyer elect to terminate this Agreement pursuant to Section 28(g) (the "Agreement Termination Date"). The period

commencing from the Effective Date and ending on the Agreement Termination Date shall be referred to as the “Agreement Term”.

(b) On the Agreement Termination Date, for each Managed Site, Utility shall elect to either (A) receive an assignment of all rights and assume all obligations under the Authorized Site Agreements (“Assignment Election”) or (B) require Buyer to decommission such Managed Site, in accordance with the procedures described in Section 25(d) and Section 25(e) (“Decommission Election”). For Managed Sites for which Utility makes an Assignment Election, Buyer shall assign to Utility (or its designee) Buyer’s right, title and interest in all the Authorized Site Agreements for the Managed Sites for which an Assignment Election is made by Utility, which may be some or all of the then-existing Authorized Site Agreements, without charge to Utility, and without liability to Utility for, or assumption by Utility of, any obligations of Buyer accruing prior to the termination of this Agreement or the expiration of the Term.

(c) For Managed Tower Sites for which Utility makes a Decommission Election, Buyer shall, and shall direct all Authorized Carriers to, promptly remove all Base Equipment and arrange with Utility for removal by Utility personnel of the Communication Equipment and any other Tower Equipment located on a Managed Tower Site. If Carrier does not promptly remove its Base Equipment from a Managed Tower Site after thirty (30) days of Utility’s making of the Decommission Election for such Managed Tower Site, then Utility may remove the Base Equipment itself. Utility shall remove all Communication Equipment and return it to Buyer or, if instructed by Buyer, an Authorized Carrier within thirty (30) days of Buyer or an Authorized Carrier’s removal of the Base Equipment installed at such Managed Tower Site. For all such Managed Tower Sites for which Utility makes a Decommission Election, Utility shall further, or shall direct an Authorized Carrier to, demolish and remove all foundations to a minimum of three (3) feet below grade level, fill all excavations, return the surface to grade, and leave the Managed Tower Site in a neat and safe condition, free from any debris or hazards. Buyer shall reimburse all of Utility’s costs to remove, store or dispose of an Authorized Carrier’s Base Equipment that has not been removed within such thirty (30) day period. If requested by Utility, Buyer shall cooperate with Utility to perform any additional actions necessary to restore each affected Managed Tower Site to its original condition, reasonable wear and tear and damage due to casualty not caused by Buyer, if any, excepted. For any work at a Managed Tower Site performed by Buyer or an Authorized Carrier, or their contractors, subcontractors or other representatives, Buyer shall be responsible for the repair of any damage to a Utility Tower or Utility Property incurred in connection with such removal, and shall be obligated to pay Utility for the cost of such repair.

(d) For Managed Ground Sites for which Utility makes a Decommission Election, Buyer shall, and shall direct all Authorized Carriers to, promptly surrender possession of the Managed Ground Site and the Communications Facility, except for Communication Equipment, to Utility in good and safe condition, reasonable wear and tear excepted, unless otherwise directed by Utility. Buyer shall, and shall direct all Authorized Carriers to, promptly remove all Communication Equipment from the Managed Ground Site. Upon request from Utility, Buyer shall, and shall direct all Authorized Carriers to, demolish and remove the Communications Facility and all foundations to a minimum of three (3) feet below grade, fill all excavations, return the surface to grade, leave the Managed Ground Site in a neat and safe condition, free from any debris or hazards and restore the Managed Ground Site to its condition prior to its use by Buyer and any Authorized Carrier. If Buyer does not promptly remove its Communication Equipment

and Communications Facility, if applicable, from a Managed Ground Site after thirty (30) days of Utility's making of the Decommission Election for such Managed Ground Site, then Utility may remove the equipment itself. If requested by Utility, Buyer shall cooperate with Utility to perform any additional actions necessary to restore each affected Managed Ground Site to its original condition, reasonable wear and tear and damage due to casualty not caused by Buyer, if any, excepted. For any work at a Managed Ground Site performed by Buyer or an Authorized Carrier, or their contractors, subcontractors or other representatives, Buyer shall be responsible for the repair of any damage to a Utility Tower or Utility Property incurred in connection with such removal, and shall be obligated to pay Utility for the cost of such repair.

(i) Any removal of Tower Equipment or Communications Facilities made by Buyer or an Authorized Carrier or any other equipment from a Managed Site shall be performed in accordance with the Operations Standards and the Utility Safety Standards. For Managed Sites with Generators that are owned or leased by Buyer of an Authorized Carrier, Buyer shall remove such Generators in accordance with specific instructions communicated by Utility to Buyer at such time, in addition to the Operations Standards and the Utility Safety Standards.

(ii) Any equipment or facilities of Buyer or an Authorized Carrier at a Managed Site for which Utility makes a Decommission Election that is not removed by Buyer shall be deemed abandoned by Buyer and the applicable Authorized Carrier and title to such Communication Equipment shall automatically, without further action, vest in Utility; provided, however, that Buyer shall remain liable for the costs of removal and disposal of such unremoved Communication Equipment pursuant to Section 25(c) and (d).

(e) Holdover Penalty. If Buyer continues to occupy or otherwise use any Managed Sites after the termination of a Managed Site pursuant to this Agreement or the expiration of the Term or termination of this Agreement, there shall be no renewal or extension of the Term as to such Managed Site by operation of Law. Such use or holding over shall constitute and be construed to be a month-to-month use of the Managed Sites at a monthly amount equal to 150% of the greater of (i) all subleasing or sublicensing revenue and amounts due to Buyer by Carriers for such Managed Site on a monthly basis, or (ii) the fair market rent or license fee for such occupation or use, plus any other payments due under the terms of this Agreement. Monthly holdover amounts shall be equitably pro-rated and shall be due on the last day of each month and shall continue to accrue until Buyer (and Carriers) surrenders possession of the affected Managed Site in the condition required following completion of the decommissioning procedures set forth in Section 25(c) and Section 25(d). Utility reserves the right to terminate any such month-to-month occupancy of Buyer or an Authorized Carrier at any time.

(f) No Refund or Credit for Carrier Revenues. Except as set forth in this Agreement, in the event of the termination of a Managed Site, upon the expiration of the Term or termination of this Agreement, Buyer shall have no right or claim to any refund or credit from Utility of any portion of the amounts payable under Authorized Site Agreements for any Managed Site.

**Section 26.** Term and Termination of Tower Marketing Rights.

(a) The Tower Marketing Rights granted by Utility to Buyer pursuant to Section 3(a) (the “Tower Marketing Rights”) shall have an initial term of \_\_\_\_ years from the Effective Date (the “Tower Marketing Rights Term”).

(b) If, at the end of the Tower Marketing Rights Term, Buyer shall have entered into Authorized Site Agreements for New Tower Sites with annualized Carrier Revenue of \$\_\_\_\_ (the “Second Tower Marketing Rights Term Threshold”), then the Tower Marketing Rights shall be automatically renewed for an additional term of \_\_\_\_ years (the “Second Tower Marketing Rights Term”) from the last date of the Tower Marketing Rights; provided, that, for purposes of calculating the Second Tower Marketing Rights Term Threshold, only annualized Carrier Revenues from Authorized Site Agreements with terms of no less than twenty (20) years shall be included. If, at the end of the Tower Marketing Rights, Buyer shall not have met the Second Tower Marketing Rights Term Threshold, then Utility may permit Buyer to make a payment to Utility in an amount equal to \$\_\_\_\_ in exchange for a renewal of an additional term of \_\_\_\_ years. If Buyer does not meet the Second Tower Marketing Rights Term Threshold and elects to not make such payment to Utility, then the Tower Marketing Rights shall automatically terminate as of such date.

(c) If, at the end of the Second Tower Marketing Rights Term, Buyer shall have entered into Authorized Site Agreements for New Tower Sites since the end of the Tower Marketing Rights with annualized Carrier Revenue of \$\_\_\_\_ the “Third Tower Marketing Rights Term Threshold”, then the Tower Marketing Rights shall be automatically renewed for an additional term of \_\_\_\_ years (the “Third Tower Marketing Rights Term”) from the last date of the Second Tower Marketing Rights Term; provided, that, for purposes of the foregoing, only annualized Carrier Revenues from Authorized Site Agreements with terms of no less than twenty (20) years shall be included. If, at the end of the Second Tower Marketing Rights Term, Buyer shall not have met the Third Tower Marketing Rights Term Threshold, then Utility may permit Buyer to make a payment to Utility in an amount equal to \$\_\_\_\_ in exchange for a renewal of an additional term of \_\_\_\_ years. If Buyer does not meet the Third Tower Marketing Rights Term Threshold and elects to not make such payment to Utility, then the Tower Marketing Rights shall automatically terminate as of such date.

(d) At the end of the Third Tower Marketing Rights Term, the Tower Marketing Rights shall terminate.

(e) For the avoidance of doubt, upon termination of the Tower Marketing Rights Term pursuant to the foregoing clauses of this Section 26, (i) Buyer shall, for the remainder of the Term, continue to Manage and provide Site Management Services for any Managed Tower Sites for which Authorized Site Agreements have been executed and remain in effect as of the termination date of the Tower Marketing Rights pursuant to the terms and conditions set forth in this Agreement and (ii) Utility shall, for the avoidance of doubt, be entitled to exercise any Tower Marketing Rights itself or grant any rights similar to the Tower Marketing Rights to other third parties for any Tower Sites or Ground Sites that are not Managed Sites.

**Section 27. Term and Termination of Ground Marketing Rights.**

(a) The Ground Marketing Rights granted by Utility to Buyer pursuant to Section 3(c) shall have an initial term of \_\_\_\_ years from the Effective Date, which may be extended pursuant to terms and conditions agreed by Utility and Buyer (the “Ground Marketing Rights Term”); provided, however, that if the Tower Marketing Rights Term terminates pursuant to Section 26, the Ground Marketing Rights Term, if still in effect prior to such time, shall terminate at the same time .

(b) For the avoidance of doubt, upon termination of the Ground Marketing Rights Term pursuant to the foregoing clauses of this Section 27, (i) Buyer shall, for the remainder of the Term, continue to Manage and provide Site Management Services for any Managed Ground Sites for which Authorized Site Agreements have been executed and remain in effect as of the termination date of the Ground Marketing Rights pursuant to the terms and conditions set forth in this Agreement and (ii) Utility shall, for the avoidance of doubt, be permitted to exercise any Ground Marketing Rights itself or grant any rights similar to the Tower Marketing Rights to other third parties for any Tower Sites or Ground Sites that are not Managed Sites.

**Section 28. Termination Rights.**

(a) Permitted Site Termination by Utility. Utility shall have the right to terminate the Marketing Rights granted for any individual Managed Site prior to the expiration of the Term upon occurrence of the events described in clauses (i) through (iii) below (each, a “Permitted Site Termination”). Utility shall provide Buyer written notice of a Permitted Site Termination (the “Permitted Site Termination Notice”) prior to the effective termination date of such Permitted Site Termination (the “Permitted Site Termination Date”), in accordance with the applicable notice periods set forth below. The Permitted Site Termination Notice shall state the Permitted Site Termination Date and each Managed Site that is the subject of a Permitted Site Termination (each, a “Terminated Managed Site”). The Marketing Rights granted to Buyer in respect of each Terminated Managed Site shall terminate on the Permitted Site Termination Date.

(i) If the Commission or FERC mandates the termination of a Managed Site, or if Utility in its reasonable judgment determines that termination of a Managed Site is necessary in connection with its status as an entity regulated by the Commission or FERC, the Marketing Rights in respect of such Managed Site shall terminate. Utility shall provide Buyer the Permitted Site Termination Notice as soon as feasible after Utility’s receipt of notice from the Commission or FERC mandating termination of a Managed Site or following Utility’s determination that termination of a Managed Site is required pursuant to this Section 28(a)(i).

(ii) If Utility determines that it is necessary for Utility to use a Managed Site in connection with conducting Utilities’ electric utility business, the Marketing Rights in respect of such Managed Site shall terminate. Utility shall provide to Buyer the Permitted Site Termination Notice for a termination pursuant to this clause (ii) at least 90 days prior to the Permitted Site Termination Date or, if applicable, for any Managed Site that is a Legacy Site subject to a Legacy Agreement, such greater notice period as set forth in the Legacy Agreement. Utility operations include, but are not limited to, circuit decommissioning and mitigation of disputes with Ground Rights Holders resulting from the installation of such Managed Sites.

(iii) Utility shall be entitled at any time, in its sole discretion, to discontinue its use of any Utility Tower on which a Managed Tower Site is located, and, as a consequence thereof, the Managed Site shall no longer be available for the Permitted Use by the Authorized Carrier. Utility shall provide to Buyer the Permitted Site Termination Notice for a termination pursuant to this clause (iii) at least 90 days prior to the Permitted Site Termination Date or, if applicable, for a Managed Site that is a Legacy Site subject to a Legacy Agreement, such greater notice period as set forth in the Legacy Agreement.

(b) Consequences of a Permitted Site Termination.

(i) Upon any Permitted Site Termination by Utility, Utility shall cooperate with Buyer in attempting to identify Alternative Property on which to relocate the Terminated Managed Site (the replacement for such Terminated Managed Site, a “Replacement Site”). In the case of a Permitted Site Termination for a Managed Tower Site, Utility shall provide to Buyer and the Authorized Carrier in reasonable detail the location and other relevant specifications of each Tower owned by Utility within a two (2) mile radius of the Terminated Managed Site that appears potentially suitable for location of a Replacement Site. For the avoidance of doubt, Utility shall only be required to attempt to identify a Replacement Site for a Terminated Managed Site that is subject to an Authorized Site Agreement in effect at the applicable Permitted Site Termination Date. If the Alternative Property is not a Utility Tower, such Tower shall retain the character of the terminated Tower and Utility shall be deemed to grant to Buyer the rights to Manage, Market and Sublicense any potential Expansion Sites on such Designated Replacement Cell Tower pursuant to the terms and conditions of this Agreement.

(ii) Buyer shall be responsible for all costs for any relocation pursuant to a Permitted Site Termination, including costs for structural analysis, installations of ground grid and Communication Equipment, zoning and other construction costs. All Buyer Work performed in connection with a relocation shall be performed pursuant to the Operations Standards and the Utility Safety Standards. Any work required to be performed by Utility as a Utility Required Service in connection with a relocation pursuant to a Permitted Site Termination shall be payable by Buyer, and invoiced to Buyer on a Services Invoice, in accordance with the Fee Schedule.

(iii) If permissible and not otherwise in conflict with regulatory or governmental mandates or deemed necessary by Utility to ensure the safety, reliability, and operating efficiency of Utility’s electric and gas utility service, Utility shall attempt to reasonably cooperate with Buyer to keep any Terminated Managed Site commercially operational until the Replacement Site is on-air. Upon completion of the relocation of the Terminated Managed Site to the Replacement Site or, if a Replacement Site is not available, Buyer shall promptly power down the Terminated Managed Site and shall complete the applicable Site Decommission Procedures for such Terminated Managed Site.

(iv) All Replacement Sites shall be deemed to be Managed Sites and shall be subject to all other applicable terms and conditions of this Agreement. For purposes of the Utility Revenue Share, each Replacement Site shall retain the character of the Terminated Managed Site. For example, if the Terminated Managed Site was a Pipeline Tower Colocation Site, then the Replacement Site shall be a Pipeline Tower Colocation Site.

(v) If a Permitted Site Termination occurs for (x) a Managed Site that is a Legacy Site and (y) Utility is unable to provide a Replacement Site that is (1) adequate for the Permitted Use by the Authorized Carrier, (2) within a two (2) mile radius of the Terminated Managed Site or is otherwise acceptable to Buyer and (3) acceptable to the Authorized Carrier, Utility shall pay to Buyer, as full compensation for the Permitted Site Termination, a payment (the “Legacy Tower Site Termination Payment”), to be calculated as follows: [\_\_\_\_].

(vi) If a Permitted Site Termination occurs for (x) a Managed Site that is a Delivered Pipeline Site and (y) Utility is unable to provide a Replacement Site that is (1) adequate for the Permitted Use by the Authorized Carrier, (2) within a two (2) mile radius of the Terminated Managed Site or is otherwise acceptable to Buyer and (3) acceptable to the Authorized Carrier, Utility shall pay to Buyer, as full compensation for the Permitted Site Termination, a payment (the “Delivered Pipeline Tower Site Termination Payment”), to be calculated as follows: [\_\_\_\_].

(vii) In no event shall the Legacy Tower Site Termination Payment or the Delivered Pipeline Tower Site Termination Payment be less than \$0.

(viii) Upon the applicable Permitted Site Termination Date, the Terminated Managed Sites shall be deemed removed from Exhibit A, B, D, E, F, or J, as applicable, and Buyer shall no longer have Marketing Rights or any other rights relating to such Terminated Managed Sites. Following a Permitted Site Termination of a Managed Tower Site that had been located on a Legacy Tower, such Tower shall no longer be treated as a Legacy Tower or a Utility Tower for purposes of this Agreement.

(ix) Legacy Tower Site Termination Payments and Delivered Pipeline Tower Site Termination Payments shall only be payable for any Terminated Managed Sites that are Legacy Sites or Delivered Pipeline Sites.

(x) No Legacy Tower Site Termination Payment or Delivered Pipeline Tower Site Termination Payments, as applicable, shall be payable to Buyer if Utility has offered to relocate the applicable Authorized Carrier to Alternative Property that is (x) adequate for the Permitted Use by the Authorized Carrier, (y) within a two (2) mile radius of the Terminated Managed Site and (z) acceptable to the Authorized Carrier, and Buyer chooses not to accept the Alternative Property.

(xi) Upon the occurrence of any Permitted Site Termination by Utility, Utility shall pay to Buyer the applicable Legacy Tower Site Termination Payment or Delivered Pipeline Tower Site Termination Payment on or immediately after the effectiveness of such Permitted Site Termination.

(c) Buyer Defaults. If any of the events set forth below occur in respect of a Managed Site, such events shall be deemed to be material breaches by Buyer in respect of such Managed Site (each, a “Buyer Default”). Any of the following events that occur at a Managed Site as a result of the actions of an Authorized Carrier shall be deemed to be a “Buyer Default” for purposes of this Section 28(c).

(i) Buyer fails to make payment of Utility Revenue Share, fees for Utility Services, or any other amount due under this Agreement in excess of \$\_\_\_ in the aggregate in respect of such Managed Site (other than amounts that Buyer is in good faith disputing);

(ii) Buyer's failure to comply with the Utility Safety Standards, the Operations Standards, or failure to comply in any material respect with the Utility Wireless Business Guidelines provided to Buyer from time to time, in each case, for such Managed Site;

(iii) The occurrence of a major safety violation or repeated safety violations at such Managed Site that are reasonably likely to cause a serious injury or fatality, which shall include (A) Buyer's or an Authorized Carrier's use of contractors or subcontractors that do not comply with Utility's safety requirements, including as provided in the Operations Standards and Utility Safety Standards and (B) the performance of any Buyer Work for which Buyer shall not have obtained a written notice-to-proceed or for which an authorized Utility observer or qualified inspector shall not be present;

(iv) Buyer's failure to comply with the Utility Safety Standards and the Operations Standards with respect to such Managed Site;

(v) Buyer's failure to comply in any material respect with provisions of the Buyer Safety Plan applicable to a Managed Site, pursuant to Section 13(i);

(vi) Buyer's failure to correct any non-compliance related to such Managed Site, as required by Section 14 (Site Audits); and

(vii) Buyer's failure to remove Environmental Hazards or Conditions from such Managed Site, and such failure is in violation of Section 16 (Environmental Obligations);

(viii) Buyer's failure to resolve interference issues pursuant to Section 17(b) (Frequencies; Non-Interference; Induced Voltages) occurring due to such Managed Site;

(ix) Buyer's failure to obtain required Governmental Approvals for a Managed Site, pursuant to Section 13(b);

(x) Buyer's incurrence, grant, or permission to exist of any Lien in violation of Section 19 (Limitations on Liens) with respect to such Managed Site;

(xi) Buyer's failure to comply with applicable Laws with respect to such Managed Site, pursuant to Section 13; or

(xii) Buyer's failure to comply with any other material term of this Agreement in respect of a Managed Site.

(d) Consequences of a Buyer Default for Sites on Legacy Towers and Pipeline Towers.

(i) If a Buyer Default occurs in respect of a Managed Site, and the applicable Buyer Default is subject to cure by Buyer or, if applicable, an Authorized Carrier, then Buyer shall promptly initiate and diligently pursue a cure of such Buyer Default.



(ii) If such cure is completed within the Buyer Default Cure Period, Buyer shall retain the Marketing Rights granted to it for the applicable Site and shall continue to exercise the Marketing Rights and Manage the applicable Site.

(iii) If such cure is not completed within the Buyer Default Cure Period, Buyer's rights to the Marketing Rights for the applicable Site shall be suspended and Buyer shall no longer have the right to exercise the Marketing Rights and Manage such Managed Site (a "Site Suspension"). Upon a Site Suspension, unless Utility otherwise agrees, Buyer shall promptly terminate any Authorized Site Agreement in effect for such Managed Site and otherwise terminate Carrier access to and occupancy of such Managed Site and shall promptly and diligently complete, or cause the applicable Authorized Carrier to complete, the Site Decommission Procedures for such Site. If, at any time thereafter, Buyer is able to cure the Buyer Default to Utility's reasonable satisfaction and demonstrate to Utility's reasonable satisfaction that such Buyer Default is not likely to recur at the applicable Managed Site, then Buyer's rights to exercise the Marketing Rights and to Manage the applicable Managed Site shall be reinstated and Buyer shall resume the right to exercise the Marketing Rights and to Manage the applicable Managed Site as of such time. During the period that Buyer's Marketing Rights for a Managed Site are subject to a Site Suspension, Buyer shall not be permitted to submit a Utility Site Application to Utility under this Agreement for purposes of entering into a new Authorized Site Agreement for the applicable Tower Site or Ground Site.

(iv) Utility's rights to seek indemnification against Buyer for any Claims resulting from or arising out of a Buyer Default pursuant to Section 20 of this Agreement shall not be affected by this Section 28(d).

(v) If Utility determines, in its reasonable discretion, that the Buyer Default causes an Emergency, Utility shall have the right to immediately suspend Buyer's rights to the Marketing Rights for the applicable Site until such Buyer Default is cured.

(e) Termination of Entire Agreement.

(i) Utility may terminate this Agreement in its entirety if Buyer fails to make payment of the Utility Revenue Share, fees for Utility Services or any other amount due under this Agreement in excess of \$\_\_\_\_\_ in the aggregate and such failure continues for more than thirty (30) days after Utility has obtained a final, non-appealable judgment from a court of competent jurisdiction that such amount is payable by Buyer to Utility and ordering Buyer to pay such amount to Utility (an "Agreement Termination Event").

(ii) Upon the occurrence of an Agreement Termination Event, Utility shall be entitled to terminate the Marketing Rights. Utility shall provide to Buyer written notice of its termination of the Agreement, which notice shall describe the applicable Agreement Termination Event. Such written notice shall be delivered no later than thirty (30) days prior to the date of termination. Termination of the Agreement shall be effective thirty (30) days after Buyer's receipt of such notice of termination or such later date as set forth in the written notice.

(iii) If Buyer cures the Agreement Termination Event within thirty (30) days of Buyer's receipt of the notice of termination, or, if a longer cure period is mutually agreed between

Utility and Buyer in writing, such longer cure period, Utility shall not be permitted to terminate the Agreement.

(iv) If such cure is not completed within the applicable cure period, the Agreement shall automatically terminate upon the date of termination set forth in the notice of termination or such other date agreed to in writing by Utility and, upon such termination, Buyer shall comply with the obligations set forth in Section 25 with respect to all Managed Sites. As of such date, the Marketing Rights shall be terminated and Buyer shall no longer have the right to Manage, Market and Sublicense any Sites.

(f) Utility's rights to seek indemnification against Buyer for any Claims resulting from or arising out of a Buyer Default pursuant to Section 20 of this Agreement shall not be affected by this Section 28(f).

(g) Termination by Mutual Agreement. Utility and Buyer may terminate this Agreement at any time upon mutual written agreement.

(h) Termination for Other Reasons.

(i) In the event of damage or destruction of a Utility Tower on which a Managed Site is located or a Taking, pursuant to Section 24 (Damage or Destruction; Condemnation; Relocation Requests), Utility shall be permitted to terminate the Marketing Rights for such Managed Site and Buyer shall no longer be permitted to Manage such Managed Site.

(ii) Utility shall provide to Buyer written notice of its decision to terminate the Marketing Rights for the affected Managed Site, which notice shall describe the Managed Site to be terminated. Such written notice shall be delivered no later than thirty (30) days prior to the date of termination. Termination with respect to the affected Managed Site shall be effective thirty (30) days after Buyer's receipt of such notice of termination or such later date as set forth in the written notice.

(iii) Upon the occurrence of such events, the Marketing Rights granted to Buyer for such Site shall automatically terminate upon the date of termination set forth in the notice of termination or such other date agreed to in writing by Utility. As of such date, Buyer shall no longer have the right to exercise Marketing Rights for such Managed Site, Manage such Managed Site or have any other rights set forth in this Agreement for such Managed Site. Unless otherwise agreed with Utility, Buyer shall be required to immediately terminate any Authorized Site Agreement in effect for such Managed Site and shall complete, or cause the applicable Authorized Carrier to complete, the Site Decommission Procedures for such Managed Site.

## **Section 29. General Provisions.**

(a) Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

(b) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA AS

TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

(c) Submission to Jurisdiction. Each Party agrees that it shall bring any action or proceeding in respect of any claim arising out of or related to this Agreement or the transactions contained in or contemplated by this Agreement exclusively in the state and federal courts of and located in California and appellate courts having jurisdiction of appeals from the foregoing (the “Chosen Courts”), and, solely in connection with claims arising under this Agreement or the transactions that are the subject of this Agreement, (a) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (b) waives any objection to laying venue in any such action or proceeding in the Chosen Courts, (c) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party hereto and (d) agrees that service of process upon such Party in any such action or proceeding shall be effective if notice is given in accordance with Section 29(g) of this Agreement.

(d) Entire Agreement. This Agreement, the Purchase and Sale Agreement, the Master Lease Agreement, the Master License Agreement, and the Assignment and Assumption Agreements (including the exhibits and schedules hereto and thereto) constitutes the entire agreement among the Parties with respect to the subject matter of this Agreement, and supersedes all other prior agreements, understandings, representations and warranties both written and oral, among the Parties, with respect to the subject matter hereof.

(e) Invalidation of Agreement. In the event that this Agreement is invalidated by operation of Law or Order, including any determination by a Governmental Authority that the execution, delivery or performance of this Agreement is contrary to any Law or Order enforceable by it or that the execution, delivery or performance of this Agreement is subject to approval by such Governmental Authority, which approval was not obtained in accordance with applicable Law or Order, the Parties will use commercially reasonable efforts to remedy the cause of such invalidation, including making filings or submissions of information requested or required by any Governmental Authority to enable this Agreement to be performed or to permit the Parties to enter into a new agreement on substantially similar terms and conditions; provided, that in the event a Governmental Authority requires any amendment or modification of this Agreement that is not acceptable to a Party in its sole discretion, such Party shall not be required to agree to or enter into such amendment or modification. The Parties shall not be required to use such commercially reasonable efforts for longer than one year or such longer period as the Parties mutually agree. During such period, neither Party will bring any action or claim against the other Party with respect to such invalidating action so long as the other Party is using such commercially reasonable efforts; provided, that any statute of limitations or limited survival period applicable to any such claim shall be tolled and extended on a day-for-day basis for such period.

(f) Fees and Expenses. Except as otherwise expressly set forth in this Agreement, whether the transactions contemplated by this Agreement are or are not consummated, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses.

(g) Notices. All notices, requests, demands, waivers and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been

delivered (i) the next Business Day when sent overnight by a nationally recognized overnight courier service, (ii) upon transmission of an e-mail (followed by delivery of an original via nationally recognized overnight courier service), or (iii) upon delivery when personally delivered to the receiving Party. All such notices and communications shall be sent or delivered as set forth below or to such other person(s), e-mail address or address(es) as the receiving Party may have designated by written notice to the other Party. All notices shall be delivered to the relevant Party at the address set forth below.

If to Utility, to:

Southern California Edison Company

[ ]

[ ]

[ ]

ATTN: [ ]

Telephone: ( ) -

Email: [ ]

With copies to (which does not constitute notice):

Southern California Edison Company

[ ][ ]

ATTN: [ ]

Telephone: [ ]

Email: [ ]

If to Buyer, to:

[ ]

[ ]

ATTN: [ ]

Telephone: [ ]

Email: [ ]

(h) Dispute Resolution.

(i) Executive Negotiations. Utility and Buyer shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between a vice president of Utility or his or her designated representative and an executive of similar authority of Buyer. Utility or Buyer may give the other party written notice of any dispute, and within twenty (20) days after delivery of such notice, the designated parties shall meet at a mutually acceptable time and place (virtual or in person, as mutually agreed upon by the parties), and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute.

(ii) Mediation. If the matter has not been resolved within thirty (30) days of the first meeting (or longer, if agreed between Utility and Buyer), Utility or Buyer may initiate a mediation of the controversy. The mediation shall be facilitated by a mediator that is acceptable

to all parties and shall conclude within sixty (60) days of its commencement, unless Utility and Buyer agree to extend the mediation process beyond such deadline. Upon agreeing on a mediator, Utility and Buyer shall enter into a written agreement for the mediation services. The mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association (the “AAA”); provided, each party shall bear its own legal fees and expense.

(iii) Arbitration. If the claim has not been resolved within such sixty (60) day period (or longer, if agreed between Utility and Buyer), then either party may commence binding arbitration conducted by one (1) arbitrator mutually agreed upon by Utility and Buyer. Buyer and Utility will request AAA to provide to both parties a list of potential arbitrators with pertinent experience in matters of this type, promptly upon initiation of an arbitration, and if the parties have not agreed upon an arbitrator within thirty (30) days, then AAA shall select the arbitrator in accordance with AAA rules. The arbitration shall take place in Los Angeles, California, in accordance with the AAA rules then in effect, and judgment upon any award rendered in such arbitration will be binding and may be enforced in accordance with Section 29(c); provided, however, that no consequential damages shall be awarded in any such proceeding. The arbitrator shall be required to provide in writing to Utility and Buyer the basis for the award or order of such arbitrator. Each party shall bear its own legal fees and expense.

(iv) Confidentiality of Dispute Resolution Process: All negotiations, any mediation, and any arbitration conducted pursuant to this Section 29(h) are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply.

(v) Preliminary Injunction: Notwithstanding the foregoing provisions, either Utility or Buyer may seek a preliminary injunction or other provisional judicial remedy in accordance with Section 29(k) if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo.

(vi) Performance of Obligations. Utility and Buyer shall continue to perform their obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

(i) Successors and Assigns; Third-Party Beneficiaries. Except as set forth in Section 22 (Assignment Rights), this Agreement shall not be assignable by either Party without the prior written consent of the other Party and any such assignment in violation of the foregoing shall be null and void. This Agreement shall be binding upon and inure solely to the benefit of each Party and its successors, heirs, legal representatives and permitted assigns. This Agreement is not intended to confer upon any Person other than the Parties any rights or remedies hereunder.

(j) Amendment; Waivers; Etc. No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the Party against which enforcement of the amendment, modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time. The waiver by a Party of a breach of or a default under

any of the provisions of this Agreement or to exercise any right or privilege hereunder, shall not be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder. The rights and remedies herein provided are cumulative and none is exclusive of any other, or of any rights or remedies that any Party may otherwise have at law or in equity.

(k) Specific Performance. The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof in any of the Chosen Courts to the extent permitted by applicable Law, in addition to any other remedy to which they are entitled at law or in equity, subject to the terms of this Agreement. Each Party hereby waives any requirement for security or the posting of any bond or other surety in connection with any temporary or permanent award of injunctive, mandatory or other equitable relief.

(l) Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, the Parties hereto shall negotiate in good faith to modify this Agreement so as to (i) effect the original intent of the Parties as closely as possible and (ii) to ensure that the economic and legal substance of the transactions contemplated by this Agreement to the Parties, or either of them, is not materially and adversely affected as a result of such provision being invalid, illegal or incapable of being enforced, in each case, in a mutually acceptable manner in order that the parties may perform their respective obligations as originally contemplated to the fullest extent possible. If following the modification(s) to this Agreement described in the foregoing sentence, the economic and legal substance of the transactions contemplated by this Agreement are not affected in any manner materially adverse to any Party, all other conditions and provisions of this Agreement shall remain in full force and effect.

(m) Interpretation.

(i) The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

(ii) The Parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

(n) Force Majeure. In the event that either Party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of events of Force Majeure, or any delay caused by the acts or omissions of the other Party in violation of this Agreement, then the performance of such act shall be excused for the period of delay and the period for performance of any such act shall be extended for a period equivalent to the period required to perform as a result of such delay. In the case of an extended Force Majeure where Utility is unable to perform its material obligations under this Agreement with respect to a

Managed Site for a continuous period in excess of nine months (“Suspension Period”), Utility may suspend Buyer’s operations at such Managed Site during such Suspension Period. The Suspension Period shall terminate and use of the Site by Buyer shall resume once operations can be safely resumed. Notwithstanding any contrary provision hereof, in no event shall Force Majeure excuse or affect in any manner any monetary obligation of a Party under this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and sealed by their duly authorized representatives, all effective as of the day and year first written above.

**SOUTHERN CALIFORNIA EDISON:**

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

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

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



**[BUYER]:**

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

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

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

**EXHIBIT N**

**FORM OF REPLACEMENT MASTER TOWER FORM**

*[see attached]*

**[FORM OF] MASTER TOWER AGREEMENT**

**BETWEEN**

**[•]**

**AND**

**[•]**

**DATED AS OF [•]**

**COMMUNICATIONS EQUIPMENT SITE**

**SUBLEASE / SUBLICENSE AGREEMENT**

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## **EXHIBITS**

- A. Annual Rent and Use Fee
- B. Application for Use of a Site
- C. Standard Agreement

**[FORM OF] MASTER TOWER AGREEMENT**

[•]  
**AND**  
[•]

**COMMUNICATIONS EQUIPMENT SITE  
SUBLEASE / SUBLICENSE AGREEMENT**

This MASTER TOWER AGREEMENT (this “Agreement”) is made as of [Date] (“Effective Date”) by and between [•] (“Site Operator”), and [•] (“Carrier”) (each party, individually, a “Party,” and collectively, the “Parties”).

**RECITALS:**

A. Site Operator is party to a long term marketing agreement with Southern California Edison (“SCE”), pursuant to which SCE has granted rights to Site Operator to market and to sublease (in the case of SCE fee-owned property) or sublicense (in the case of SCE non-fee property) to a wireless telecommunications carrier space on and under SCE’s electric transmission towers and certain other structures for the attachment of communications equipment, subject to terms and conditions agreed between Site Operator and SCE.

B. Carrier desires to sublease or sublicense such space for the attachment of its communications equipment from Site Operator, and Site Operator is willing to grant such subleases and sublicenses to Carrier in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the promises and of the mutual obligations and covenants in this Agreement, the Parties agree as follows:

**Section 1.** Definitions.

(a) Certain Defined Terms. As used in this Agreement, the following terms are defined as follows:

(b) “Additional Property Rights” means any amendment to or expansion of rights to access or use a Tower or an SCE Right of Way that must be obtained before Carrier may access or use a Site.

(c) “Affiliate,” with respect to either Party, means an entity controlling, controlled by, or under common control with such Party.

(d) “Applicable Requirement” means any law, code, regulation, ordinance, statute, Governmental Approval or requirement of a Governmental Authority that applies to the grant or exercise of any rights provided to Carrier under this Agreement, or in a Standard Agreement, as applicable, that is related to the exercise of such rights.

(e) “Application” means an application by Carrier to sublease or sublicense space on a Site hereunder, which application shall be in the form attached hereto as Exhibit B, which form may be modified by Site Operator from time to time.

(f) “Base Equipment” means all equipment installed on the ground and used to operate, or otherwise related to, Communication Equipment installed on such Tower.

(g) “CIAC” has the meaning set forth in Section 15.

(h) “CPUC” means the California Public Utilities Commission or any successor agency thereto.

(i) “Communication Equipment” means equipment installed on a Site for the provision of wireless communication services, including voice, video, internet and other data services, which equipment includes, but is not limited to, antennas (including microwave antennas), switches, panels, conduits, cables, radios, amplifiers, filters, ancillary equipment, batteries, and all associated software and hardware.

(j) “Equipment” means all Communication Equipment and Base Equipment and ancillary equipment (such as electric or telephone utility lines) owned by Carrier and installed at the Site pursuant to this Agreement.

(k) “Event of Default,” with respect to Carrier or Site Operator, has the meanings set forth in Section 11 and 12, respectively.

(l) “FAA” means the United States Federal Aviation Administration or any successor federal Governmental Authority performing a similar function.

(m) “FCC” means the United States Federal Communications Commission or any successor Governmental Authority performing a similar function.

(n) “Force Majeure Event” has the meaning set forth in Section 10.

(o) “Government Approval” means any franchise, license, permit, authorization, certification, waiver, variance, registration, approval, determination or consent, regardless of type or form, that Carrier must obtain from any Governmental Authority to satisfy Applicable Requirements.

(p) “Governmental Authority” means any foreign, domestic, federal, territorial, state, tribal or local governmental authority, administrative body, quasi-governmental authority, court, government or self-regulatory organization, commission, board, administrative hearing body, arbitration panel, tribunal or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing.

(q) “Ground Work” means authorized work performed under the direction of Carrier, including installation and maintenance of Base Equipment; such work shall not include any work that requires contact with the Tower.

(r) “Hazardous Materials” means petroleum products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls or any hazardous, toxic or dangerous waste, substance or material, in each case, defined as such (or any similar term) or regulated by, in or for the purposes of applicable law, including Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Hazardous Materials include any substance known by the state in which the Site or related SCE Property is located to cause cancer and/or reproductive toxicity.

(s) “Induced Voltages” has the meaning set forth in Section 6(d).

(t) “ITCC” has the meaning set forth in Section 15.

(u) “RFE” means radio frequency emission.

(v) “SCE Property” means SCE fee-owned property, and any SCE Right of Way, on which a Tower is located or which provides access to a Tower.

(w) “SCE Right of Way” means any existing easement, lease or license rights from a third party that allows SCE to access or use a Tower.

(x) “Site” means that portion of a Tower, and the designated portion of land that Carrier is authorized to use upon Site Operator’s execution of a Standard Agreement.

(y) “Site Operator’s Costs” means the actual amount of any direct or indirect costs incurred by Site Operator pursuant to this Agreements.

(z) “Standard Agreement” means an agreement to sublease or sublicense a specific Site pursuant to this Agreement.

(aa) “Third-Party Property Right” means any right in, over or on any public or private property, other than SCE Property, that is required for Carrier to access or use a Site.

(bb) “Tower” means any electric transmission towers, telecommunication towers, tubular steel pole towers, A-frame structures, buildings and other structures located on SCE Property.

(cc) “Tower Work” means any work requiring contact with a Tower.

(dd) “Transfer” has the meaning set forth in Section 20(c).

## **Section 2. Term.**

The term of this Agreement shall begin on the Effective Date and shall terminate on the date of expiration or termination of the last remaining Standard Agreement subject to this Agreement.



### **Section 3. Application Process.**

(a) Application Form. Carrier must complete the Application form to request use of a Site. The form of Application is attached hereto as Exhibit B.

(b) Additional Property Rights. In the event SCE's rights to access or use a Tower are pursuant to an SCE Right of Way, Site Operator, in consultation with SCE, will inform Carrier whether any Additional Property Rights are required. Site Operator and Carrier shall determine the process for obtaining the Additional Property Rights for a Site. If Site Operator or Carrier are unable to obtain the Additional Property Rights on commercially reasonable terms, then the Application will be deemed withdrawn without liability, except that Carrier shall reimburse Site Operator's Costs incurred in processing the Application or seeking Additional Property Rights.

(c) Third-Party Property Rights. Carrier shall be solely responsible for obtaining and maintaining any Third-Party Property Rights that are needed for Carrier to access the Site or to install its Equipment or ancillary equipment (such as electric or telephone utility lines), as well as to operate or maintain such equipment or to perform any related work. Site Operator and Carrier will agree upon terms and procedures to obtain any such Third-Party Property Rights.

(d) Carrier Inspection. Carrier may physically inspect and investigate the Site, conduct tests, and review information about the Site at a convenient time for SCE and Site Operator in conformity with SCE and Site Operator's requirements for access to the Site. Carrier shall repair any damage or disturbance to the Site resulting from such activities and shall restore the Site to its original condition.

(e) Acceptance or Rejection of Application. Site Operator's right to accept or reject an Application shall depend on SCE's acceptance or rejection of an Application. In the event SCE rejects an Application, Site Operator may, in its discretion, notify Carrier of the reason(s) for rejecting an Application and may permit Carrier to submit a new Application that addresses the reasons for disapproval identified by Site Operator.

(f) Condition of Site. Carrier shall accept each Site on an "as is" and "where-is" basis, without any representation or warranty of or from Site Operator as to the condition or suitability of a Site for the proposed use, and subject to any rights or uses that pre-date the execution of a Standard Agreement for the Site. Carrier shall provide any additional information that is requested by Site Operator about Carrier's intended use of a specific Site.

(g) Conditions of Acceptance. Site Operator may impose additional conditions as part of its written acceptance of an Application. If Carrier notifies Site Operator within ten (10) business days that it is unwilling to accept the new or changed conditions, then the Application will be deemed withdrawn by mutual consent and neither Party shall have any liability as a result.

(h) Post-Acceptance Procedure. Site Operator's acceptance of an Application will not obligate SCE or Site Operator to reserve the Site for Carrier or guarantee the future availability of the Site. Site Operator's acceptance of an Application will be issued no earlier than SCE's approval of the initial zoning drawings, preliminary land approval, and engineering analysis approval. If Carrier requests a Standard Agreement within [ ] days of Site Operator's acceptance of Carrier's Application for a Site and such Site is available at the time of such request,

Site Operator will prepare a Standard Agreement for such Site. Carrier shall provide any information required by Site Operator to prepare each Standard Agreement. If Carrier does not request a Standard Agreement within [ ] days of Site Operator's acceptance of its Application, then the Application shall be deemed withdrawn by Carrier, with neither Party having any liability as a result, except as otherwise provided in this Agreement.

(i) Standard Agreements. Carrier shall review, sign, and return each Standard Agreement to Site Operator within [ ] days of Site Operator's submission of the Standard Agreement to Carrier. During such [ ] day period, Site Operator shall not prepare a Standard Agreement for the Site for any other carrier. If Carrier does not return a signed copy of the Standard Agreement by the end of such [ ] day reservation period, the Application shall be deemed withdrawn, with neither Party having any liability as a result, except as otherwise provided in this Agreement.

(j) Form of Application. Site Operator shall be permitted, from time to time, to amend or modify the form of the Application attached to this Agreement at any time upon [ ] days' prior written notice to Carrier; *provided, however*, that Carrier shall not be required to resubmit any form that was submitted to Site Operator prior to such amendment or modification.

#### **Section 4. Fees And Payments.**

(a) Annual Rent and Use Fee. Carrier shall pay to Site Operator the Annual Rent and Use Fee set forth in the applicable Standard Agreement for each Site.

(b) Site Operator's Costs for Application Review and Other Work. In addition to payment of the Annual Rent and Use Fee described in Section 4(a), Carrier shall reimburse Site Operator's Costs for reviewing each Application and for any related work performed by Site Operator, or at Site Operator's direction, or as otherwise required by this Agreement.

(c) Invoices. Site Operator shall deliver to Carrier invoices setting forth Site Operator's Costs. Carrier shall pay each invoice from Site Operator within thirty (30) days of the date of such invoice. Carrier shall have reasonable access to relevant books and records of Site Operator to conduct, at Carrier's sole expense, and any other audit rights of such invoices as agreed between Carrier and Site Operator.

#### **Section 5. Tower Work And Ground Work.**

(a) General Conditions for Tower or Ground Work. Carrier shall be solely responsible for any and all costs or expenses incurred pursuant to this Section 5, except as may be otherwise provided herein.

(i) Carrier shall obtain Site Operator's approval before it commences any work at a Site. At least thirty (30) days prior to the scheduled commencement date of any such work, Carrier shall provide the following information to Site Operator: (a) a complete description of all Equipment to be installed at the Site, and layout and installation plans for such equipment; (b) if applicable, an intermod study by Carrier demonstrating no potential for its Equipment to interfere with other uses of the Tower or surrounding property; (c) construction plans for any ancillary facilities authorized for construction at the Site, such as fences, (d) copies of any reports or studies

prepared by or for Carrier about the condition of the Site, including geological reports, environmental assessment reports, or radio frequency emissions test results; (e) information about any arrangements made by Carrier for utility and service connections for the Site; and (f) Carrier's planned route to reach the Site from the public thoroughfares. In addition to the foregoing, Carrier shall provide any additional information reasonably requested by Site Operator.

(ii) Any information requested by Site Operator as part of the approval process described in this Section 5 shall be prepared by appropriate licensed and qualified personnel of Carrier. Such information shall be sufficient in content, detail, and form to permit approval and shall be submitted promptly. If any of such information is determined by Site Operator to be deficient for any reason, then Carrier shall cure such deficiencies. If Carrier is unable or unwilling to correct such deficiencies, then the Parties shall either agree to cancel the Standard Agreement, without any liability for either Party due to such cancellation, or the matter shall be submitted for dispute resolution pursuant to Section 13.

(b) Carrier shall comply with Site Operator's requirements (which shall include the requirements of SCE) for performance of work at any Site, as set forth herein or in Site Operator's approval of the applicable Application, with any Applicable Requirements that pertain to such work and with any conditions imposed due to a Government Approval or as a condition of the issuance of any Third-Party Property Right. If Site Operator reasonably determines that Carrier is not in compliance with any of the foregoing requirements, Site Operator may, in its discretion, require Carrier to immediately stop the applicable work and shall notify Carrier of the reasons for such stoppage. Carrier shall not resume such work until notified by Site Operator that it may do so, which notification shall not be unreasonably withheld or delayed if and so long as Carrier begins complying with the requirements at issue.

(i) Carrier shall provide Site Operator with adequate proof, within five (5) business days of a request by Site Operator for such proof, or any shorter period as may be required by any regulatory or governmental entity requesting such proof, that Carrier has received all of the Government Approvals required hereunder or in connection herewith.

(ii) If Carrier fails to obtain a necessary Government Approval or Third-Party Property Right as required above, or breaches any of its representations or warranties under this Agreement, Carrier shall be in material breach of this Agreement, and of the Standard Agreement(s) associated with the applicable Site(s). Notwithstanding any provision herein to the contrary, the dispute resolution provisions of Section 13 shall not apply to such breaches. In addition to any other remedies available to Site Operator under this Agreement or at law or in equity, Site Operator may, at Carrier's sole risk and expense, direct Carrier to promptly remove its Equipment from the applicable Site, or Site Operator may remove the Equipment itself. Carrier shall not reinstall such equipment without prior written approval from Site Operator to do so. Carrier shall indemnify Site Operator from and against any and all claims related to such breach in accordance with Section 8 of this Agreement.

(c) Tower Work. Any Tower bracket and support steel installation shall be performed only by SCE. All Tower Work required for installation or removal of the Communication Equipment shall be performed by the Carrier under supervision of SCE safety observers. Site Operator and Carrier shall not be permitted to perform any Tower Work without SCE safety

observers present, and as per SCE scheduling availability. Site Operator and Carrier shall have no right to access any Communication Equipment while it is located on a Tower without first contacting SCE to obtain access and a safety observer. Notwithstanding the foregoing, Carrier shall retain title, and risk of loss, for its Equipment and sole responsibility for its use and operation. Carrier's Equipment shall be used solely for wireless communications in conformity with all Applicable Requirements.

(d) Ground Work. Carrier may use either its own personnel or the personnel of Site Operator-approved subcontractors for any Ground Work authorized hereunder. Carrier shall be solely responsible for the work performed by its subcontractors and for ensuring that said subcontractors fully comply with the obligations of Carrier under this Agreement. Site Operator may inspect all grounding connected to the Base Equipment perimeter fence at any time. Carrier will notify Site Operator after the Base Equipment is installed and ready to begin operations.

(e) Maintenance, Repair And Replacement. Subject to Section 5(b), Carrier shall be solely responsible for operating, maintaining, repairing or replacing its Equipment, as needed, to ensure it is in good operating condition and to prevent interference with the rights or activities of others.

(f) Removal of Equipment. Upon termination of Carrier's rights to use a Site, Carrier shall promptly remove all Base Equipment and arrange with Site Operator for the removal of the Communication Equipment. If Carrier does not promptly remove its Base Equipment, then Site Operator may remove the equipment itself. Carrier shall reimburse Site Operator's Costs to remove, store or dispose of Carrier's Equipment.

(g) Non-Interference.

(i) For each Site, Carrier shall broadcast only the FCC authorized frequencies and transmitting powers specified in the applicable Standard Agreement. To the extent permitted in the applicable Standard Agreement, Carrier's operations at each Site shall be limited to the frequencies permitted by the license issued by the FCC and to the other terms and conditions of such FCC licenses. Carrier shall not change or add to these frequencies or transmitting powers at any Site without providing Site Operator with at least 60 days' prior written notice thereof and any changes to frequencies or transmitting powers shall not otherwise violate any of the terms or conditions set forth in the applicable FCC license or the applicable Standard Agreement. Upon request, Carrier shall furnish Site Operator with copies of Carrier's authorizations issued by the FCC. If requested by Site Operator, Carrier shall provide Site Operator with a certificate of noninterference, prepared by a qualified radio frequency engineer.

(ii) If any of Carrier's Equipment installed on a Site interferes with the operation of SCE's equipment, Site Operator's equipment, or with the pre-existing equipment of third parties, Carrier shall take reasonable steps necessary or recommended by Site Operator or regulatory agencies to eliminate the interference. If Carrier is unable or refuses to eliminate the interference within a reasonable period of time (as determined by Site Operator), Site Operator may or Carrier shall, upon request of Site Operator, suspend or discontinue power to the Carrier's Equipment (except for intermittent operation for the purpose of testing following any remedial measures) and Carrier shall use diligent efforts to correct the interference. Site Operator shall

inform Carrier of the period of time during which all interference shall be corrected. If remedial measures are unable to permanently eliminate the interference during such period time and Carrier has failed to implement sufficient remedial measures to temporarily eliminate the interference for so long as necessary for the Carrier to identify and implement permanent remedial measures, the applicable Standard Agreement shall be terminated and, upon termination, any Equipment shall be promptly removed from the Site or related SCE Property in accordance with instructions provided to Carrier.

**Section 6.** General Access And Use Provisions.

(a) Access Rights of Carrier. Site Operator shall permit Carrier unrestricted access to its Base Equipment seven (7) days a week, twenty-four (24) hours a day; subject to any specific access requirements for the Site.

(b) Compliance with Applicable Requirements and Government Approvals. Carrier's use and access to the Tower and the Site shall at all times be in compliance with the Applicable Requirements, including, but not limited to those of the CPUC, the FCC, and the FAA. Carrier shall not submit any application relating to this Agreement to any of these government agencies without the prior written consent of Site Operator. At all times during the term of this Agreement, Carrier represents and warrants that it will be in full compliance with all Applicable Requirements and that it will have obtained and shall maintain in full force and effect all Government Approvals necessary for Carrier to fully perform this Agreement, and all transactions contemplated by this Agreement. Carrier shall not rely on any rights, authorizations, or approvals of Site Operator or SCE in order to satisfy these obligations. Further, Carrier shall provide Site Operator with adequate proof, within five (5) business days of a request by Site Operator for such proof, or any shorter period required by any regulatory or governmental entity requesting such proof, that Carrier is in full compliance with this warranty. If Carrier fails to satisfy a requirement stated in this Section 6(b), then Section 13 shall not apply, and instead, Site Operator shall have the right to declare Carrier in material breach of both this Agreement and any Standard Agreement(s) applicable to the Site(s). In addition to any other remedies available to Site Operator under this Agreement or at law or equity, Site Operator may, at Carrier's sole risk and expense, either direct Carrier to promptly remove any equipment from the Site for which such proof was sought or remove the equipment itself. Carrier shall not reinstall the removed equipment without written approval from Site Operator to do so.

(c) Hazardous Materials.

(i) Carrier shall not conduct on any Site any business operations or activities, or employ or use a Site to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials in violation of applicable laws, any Applicable Requirement or other than as commonly used or stored in operating a Site; (ii) Carrier shall carry on its business and operations at each Site in compliance with all applicable Environmental Laws; (iii) Carrier shall comply with all Environmental Laws applicable to the Site; (iv) Carrier shall not create or permit to be created any Lien against any Site for the costs of any response, removal or remedial action or clean-up of Hazardous Materials; and (v) Carrier shall promptly conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting each Site

in accordance with, and to the extent necessary to comply with, all applicable Environmental Laws after the Effective Date, to the extent Carrier or any of their contractors, subcontractors, invitees or other representatives are responsible for the Hazardous Material condition necessitating the remedial actions and provided that such condition did not exist on the Effective Date.

(ii) Carrier acknowledges that there may be present on SCE Property solid or hazardous wastes, asbestos, polychlorinated biphenyls, special nuclear or byproduct material, radon gas, formaldehyde, lead based paint, other lead contamination, fuel or chemical storage tanks, electric and magnetic fields or other substances, materials, products or conditions (collectively "Environmental Hazards or Conditions"), which are or may be potential environmental hazards or conditions. For each Site, Carrier shall provide in writing to Site Operator a statement identifying any Environmental Hazards or Conditions which Carrier shall be maintaining on the Site. Such information shall also be included in the applicable Standard Agreement for such Site. If any such Environmental Hazards or Conditions adversely affect SCE's operations or Site Operator's operations, Site Operator may terminate the applicable Standard Agreement following reasonable notice and an opportunity to cure. Notwithstanding the foregoing, any Environmental Hazards or Conditions existing at any Site prior to the sublease or sublicense of the Site to Carrier shall be permitted to continue without terminating the Site.

(d) Induced Voltages. Carrier hereby acknowledges that the Base Equipment it may install under the terms of this Agreement will be in close proximity to one or more high voltage (66 kilovolt or above) electric transmission lines. Such installations may be susceptible to induced voltages, static voltages or related electric fault conditions (hereinafter collectively referred to as "Induced Voltages") unless appropriate grounding or other mitigation measures are used. If not properly mitigated, Induced Voltages can result in a variety of safety or nuisance conditions, including, but not limited to, electric shocks or other injury to individuals contacting the installations or other utilities connected to the installations (including, but not limited to, natural gas lines, water lines or cable television lines), or interference with or damage to sensitive electronic equipment that is part of an installation. Carrier shall be responsible to determine what, if any, Induced Voltages mitigation measures should be undertaken regarding its Base Equipment installations, and to implement such mitigation measures at its sole cost and expense.

(e) Radio Frequency Emission Compliance. Carrier shall be responsible, at its sole cost and expense, for ensuring compliance with all regulations relating to RFE. As a precondition to Carrier's right to install any authorized equipment at the Site, Carrier must provide Site Operator with a certificate that its equipment, when analyzed in conjunction with any other communication equipment at or within fifty feet (50') feet of the Site, will be in compliance with any applicable RFE standards. Such certificate shall be prepared by a qualified radio frequency engineer at least thirty (30) days prior to initiation of equipment installation. If Carrier desires to make any material changes to its equipment, then Carrier shall provide Site Operator with a new certificate at least thirty (30) days prior to such change. Site Operator will cooperate with Carrier to allow Carrier to place signage at the Site necessary to ensure compliance with RFE regulations. In addition, Carrier shall use its best efforts to minimize the RFE impact on health of workers and on future uses of the Site.

(f) Site Operator's Right to Use of SCE Property. Carrier's use of the Site shall at all times be subordinate to SCE's use of the Tower, and any other SCE Property, to facilitate SCE's

provision of utility services. Whenever both SCE's electrical service capacity and Carrier's telecommunications capacity are adversely affected by an incident, Site Operator may restrict or delay restoration of Carrier's capacity until SCE can restore its own equipment and capacity. Notwithstanding this, Site Operator will permit Carrier to restore its capacity as long as such restoration efforts do not interfere with SCE's and Site Operator's own restoration activities and do not involve contact with the Tower. Site Operator shall retain all of its current rights to use SCE Property, or any portion thereof, including the right to enter under, upon, or into the Site, or any portion thereof. Site Operator agrees to use reasonable efforts to exercise such rights in a way that does not unreasonably interfere with Carrier's authorized use of the Site.

(g) Removal of Tower and Relocation. Carrier's right to use of any Site shall be dependent on continued ownership and use by SCE of the Tower for utility purposes and on the continued effectiveness of the lease or license from SCE, as applicable, of such Site, to Site Operator. If SCE or Site Operator is required to remove a Tower from a Site or from service as an electric utility asset, which Tower is subject to a Standard Agreement, then Carrier shall, at its own cost, remove the applicable Base Equipment and arrange with Site Operator for removal of the Communication Equipment, as further described in Section 5(e). As between Carrier and Site Operator, Site Operator shall be responsible for all other costs and expenses in connection with the removal. Site Operator will attempt to find available space on another Site Operator Tower for Carrier's equipment, if requested to do so by Carrier. If Site Operator is successful in finding such space and able to lease or license such Site from SCE, then Site Operator and Carrier will amend the existing Standard Agreement to reflect such relocation. Otherwise, the applicable Standard Agreement shall terminate and Site Operator shall refund any remaining prepaid Annual Rent and Use Fee to Carrier.

(h) Backup Generators. Carriers shall not install or operate semi-permanent emergency generators at the site unless agreed by the Parties in a separate generator license agreement, and only pursuant to the ECS Semi-Permanent Emergency Generator Policy or other applicable processes and procedures in effect at such time, which may be modified by SCE from time to time. Carriers shall not install or operate mobile emergency generators at the Site unless appropriate applications to do so have been submitted pursuant to the Mobile Emergency Generator Process or any other applicable processes and procedures in effect at such time, which may be modified by SCE from time to time.

## **Section 7. Regulatory Modifications To Agreement.**

Carrier represents that it is not aware of any facts that would justify a complaint to the CPUC, FCC or any other regulatory authority concerning the prices, terms or conditions of this Agreement. Notwithstanding the foregoing, to the extent that this Agreement is subject to the jurisdiction of a regulatory authority, Site Operator and Carrier acknowledge that this Agreement may be subject to such changes or modifications as that regulatory body may direct from time to time in the exercise of its jurisdiction.

In the event a decision is issued by a regulatory authority at the federal, state, or local level that results in a material adverse change to this Agreement or a Standard Agreement, or to Site Operator's or Carrier's ability to perform their respective obligations or receive their respective expected benefits under this Agreement or a Standard Agreement, either Party may

terminate this Agreement and/or the impacted Standard Agreement(s), as applicable, by providing one hundred eighty (180) days prior written notice to the other Party, if this Agreement is being terminated, or by ninety (90) days prior written notice to the other Party, if one or more impacted Standard Agreements are being terminated, unless a shorter notice period is required by the applicable regulatory authority.

**Section 8. Indemnification And Limitation Of Liability.**

Site Operator and Carrier shall agree upon appropriate limitations of liability and indemnification rights

**Section 9. Insurance.**

At all times during the term of this Agreement, Carrier shall maintain and shall require any contractors and subcontractors who do any work on or at a Site or any other SCE Property to maintain insurance coverage as described below:

(a) Worker's Compensation. Workers' compensation insurance with statutory limits, in accordance with the laws of the state having jurisdiction over Carrier's employees, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00).

(b) Commercial General Liability. Commercial general liability coverage, written on an "occurrence" and not a "claims-made" basis, including owner's and contractor's protective liability, product/completed operations liability, and contractual liability, with a combined single limit of one million dollars (\$1,000,000.00) per occurrence and an annual aggregate of two million dollars (\$2,000,000), exclusive of defense costs, for all coverages. Such insurance shall (a) name Site Operator and SCE, and their respective officers, agents, and employees as additional insureds, but only for Carrier's negligent acts or omissions; (b) be primary for all purposes; and (c) contain standard cross-liability provisions.

(c) Commercial Automobile. Commercial automobile insurance coverage with a combined single limit of one million dollars (\$1,000,000.00) per occurrence. Such insurance shall cover liability arising out of the use of owned, non-owned, and hired automobiles. Such insurance shall name Site Operator and SCE, and their respective officers, agents, and employees as additional insureds.

(d) Combined Coverage. The coverages and limits may be obtained and maintained through any combination of primary and excess or umbrella liability insurance or by endorsement to any master policy of insurance.

(e) Certificates of Insurance. Carrier shall provide Site Operator with certificates of insurance coverage prior to commencement of any installation or other work at any Site or on any SCE Property. All insurance policies required of Carrier hereunder shall provide that Site Operator shall receive not less than thirty (30) days' written notice prior to the cancellation or reduction in coverage of such insurance.

(f) Self-Insurance. Carrier may meet the requirements of this Section 9 through self-insurance, *provided* that in such a case Carrier shall have satisfied all Applicable Requirements



relating to self-insurance. If Carrier elects self-insurance, Carrier shall provide Site Operator annually with a certificate of self-insurance from the State of California.

**Section 10.** Force Majeure.

(a) In the event that either Party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of events of Force Majeure, or any delay caused by the acts or omissions of the other Party in violation of this Agreement, then the performance of such act (and any related losses and damages caused the failure of such performance) shall be excused for the period of delay and the period for performance of any such act shall be extended for a period equivalent to the period required to perform as a result of such delay. In the case of an extended Force Majeure where Site Operator is unable to perform its material obligations under this Agreement with respect to a Site for a continuous period in excess of nine months (“Suspension Period”), Site Operator may suspend Carrier’s operations at such Site during such Suspension Period. The Suspension Period shall terminate and use of the Site by Buyer shall resume once operations can be safely resumed. Notwithstanding any contrary provision hereof, in no event shall Force Majeure excuse or affect in any manner any monetary obligation of a Party under this Agreement.

(b) “Force Majeure” means any of the following: (i) acts of God, earthquakes, adverse weather of greater duration or intensity than normally expected for an area and time of year, fires (regardless of origin), hurricanes, tsunamis, typhoons, floods, other natural catastrophes, lightning, blizzards, tornadoes, floods, natural disasters, weather conditions, epidemics, pandemics (including the COVID-19 pandemic), disease outbreaks, public health emergencies, and force majeure events beyond the reasonable control of a Party or any contractor, subcontractor, supplier or vendor of such Party; (ii) acts of war, military action, armed hostilities, acts of terrorism, blockades, embargoes, civil disturbances, riots, insurrection, sabotage or violent demonstrations; (iii) any suspension, termination, interruption, denial, delay, or failure to issue or renew by any Governmental Authority or official person having approval rights of any approval or other consent required or necessary for the services provided pursuant to this Agreement by Site Operator, including any services provided by SCE, or for either Party to perform any other obligations or responsibilities; (iv) labor disputes, strikes, work slowdowns, work stoppages or labor disruptions, labor or material shortages, or delays or disruptions of transportation; (v) orders and judgments or acts of any court, administrative agency, or Governmental Authority; or (vi) the adoption of, or change in, any federal, state, or local Laws (including permits or licenses), or changes in the interpretation of such Laws

**Section 11.** Default By Carrier.

(a) Events of Default. The occurrence of any one or more of the following events shall constitute an “Event of Default” hereunder by Carrier:

(i) The failure by Carrier to make any payment required to be made hereunder, as and when due, when such failure continues for a period of sixty (60) days after Site Operator notifies Carrier that Site Operator has not received such payment.

(ii) The failure by Carrier to observe or perform any of the covenants or provisions of this Agreement, where such failure continues for a period of thirty (30) days after written notice thereof is received by Carrier from Site Operator; *provided, however*, that it shall not be deemed an Event of Default by Carrier if Carrier commences to cure such failure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion, so long as the Parties agree that a cure is possible within a reasonable period of time.

(iii) The failure by Carrier to obtain, and maintain in effect as needed, a Government Approval or Third-Party Property Right, or to comply with an Applicable Requirement.

(iv) The subjection of any right or interest of Carrier in the Site or other SCE Property to attachment, execution, or other levy, or to seizure under legal process, if not released within sixty (60) days.

(v) The filing of a voluntary or involuntary petition by or against Carrier under any law for (a) the purpose of adjudicating Carrier as a bankrupt; (b) extending time for payment, adjustment, or satisfaction of Carrier's liabilities; or (c) reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency unless, in each case, the assignment or proceeding, and all consequent orders, adjudications, custodies, and supervisions, are dismissed, vacated, or otherwise permanently stayed or terminated within sixty (60) days after such assignment, filing, or other initial event.

(b) Remedies. Site Operator's remedies for any Event of Default above, without limiting Site Operator's right to pursue other remedies available to it at law or in equity, shall include, cumulatively and not alternatively: (1) termination of the applicable Standard Agreement, effective upon notice to Carrier; (2) an immediate right to remove, or to direct Carrier to remove, any or all of the Equipment or any other property of Carrier from SCE Property at the affected Site; (3) invocation of the dispute resolution process set forth in Section 13; or (4) suspension of Carrier's right to use the Application process hereunder. In addition to the remedies set forth above, Site Operator's remedies for the Events of Default described in Section 11(a)(iv) and Section 11(a)(v) above, or for three (3) occurrences of the Events of Default described in Section 11(a)(i) above, without limiting Site Operator's right to pursue other remedies available to it at law or in equity, shall also include, cumulatively and not alternatively, termination of this Agreement and all Standard Agreements, effective upon notice to Carrier.

## **Section 12. Default By Site Operator.**

(a) Events of Default. Site Operator shall be deemed to have committed an "Event of Default" if it fails to observe or perform any of its covenants in this Agreement, or in any Standard Agreement, and such failure continues for a period of thirty (30) days after written notice thereof is received by Site Operator from Carrier; *provided, however*, that it shall not be deemed an Event of Default if Site Operator commences to cure such failure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion, so long as a cure is possible within a reasonable period of time.

(b) Remedies. Carrier's remedies for any Event of Default above, without limiting Carrier's right to pursue other remedies available to it at law or in equity, shall include, cumulatively and not alternatively: (1) termination of this Agreement or any Standard Agreement affected by such Event of Default; or (2) invocation of the dispute resolution process set forth in Section 13.

### **Section 13.** Dispute Resolution.

(a) Disputes Subject to this Section. Except as may otherwise be set forth expressly herein, all disputes arising out of or relating to this Agreement shall be resolved as set forth in this Section 13.

(b) Dispute Resolution Procedure. Site Operator or Carrier shall give the other Party written notice of any dispute arising out of or relating to this Agreement in accordance with dispute resolution procedures agreed between Site Operator and Carrier.

(c) Provisional Remedies. Notwithstanding the foregoing provisions, either of Site Operator or Carrier may seek a preliminary injunction or other provisional judicial remedy if, in such Party's judgment, such action is necessary to avoid irreparable damage or to preserve the status quo.

(d) Choice of Venue. If Site Operator and Carrier, after good-faith efforts to resolve a dispute as provided in this Section 13 or as otherwise agreed, cannot agree to a resolution of such dispute, either Party may pursue whatever legal remedies may be available to such Party, at law or in equity, before a court of competent jurisdiction and with venue in Los Angeles County, California.

### **Section 14.** Termination Rights.

(a) Termination for Necessity. Site Operator may terminate a Standard Agreement upon written notice to Carrier if (1) the Site is substantially destroyed or damaged and Site Operator or the applicable Tower or Site is removed from utility service by SCE; (2) the use by Carrier of the Site is forbidden because a required Government Approval was not obtained or was not maintained in effect; or (3) the use by Carrier of the Site constitutes a trespass because a required Third-Party Property Right was not obtained or maintained in effect.

(b) Termination for SCE Needs. Site Operator may terminate a Standard Agreement upon at least 90 days prior written notice to Carrier if (1) SCE determines that it is necessary to resume its use of the Tower on which a Site is located for or in connection with conducting SCE's electric utility business or (2) SCE determines, in its sole discretion, to discontinue its use of any Tower on which a Site is located. If the CPUC or FERC mandates the termination of a Site, or if SCE in its reasonable judgment determines that termination of a Site is necessary in connection with its status as an entity regulated by the CPUC or FERC, the Standard Agreement and any other rights granted to Carrier for such Site shall terminate as soon as feasible after receipt of notice from the CPUC or FERC mandating termination. In the event of such termination, Site Operator shall attempt to find available space on another Tower for Carrier's Equipment, if requested to do so by Carrier. If Site Operator is successful in finding such space and able to lease or license the applicable Site from SCE, then Site Operator and Carrier will amend the existing Standard

Agreement to reflect the relocation. In the event of a termination by Site Operator pursuant to this paragraph, Carrier shall be entitled to reimbursement of a prorated portion of any prepaid Annual Rent and Use Fee, based on actual days of use before the date of the notice of such termination.

(c) Actions After Termination. During the sixty (60) day period following the termination of any Standard Agreement, Carrier shall promptly surrender possession of the applicable Site. Carrier shall also demolish and remove all foundations to a minimum of three (3) feet below grade level, fill all excavations, return the surface to grade, and leave the Site in a neat and safe condition, free from any debris or hazards as directed by Site Operator. Upon termination of Carrier's rights to use a Site, Carrier shall promptly remove all Equipment from the Site in accordance with instructions and guidelines provided to Carrier by Site Operator. Any Equipment that is not promptly removed by Carrier may be removed by SCE or Site Operator at Carrier's cost.

(d) Parties' Obligations. No termination under this Section 14 shall release either Party from any obligation or liability (whether of indemnity or otherwise) that accrued prior to such termination or that accrued by reason of such termination.

(e) Termination by Carrier. Carrier's rights to terminate this Agreement shall be as agreed between Site Operator and Carrier in writing.

#### **Section 15. Taxes.**

Carrier shall pay. (A) any increases in real property taxes levied against any SCE Property or any Site directly attributable to an increase in assessed value of any SCE Property as a result of the improvements constructed thereon by Carrier; (B) any fee, tax, or other charge that a federal, state, or local government may assess against Site Operator for occupancy or use of the Site by Carrier; or (C) any increase in Site Operator's taxes due to an Internal Revenue Service ruling that the attachment of Carrier's Equipment on SCE Property is considered a taxable contribution in aid of construction ("CIAC"). Site Operator shall invoice Carrier for any amount due hereunder and Carrier agrees to pay such amount, including any income tax component of the contribution ("ITCC") relating to the applicable property at the then-prevailing ITCC rate in place at the time that the CIAC is deemed taxable to Site Operator, as directed by Site Operator.

#### **Section 16. Liens.**

During the term of this Agreement, Carrier shall keep all Sites free from all liens, including but not limited to mechanics liens, and any further encumbrances, by reason of any use of a Site by Carrier. It is further agreed that in the event Carrier shall fail to pay any lien when due, and if such failure continues for ten (10) days after notification by Site Operator, then Site Operator shall have the right to pay the same and charge the amount thereof and any Site Operator Costs, including reasonable attorneys' fees and expenses, to Carrier, and Carrier shall pay the same upon demand, together with interest at the maximum rate allowed by law from the date of Site Operator's expenditure. Notwithstanding the foregoing, Carrier shall have the right to post an appropriate bond and contest any lien on any Site during the ten (10) day period before Site Operator shall have the right to pay the lien and charge the applicable amount to Carrier pursuant to the preceding sentence.

**Section 17.** Utilities.

Carrier shall arrange for any utility or other services it needs in conformity with the plans approved by Site Operator for each Site. Carrier shall be solely responsible for any cost, expense, or risk associated with any such services, including any electric services.

**Section 18.** Notices.

Notice required hereunder must be in writing and transmitted by United States mail or by personal delivery to Site Operator. Such notice shall be deemed given: (A) upon receipt in the case of personal delivery or confirmed facsimile transmittal; (B) two (2) days after it is sent by certified mail, with a return receipt requested; or (C) three (3) days after deposit in the mail, or the next day in the event of overnight delivery.

If to Site Operator: [•]

With copy to: [•]

If to Carrier: [•]

With copy to: [•]

**Section 19.** Disclaimer.

SITE OPERATOR MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER CONCERNING THE CURRENT OR FUTURE AVAILABILITY, SUITABILITY OR CONDITION OF ANY SITE OR SITES. IN ITS SOLE REASONABLE DISCRETION, SITE OPERATOR MAY DETERMINE THAT ANY REQUESTED SITE IS NOT AVAILABLE. FURTHERMORE, CARRIER ACKNOWLEDGES THAT ANY SITE MADE AVAILABLE HEREUNDER, TO THE MAXIMUM EXTENT PERMISSIBLE BY LAW, WILL BE PROVIDED BY SITE OPERATOR ONLY ON AN "AS-IS" BASIS, SUBJECT TO PRIOR USES OF THE SITE AND ANY CONTIGUOUS PROPERTIES. FURTHER, NO WARRANTIES, EXPRESS OR IMPLIED (INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE) ARE INCLUDED AS PART OF THIS AGREEMENT.

**Section 20.** Miscellaneous.

(a) Governing Law. This Agreement shall be governed, interpreted, construed, and regulated by the laws of the State of California as if executed and performed wholly within the State of California. Unless the context otherwise requires, references to any applicable law or regulation shall be deemed references to such laws or regulations as they may be amended, replaced, or restated from time to time.

(b) Assignment. The Parties may not sell, convey, assign, or otherwise transfer, in whole or in part, its interest in this Agreement or in any Standard Agreement, at any time without the consent of the other Party.

(c) Interpretation. This Agreement shall be construed simply and according to its fair meaning, and shall not be construed against either Party as the author or drafter of this Agreement.

(d) Relationship Between the Parties. Nothing contained in this Agreement shall be construed to make Site Operator or Carrier partners, joint venturers, principals, agents, fiduciaries, subcontractors, or employees with respect to one another. Further, nothing in this Agreement shall be construed as granting either Party any implicit right, power, or authority to bind the other.

(e) Invalidity of Provisions. To the extent that any terms or provisions of this Agreement shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable: (1) such term or provision shall be modified to the minimum extent necessary, in order to preserve the economic and business objectives of the Parties in entering into this Agreement, so that such term or provision shall remain in full force and effect and enforceable; and (2) the rest of this Agreement shall not be affected by any such determination. If modification as described in the foregoing sentence is not possible or would materially alter the nature or purpose of this Agreement, such invalid or unenforceable term or provision will be severed from this Agreement and the remaining terms and provisions of this Agreement will continue in full force and effect without such invalid or unenforceable term or provision.

(f) Waiver. The failure of either Party to enforce any provision of this Agreement, or the waiver thereof in any instance, including but not limited to the right to terminate, shall not be construed as a general waiver or relinquishment by such Party of any such provision, but the same shall nevertheless be and remain in full force and effect. Any acceptance by either Party of any performance by the other after the time such performance is due shall not constitute a waiver by the non-defaulting Party of timely performance, unless otherwise expressly agreed to by the non-defaulting Party in writing.

(g) Incorporation Clause and Exhibits. This Agreement sets forth the entire agreement of the Parties, will supersede and cancel all other agreements (whether written or oral) between the Parties, with respect to the subject matter. Exhibits referenced in this Agreement are incorporated herein by reference and may only be modified as described herein or by written agreement of the Parties.

(h) Performance in Stead. Should Carrier fail to perform any act or obligation required under this Agreement that impacts safety or relates to a hazardous condition or emergency, then Site Operator, at its option and with notice to Carrier (without any obligation to do so and without releasing Carrier from any consequences hereunder due to its failure to perform as required hereunder) may: (1) perform such act or obligation in such manner and to such extent as Site Operator may deem necessary; (2) commence, appear in, and defend any resulting action or proceeding; (3) pay, purchase, contest, or compromise any resulting charge or encumbrance; and (4) in exercising any such powers, incur any liability and expend such reasonable amounts as Site Operator, in its sole discretion, may deem necessary. Carrier shall promptly reimburse Site Operator's Costs and indemnify Site Operator, as set forth in Section 8 and as agreed by the Parties, against all liability, loss, or claims arising from its performance pursuant to this provision.

(i) Confidentiality. Notwithstanding any language to the contrary in any agreement between the Parties, Site Operator may, without the prior consent of the Carrier, provide

information related to this Agreement to SCE or to a regulator or governmental entity if any such information is requested by SCE or a regulator or governmental entity.

(j) Applicability of Provisions. This Agreement is intended solely to benefit the Parties. It is the intent of the Parties that there are no third-party (including customers of either Party) beneficiaries of any performance, duty, or right under this Agreement. However, should any third-party institute proceedings against either Party, this Agreement shall not provide any such third-party with any remedy, claim, liability reimbursement, cause of action, or other right.

(k) Holding Over. If Carrier remains in possession of all or any part of a Site after permission to occupy the Site terminates, such occupancy shall be from month to month only and shall not be considered a renewal or extension of the Standard Agreement for the applicable Site. Notwithstanding the preceding sentence, Carrier shall continue to be obligated to meet each and every term, covenant, and condition contained in the applicable Standard Agreement during any such period.

(l) Publicity and Use of Name and Marks. No publication concerning this Agreement shall be made by either Party without prior written authorization of the other Party. Further, neither Party shall take any actions that would compromise the name, service marks, copyrights, trademarks, patents, or other intangible property of the other.

(m) Amendments. This Agreement may be amended, changed, or otherwise modified only by a written agreement executed by duly authorized agents for each of Site Operator and Carrier, except as otherwise expressly provided in this Agreement.

*[Signature page follows]*

**IN WITNESS WHEREOF**, the signatories hereto represent and warrant that they have been duly and properly authorized to sign this Agreement on behalf of the Party for whom they sign.

[CARRIER]

[•]

By: _____	By: _____
Name:	Name:
Title:	Title:
Date:	Date:



## **EXHIBIT A**

[The Annual Rent and Use Fee is [ ] (\$[ ]) per year during the initial term of each Standard Communication Equipment Site Sublease / Sublicense Agreement applicable to any Site that Site Operator subleases to Carrier. The Annual Rent and Use Fee is [ ] (\$[ ]) per year during the initial term of each Standard Communication Equipment Site Sublease / Sublicense Agreement applicable to any Site that Site Operator sublicenses to Carrier.

In the event of any conflict between the Annual Rent and Use Fee described on this Exhibit A and the terms of any Standard Communication Equipment Site Sublease / Sublicense Agreement entered into under that certain Master Carrier Agreement (Towers) dated as of [•] by and between Site Operator and Carrier, the Annual Rent and Use Fee as described in such Standard Communication Equipment Site Sublease / Sublicense Agreement shall control.]

## EXHIBIT B

[Carrier]

### Standard Communication Equipment Location Sublease/Sublicense Agreement (Master Carrier Agreement (Towers) dated: [•] (the "Master Agreement"))

#### TOWER LOCATION APPLICATION

DATE OF APPLICATION \_\_\_\_\_ APPLICATION RECEIVED \_\_\_\_\_

**CUSTOMER:**

Carrier/Subcontractor: \_\_\_\_\_

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

County: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**SITE NAME:**

By Site

Operator: \_\_\_\_\_

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

Tower Name/No.: \_\_\_\_\_

SCE Location: \_\_\_\_\_

Thomas Guide Page/Grid: \_\_\_\_\_

**Carrier Contact re Application:**

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

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Site Operator Contact re Application:**

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

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Carrier Contact for Technical Questions:**

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

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Site Operator Contact for Technical Questions:**

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

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**DESCRIPTION OF REQUEST TO SUBLEASE OR SUBLICENSE SPACE ON  
TOWER(S) AND EQUIPMENT GROUND SPACE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Square Feet of Property: \_\_\_\_\_

Location/Address of Property: \_\_\_\_\_

Requested Center Line Elevation of Antennas: \_\_\_\_\_

No. of Antennas per Array: \_\_\_\_\_

No. of Antenna Arrays: \_\_\_\_\_

Length of Antenna: \_\_\_\_\_

Power Requirements AC/DC: \_\_\_\_\_

Withdrawal of Application/Date of Withdrawal: \_\_\_\_\_

(Withdrawal will be deemed to have occurred if Carrier notifies Site Operator within ten (10) business days of rejection of changed conditions.)

Rejection of Application/Date of Rejection: \_\_\_\_\_  
(within thirty (30) days of Submission by Carrier):

Reason for Rejection of Application \_\_\_\_\_

Site Operator's Additional Conditions Precedent to Acceptance of Application (see below): Accepted Rejected  
(Rejection of Additional Conditions Required within ten (10) days of receipt)

Acceptance of Application/Date of Acceptance: \_\_\_\_\_  
(within thirty (30) days of submission by Carrier)

Statement of Applicant: Carrier has carefully reviewed this Application and represents that the information herein is accurate and complete and satisfies the requirements of the Master Agreement and the applicable Standard Agreement (as defined in the Master Agreement).

**SIGNATURE OF APPLICANT**

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

**EXHIBIT C**

**STANDARD TOWER AGREEMENT NO.**

**[•]**

**AND**

**[CARRIER]**

**ANTENNA EQUIPMENT SITE SUBLEASE / SUBLICENSE AGREEMENT**

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## **EXHIBITS**

- I. Legal Description of SCE Property and the Site.
- II. A Plot Plan showing the SCE Property, the Site, the Communication Equipment and Base Equipment layout and installation plans, the electric and telephone utility route, and the access route to the Site over SCE Property.
- III. Site Access Requirements.

Standard Tower Agreement No. \_\_\_\_\_

[•]

AND

[CARRIER]

## COMMUNICATION EQUIPMENT SITE SUBLEASE / SUBLICENSE AGREEMENT

THIS STANDARD TOWER AGREEMENT (this “Standard Agreement”) is made as of [Date] (“Effective Date”) by and between [•] (“Site Operator”), and [Carrier] (“Carrier”) (each party, individually, a “Party,” and collectively, the “Parties”).

### RECITALS

Southern California Edison Company, a California corporation (“SCE”) has leased or licensed to Site Operator, and Site Operator desires to sublease or sublicense to Carrier the Site known as \_\_\_\_\_ and more particularly described on Exhibit I attached hereto (the “Site”).

Carrier desires to receive either (check appropriate box):

- ☐ a sublease for space on the Site, or
- ☐ a sublicense for space on the Site,

which may be suitable for the placement and operation of wireless equipment.

### AGREEMENT

NOW, THEREFORE, in consideration of the promises and of the mutual obligations and covenants described below, the Parties agree as follows:

#### 1. MASTER AGREEMENT

This Standard Agreement is executed in accordance with, and is specifically subject to, all the terms and conditions of that certain Master Tower Agreement (the “Master Agreement”) dated as of [•] by and between Site Operator and Carrier and incorporates the Master Agreement by reference herein. Where the requirements of this Standard Agreement and the Master Agreement are consistent or additive, then the requirements of both shall apply; in the event of any conflict between the Master Agreement and this Standard Agreement, this Standard Agreement shall govern. All capitalized terms used but not defined in this Standard Agreement shall have the meanings as set forth in the Master Agreement.

#### 2. TERM

A. The initial term of this Standard Agreement shall begin on the Effective Date and shall expire [\_\_\_\_] years thereafter, unless terminated sooner. At the end of such five

(5) year term, this Standard Agreement shall renew automatically for [\_\_\_\_] additional terms of five [\_\_\_\_] each, except where written notice of non-renewal is given by either Party to the other at least [\_\_\_\_] ( ) days before the then-current term expires. The terms and conditions for any renewal period shall remain unchanged except for adjustments in the Annual Rent and Use Fee pursuant to Section 3.B below.

### **3. ANNUAL RENT AND USE FEE**

A. [The Annual Rent and Use Fee for each year of the initial term shall be [\_\_\_\_\_] (\$[\_\_\_\_\_] ).

B. The Annual Rent and Use Fee for the first year shall be payable within thirty (30) days of the Effective Date. The Annual Rent and Use Fee shall be due for each subsequent year on each applicable anniversary of the Effective Date

C. The Rent and Use Fee shall be increased by [\_\_\_\_\_] percent ([\_\_\_\_\_] %) on each annual anniversary of the Effective Date.

### **4. SUBLEASE/SUBLICENSE**

A. This Standard Agreement provides Carrier with, as indicated above, either a sublease or a sublicense for the Site, in either case for use of the Site and with a non-exclusive right to access the Site seven (7) days per week, twenty-four (24) hours per day. Additionally, Carrier may install and maintain utilities along a route extending to the Site from appropriate electric and telephone utility connections, as shown on Exhibit II. The exercise by Carrier of any of the rights provided hereunder shall be subject to any restrictions, conditions, or requirements that apply to Carrier's use of the Site or access to the Site, as described elsewhere in this Standard Agreement or in the Master Agreement. Carrier may use reasonable means to restrict unauthorized access to the Site, including by installing a fence around its Base Equipment and placing a lock and lock box on the gate.

B. Without limiting Section 4.A, the conditions, restrictions, and procedures for access to the Site, or to any other SCE Property required to access the Site hereunder, are included on Section 21 of this Standard Agreement.

### **5. MISCELLANEOUS**

A. Quiet Enjoyment and Site Operator's Non-Interference: Site Operator shall not intentionally interfere with Carrier's quiet enjoyment of the Site. Carrier hereby acknowledges that the continuation of Site Operator's and SCE's existing uses of the Site, and related SCE Property, will not interfere with Carrier's quiet enjoyment of the Site.

B. Recording: Carrier shall not record this Standard Agreement without Site Operator's prior written consent.

C. Complete Agreement: This Standard Agreement, including the attached Exhibits, and the Master Agreement and its Exhibits, incorporate all the covenants and understandings between Site Operator and Carrier with respect to the Site to which this Standard



Agreement relates. No other verbal agreements or understandings exist between the Parties, and any future agreements or understandings shall not be binding upon either of Site Operator or Carrier unless made in writing and signed by both Parties. Any modifications to this Standard Agreement shall be ineffective unless made in writing and signed by both Parties.

*[Signature page follows]*

**IN WITNESS WHEREOF**, Site Operator and Carrier have duly executed this Standard Agreement as of the day and year first above written.

[CARRIER]

[SITE OPERATOR]

By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

**EXHIBIT I**

(Site Name)

---

(Site Name)

---

(Site Reference No.)

**Legal Description of SCE Property and the Location**

**TO BE PROVIDED BY CARRIER AND INCLUDED  
IN FULLY-EXECUTED AGREEMENT**

## **EXHIBIT II**

---

**(Site Name)**

---

**(Site Reference No.)**

**Plot Plan**

**ZONING OR CONSTRUCTION DRAWINGS TO BE PROVIDED BY CARRIER,  
APPROVED BY SCE AND SITE OPERATOR, AND INCLUDED  
IN FULLY-EXECUTED AGREEMENT**

### **EXHIBIT III**

---

**(Site Name)**

---

**(Site Reference No.)**

#### **Site Access Requirements**

**TO BE PROVIDED BY SITE OPERATOR (IN CONSULTATION WITH SCE) AND  
INCLUDED IN FULLY-EXECUTED AGREEMENT**

**EXHIBIT O**

**FORM OF REPLACEMENT MASTER GROUND FORM**

*[see attached]*

**[FORM OF] MASTER GROUND LEASE AGREEMENT**

**BETWEEN**

**[•]**

**AND**

**[•]**

**DATED AS OF [•]**

**COMMUNICATIONS EQUIPMENT SITE**

**SUBLEASE / SUBLICENSE AGREEMENT**

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## **EXHIBITS**

- A. Annual Rent and Use Fee
- B. Application for Use of a Site
- C. Standard Agreement

**[FORM OF] MASTER GROUND LEASE AGREEMENT**

[•]  
**AND**  
[•]

**COMMUNICATION EQUIPMENT SITE  
SUBLEASE / SUBLICENSE AGREEMENT**

This MASTER GROUND LEASE AGREEMENT (this “Agreement”) is made as of [Date] (“Effective Date”) by and between [•] (“Site Operator”), and [•] (“Carrier”) (each party, individually, a “Party,” and collectively, the “Parties”).

**RECITALS:**

A. Site Operator is party to a long-term marketing agreement with Southern California Edison (“SCE”), pursuant to which SCE has granted rights to Site Operator to market and to sublease (in the case of SCE fee-owned property) or sublicense (in the case of SCE non-fee property) certain SCE property for use as a wireless communications facility, subject to terms and conditions agreed between Site Operator and SCE.

B. Carrier desires to sublease or sublicense such property from Site Operator for use as a wireless communications facility, and Site Operator is willing to grant such subleases and sublicenses to Carrier in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the promises and of the mutual obligations and covenants in this Agreement, the Parties agree as follows:

**Section 1.** Definitions.

(a) Certain Defined Terms. As used in this Agreement, the following terms are defined as follows:

(b) “Additional Property Rights” means any amendment to or expansion of rights to access or use a Site or an SCE Right of Way that must be obtained before Carrier may access or use a Site.

(c) “Applicable Requirement” means any law, code, regulation, ordinance, statute, Government Approval or requirement of a Governmental Authority that applies to the grant or exercise of any rights provided to Carrier under this Agreement or in a Standard Agreement, as applicable, that is related to the exercise of such rights.

(d) “Application” means an application by Carrier to sublease or sublicense space on a Site hereunder, which application shall be in the form attached hereto as Exhibit B, which form may be modified by Site Operator from time to time.

(e) “CIAC” has the meaning set forth in Section 16.

(f) “CPUC” means the California Public Utilities Commission or any successor agency thereto.

(g) “Communication Equipment” means equipment installed by or on behalf of Carrier on a Communications Facility for the provision of wireless communication services, including voice, video, internet and other data services, which equipment includes, but is not limited to, antennas (including microwave antennas), switches, panels, conduits, cables, radios, amplifiers, filters, ancillary equipment, batteries, and all associated software and hardware.

(h) “Communications Facility” means improvements made on SCE Property and equipment (other than Communication Equipment) installed by or on behalf of Carrier pursuant to this Agreement, which may include monopoles, self-supporting lattice towers, communication equipment cabinets, buildings, or other structures mounted in or upon a supporting structure, for the purpose of locating or attaching Communication Equipment.

(i) “Event of Default,” with respect to Carrier or Site Operator, has the meanings set forth in Section 13 and 13, respectively.

(j) “FAA” means the United States Federal Aviation Administration or any successor federal Governmental Authority performing a similar function.

(k) “FCC” means the United States Federal Communications Commission or any successor Governmental Authority performing a similar function.

(l) “Final Plans” has the meaning set forth in Section 5.

(m) “Force Majeure Event” has the meaning set forth in Section 12.

(n) “Government Approval” means any franchise, license, permit, authorization, certification, waiver, variance, registration, approval, determination or consent, regardless of type or form, that Carrier must obtain from any Governmental Authority to satisfy Applicable Requirements.

(o) “Governmental Authority” means any foreign, domestic, federal, territorial, state, tribal or local governmental authority, administrative body, quasi-governmental authority, court, government or self-regulatory organization, commission, board, administrative hearing body, arbitration panel, tribunal or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing.

(p) “Hazardous Materials” means petroleum products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls or any hazardous, toxic or dangerous waste, substance or material, in each case, defined as such (or any similar term) or regulated by, in or for the purposes of applicable law, including Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Hazardous Materials include any substance known by the state in which the Site or related SCE Property is located to cause cancer and/or reproductive toxicity.

(q) “Induced Voltages” has the meaning set forth in Section 7.

- (r) “ITCC” has the meaning set forth in Section 16.
- (s) “Plans” has the meaning set forth in Section 5.
- (t) “RFE” means radio frequency emission.
- (u) “SCE Property” means SCE fee-owned property, and any SCE Right of Way, on which a Site is located or which provides access to a Site.
- (v) “SCE Right of Way” means any existing easement, lease or license rights from a third party that allows SCE to access or use a Site.
- (w) “Site” means that portion of a Site that Carrier is authorized to use upon Site Operator’s execution of a Standard Agreement.
- (x) “Standard Agreement” means an agreement to sublease or sublicense a specific Site pursuant to this Agreement.
- (y) “Site Operator’s Costs” means the actual amount of any direct or indirect costs incurred by Site Operator pursuant to this Agreement.
- (z) “Third-Party Property Right” means any right in, over, or on any public or private property, other than SCE Property, that is required for Carrier to access or use a Site.

**Section 2.** Term.

The term of this Agreement shall begin on the Effective Date and shall terminate on the date of expiration or termination of the last remaining Standard Agreement subject to this Agreement.

**Section 3.** Application Process.

(a) Application Form. Carrier must complete the Application form to request use of a Site. The form of Application is attached hereto as Exhibit B.

(b) Additional Property Rights. In the event SCE’s rights to access or use a Site are pursuant to an SCE Right of Way, Site Operator, in consultation with SCE, will inform Carrier whether any Additional Property Rights are required. Site Operator and Carrier shall determine the process for obtaining the Additional Property Rights for a Site. If Site Operator or Carrier are unable to obtain the Additional Property Rights on commercially reasonable terms, then the Application will be deemed withdrawn without liability, except that Carrier shall reimburse Site Operator’s Costs incurred in processing the Application or seeking Additional Property Rights.

(c) Third-Party Property Rights. Carrier shall be solely responsible for obtaining and maintaining any Third-Party Property Rights that are needed for Carrier to access the Site or to install Communications Facilities or any Communication Equipment or ancillary equipment (such as electric or telephone utility lines), as well as to operate or maintain such equipment or to perform

any related work. Site Operator and Carrier will agree upon terms and procedures to obtain any such Third-Party Property Rights.

(d) Carrier Inspection. Carrier may physically inspect and investigate the Site, conduct tests, and review information about the Site at a convenient time for SCE and Site Operator in conformity with SCE and Site Operator's requirements for access to the Site. Carrier shall repair any damage or disturbance to the Site resulting from such activities and shall restore the Site to its original condition.

(e) Acceptance or Rejection of Application. Site Operator's right to accept or reject an Application shall depend on SCE's acceptance or rejection of an Application. In the event SCE rejects an Application, Site Operator may, in its discretion, notify Carrier of the reason(s) for rejecting an Application and may permit Carrier to submit a new Application that addresses the reasons for disapproval identified by Site Operator.

(f) Condition of Site. Carrier shall accept each Site on an "as is" and "where-is" basis, without any representation or warranty of or from Site Operator as to the condition or suitability of a Site for the proposed use, and subject to any rights or uses that pre-date the execution of a Standard Agreement for the Site. Carrier shall provide any additional information that is requested by Site Operator about Carrier's intended use of a specific Site.

(g) Conditions of Acceptance. Site Operator may impose additional conditions as part of its written acceptance of an Application. If Carrier notifies Site Operator within ten (10) business days that it is unwilling to accept the new or changed conditions, then the Application will be deemed withdrawn by mutual consent and neither Party shall have any liability as a result.

(h) Post-Acceptance Procedure. Site Operator's acceptance of an Application will not obligate SCE or Site Operator to reserve the Site for Carrier or guarantee the future availability of the Site. Site Operator's acceptance of an Application will be issued no earlier than SCE's approval of the initial zoning drawings and preliminary land approval. If Carrier requests a Standard Agreement within [ ] days of Site Operator's acceptance of Carrier's Application for a Site and such Site is available at the time of such request, Site Operator will prepare a Standard Agreement for such Site. Carrier shall provide any information required by Site Operator to prepare each Standard Agreement. If Carrier does not request a Standard Agreement within [ ] days of Site Operator's acceptance of its Application, then the Application shall be deemed withdrawn by Carrier, with neither Party having any liability as a result, except as otherwise provided in this Agreement.

(i) Standard Agreements. Carrier shall review, sign, and return each Standard Agreement to Site Operator within [ ] days of Site Operator's submission of the Standard Agreement to Carrier. During such [ ] day period, Site Operator shall not prepare a Standard Agreement for the Site for any other carrier. If Carrier does not return a signed copy of the Standard Agreement by the end of such [ ] day reservation period, the Application shall be deemed withdrawn, with neither Party having any liability as a result, except as otherwise provided in this Agreement.

(j) Form of Application. Site Operator shall be permitted, from time to time, to amend or modify the form of the Application attached to this Agreement at any time upon [ ] days' prior written notice to Carrier; *provided, however*, that Carrier shall not be required to resubmit any form that was submitted to Site Operator prior to such amendment or modification.

#### **Section 4. Fees And Payments.**

(a) Annual Rent and Use Fee. Carrier shall pay to Site Operator the Annual Rent and Use Fee set forth in the applicable Standard Agreement for each Site.

(b) Site Operator's Costs for Application Review and Other Work. In addition to payment of the Annual Rent and Use Fee described in Section 4(a), Carrier shall reimburse Site Operator's Costs for reviewing each Application and for any related work performed by Site Operator, or at Site Operator's direction, or as otherwise required by this Agreement.

(c) Invoices. Site Operator shall deliver to Carrier invoices setting forth Site Operator's Costs. Carrier shall pay each invoice from Site Operator within thirty (30) days of the date of such invoice. Carrier shall have reasonable access to relevant books and records of Site Operator to conduct, at Carrier's sole expense, and any other audit rights of such invoices as agreed between Carrier and Site Operator.

#### **Section 5. Construction Of Communications Facilities And Other Site Improvements.**

(a) General Requirements for Site Work. Carrier shall be solely responsible for any work of construction, alteration, or major repair on or to a Site (collectively, "Site Work") and for all costs or expenses associated with such Site Work.

(b) Conditions for Site Work. Carrier, and its contractors or subcontractors, shall comply with the following conditions (or obtain, through Site Operator, SCE's written waiver of such conditions) in connection with Site Work:

(i) Plans and Specifications. Carrier shall provide Site Operator with zoning drawings, construction plans and specifications for Site Operator's review and approval before any such plans are submitted for Government Approval. Carrier shall provide Site Operator with any reports or studies prepared by or for Carrier about the condition of the Site or Carrier's proposed use of the Site, including soil tests, geological reports, environmental assessment reports and a ground rise potential study (collectively, the "Plans"). The Plans must be in content, detail and form sufficient to permit Site Operator to request approval from SCE. Further, a qualified and licensed electrical engineer shall perform and certify the grounding detailed on the Plans meets the requirements of the ground rise potential study. An architect or engineer, licensed by the State of California, shall prepare and certify the remainder of the Plans. The Plans shall specify that the Site Work will be: (a) performed within the exterior property lines of the Site, except for any activities on contiguous SCE Properties that are approved by SCE to facilitate the Site Work, completed within a specified period after it begins, and in compliance with any Applicable Requirements, including, without limitation, any environmental conditions or requirements.

(ii) SCE Approval of Plans. Site Operator shall notify Carrier of SCE's approval or rejection of the Plans. If SCE rejects the Plans submitted by Carrier, Carrier may revise its Plans and request that Site Operator resubmit them to SCE for review.

(iii) Notice of Intent to Construct and Pre-Construction Site Meeting. After Carrier has satisfied the previous conditions, Carrier may provide Site Operator with written notice of intention to commence the Site Work at least ten (10) days prior to the requested commencement date. This notice will include the date that Carrier expects to complete the Site Work. Prior to commencement of any Site Work, Site Operator will conduct a pre-construction meeting at the Site, which shall include representatives of SCE, and Carrier will maintain a complete set of the Final Plans at the Site.

(iv) Standard for Performance of Site Work. All Site Work shall comply with the approved Final Plans, industry standards and any Applicable Requirements. Carrier shall be solely responsible for the construction means, methods, techniques, sequences or procedures used in performing the Site Work, including for any temporary works installed during construction. Carrier shall maintain the Site in a safe, orderly and neat condition at all times and the completed Site Work shall be free from faulty materials or workmanship. If, at any time, one or more of these requirements is not fully satisfied, then Site Operator or SCE may, upon written notice to Carrier detailing the deficiency and Carrier's failure to correct the deficiency, suspend Carrier's right to perform any Site Work. Carrier shall not resume the Site Work until it has corrected the deficiency. Neither Site Operator nor SCE shall not be liable for any costs or expenses that result from suspending Site Work pursuant to this provision unless the deficiency notice was issued in bad faith. Site Operator and SCE shall have the right to post and maintain on the Site any notices of non-responsibility permitted under applicable law.

(v) Use of a General Contractor. Carrier shall use a general contractor that is licensed by the State of California for all Site Work. Carrier shall be solely responsible for any work performed by its general contractor, or any subcontractors, and for ensuring that all contractors and subcontractors fully comply with any requirements that pertain to this work.

(c) Final Plans and Specifications. Upon the completion of any Site Work, Carrier shall provide Site Operator (or SCE, if requested by Site Operator) with a complete set of the final "As-Built" plans and specifications ("Final Plans") with the necessary Government Approvals and in the form consistent with the Plans previously approved by SCE. The Plans shall comply with the requirements set forth in Section 5(b)(i) above and must be approved by a licensed architect or engineer as accurately depicting the improvements to be constructed by Carrier.

(d) Interpretation of Final Plans. The documents that are part of the Final Plans shall be construed to be consistent and to supplement each other whenever possible. In the event of an irreconcilable conflict between them, the specifications shall control over the drawings and the provisions of the applicable Agreement shall control as to both the drawings and specifications.

(e) Inspection of Completed Site Work. Site Operator reserves the right to conduct a formal inspection of the completed construction and Carrier agrees that it will, at Carrier's cost and expense, promptly correct any defects identified by the inspection.

(f) Changes in Final Plans. Carrier shall obtain consent before it makes material changes to, or deviations from, the Final Plans.

(g) Ownership Rights. Carrier will at all times own the Communications Facilities and Site Operator hereby waives and disclaims any right, title or interest, including lien rights, if any, in and to each Communications Facility. Carrier's rights include, without limitation, the absolute right to remove all or part of a Communications Facility at any time, provided that such Site Work shall be performed under supervision of SCE safety observers. Carrier's use of each Communications Facility may be limited by any improvements on or near the Site that pre-date Site Operator's execution of a Standard Agreement with Carrier.

(h) Maintenance and Repairs. Carrier shall, at its sole cost and risk: (1) maintain each Site and Communications Facility in good and safe condition and repair, ordinary wear and tear excepted, and in compliance with all Applicable Requirements, and promptly and diligently repair, restore or replace any Communications Facilities that are fully or partially damaged or destroyed to their previous condition. Site Operator shall not be required to furnish any facilities or make any alterations of any kind on or to a Site in order to facilitate performance of this work. The condition of a Communications Facility after such maintenance, compliance, repair, restoration, or replacement work shall equal the condition of the Communications Facility before the event giving rise to such work.

#### **Section 6. Installation And Use Of Communication Equipment.**

(a) Request for Approval to Install and Use Communication Equipment. Carrier must obtain Site Operator's approval before installing, replacing or removing any Communication Equipment at a Site. "

(b) Installation of Communication Equipment. Carrier shall install the approved Communication Equipment at its sole cost and expense. Carrier shall notify Site Operator after the Communication Equipment is installed. The Communication Equipment shall be marked to indicate its ownership.

(c) Use of Communication Equipment. Carrier may use Communication Equipment to provide wireless telecommunication services (when duly authorized to do so by the FCC and the CPUC), provided that such Communication Equipment does not interfere with the existing communication equipment of SCE or a third party. If, at any time, Site Operator or SCE informs Carrier that its Communication Equipment is interfering with such pre-existing communication equipment, then Carrier shall immediately remedy such interference. This obligation to remedy the interference is expressly conditioned on the other communications equipment operating within legally permitted frequencies. Site Operator will impose similar restrictions on the installation of other third party communication equipment. Site Operator will neither install nor permit the installation of equipment on SCE Property that interferes with the operation of Carrier's Communication Equipment.

(d) Maintenance, Repair and Replacement of Communication Equipment. Carrier shall maintain, repair and replace the Communication Equipment and ensure that it is in good operating condition, it complies with any Applicable Requirements and its use does not cause



interference in violation of Section 6(c) above. In the event of any replacement of Communication Equipment on the Site, Carrier shall comply with Section 6(a) and Section 6(b) above. Site Operator or SCE shall not be responsible for any maintenance, repair or replacement of the Communication Equipment.

(e) Inspection Rights of Site Operator and SCE. Site Operator and SCE may inspect the Communication Equipment or related work upon request to Carrier and subject to supervision by Carrier, and excluding any Communication Equipment that is proprietary to Carrier.

(f) Compliance with Third-Party Requirements. The Communication Equipment shall be installed and used in compliance with all Applicable Requirements including, but not limited to, those of the CPUC, the FCC and the FAA.

(g) Removal of Communication Equipment. Carrier shall promptly repair, replace or remove any Communication Equipment that interferes with the operation of other communication equipment in violation of Section 6(c) above, or where continued use of the Communication Equipment is in violation of Applicable Requirements. Upon termination of Carrier's rights to use a Site, Carrier shall promptly remove all Communication Equipment from such Site. Any Communication Equipment that is not promptly removed by Carrier hereunder may, after thirty (30) days' prior written notice, be removed by Site Operator or SCE. Carrier shall reimburse any costs incurred by Site Operator or SCE to remove, store or dispose of such Communication Equipment.

## **Section 7. General Access And Use Provisions.**

(a) Access Rights of Carrier. Site Operator shall permit Carrier unrestricted access to the Site seven (7) days a week, twenty-four (24) hours a day; subject to any specific access requirements for the Site.

(b) Compliance with Applicable Requirements and Government Approvals. Carrier's use and access to the Site shall at all times be in compliance with the Applicable Requirements, including, but not limited to those of the CPUC, the FCC, and the FAA, in each case to the extent applicable. Carrier shall not submit any application relating to this Agreement to any of these government agencies without the prior written consent of Site Operator. At all times during the term of this Agreement, Carrier represents and warrants that it will be in full compliance with all Applicable Requirements and that it will have obtained and shall maintain in full force and effect all Government Approvals necessary for Carrier to fully perform this Agreement, and all transactions contemplated by this Agreement. Carrier shall not rely on any rights, authorizations, or approvals of Site Operator or SCE in order to satisfy these obligations. Further, Carrier shall provide Site Operator with adequate proof, within five (5) business days of a request by Site Operator for such proof, or any shorter period required by any regulatory or governmental entity requesting such proof, that Carrier is in full compliance with this warranty. If Carrier fails to satisfy a requirement stated in this Section 6(b), then Section 15 shall not apply, and instead, Site Operator shall have the right to declare Carrier in material breach of both this Agreement and any Standard Agreement(s) applicable to the Site(s). In addition to any other remedies available to Site Operator under this Agreement or at law or equity, Site Operator may, at Carrier's sole risk and expense, either direct Carrier to promptly remove any equipment from the Site for which such

proof was sought or remove the equipment itself. Carrier shall not reinstall the removed equipment without written approval from Site Operator to do so.

(c) Hazardous Materials.

(i) Carrier shall not conduct on any Site any business operations or activities, or employ or use a Site to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials in violation of applicable laws, any Applicable Requirement or other than as commonly used or stored in operating a Site; (ii) Carrier shall carry on its business and operations at each Site in compliance with all applicable Environmental Laws; (iii) Carrier shall comply with all Environmental Laws applicable to the Site; (iv) Carrier shall not create or permit to be created any Lien against any Site for the costs of any response, removal or remedial action or clean-up of Hazardous Materials; and (v) Carrier shall promptly conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting each Site in accordance with, and to the extent necessary to comply with, all applicable Environmental Laws after the Effective Date, to the extent Carrier or any of their contractors, subcontractors, invitees or other representatives are responsible for the Hazardous Material condition necessitating the remedial actions and provided that such condition did not exist on the Effective Date.

(ii) Carrier acknowledges that there may be present on SCE Property solid or hazardous wastes, asbestos, polychlorinated biphenyls, special nuclear or byproduct material, radon gas, formaldehyde, lead based paint, other lead contamination, fuel or chemical storage tanks, electric and magnetic fields or other substances, materials, products or conditions (collectively "Environmental Hazards or Conditions"), which are or may be potential environmental hazards or conditions. For each Site, Carrier shall provide in writing to Site Operator a statement identifying any Environmental Hazards or Conditions which Carrier shall be maintaining on the Site. Such information shall also be included in the applicable Standard Agreement for such Site. If any such Environmental Hazards or Conditions adversely affect SCE's operations or Site Operator's operations, Site Operator may terminate the applicable Standard Agreement following reasonable notice and an opportunity to cure. Notwithstanding the foregoing, any Environmental Hazards or Conditions existing at any Site prior to the sublease or sublicense of the Site to Carrier shall be permitted to continue without terminating the Site.

(d) Induced Voltages. Carrier hereby acknowledges that the Communications Facilities and Communication Equipment it may install under the terms of this Agreement will be in close proximity to one or more high voltage (66 kilovolt or above) electric transmission lines. Such installations may be susceptible to induced voltages, static voltages or related electric fault conditions (hereinafter collectively referred to as "Induced Voltages") unless appropriate grounding or other mitigation measures are used. If not properly mitigated, Induced Voltages can result in a variety of safety or nuisance conditions, including, but not limited to, electric shocks or other injury to individuals contacting the installations or other utilities connected to the installations (including, but not limited to, natural gas lines, water lines or cable television lines), or interference with or damage to sensitive electronic equipment that is part of an installation. Carrier shall be responsible to determine what, if any, Induced Voltages mitigation measures should be undertaken regarding its Communications Facilities and Communication Equipment installations, and to implement such mitigation measures at its sole cost and expense.

(e) Radio Frequency Emission Compliance. Carrier shall be responsible, at its sole cost and expense, for ensuring compliance with all regulations relating to RFE. As a precondition to Carrier's right to install any authorized equipment at the Site, Carrier must provide Site Operator with a certificate that its equipment, when analyzed in conjunction with any other communication equipment at or within fifty feet (50') feet of the Site, will be in compliance with any applicable RFE standards. Such certificate shall be prepared by a qualified radio frequency engineer at least thirty (30) days prior to initiation of equipment installation. If Carrier desires to make any material changes to its equipment, then Carrier shall provide Site Operator with a new certificate at least thirty (30) days prior to such change. Site Operator will cooperate with Carrier to allow Carrier to place signage at the Site necessary to ensure compliance with RFE regulations. In addition, Carrier shall use its best efforts to minimize the RFE impact on health of workers and on future uses of the Site.

(f) Site Operator's Right to Use of SCE Property. Carrier's use of the Site shall at all times be subordinate to SCE's use of the Site, and any other SCE Property, to facilitate SCE's provision of utility services. Whenever both SCE's electrical service capacity and Carrier's telecommunications capacity are adversely affected by an incident, Site Operator may restrict or delay restoration of Carrier's capacity until SCE can restore its own equipment and capacity. Notwithstanding this, Site Operator will permit Carrier to restore its capacity as long as such restoration efforts do not interfere with SCE's and Site Operator's own restoration activities. Site Operator shall retain all of its current rights to use SCE Property, or any portion thereof, including the right to enter under, upon, or into the Site, or any portion thereof. Site Operator agrees to use reasonable efforts to exercise such rights in a way that does not unreasonably interfere with Carrier's authorized use of the Site.

(g) Removal of Communication Equipment and Use of Site. Carrier's right to use of any Site shall be dependent on continued ownership and use by SCE of the Site for utility purposes and on the continued effectiveness of the lease or license from SCE, as applicable, of such Site, to Site Operator. If SCE or Site Operator is required to remove a Site from service as an electric utility asset, which Site is subject to a Standard Agreement, then Carrier shall, at its own cost, remove the applicable Communications Facilities and/or Communication Equipment. As between Carrier and Site Operator, Site Operator shall be responsible for all other costs and expenses in connection with the removal. Site Operator will attempt to find available space on another Site Operator Site for Carrier's equipment, if requested to do so by Carrier. If Site Operator is successful in finding such space and able to lease or license such Site from SCE, then Site Operator and Carrier will amend the existing Standard Agreement to reflect such relocation. Otherwise, the applicable Standard Agreement shall terminate and Site Operator shall refund any remaining prepaid Annual Rent and Use Fee to Carrier.

(h) Backup Generators. Carrier shall not install or operate semi-permanent emergency generators at a Site unless agreed by the Parties in a separate generator license agreement, and only pursuant to the ECS Semi-Permanent Emergency Generator Policy or other applicable processes and procedures in effect at such time, which may be modified by SCE from time to time. Carrier shall not install or operate mobile emergency generators at a Site unless appropriate applications to do so have been submitted pursuant to the Mobile Emergency Generator Process or any other applicable processes and procedures in effect at such time, which may be modified by SCE from time to time.

**Section 8.** Regulatory Modifications To Agreement.

Carrier represents that it is not aware of any facts that would justify a complaint to the CPUC, FCC or any other regulatory authority concerning the prices, terms or conditions of this Agreement. Notwithstanding the foregoing, to the extent that this Agreement is subject to the jurisdiction of a regulatory authority, Site Operator and Carrier acknowledge that this Agreement may be subject to such changes or modifications as that regulatory body may direct from time to time in the exercise of its jurisdiction.

**Section 9.** Indemnification And Limitation Of Liability.

Site Operator and Carrier shall agree upon appropriate limitations of liability and indemnification rights.

**Section 10.** Insurance.

At all times during the term of this Agreement, Carrier shall maintain and shall require any contractors and subcontractors who do any work on or at a Site or any other SCE Property to maintain insurance coverage as described below:

(a) Worker's Compensation. Workers' compensation insurance with statutory limits, in accordance with the laws of the state having jurisdiction over Carrier's employees, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00).

(b) Commercial General Liability. Commercial general liability coverage, written on an "occurrence" and not a "claims-made" basis, including owner's and contractor's protective liability, product/completed operations liability, and contractual liability, with a combined single limit of one million dollars (\$1,000,000.00) per occurrence and an annual aggregate of two million dollars (\$2,000,000.00), exclusive of defense costs, for all coverages. Such insurance shall (a) name Site Operator and SCE, and their respective officers, agents, and employees, as additional insureds, but only for Carrier's negligent acts or omissions; (b) be primary for all purposes; and (c) contain standard cross-liability provisions.

(c) Commercial Automobile. Commercial automobile insurance coverage with a combined single limit of one million dollars (\$1,000,000.00) per occurrence. Such insurance shall cover liability arising out of the use of owned, non-owned, and hired automobiles. Such insurance shall name Site Operator and SCE, and their respective officers, agents, and employees, as additional insureds.

(d) Combined Coverage. The coverages and limits may be obtained and maintained through any combination of primary and excess or umbrella liability insurance or by endorsement to any master policy of insurance.

(e) Certificates of Insurance. Carrier shall provide Site Operator with certificates of insurance coverage prior to commencement of any installation or other work at any Site or on any SCE Property. All insurance policies required of Carrier hereunder shall provide that Site Operator shall receive not less than thirty (30) days' written notice prior to the cancellation or reduction in coverage of such insurance.

(f) Self-Insurance. Carrier may meet the requirements of this Section 11 through self-insurance, *provided* that in such a case Carrier shall have satisfied all Applicable Requirements relating to self-insurance. If Carrier elects self-insurance, Carrier shall provide Site Operator annually with a certificate of self-insurance from the State of California.

**Section 11.** Force Majeure.

(a) In the event that either Party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of events of Force Majeure, or any delay caused by the acts or omissions of the other Party in violation of this Agreement, then the performance of such act shall be excused for the period of delay and the period for performance of any such act shall be extended for a period equivalent to the period required to perform as a result of such delay. In the case of an extended Force Majeure event where Site Operator is unable to perform its material obligations under this Agreement with respect to a Site for a continuous period in excess of nine months (“Suspension Period”), Site Operator may suspend Carrier’s operations at such Site during such Suspension Period. The Suspension Period shall terminate and use of the Site by Buyer shall resume once operations can be safely resumed. Notwithstanding any contrary provision hereof, in no event shall Force Majeure excuse or affect in any manner any monetary obligation of a Party under this Agreement.

(b) “Force Majeure” means any of the following: (i) acts of God, earthquakes, adverse weather of greater duration or intensity than normally expected for an area and time of year, fires (regardless of origin), hurricanes, tsunamis, typhoons, floods, other natural catastrophes, lightning, blizzards, tornadoes, floods, natural disasters, weather conditions, epidemics, pandemics (including the COVID-19 pandemic), disease outbreaks, public health emergencies, and force majeure events beyond the reasonable control of a Party or any contractor, subcontractor, supplier or vendor of such Party; (ii) acts of war, military action, armed hostilities, acts of terrorism, blockades, embargoes, civil disturbances, riots, insurrection, sabotage or violent demonstrations; (iii) any suspension, termination, interruption, denial, delay, or failure to issue or renew by any Governmental Authority or official person having approval rights of any approval or other consent required or necessary for the services provided pursuant to this Agreement by Site Operator, including any services provided by SCE, or for either Party to perform any other obligations or responsibilities; (iv) labor disputes, strikes, work slowdowns, work stoppages or labor disruptions, labor or material shortages, or delays or disruptions of transportation; (v) orders and judgments or acts of any court, administrative agency, or Governmental Authority; or (vi) the adoption of, or change in, any federal, state, or local Laws (including permits or licenses), or changes in the interpretation of such Laws.

**Section 12.** Default By Carrier.

(a) Events of Default. The occurrence of any one or more of the following events shall constitute an “Event of Default” hereunder by Carrier:

(i) The failure by Carrier to make any payment required to be made hereunder, as and when due, when such failure continues for a period of sixty (60) days after Site Operator notifies Carrier that Site Operator has not received such payment.

(ii) The failure by Carrier to observe or perform any of the covenants or provisions of this Agreement, where such failure continues for a period of thirty (30) days after written notice thereof is received by Carrier from Site Operator; *provided, however*, that it shall not be deemed an Event of Default by Carrier if Carrier commences to cure such failure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion, so long as the Parties agree that a cure is possible within a reasonable period of time.

(iii) The failure by Carrier to obtain, and maintain in effect as needed, a Government Approval or Third-Party Property Right, or to comply with an Applicable Requirement.

(iv) The subjection of any right or interest of Carrier in the Site or other SCE Property to attachment, execution, or other levy, or to seizure under legal process, if not released within sixty (60) days.

(v) The filing of a voluntary or involuntary petition by or against Carrier under any law for (a) the purpose of adjudicating Carrier as a bankrupt; (b) extending time for payment, adjustment, or satisfaction of Carrier's liabilities; or (c) reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency unless, in each case, the assignment or proceeding, and all consequent orders, adjudications, custodies, and supervisions, are dismissed, vacated, or otherwise permanently stayed or terminated within sixty (60) days after such assignment, filing, or other initial event.

(b) Remedies. Site Operator's remedies for any Event of Default above, without limiting Site Operator's right to pursue other remedies available to it at law or in equity, shall include, cumulatively and not alternatively: (1) termination of the applicable Standard Agreement, effective upon notice to Carrier; (2) an immediate right to remove, or to direct Carrier to remove, any or all of the Communications Facilities or Communication Equipment or any other property of Carrier from SCE Property at the affected Site; (3) invocation of the dispute resolution process set forth in Section 15; or (4) suspension of Carrier's right to use the Application process hereunder. In addition to the remedies set forth above, Site Operator's remedies for the Events of Default described in Section 12(a)(iv) and Section 12(a)(v) above, or for three (3) occurrences of the Events of Default described in Section 12(a)(i) above, without limiting Site Operator's right to pursue other remedies available to it at law or in equity, shall also include, cumulatively and not alternatively, termination of this Agreement and all Standard Agreements, effective upon notice to Carrier.

### **Section 13. Default By Site Operator.**

(a) Events of Default. Site Operator shall be deemed to have committed an "Event of Default" if it fails to observe or perform any of its covenants in this Agreement, or in any Standard Agreement, and such failure continues for a period of thirty (30) days after written notice thereof is received by Site Operator from Carrier; *provided, however*, that it shall not be deemed an Event of Default if Site Operator commences to cure such failure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion, so long as a cure is possible within a reasonable period of time.

(b) Remedies. Carrier's remedies for any Event of Default above, without limiting Carrier's right to pursue other remedies available to it at law or in equity, shall include, cumulatively and not alternatively: (1) termination of this Agreement or any Standard Agreement affected by such Event of Default; or (2) invocation of the dispute resolution process set forth in Section 15.

#### **Section 14.** Dispute Resolution.

(a) Disputes Subject to this Section. Except as may otherwise be set forth expressly herein, all disputes arising out of or relating to this Agreement shall be resolved as set forth in this Section 15.

(b) Dispute Resolution Procedure. Site Operator or Carrier shall give the other Party written notice of any dispute arising out of or relating to this Agreement in accordance with dispute resolution procedures agreed between Site Operator and Carrier.

(c) Provisional Remedies. Notwithstanding the foregoing provisions, either of Site Operator or Carrier may seek a preliminary injunction or other provisional judicial remedy if, in such Party's judgment, such action is necessary to avoid irreparable damage or to preserve the status quo.

(d) Choice of Venue. If Site Operator and Carrier, after good-faith efforts to resolve a dispute as provided in this Section 15 or as otherwise agreed, cannot agree to a resolution of such dispute, either Party may pursue whatever legal remedies may be available to such Party, at law or in equity, before a court of competent jurisdiction and with venue in Los Angeles County, California.

#### **Section 15.** Termination Rights.

(a) Termination for Necessity. Site Operator may terminate a Standard Agreement upon written notice to Carrier if (1) the Site is substantially destroyed or damaged and Site Operator or the applicable Site is removed from utility service by SCE; (2) the use by Carrier of the Site is forbidden because a required Government Approval was not obtained or was not maintained in effect; or (3) the use by Carrier of the Site constitutes a trespass because a required Third-Party Property Right was not obtained or maintained in effect.

(b) Termination for SCE Needs. Site Operator may terminate a Standard Agreement upon at least 90 days prior written notice to Carrier if (1) SCE determines that it is necessary to resume its use of the Site for or in connection with conducting 'SCE's electric utility business or (2) SCE determines, in its sole discretion, to discontinue its use of such Site. If the CPUC or FERC mandates the termination of a Site, or if SCE in its reasonable judgment determines that termination of a Site is necessary in connection with its status as an entity regulated by the CPUC or FERC, the Standard Agreement and any other rights granted to Carrier for such Site shall terminate as soon as feasible after receipt of notice from the CPUC or FERC mandating termination. In the event of such termination, Site Operator shall attempt to find available space on another Site for Carrier's Communication Equipment, if requested to do so by Carrier. If Site Operator is successful in finding such space and able to lease or license the applicable Site from SCE, then Site Operator and Carrier will amend the existing Standard Agreement to reflect the

relocation. In the event of a termination by Site Operator pursuant to this paragraph, Carrier shall be entitled to reimbursement of a prorated portion of any prepaid Annual Rent and Use Fee, based on actual days of use before the date of the notice of such termination.

(c) Actions After Termination. During the sixty (60) day period following the termination of any Standard Agreement, Carrier shall promptly surrender possession of the applicable Site. Carrier shall also demolish and remove all foundations to a minimum of three (3) feet below grade level, fill all excavations, return the surface to grade, and leave the Site in a neat and safe condition, free from any debris or hazards as directed by Site Operator. Upon termination of Carrier's rights to use a Site, Carrier shall promptly remove all Communication Equipment and, if requested by Site Operator, all Communications Facilities, from the Site in accordance with instructions and guidelines provided to Carrier by Site Operator. Any Communications Facilities or Communication Equipment, as applicable, that is not promptly removed by Carrier may be removed by SCE or Site Operator at Carrier's cost.

(d) Parties' Obligations. No termination under this Section 15 shall release either Party from any obligation or liability (whether of indemnity or otherwise) that accrued prior to such termination or that accrued by reason of such termination.

(e) Termination by Carrier. Carrier's rights to terminate this Agreement shall be as agreed between Site Operator and Carrier in writing.

#### **Section 16. Taxes.**

Carrier shall pay: (A) any increases in real property taxes levied against any SCE Property or any Site directly attributable to an increase in assessed value of any SCE Property as a result of the improvements constructed thereon by Carrier; (B) any fee, tax, or other charge that a federal, state, or local government may assess against Site Operator for occupancy or use of the Site by Carrier; or (C) any increase in Site Operator's taxes due to an Internal Revenue Service ruling that the attachment of Carrier's Communications Facilities or Communication Equipment on SCE Property is considered a taxable contribution in aid of construction ("CIAC"). Site Operator shall invoice Carrier for any amount due hereunder and Carrier agrees to pay such amount, including any income tax component of the contribution ("ITCC") relating to the applicable property at the then-prevailing ITCC rate in place at the time that the CIAC is deemed taxable to Site Operator, as directed by Site Operator.

#### **Section 17. Liens.**

During the term of this Agreement, Carrier shall keep all Sites free from all liens, including but not limited to mechanics liens, and any further encumbrances, by reason of any use of a Site by Carrier. It is further agreed that in the event Carrier shall fail to pay any lien when due, and if such failure continues for ten (10) days after notification by Site Operator, then Site Operator shall have the right to pay the same and charge the amount thereof and any Site Operator Costs, including reasonable attorneys' fees and expenses, to Carrier, and Carrier shall pay the same upon demand, together with interest at the maximum rate allowed by law from the date of Site Operator's expenditure. Notwithstanding the foregoing, Carrier shall have the right to post an appropriate bond and contest any lien on any Site during the ten (10) day period before Site



Operator shall have the right to pay the lien and charge the applicable amount to Carrier pursuant to the preceding sentence.

**Section 18.** Utilities.

Carrier shall arrange for any utility or other services it needs in conformity with the plans approved by Site Operator for each Site. Carrier shall be solely responsible for any cost, expense, or risk associated with any such services, including any electric services.

**Section 19.** Notices.

Notice required hereunder must be in writing and transmitted by United States mail or by personal delivery to Site Operator. Such notice shall be deemed given: (A) upon receipt in the case of personal delivery or confirmed facsimile transmittal; (B) two (2) days after it is sent by certified mail, with a return receipt requested; or (C) three (3) days after deposit in the mail, or the next day in the event of overnight delivery.

If to Site Operator: [•]

With copy to: [•]

If to Carrier: [•]

With copy to: [•]

**Section 20.** Disclaimer.

SITE OPERATOR MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER CONCERNING THE CURRENT OR FUTURE AVAILABILITY, SUITABILITY OR CONDITION OF ANY SITE OR SITES. IN ITS SOLE REASONABLE DISCRETION, SITE OPERATOR MAY DETERMINE THAT ANY REQUESTED SITE IS NOT AVAILABLE. FURTHERMORE, CARRIER ACKNOWLEDGES THAT ANY SITE MADE AVAILABLE HEREUNDER, TO THE MAXIMUM EXTENT PERMISSIBLE BY LAW, WILL BE PROVIDED BY SITE OPERATOR ONLY ON AN "AS-IS" BASIS, SUBJECT TO PRIOR USES OF THE SITE AND ANY CONTIGUOUS PROPERTIES. FURTHER, NO WARRANTIES, EXPRESS OR IMPLIED (INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE) ARE INCLUDED AS PART OF THIS AGREEMENT.

**Section 21.** Miscellaneous.

(a) Governing Law. This Agreement shall be governed, interpreted, construed, and regulated by the laws of the State of California as if executed and performed wholly within the State of California. Unless the context otherwise requires, references to any applicable law or regulation shall be deemed references to such laws or regulations as they may be amended, replaced, or restated from time to time.

(b) Assignment. The Parties may not sell, convey, assign, or otherwise transfer, in whole or in part, its interest in this Agreement or in any Standard Agreement, at any time without the consent of the other Party.

(c) Interpretation. This Agreement shall be construed simply and according to its fair meaning, and shall not be construed against either Party as the author or drafter of this Agreement.

(d) Relationship Between the Parties. Nothing contained in this Agreement shall be construed to make Site Operator or Carrier partners, joint venturers, principals, agents, fiduciaries, subcontractors, or employees with respect to one another. Further, nothing in this Agreement shall be construed as granting either Party any implicit right, power, or authority to bind the other.

(e) Invalidity of Provisions. To the extent that any terms or provisions of this Agreement shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable: (1) such term or provision shall be modified to the minimum extent necessary, in order to preserve the economic and business objectives of the Parties in entering into this Agreement, so that such term or provision shall remain in full force and effect and enforceable; and (2) the rest of this Agreement shall not be affected by any such determination. If modification as described in the foregoing sentence is not possible or would materially alter the nature or purpose of this Agreement, such invalid or unenforceable term or provision will be severed from this Agreement and the remaining terms and provisions of this Agreement will continue in full force and effect without such invalid or unenforceable term or provision.

(f) Waiver. The failure of either Party to enforce any provision of this Agreement, or the waiver thereof in any instance, including but not limited to the right to terminate, shall not be construed as a general waiver or relinquishment by such Party of any such provision, but the same shall nevertheless be and remain in full force and effect. Any acceptance by either Party of any performance by the other after the time such performance is due shall not constitute a waiver by the non-defaulting Party of timely performance, unless otherwise expressly agreed to by the non-defaulting Party in writing.

(g) Incorporation Clause and Exhibits. This Agreement sets forth the entire agreement of the Parties, will supersede and cancel all other agreements (whether written or oral) between the Parties, with respect to the subject matter. Exhibits referenced in this Agreement are incorporated herein by reference and may only be modified as described herein or by written agreement of the Parties.

(h) Performance in Stead. Should Carrier fail to perform any act or obligation required under this Agreement that impacts safety or relates to a hazardous condition or emergency, then Site Operator, at its option and with notice to Carrier (without any obligation to do so and without releasing Carrier from any consequences hereunder due to its failure to perform as required hereunder) may: (1) perform such act or obligation in such manner and to such extent as Site Operator may deem necessary; (2) commence, appear in, and defend any resulting action or proceeding; (3) pay, purchase, contest, or compromise any resulting charge or encumbrance; and (4) in exercising any such powers, incur any liability and expend such reasonable amounts as Site Operator, in its sole discretion, may deem necessary. Carrier shall promptly reimburse Site

Operator's Costs and indemnify Site Operator, as set forth in Section 9 and as agreed by the Parties, against all liability, loss, or claims arising from its performance pursuant to this provision.

(i) Confidentiality. Notwithstanding any language to the contrary in any agreement between the Parties, Site Operator may, without the prior consent of the Carrier, provide information related to this Agreement to SCE or to a regulator or governmental entity if any such information is requested by SCE or a regulator or governmental entity.

(j) Applicability of Provisions. This Agreement is intended solely to benefit the Parties. It is the intent of the Parties that there are no third-party (including customers of either Party) beneficiaries of any performance, duty, or right under this Agreement. However, should any third-party institute proceedings against either Party, this Agreement shall not provide any such third-party with any remedy, claim, liability reimbursement, cause of action, or other right.

(k) Holding Over. If Carrier remains in possession of all or any part of a Site after permission to occupy the Site terminates, such occupancy shall be from month to month only and shall not be considered a renewal or extension of the Standard Agreement for the applicable Site. Notwithstanding the preceding sentence, Carrier shall continue to be obligated to meet each and every term, covenant, and condition contained in the applicable Standard Agreement during any such period.

(l) Publicity and Use of Name and Marks. No publication concerning this Agreement shall be made by either Party without prior written authorization of the other Party. Further, neither Party shall take any actions that would compromise the name, service marks, copyrights, trademarks, patents, or other intangible property of the other.

(m) Amendments. This Agreement may be amended, changed, or otherwise modified only by a written agreement executed by duly authorized agents for each of Site Operator and Carrier, except as otherwise expressly provided in this Agreement.

*[Signature page follows]*

**IN WITNESS WHEREOF**, the signatories hereto represent and warrant that they have been duly and properly authorized to sign this Agreement on behalf of the Party for whom they sign.

[CARRIER]

[•]

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

Name:

Title:

Date:

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

Name:

Title:

Date:

## **EXHIBIT A**

[The Annual Rent and Use Fee is [ ] (\$[ ]) per year during the initial term of each Standard Communication Equipment Site Sublease / Sublicense Agreement applicable to any Site that Site Operator subleases to Carrier. The Annual Rent and Use Fee is [ ] (\$[ ]) per year during the initial term of each Standard Communication Equipment Site Sublease / Sublicense Agreement applicable to any Site that Site Operator sublicenses to Carrier.

In the event of any conflict between the Annual Rent and Use Fee described on this Exhibit A and the terms of any Standard Communication Equipment Site Sublease / Sublicense Agreement entered into under that certain Master Ground Lease Agreement dated as of [•] by and between Site Operator and Carrier, the Annual Rent and Use Fee as described in such Standard Communication Equipment Site Sublease / Sublicense Agreement shall control.]

## EXHIBIT B

**[Carrier]**  
**Standard Equipment Sublease/Sublicense Agreement**  
**(Master Ground Lease Agreement dated: [•] (the “Master Agreement”))**

### SITE LOCATION APPLICATION

DATE OF APPLICATION \_\_\_\_\_ APPLICATION RECEIVED \_\_\_\_\_

**CUSTOMER:**

Carrier/Subcontractor: \_\_\_\_\_

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

County: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**SITE NAME:**

By Site

Operator: \_\_\_\_\_

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

Site Name/No.: \_\_\_\_\_

SCE Location: \_\_\_\_\_

Thomas Guide Page/Grid: \_\_\_\_\_

**Carrier Contact re Application:**

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

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Site Operator Contact re Application:**

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

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Carrier Contact for Technical Questions:**

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

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Site Operator Contact for Technical Questions:**

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

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**DESCRIPTION OF REQUEST TO SUBLEASE OR SUBLICENSE EQUIPMENT  
GROUND SPACE:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Square Feet of Property: \_\_\_\_\_

Location/Address of Property: \_\_\_\_\_

Approximate Height of Monopole: \_\_\_\_\_

Power Requirements AC/DC: \_\_\_\_\_

Withdrawal of Application/Date of Withdrawal: \_\_\_\_\_

(Withdrawal will be deemed to have occurred if Carrier notifies Site Operator within ten (10) business days of rejection of changed conditions.)

Rejection of Application/Date of Rejection: \_\_\_\_\_

(within thirty (30) days of Submission by Carrier):

Reason for Rejection of Application \_\_\_\_\_

Site Operator's Additional Conditions Precedent to Acceptance of Application (see below):   Accepted   Rejected  
(Rejection of Additional Conditions Required within ten (10) days of receipt)

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Acceptance of Application/Date of Acceptance: \_\_\_\_\_  
(within thirty (30) days of submission by Carrier)

**EXHIBIT C**

**STANDARD EQUIPMENT AGREEMENT NO.**

**[•]**

**AND**

**[CARRIER]**

**COMMUNICATION EQUIPMENT SITE SUBLEASE / SUBLICENSE AGREEMENT**



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## **EXHIBITS**

- I. Legal Description of SCE Property and the Site.
- II. A Plot Plan showing the SCE Property, the Site, the Communications Facilities and Communication Equipment layout and installation plans, the electric and telephone utility route, and the access route to the Site over SCE Property.
- III. Site Access Requirements.

Standard Equipment Agreement No. \_\_\_\_\_

[•]

AND

[CARRIER]

## COMMUNICATION EQUIPMENT SITE SUBLEASE / SUBLICENSE AGREEMENT

THIS STANDARD EQUIPMENT AGREEMENT (this “Standard Agreement”) is made as of [Date] (“Effective Date”) by and between [•] (“Site Operator”), and [Carrier] (“Carrier”) (each party, individually, a “Party,” and collectively, the “Parties”).

### RECITALS

Southern California Edison Company, a California corporation (“SCE”) has leased or licensed to Site Operator, and Site Operator desires to sublease or sublicense to Carrier the Site known as \_\_\_\_\_ and more particularly described on Exhibit I attached hereto (the “Site”).

Carrier desires to receive either (check appropriate box):

- ☐ a sublease for space on the Site, or
- ☐ a sublicense for space on the Site,

which may be suitable for the placement and operation of wireless equipment.

### AGREEMENT

NOW, THEREFORE, in consideration of the promises and of the mutual obligations and covenants described below, the Parties agree as follows:

#### 1. MASTER AGREEMENT

This Standard Agreement is executed in accordance with, and is specifically subject to, all the terms and conditions of that certain Master Ground Lease Agreement (the “Master Agreement”) dated as of [•] by and between Site Operator and Carrier and incorporates the Master Agreement by reference herein. Where the requirements of this Standard Agreement and the Master Agreement are consistent or additive, then the requirements of both shall apply; in the event of any conflict between the Master Agreement and this Standard Agreement, this Standard Agreement shall govern. All capitalized terms used but not defined in this Standard Agreement shall have the meanings as set forth in the Master Agreement.

#### 2. TERM

A. The initial term of this Standard Agreement shall begin on the Effective Date and shall expire [\_\_\_\_] years thereafter, unless terminated sooner. At the end of such five

(5) year term, this Standard Agreement shall renew automatically for [\_\_\_\_\_] additional terms of five [\_\_\_\_\_] each, except where written notice of non-renewal is given by either Party to the other at least [\_\_\_\_\_] ( ) days before the then-current term expires. The terms and conditions for any renewal period shall remain unchanged except for adjustments in the Annual Rent and Use Fee pursuant to Section 3.B below.

### **3. ANNUAL RENT AND USE FEE**

A. [The Annual Rent and Use Fee for each year of the initial term shall be [\_\_\_\_\_] (\$[\_\_\_\_\_] ).

B. The Annual Rent and Use Fee for the first year shall be payable within thirty (30) days of the Effective Date. The Annual Rent and Use Fee shall be due for each subsequent year on each applicable anniversary of the Effective Date.

C. The Annual Rent and Use Fee shall be increased by [\_\_\_\_\_] percent ([\_\_\_\_\_] %) on each annual anniversary of the Effective Date.

### **4. SUBLEASE/SUBLICENSE**

A. This Standard Agreement provides Carrier with, as indicated above, either a sublease or a sublicense for the Site, in either case for use of the Site and with a non-exclusive right to access the Site seven (7) days per week, twenty-four (24) hours per day. Additionally, Carrier may install and maintain utilities along a route extending to the Site from appropriate electric and telephone utility connections, as shown on Exhibit II. The exercise by Carrier of any of the rights provided hereunder shall be subject to any restrictions, conditions, or requirements that apply to Carrier's use of the Site or access to the Site, as described elsewhere in this Standard Agreement or in the Master Agreement. Carrier may use reasonable means to restrict unauthorized access to the Site, including by installing a fence around its Communications Facilities and Communication Equipment and placing a lock and lock box on the gate.

B. Without limiting Section 4.A, the conditions, restrictions, and procedures for access to the Site, or to any other SCE Property required to access the Site hereunder, are included on Exhibit III of this Standard Agreement.

### **5. MISCELLANEOUS**

A. Quiet Enjoyment and Site Operator's Non-Interference: Site Operator shall not intentionally interfere with Carrier's quiet enjoyment of the Site. Carrier hereby acknowledges that the continuation of Site Operator's and SCE's existing uses of the Site, and related SCE Property, will not interfere with Carrier's quiet enjoyment of the Site.

B. Recording: Carrier shall not record this Standard Agreement without Site Operator's prior written consent.

C. Complete Agreement: This Standard Agreement, including the attached Exhibits, and the Master Agreement and its Exhibits, incorporate all the covenants and understandings between Site Operator and Carrier with respect to the Site to which this Standard

Agreement relates. No other verbal agreements or understandings exist between the Parties, and any future agreements or understandings shall not be binding upon either of Site Operator or Carrier unless made in writing and signed by both Parties. Any modifications to this Standard Agreement shall be ineffective unless made in writing and signed by both Parties.

*[Signature page follows]*

**IN WITNESS WHEREOF**, Site Operator and Carrier have duly executed this Standard Agreement as of the day and year first above written.

[CARRIER]

[SITE OPERATOR]

By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

**EXHIBIT I**

(Site Name)

---

(Site Name)

---

(Site Reference No.)

**Legal Description of SCE Property and the Location**

**TO BE PROVIDED BY CARRIER AND INCLUDED  
IN FULLY-EXECUTED AGREEMENT**

## **EXHIBIT II**

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**(Site Name)**

---

**(Site Reference No.)**

**Plot Plan**

**ZONING OR CONSTRUCTION DRAWINGS TO BE PROVIDED BY CARRIER,  
APPROVED BY SCE AND SITE OPERATOR, AND INCLUDED IN FULLY-  
EXECUTED AGREEMENT**



### **EXHIBIT III**

---

**(Site Name)**

---

**(Site Reference No.)**

#### **Site Access Requirements**

**TO BE PROVIDED BY SITE OPERATOR (IN CONSULTATION WITH SCE) AND  
INCLUDED IN FULLY-EXECUTED AGREEMENT**

**Appendix D**

**Form of Assignment and Assumption Agreement for Legacy Sites**

**(Exhibit E to the Purchase and Sale Agreement)**

[FORM OF] ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Agreement”) is made as of [•] (the “Assignment Date”) by and between Southern California Edison Company, a California corporation (“Utility”), and [•] (“Assignee”) (each party, individually, a “Party,” and collectively, the “Parties”).

RECITALS

A. Reference is made to (1) that certain [\_\_\_\_\_] <sup>1</sup>, entered into as of [\_\_\_\_\_] between Utility, as [lessor/licensor], and [\_\_\_\_\_] (the “Carrier”), as [lessee/licensee] (as amended, restated or modified prior to the Assignment Date, the “Master Agreement”), relating to the [lease/license] of [space on Utility’s facilities and structures] [the installation of communications facilities on Utility’s properties] for the purpose of installing wireless communications equipment, (2) all of the standard agreements (each, a “Standard Agreement”) executed and delivered by Carrier and Utility pursuant to the Master Agreement for the [lease/license] of a Site (as defined in the SMAA), (3) that certain Purchase and Sale Agreement (the “PSA”) dated as of [•] between Utility and Assignee and (4) that certain Site Marketing Access Agreement (the “SMAA”) dated as of the Assignment Date between Utility and Assignee.

B. Utility desires to assign and transfer certain of its rights, obligations, and liabilities under the Master Agreement and each Standard Agreement to the Assignee pursuant to this Agreement.

C. Assignee desires to accept and assume certain of Utility’s rights, obligations, and liabilities under the Master Agreement and each Standard Agreement pursuant to this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Assignment of Rights; Retained Rights. <sup>2</sup>

(a) Effective as of [• a.m./p.m.] on the Assignment Date (the “Time of Assignment”), Utility hereby transfers, conveys, and assigns to Assignee, and Assignee hereby accepts, all of Utility’s right, title, and interest under the Master Agreement and each Standard Agreement, other than the Retained Rights (together, the “Assigned Rights”), subject to the terms set forth in this Agreement.

---

<sup>1</sup> NTD: To include name, date, and carrier applicable to legacy tower or ground lease/license agreement. This form also contemplates a Master Agreement and would be adjusted to account for standalone lease/license agreements.

<sup>2</sup> NTD: If applicable, to include generator license agreements related to any such Standard Agreements.

(b) “Retained Rights” shall mean (A) all rights to performance by Carrier of the Master Agreement and each Standard Agreement, and any and all claims, causes of action, or demands available to Utility against Carrier under the Master Agreement and each Standard Agreement, (x) to the extent arising or accruing prior to the Time of Assignment or (y) to the extent relating to the rights set forth in clause (B), and (B) the rights of Utility set forth in the following sections of the Master Agreement or Standard Agreements, as applicable:

(i) [•]<sup>3</sup>

(c) [To the extent that there are alternative provisions set forth in or pursuant to the SMAA, or otherwise agreed between Utility and Assignee, in respect of the Retained Rights specified in clause [•]<sup>4</sup> of subsection (b) above, Utility may exercise such Retained Rights in accordance with the procedures set forth in the SMAA.]

## Section 2. Assumption of Obligations; Retained Obligations.

(a) Assignee hereby assumes and agrees to fully perform and comply with, as its direct and primary obligation, all of the obligations and liabilities of Utility arising or accruing from or after the Time of Assignment under the Master Agreement and each Standard Agreement, other than the Retained Obligations (as defined below) (the “Assumed Obligations”), subject to the terms set forth in this Agreement. Assignee agrees that each Site leased or licensed to Carrier pursuant to a Standard Agreement is for a Legacy Site (as defined in the SMAA) and shall be subject to the terms applicable to Legacy Sites set forth in the SMAA.

(b) “Retained Obligations” shall mean, subject to the terms of the SMAA, (A) all obligations under the Master Agreement and each Standard Agreement, if any, in the nature of Utility Required Services (as defined in the SMAA), (B) all obligations under the Master Agreement and each Standard Agreement, if any, that, by their nature, touch and concern the land as obligations of the owner of the applicable Utility Towers (as defined in the SMAA) and property interests in the Legacy Tower Sites (as defined in the SMAA), and (C) all obligations under the Master Agreement and each Standard Agreement, if any, that are by their nature personal to Utility or only reasonably can be performed by Utility (such as, by way of example, any obligation to provide Carrier with rights to Utility Fee Property (as defined in the SMAA)), in each case, including the obligations of Utility set forth in the following sections of the Master Agreement; provided, that in no event shall any obligation applicable to the Master Agreement or any Standard Agreement that is expressly undertaken by Assignee pursuant to the SMAA be deemed to be a Retained Obligation:

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<sup>3</sup> NTD: To list the Master Agreement and Standard Agreement provisions relating to, e.g., termination of occupancy of sites, tower work or other work reserved to Utility, Utility’s inspection rights and rights to an observer during Carrier work at the site, Utility’s right to use the site and its property, site safety and similar rights.

<sup>4</sup> NTD: To refer to relevant clause under subsection (b) relating to termination of sites.

(i) [•]<sup>5</sup>

(c) To the extent that there are alternative provisions set forth in the SMAA in respect of certain Retained Obligations, Utility shall satisfy and perform such Retained Obligations in accordance with the procedures set forth in the SMAA; provided, that to the extent that such performance would fail to satisfy or would require or cause a breach of the Master Agreement or any Standard Agreement, Utility shall satisfy and perform such Retained Obligations in a manner that satisfies the applicable requirements thereunder and avoids such breach.

(d) To the extent that there are alternative provisions set forth in the SMAA in respect of certain Assumed Obligations, Assignee shall perform such Assumed Obligations in accordance with the procedures set forth in the SMAA; provided, that to the extent that such performance would require or cause Assignee to breach its obligations under the Master Agreement, Utility and Assignee shall reasonably cooperate to avoid such breach.

Section 3. New Standard Agreements. Except with respect to Pipeline Sites, Assignee shall not be permitted to enter into any new Standard Agreements with Carrier pursuant to the Master Agreement in violation of the SMAA. Pursuant to the PSA, certain sites are expected to become Pipeline Sites (as defined in the PSA) upon the execution of a new Standard Agreement between the Carrier and Utility, and Assignee shall assume such new Standard Agreement pursuant to an assignment and assumption agreement similar in form and substance to this Agreement, but applicable to such new Standard Agreement effective as of the date of execution thereof.

Section 4. Master Agreement Amendments, Extensions, Renewals. Assignee shall not be permitted to amend or modify the Master Agreement in violation of the SMAA.

Section 5. Acknowledgements.

(a) Utility acknowledges and agrees that Assignee would not be entering into this Agreement without the effectiveness of the PSA and the execution and delivery of the SMAA and that the entry into the PSA and SMAA by the parties thereto constitute a material inducement to Assignee to enter into this Agreement.

(b) Assignee acknowledges and agrees that Utility would not be entering into this Agreement without the effectiveness of the PSA and the execution and delivery of the SMAA and that the entry into the PSA and SMAA by the parties thereto constitute a material inducement to Utility to enter into this Agreement.

(c) Except as expressly set forth in the PSA, the SMAA, or this Agreement: (i) Utility makes no representation or warranty, express or implied, at law or in equity, with respect to the Master Agreement or any Standard Agreements, including, without limitation, enforceability, liability, or collectability of any payments from Carrier; (ii) Assignee acknowledges

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<sup>5</sup> NTD: To list the Master Agreement and Standard Agreement provisions, if any, relating to, e.g., tower work.

and agrees that it will look solely to Carrier for the payment of the [Annual Rent and Use Fee]<sup>6</sup> (as defined in the Master Agreement) and any other payments required by the Master Agreement and the Standard Agreements; (iii) Assignee has entered into this Agreement solely upon its own independent investigation and is not relying upon any information supplied by or any representations made by Utility, except as set forth in the PSA or the SMAA; (iv) Assignee acknowledges and agrees that, except as expressly set forth in this Agreement, Assignee is purchasing the rights under the Master Agreement and the Standard Agreements, including without limitation the rights to the [Annual Rent and Use Fees] thereunder, on an “as-is, where-is” basis, and without recourse; (v) Assignee represents to Utility that it understands that enforcement of the Master Agreement and any Standard Agreement in respect of the [Annual Rent and Use Fees] and any other payments thereunder may not result in collection of all or any of the sums due thereunder; and (vi) subject to Section 6 below, Assignee assumes all risks, including risk of loss, counterclaims, defenses, and delays, and the cost of enforcement of claims with respect to the Master Agreement and Standard Agreements, including without limitation in respect of the [Annual Rent and Use Fees] payable thereunder.

Section 6. Indemnification.

(a) Indemnification by Utility. From and after the Assignment Date, Utility shall indemnify, defend, and hold Assignee, its Affiliates (as defined in the SMAA), and its and their respective officers, directors, employees, agents, and other Representatives (as defined in the SMAA) (each an “Assignee Indemnified Party”) harmless from and against all Claims (as defined in the SMAA) sustained or incurred by an Assignee Indemnified Party resulting from or arising out of:

(i) any breach of a covenant or other agreement made by Utility in this Agreement;

(ii) any act or omission of Utility or its agents or representatives, under or relating to the Master Agreement or any Standard Agreement, relating to the period of time prior to the Time of Assignment; and

(iii) the Retained Obligations.

(b) Indemnification by Assignee. From and after the Assignment Date, Assignee shall indemnify, defend and hold Utility, its Affiliates, and its and their respective officers, directors, employees, agents, and other Representatives (each, a “Utility Indemnified Party”) harmless from and against all Claims sustained or incurred by a Utility Indemnified Party resulting from or arising out of:

(i) any breach of a covenant or other agreement made by Assignee in this Agreement;

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<sup>6</sup> NTD: To be revised as needed to match appropriate defined term from Master Agreement.

(ii) any act or omission of Assignee or its agents or representatives, under or relating to the Master Agreement or any Standard Agreement, relating to the period of time subsequent to the Time of Assignment; and

(iii) the Assumed Obligations.

(c) Indemnification Procedures. The indemnification procedures set forth in Section 20 of the SMAA shall apply *mutatis mutandis* to any indemnification claims made pursuant to this Agreement.

Section 7. Assignment. Assignee may not assign this Agreement, any of Assignee's rights, interests, duties or obligations under this Agreement, any of the Assigned Rights, or any of the Assumed Obligations in whole or in part to any Person (as defined in the SMAA) without the prior written consent of Utility.

Section 8. General Provisions.

(a) The provisions set forth in Section 29 of the SMAA shall apply *mutatis mutandis* to this Agreement. The terms of construction set forth in Section 1(c) of the SMAA shall apply to the construction of this Agreement.

(b) This Agreement is not intended to confer upon any person other than the parties any rights or remedies hereunder.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Utility and Assignee have executed this Agreement on the date first above written.

UTILITY:

SOUTHERN CALIFORNIA EDISON COMPANY

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

Name:

Title:



ASSIGNEE:

[•]

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

Name:

Title:

**Appendix E**

**Master Lease Agreement and Master License Agreement**

MASTER LEASE AGREEMENT  
BY AND BETWEEN  
SOUTHERN CALIFORNIA EDISON  
AND  
[ ]  
DATED AS OF [•]

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## MASTER LEASE AGREEMENT

THIS MASTER LEASE AGREEMENT (“Lease” or “Agreement”) is made and entered into with an effective date of [\_\_\_\_\_] (“Effective Date”), between SOUTHERN CALIFORNIA EDISON, a California corporation (“Landlord”) and [\_\_\_\_\_] a [\_\_\_\_\_] (“Tenant”). Each of Landlord and Tenant are sometimes referred to herein as a “Party”.

### RECITALS:

A. Landlord is a public utility company regulated by the California Public Utilities Commission and is principally engaged in the business of providing electric services to its customers throughout its service territory in California.

B. Landlord owns or has rights to properties, including electric transmission towers and other structures, within its service territory that are used for electric utility purposes, and Utility currently leases or licenses sites on certain such properties to wireless telecommunications carriers for the placement of communication and other ancillary equipment (such sites, “Tower Sites”) and ground leases sites to wireless telecommunications carriers and wireless telecommunications site management companies for the installation of communication facilities (such sites, “Ground Sites”).

C. Landlord currently (a) leases or licenses approximately [•] of such Tower Sites to wireless telecommunications carriers and (b) leases or licenses [•] of such Ground Sites to Carriers to wireless telecommunications carriers and wireless telecommunications site management companies.

D. Landlord and Tenant are entering into this Agreement to grant to Tenant a master lease for such existing Tower Sites and Ground Sites described as “Legacy Leased Sites” in this Agreement and, concurrently with this Agreement, Landlord and Tenant are entering into various assignment and assumption agreements pursuant to which Landlord assigns to Tenant, and Tenant assumes from Landlord, Landlord’s interest in the existing leases and licenses for the Legacy Leased Sites with Carriers on the terms and conditions, and subject to the limitations, set forth therein.

E. Concurrently with this Agreement, Landlord and Tenant are entering into a Site Marketing and Access Agreement, pursuant to which Landlord is granting to Tenant certain rights to market and to sublease to Carriers new Tower Sites and new Ground Sites following the Effective Date, in accordance with the terms and conditions set forth in the Site Marketing and Access Agreement. This Agreement is intended to also effectuate the lease by Landlord to Tenant of the new Tower Sites and new Ground Sites described as “New Sites” in this Agreement.

NOW, THEREFORE, Landlord and Tenant agree as follows:

1. Definitions. As used in this Lease, the following terms are defined as follows:

1.1 “Affiliate” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.2 “Assignment and Assumption Agreements” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.3 “Business Day” means any day other than a Saturday, a Sunday, a federal holiday or any other day on which banks in California are authorized or obligated by Law to close.

1.4 “Carrier” means (a) in case of a Tower Site, a wireless telecommunications carrier and (b) in case of a Ground Site, a wireless telecommunications carrier or a wireless telecommunications site management company that is in the business of offering wireless telecommunications sites to wireless telecommunications carrier.

1.5 “Communication Equipment” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.6 “Communications Facility” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.7 “Environmental Laws” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.8 “Force Majeure” means any of the following: (i) acts of God, earthquakes, adverse weather of greater duration or intensity than normally expected for an area and time of year, fires (regardless of origin), hurricanes, tsunamis, typhoons, floods, other natural catastrophes, lightning, blizzards, tornadoes, floods, natural disasters, weather conditions, epidemics, pandemics (including the COVID-19 pandemic), disease outbreaks, public health emergencies, and force majeure events beyond the reasonable control of a Party or any contractor, subcontractor, supplier or vendor of such Party; (ii) acts of war, military action, armed hostilities, acts of terrorism, blockades, embargoes, civil disturbances, riots, insurrection, sabotage or violent demonstrations; (iii) any suspension, termination, interruption, denial, delay, or failure to issue or renew by any Governmental Authority or official Person having approval rights of any approval or other consent required or necessary for the Utility Services or for either Party to perform any other obligations or responsibilities; (iv) labor disputes, strikes, work slowdowns, work stoppages or labor disruptions, labor or material shortages, or delays or disruptions of transportation; (v) orders and judgments or acts of any court, administrative agency, or Governmental Authority; or (vi) the adoption of, or change in, any federal, state, or local Laws (including permits or licenses), or changes in the interpretation of such Laws.

1.9 “Hazardous Materials” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.10 “Leased Site” shall mean (a) the Legacy Leased Sites and (b) each New Site leased under this Agreement by Landlord to Tenant.

1.11 “Legacy Leased Ground Site” means each Site set forth on Exhibit [ ] to this Agreement, which is located on Utility Property and is leased by Utility to a Carrier as of the Effective Date pursuant to the Legacy Master Property Agreements (and Legacy Standard Agreements executed pursuant to the Legacy Master Property Agreements) and the Legacy Standalone Agreements.

1.12 “Legacy Leased Site” means each (i) Legacy Leased Tower Site and (ii) Legacy Leased Ground Site; provided, however, that a Legacy Leased Site subject to a Permitted Site Termination pursuant to the Site Marketing and Access Agreement shall cease to be a Legacy Leased Site as of the applicable Permitted Site Termination Date pursuant to Section 28(a) of the Site Marketing and Access Agreement.

1.13 “Legacy Leased Tower Site” means each Tower Site set forth on Exhibit [ ] to this Agreement, which is located on a Legacy Tower and is leased by Utility to a Carrier as of the Effective Date pursuant to the Legacy Master Tower Agreements (and the Legacy Standard Agreements executed pursuant to the Legacy Master Tower Agreements) and the Legacy Standalone Agreements. Any “Replacement Site” provided by Utility pursuant to Section 28(b) of the Site Marketing and Access Agreement as a replacement for a Legacy Tower Site shall be deemed to be an “Legacy Site”.

1.14 “Legacy Leases” means the Legacy Master Tower Agreements (and any associated Legacy Standard Agreements), the Legacy Master Property Agreements (and any associated Legacy Standard Agreements) and the Legacy Standalone Agreements, except for any Excluded Site Access Agreements, pursuant to which Utility grants a lease to the Carrier for a Legacy Leased Site.

1.15 “Legacy Master Property Agreements” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.16 “Legacy Master Tower Agreements” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.17 “Legacy Standalone Agreement” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.18 “Legacy Tower” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.19 “Lien” means, with respect to any asset or property, any mortgage, deed of trust, lien, pledge, security interest, charge, attachment, encumbrance, lease, reservation, restriction, servitude, charge or similar right and any other lien of any kind in respect thereof.

1.20 “Master Lease Expiration Date” means \_\_\_\_\_, 20\_\_.

1.21 “New Leased Ground Site” shall mean, at a given time, a new Ground Site on Utility Property for which Landlord has not, at such time, granted a lease to Buyer and for which Tenant has provided a Utility Site Application to Landlord pursuant to the Site Marketing and Access Agreement.

1.22 “New Leased Tower Site” shall mean, at a given time, a new Tower Site on Utility Property for which Landlord has not, at such time, granted a lease to Buyer and for which Tenant has provided a Utility Site Application to Landlord pursuant to the Site Marketing and Access Agreement.

1.23 “New Site” shall mean a New Leased Tower Site or a New Leased Ground Site for which Landlord approves a Utility Site Application (as such term is defined in the Site Marketing and Access Agreement) and for which the New Tower Site Process or the New Ground Site Process is completed. Following the Effective Date, each New Site shall be listed on Exhibit [ ] of this Lease.

1.24 “Pipeline Leased Sites” means the Delivered Pipeline Tower Sites and the Delivered Pipeline Ground Sites (as such terms are defined in the Site Marketing and Access Agreement) that are leased to Carriers pursuant to the Pipeline Contracts (as defined in the Site Marketing and Access Agreement).

1.25 “Tower Equipment” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.26 “Transaction Documents” means the Purchase and Sale Agreement, the Site Marketing and Access Agreement, the Assignment and Assumption Agreements, this Agreement and the Master License Agreement.

1.27 “Utility Property” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.28 “Utility Tower” shall have the meaning set forth in the Site Marketing and Access Agreement.

## 2. Lease of Legacy Leased Sites and Pipeline Leased Sites; Permitted Use.

2.1 Lease of Legacy Leased Sites. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Legacy Leased Sites for the Legacy Lease Term, subject to the terms and conditions of this Lease and the Site Marketing and Access Agreement. The Legacy Leases assigned to Landlord pursuant to the Assignment and Assumption Agreements shall be treated as subleases between Tenant and the Carriers and other entities that are counterparties thereto. At such time as Landlord assigns to Tenant a Pipeline Contract pursuant to the Transaction Documents, Landlord shall be deemed to lease to Tenant, and Tenant shall accept from Landlord, the Pipeline Leased Sites for the Legacy Lease Term. For purposes of this Lease, any such Pipeline Leased Sites shall be subject to the terms and conditions applicable to Legacy Leased Sites.

2.2 Permitted Uses for Legacy Leased Sites. Tenant may sublease to a wireless communications carrier (i) a Legacy Tower Site for the attachment and location of Communication Equipment and other Tower Equipment and (ii) a Legacy Ground Site for the installation, construction and operation of a Communications Facility and the attachment and location of Communication Equipment thereon (the “Permitted Use”). “Permitted Use” shall also include a Carrier’s rights to use or access the Legacy Leased Sites granted to such Carrier pursuant to a Legacy Leases for such Site assigned to Tenant pursuant to the Assignment and Assumption Agreements, for so long as such Legacy Leases remains in effect. Tenant shall not use a Legacy Tower Site or Legacy Ground Site for any use or purpose other than the Permitted Use, nor shall it permit any Carrier, sublessee, licensee or any other Person to use a Site for any use or purpose other than the Permitted Use.



2.3 Legacy Lease Term. For each Legacy Leased Site, the term of the lease granted to the Tenant pursuant to Section 2.1 shall commence on the Effective Date and shall end upon the earlier of (a) the termination of the applicable Legacy Leases relating to such Legacy Leased Site or (b) the Master Lease Expiration Date (the “Legacy Lease Term”).

2.4 Condition of Legacy Leased Sites. The Legacy Leased Sites are leased to Tenant in their present condition on an “as-is” and “where-is” basis, without any representation or warranty of or from Landlord or any of its respective Affiliates whatsoever as to their condition or suitability for the Permitted Use or any other particular use, except as may be expressly set forth in the Transaction Documents, the remedies for a breach of which shall be solely under and subject to the terms, conditions and limitations thereof, or as may be expressly set forth in the Site Marketing and Access Agreement.

### 3. New Sites.

3.1 Lease of New Sites. Following the Effective Date, Landlord shall lease to Tenant, and Tenant shall lease from Landlord, any New Site for the Permitted Use, subject to the terms and conditions of this Lease and the Site Marketing and Access Agreement. Tenant shall, immediately following the grant of such lease, sublease the New Site to a Carrier pursuant to a Carrier Agreement (as such term is defined in the Site Marketing and Access Agreement). A New Site leased by Landlord to Tenant pursuant to this Section 3.1 shall be referred to as a “New Leased Site”. Each New Leased Site shall be listed on Exhibit [ ] of this Lease.

3.2 Permitted Use for New Sites. Each New Leased Site shall be leased to Tenant for the Permitted Use. For New Sites, the Permitted Use shall include the rights to use or access the New Site granted to a Carrier pursuant to the applicable sublease agreement between Tenant and a Carrier for such New Site, provided that such Carrier Agreement is an Authorized Site Agreement (as such term is defined in the Site Marketing and Access Agreement).

3.3 Term. The term of the lease for a New Leased Site shall be the term of the sublease to the applicable Carrier, which term shall be agreed for each New Leased Site by Landlord and Tenant under the Site Marketing and Access Agreement, and which shall be set forth in the Carrier Agreement; provided, however, that the term for a New Leased Site shall not extend longer than the Master Lease Expiration Date.

3.4 Condition of New Sites. Each New Leased Site, when leased under this Agreement, shall be leased to Tenant in its then-present condition on an “as-is” and “where-is” basis, without any representation or warranty of or from Landlord or any of its respective Affiliates whatsoever as to its condition or suitability for the Permitted Use or any other particular use, except as may be expressly set forth in the Transaction Documents, the remedies for a breach of which shall be solely under and subject to the terms, conditions and limitations thereof, or as may be expressly set forth in the Transaction Documents.

### 4. Rent.

4.1 Prepaid Rent for Legacy Leased Sites. The Tenant has made a payment to Landlord concurrently with its execution of this Lease as prepayment of rent for the lease of the Legacy Leased Sites for the Legacy Lease Term.

4.2 Rent for New Leased Sites. Tenant shall pay to Landlord as rent for each New Leased Site an amount equal to the percentage of the Carrier Revenues(as defined in the Site Marketing and Access Agreement) due from Carrier for such Leased Site as set forth in the applicable Authorized Site Agreement. The amount payable to Landlord as rent for each New Leased Site shall be calculated in accordance with Section 5 (Consideration for Marketing Rights) of the Site Marketing and Access Agreement. Such rent shall be paid on a monthly basis in accordance with Section 5(e) (Monthly Utility Revenue Payment) of the Site Marketing and Access Agreement.

4.3 Late Payment. Any payment that is not paid by Tenant to Landlord when due shall bear interest at an interest rate per annum equal to the Prime Rate plus 2% (or the maximum legal rate, whichever is lower), and calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment. Any late monthly payments shall also be subject to a late payment penalty of \$\_\_\_\_\_.

4.4 Payment Without Offset or Abatement. All rent payable by Tenant hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, in all cases except as expressly provided in this Lease.

4.5 Rent Payment Procedures. All payments of rent shall be made by Tenant by wire transfer of same day funds on or before the due date therefor, to the account specified by Landlord in writing from time to time. Any other procedures or methods of payment shall only be effective if agreed to in writing by Landlord and Tenant.

5. Installation, Maintenance, Repair, Modifications and Removal of Sites.

5.1 Operations Standards. Tenant shall (or shall cause a sublessee Carrier to) install, operate, maintain, repair, replace, modify and remove Communication Equipment on New Sites and perform all other work on Leased Sites pursuant to the requirements and standard set forth in the Site Marketing and Access Agreement, and other guidelines provided by Landlord to Tenant or a sublessee Carrier during the applicable term of the lease for a Leased Site. Tenant shall observe all other conditions for work performed at Leased Sites, including conditions set forth in the Site Marketing and Access Agreement.

5.2 Landlord Safety Standards. For all work performed at a Leased Site, Tenant shall comply with the safety standards and guidelines of Landlord, including the standards described as the "Utility Safety Standards" in the Site Marketing and Access Agreement.

5.3 Access and Use of Leased Sites. For each Leased Site, Landlord shall provide to Tenant and Carriers access to the applicable Leased Site, subject to any procedures, special conditions and restrictions set forth in the applicable sublease agreement between Tenant and the Carrier or otherwise communicated by Landlord to Tenant or a Carrier. Tenant's and Carrier's use of a Leased Site shall at all times and in all respects be subordinate to Landlord's use of a Leased Site and any other Utility Property to provide utility services.

5.4 Removal of Sites. Upon the expiration or earlier termination of the lease of a Leased Site under this Agreement, which shall occur no later than the Master Lease Expiration Date,

Landlord shall decommission the Leased Site in accordance with the Site Decommission Procedures (as described in the Site Marketing and Access Agreement).

5.5 End of Term Obligations. Upon the Master Lease Expiration Date, or at an earlier date if the SMAA is terminated earlier than the Master Lease Expiration Date in accordance with its terms, Landlord shall elect to either (A) receive an assignment of all rights and assume all obligations thereafter accruing under the subleases with Carriers for Leased Sites then in effect (“Assignment Election”) or (B) require Tenant to decommission such Leased Site, in accordance with the procedures described in the Site Marketing and Access Agreement (“Decommission Election”).

5.5.1 For Leased Sites for which Landlord makes an Assignment Election, Tenant shall assign to Landlord (or its designee) Tenant’s right, title and interest in all subleases with Carriers for the Leased Sites for which an Assignment Election is made by Landlord, which may be some or all of the then-existing subleases, without charge to Landlord, and without liability to Landlord for, or assumption by Landlord of, any obligations of Tenant accruing prior to the expiration or termination of the lease of such Leased Site under this Agreement or the Master Lease Expiration Date. Notwithstanding the provisions of this Lease that address a potential Assignment Election, Tenant may not, and there shall be no implication that Tenant is permitted to, sublease any Leased Site to a Carrier for a term that extends beyond the Master Lease Expiration Date.

5.5.2 For Leased Sites for which Landlord makes a Decommission Election, Tenant shall follow the procedures set forth in Section 25(c) and 25(d) of the Site Marketing and Access Agreement.

5.6 Holdover. If Tenant or Carrier continues to occupy or otherwise use any Leased Site after the termination of a Leased Site pursuant to this Agreement or the expiration or termination of the applicable sublease agreement between Tenant and the Carrier, there shall be no renewal or extension of the term as to such Leased Site by operation of Law. Such use or holding over shall constitute and be construed to be a month-to-month tenancy of such Leased Site at a monthly amount equal to 150% of the greater of (i) all subleasing or sublicensing revenue and amounts due to Tenant by such Carrier for such Leased Site on a monthly basis, or (ii) the fair market rent or license fee for such occupation or use, plus any other payments due under the terms of this Agreement. Monthly holdover amounts shall be equitably pro-rated and shall be due on the last day of each month and shall continue to accrue until Tenant (and Carrier) surrender possession of the affected Leased Site in the condition required following completion of the decommission procedures set forth in Section 25(c) and 25(d) of the Site Marketing and Access Agreement. Landlord reserves the right to terminate any such month-to-month occupancy of Tenant or a Carrier at any time. Notwithstanding any contrary provision hereof, Landlord shall have the right to recover possession of a Leased Site on the expiration or earlier termination of the Leased Site under this Agreement.

## 6. Tenant Obligations.

6.1 Compliance with Law; Governmental Approvals. Tenant shall comply with all applicable Laws in connection with the occupancy, use, operation, maintenance, repair or

replacement of the Leased Sites and any Communication Equipment or other Tenant or Carrier property located thereon. Tenant shall, at its own cost and expense, obtain and maintain in effect all Governmental Approvals required or imposed by Governmental Authorities in connection with its sublease to Carriers, and management, of the Leased Sites under this Agreement.

6.2 Environmental Obligations. Tenant covenants and agrees that (i) Landlord shall not, and shall cause a Carrier and any of Tenant's or a Carrier's contractors, subcontractors, licensees, invitees or other representatives ("Tenant Parties") to not, conduct or allow to be conducted upon any Leased Site any business operations or activities, or employ or use a Leased Site, to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials in violation of applicable Laws, any Applicable Requirement (as defined in the Site Marketing and Access Agreement) or other than as commonly used or stored in operating a Tower Site or Ground Site; (ii) Tenant shall carry (and cause each Tenant Party to carry) on its business and operations at each Leased Site in compliance with all applicable Environmental Laws; (iii) Tenant shall coordinate with all Carriers at a Leased Site to facilitate compliance with applicable Environmental Laws applicable to the Leased Site based on information either readily available to Tenant or information provided by other Carriers to Tenant to promote Leased Site compliance; (iv) Tenant shall not create or permit to be created any Lien against any Leased Site for the costs of any response, removal or remedial action or clean-up of Hazardous Materials; and (v) Tenant shall promptly conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting each Leased Site in accordance with, and to the extent necessary to comply with, all applicable Environmental Laws, to the extent Tenant or a Tenant Party caused or permitted the Hazardous Material condition necessitating the remedial actions.

### 6.3 Frequencies; Non-Interference.

6.3.1 For each Leased Site, Tenant shall require, to the extent permitted in the applicable sublease agreement between Tenant and the Carrier, the Carrier to broadcast only the FCC authorized frequencies and transmitting powers specified in the applicable sublease agreement between Tenant and Carrier.

6.3.2 If any Communication Equipment installed on a Leased Site interferes with the operation of Landlord's equipment, or with the pre-existing equipment of third parties, Tenant shall promptly, following its receipt of notice thereof, at Tenant's sole cost and expense, subject to the terms of the applicable sublease agreement between Tenant and a Carrier, require the applicable Carrier to take reasonable steps necessary or recommended by Landlord or regulatory agencies to eliminate the interference.

### 6.4 Limitations on Liens.

6.4.1 Tenant agrees that, during the Term, it shall not directly or indirectly, incur, grant or permit to exist (and shall cause all Tenant Parties not to incur, grant or permit to exist) any Liens on or against any Utility Property, Utility Tower or Leased Site or any part of a Utility Property, Utility Tower or Leased Site.

6.4.2 If any such Lien is incurred, granted or permitted (including as a result of any act or omission) by Tenant, a Carrier or any other Tenant Party with respect to any Utility Property, Utility Tower or Leased Site in violation of Section 6.4.1, Tenant shall cause such Lien to be discharged by payment, satisfaction or posting of bond promptly, and not later than ten days after Tenant has obtained knowledge of such Lien. If Tenant fails to cause any Lien to be discharged within such time, Landlord shall have the right (but not the obligation) to have the Lien discharged by payment of the amount required to discharge the Lien. If Landlord elects to discharge a Lien, Tenant shall reimburse Landlord for the full amount paid by Landlord, together with interest at the maximum rate allowed by applicable Law from the date of Landlord's payment until such payment is made, within ten (10) days after such payment. If Tenant does not pay such reimbursement to Landlord within ten (10) days after such payment, Tenant shall pay to Landlord, in addition to such amount, a fixed charge of 10% of the amount unpaid plus interest on the unpaid amount at the interest rate set forth in Section 4.3 of this Agreement.

6.4.3 Without limiting the foregoing, Tenant shall not file or record, in any public record, secretary of state's office, county recorder's office, local filing office or any other office or place in any jurisdiction, any UCC-1 financing statement, any of the Assignment and Assumption Agreements or any other document relating to this Agreement, the Marketing Rights, any Leased Site or Utility Property, except as agreed by Landlord in writing.

6.5 Insurance. Tenant shall procure, and shall maintain in full force and effect at all times during the Term, the insurance required to be maintained by Tenant under the Site Marketing and Access Agreement. Landlord shall procure, and shall maintain in full force and effect at all times during the Term, the insurance required to be maintained by Landlord under the Site Marketing and Access Agreement.

6.6 Books and Records. Tenant shall maintain books and records in accordance with Section 6(f) of the Site Marketing and Agreement.

6.7 Damage or Destruction.

6.7.1 If a Leased Site, or Utility Tower or Utility Property on which such Leased Site is located, is damaged or destroyed, for any reason other than as a result of an act or omission by Tenant or a Carrier, and as a result there is a material interference with a Carrier's Permitted Use of a Leased Site or related Site Access Rights (as defined in the Site Marketing and Access Agreement) for a period of 90 days, then the procedures and terms set forth in Section 24(a) of the Site Marketing Access Agreement shall apply.

6.7.2 If a Utility Tower, Leased Site or any material Site Access Rights related thereto are appropriated or acquired by condemnation or the power of eminent domain by a public or quasi-public authority or other Governmental Authority (a "Taking"), or use thereof involuntarily discontinued in anticipation of a Taking, then the lease granted hereunder to Tenant for such Leased Site shall terminate to the extent of the Taking. The procedures and terms set forth in Section 25(b) of the Site Marketing and Access Agreement shall further apply in the event of such a Taking.

## 6.8 Taxes.

6.8.1 Tenant shall pay (1)(i) for Leased Sites that are Tower Sites, increases in real property taxes levied against any such Leased Site or any related Utility Property directly attributable to an increase in assessed value of the Leased Site or Utility Property as a result of the Tower Equipment installed or placed thereon; (ii) any increases in real property taxes levied against any Leased Sites that are Ground Sites or any related Utility Property directly attributable to an increase in assessed value of the Leased Site or Utility Property as a result of the Communications Facilities constructed thereon; (2) any fee, tax, or other charge that a Governmental Authority may assess against Landlord for occupancy or use of the Leased Site by Tenant or a Carrier; or (3) any increase in Landlord's income taxes due to an Internal Revenue Service ruling that the attachment of Tower Equipment or any Communications Facilities on Utility Property is considered a taxable contribution in aid of construction ("CIAC"). Landlord shall invoice Tenant for any amount due hereunder and Carrier agrees to pay such amount, including any income tax component of the contribution ("ITCC") relating to that property at the prevailing ITCC rate in place at the time that the CIAC is deemed taxable to Landlord, as directed by Landlord.

6.8.2 Except as otherwise provided in Section 6.8.1, all sales, use, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, and recording fees ("Transfer Taxes") imposed for the lease of the Leased Sites to Tenant shall be paid by the Tenant. Tenant shall be responsible for and shall pay any Transfer Taxes attributable to any transfer, assignment or sublease of its rights under this Agreement.

## 7. Assignment.

7.1 Tenant may not assign this Agreement or any of Tenant's rights, interests, duties or obligations under this Agreement in whole or in part to any Person, except as set forth in, and subject to, Section 22(a) of the Site Marketing and Access Agreement.

7.2 Landlord may not assign, sell, convey, transfer, lease, sublease, license or otherwise dispose of this Agreement or any of its rights, duties or obligations under this Agreement in whole or in part without the prior written consent of Tenant (which consent shall not be unreasonably withheld), except as set forth in, and subject to, Section 22(b) of the Site Marketing and Access Agreement.

8. Indemnification. For each Leased Site, Landlord and Tenant agree to the indemnification, defense and hold harmless rights, obligations and procedures set forth in Section 20 of the Site Marketing and Access Agreement.

## 9. General Provisions.

9.1 Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

9.2 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA AS

TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

9.3 Submission to Jurisdiction. Each Party agrees that it shall bring any action or proceeding in respect of any claim arising out of or related to this Agreement or the transactions contained in or contemplated by this Agreement exclusively in the state and federal courts of and located in California and appellate courts having jurisdiction of appeals from the foregoing (the “Chosen Courts”), and, solely in connection with claims arising under this Agreement or the transactions that are the subject of this Agreement, (a) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (b) waives any objection to laying venue in any such action or proceeding in the Chosen Courts, (c) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party hereto and (d) agrees that service of process upon such Party in any such action or proceeding shall be effective if notice is given in accordance with this Agreement.

9.4 Notices. All notices, requests, demands, waivers and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been delivered (i) the next Business Day when sent overnight by a nationally recognized overnight courier service, (ii) upon transmission of an e-mail (followed by delivery of an original via nationally recognized overnight courier service), or (iii) upon delivery when personally delivered to the receiving Party. All such notices and communications shall be sent or delivered as set forth below or to such other person(s), e-mail address or address(es) as the receiving Party may have designated by written notice to the other Party. All notices shall be delivered to the relevant Party at the address set forth below.

If to Landlord, to:

Southern California Edison Company

[ ]

[ ]

[ ]

ATTN: [ ]

Telephone: ( ) -

Email: [ ]

With copies to (which does not constitute notice):

Southern California Edison Company

[ ][ ]

ATTN: [ ]

Telephone: [ ]

Email: [ ]

If to Landlord, to:

[ ]  
[ ]  
ATTN: [ ]  
Telephone: [ ]  
Email: [ ]

9.5 Successors and Assigns. Successors and Assigns; Third-Party Beneficiaries. Except as set forth in Section 7 of this Agreement and Section 22 of the Site Marketing Access Agreement (Assignment Rights), this Agreement shall not be assignable by either Party without the prior written consent of the other Party and any such assignment in violation of the foregoing shall be null and void. This Agreement shall be binding upon and inure solely to the benefit of each Party and its successors, heirs, legal representatives and permitted assigns. This Agreement is not intended to confer upon any Person other than the Parties any rights or remedies hereunder.

9.6 Amendment; Waivers; Etc. No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the Party against which enforcement of the amendment, modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time. The waiver by a Party of a breach of or a default under any of the provisions of this Agreement or to exercise any right or privilege hereunder, shall not be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder. The rights and remedies herein provided are cumulative and none is exclusive of any other, or of any rights or remedies that any Party may otherwise have at law or in equity.

9.7 Binding Effect. All of the covenants, agreements, terms and conditions contained in this Lease shall apply to and be binding upon Landlord and Tenant and their respective heirs, executors, administrators, and permitted successors and assigns.

9.8 Entire Agreement. This Agreement and the Transaction Documents (including the exhibits and schedules hereto and thereto) constitutes the entire agreement among the Parties with respect to the subject matter of this Agreement, and supersede all other prior agreements, understandings, representations and warranties both written and oral, among the Parties, with respect to the subject matter hereof.

9.9 Agreement Subject to Site Marketing and Access Agreement. The terms and provisions of the Site Marketing and Access Agreement, to the extent related to Leased Sites, are hereby incorporated herein by reference. In the event of a conflict between any term or provision contained in this Lease and a term or provision set forth in the Site Marketing and Access Agreement, the applicable terms and provisions of the Site Marketing and Access Agreement shall govern and prevail.

9.10 Quiet Enjoyment. Landlord covenants that, so long as this Lease is in full force and effect and has not been terminated, Tenant shall and may peaceably and quietly have, hold and



enjoy each Leased Site for the term set forth herein, subject to the terms and conditions of this Lease, without disturbance by or from Landlord or anyone claiming by or through Landlord.

9.11 Force Majeure. In the event that either Party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of events of Force Majeure, or any delay caused by the acts or omissions of the other Party in violation of this Agreement, then the performance of such act shall be excused for the period of delay and the period for performance of any such act shall be extended for a period equivalent to the period required to perform as a result of such delay. In the case of an extended Force Majeure where Landlord is unable to perform its material obligations under this Agreement with respect to a Leased Site for a continuous period in excess of nine months ("Suspension Period"), Landlord may suspend Tenant's operations at such Leased Site during such Suspension Period. The Suspension Period shall terminate and the use of the Site by Buyer shall resume once operations can be safely resumed. Notwithstanding any contrary provision hereof, in no event shall Force Majeure excuse or affect in any manner any monetary obligation of a Party under this Agreement.

[Signature page immediately follows]

IN WITNESS WHEREOF the Parties hereto have executed this Lease effective as of the Effective Date.

“Landlord”

Southern California Edison,  
a California corporation

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

Its: \_\_\_\_\_

“Tenant”

[\_\_\_\_\_] ,  
a [\_\_\_\_\_]

By: [\_\_\_\_\_]   
Name: [\_\_\_\_\_]   
Its: [\_\_\_\_\_]

MASTER LICENSE AGREEMENT  
BY AND BETWEEN  
SOUTHERN CALIFORNIA EDISON  
AND  
[ ]  
DATED AS OF [•]

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MASTER LICENSE AGREEMENT

THIS MASTER LICENSE AGREEMENT (“License” or “Agreement”) is made and entered into with an effective date of [\_\_\_\_\_] (“Effective Date”), between SOUTHERN CALIFORNIA EDISON, a California corporation (“Licensor”) and [\_\_\_\_\_] a [\_\_\_\_\_] (“Licensee”). Each of Licensor and Licensee are sometimes referred to herein as a “Party”.

RECITALS:

F. Licensor is a public utility company regulated by the California Public Utilities Commission and is principally engaged in the business of providing electric services to its customers throughout its service territory in California.

G. Licensor owns or has rights to properties, including electric transmission towers and other structures, within its service territory that are used for electric utility purposes, and Utility currently leases or licenses sites on certain such properties to wireless telecommunications carriers for the placement of communication and other ancillary equipment (such sites, “Tower Sites”) and ground leases sites to wireless telecommunications carriers and wireless telecommunications site management companies for the installation of communication facilities (such sites, “Ground Sites”).

H. Licensor currently (a) leases or licenses approximately [•] of such Tower Sites to wireless telecommunications carriers and (b) leases or licenses [•] of such Ground Sites to Carriers to wireless telecommunications carriers and wireless telecommunications site management companies.

I. Licensor and Licensee are entering into this Agreement to grant to Licensee a master license for such existing Tower Sites and Ground Sites described as “Legacy Licensed Sites” in this Agreement and, concurrently with this Agreement, Licensor and Licensee are entering into various assignment and assumption agreements pursuant to which Licensor assigns to Licensee, and Licensee assumes from Licensor, Licensor’s interest in the existing licenses for the Legacy Licensed Sites with Carriers on the terms and conditions, and subject to the limitations, set forth therein.

J. Concurrently with this Agreement, Licensor and Licensee are entering into a Site Marketing and Access Agreement, pursuant to which Licensor is granting to Licensee certain rights to market and to sublicense to Carriers new Tower Sites and new Ground Sites following the Effective Date, in accordance with the terms and conditions set forth in the Site Marketing and Access Agreement. This Agreement is intended to also effectuate the license by Licensor to Licensee of the new Tower Sites and new Ground Sites described as “New Sites” in this Agreement.

NOW, THEREFORE, Licensor and Licensee agree as follows:

1. Definitions. As used in this License, the following terms are defined as follows:

1.1 “Affiliate” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.2 “Assignment and Assumption Agreements” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.3 “Business Day” means any day other than a Saturday, a Sunday, a federal holiday or any other day on which banks in California are authorized or obligated by Law to close.

1.4 “Carrier” means (a) in case of a Tower Site, a wireless telecommunications carrier and (b) in case of a Ground Site, a wireless telecommunications carrier or a wireless telecommunications site management company that is in the business of offering wireless telecommunications sites to wireless telecommunications carrier.

1.5 “Communication Equipment” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.6 “Communications Facility” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.7 “Environmental Laws” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.8 “Force Majeure” means any of the following: (i) acts of God, earthquakes, adverse weather of greater duration or intensity than normally expected for an area and time of year, fires (regardless of origin), hurricanes, tsunamis, typhoons, floods, other natural catastrophes, lightning, blizzards, tornadoes, floods, natural disasters, weather conditions, epidemics, pandemics (including the COVID-19 pandemic), disease outbreaks, public health emergencies, and force majeure events beyond the reasonable control of a Party or any contractor, subcontractor, supplier or vendor of such Party; (ii) acts of war, military action, armed hostilities, acts of terrorism, blockades, embargoes, civil disturbances, riots, insurrection, sabotage or violent demonstrations; (iii) any suspension, termination, interruption, denial, delay, or failure to issue or renew by any Governmental Authority or official Person having approval rights of any approval or other consent required or necessary for the Utility Services or for either Party to perform any other obligations or responsibilities; (iv) labor disputes, strikes, work slowdowns, work stoppages or labor disruptions, labor or material shortages, or delays or disruptions of transportation; (v) orders and judgments or acts of any court, administrative agency, or Governmental Authority; or (vi) the adoption of, or change in, any federal, state, or local Laws (including permits or licenses), or changes in the interpretation of such Laws.

1.9 “Ground Site Property” means the real property upon which a Ground Site is located, including, without limitation, the physical space occupied by the Ground Site, and to the extent of Utility’s interest therein, real property related or proximate thereto to the extent reasonably used or usable in connection with the operation and maintenance of a Communications Facility (and Ground Site Equipment located thereon) by a Carrier on such Ground Site, and/or access thereto.

1.10 “Hazardous Materials” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.11 “Legacy Licensed Ground Site” means each Site set forth on Exhibit [ ] to this Agreement, which is located on Utility Property and is licensed by Utility to a Carrier as of the Effective Date pursuant to the Legacy Master Property Agreements (and Legacy Standard Agreements executed pursuant to the Legacy Master Property Agreements) and the Legacy Standalone Agreements.

1.12 “Legacy Licensed Site” means each (i) Legacy Licensed Tower Site and (ii) Legacy Licensed Ground Site; provided, however, that a Legacy Licensed Site subject to a Permitted Site Termination pursuant to the Site Marketing and Access Agreement shall cease to be a Legacy Licensed Site as of the applicable Permitted Site Termination Date pursuant to Section 28(a) of the Site Marketing and Access Agreement.

1.13 “Legacy Licensed Tower Site” means each Tower Site set forth on Exhibit [ ] to this Agreement, which is located on a Legacy Tower and is licensed by Utility to a Carrier as of the Effective Date pursuant to the Legacy Master Tower Agreements (and the Legacy Standard Agreements executed pursuant to the Legacy Master Tower Agreements) and the Legacy Standalone Agreements. Any “Replacement Site” provided by Utility pursuant to Section 28(b) of the Site Marketing and Access Agreement as a replacement for a Legacy Tower Site shall be deemed to be an “Legacy Site”.

1.14 “Legacy Licenses” means the Legacy Master Tower Agreements (and any associated Legacy Standard Agreements), the Legacy Master Property Agreements (and any associated Legacy Standard Agreements) and the Legacy Standalone Agreements, except for any Excluded Site Access Agreements, pursuant to which Utility grants a license to the Carrier for a Legacy Licensed Site.

1.15 “Legacy Master Property Agreements” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.16 “Legacy Master Tower Agreements” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.17 “Legacy Standalone Agreement” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.18 “Legacy Tower” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.19 “Licensed Site” shall mean (a) the Legacy Licensed Sites and (b) each New Site licensed under this Agreement by Licensor to Licensee.

1.20 “Lien” means, with respect to any asset or property, any mortgage, deed of trust, lien, pledge, security interest, charge, attachment, encumbrance, license, reservation, restriction, servitude, charge or similar right and any other lien of any kind in respect thereof.

1.21 “Master License Expiration Date” means \_\_\_\_\_, 20\_\_.

1.22 “New Licensed Ground Site” shall mean, at a given time, a new Ground Site on Non-Fee Tower Property for which Licensors has not, at such time, granted a license to Buyer and for which Licensee has provided a Utility Site Application to Licensors pursuant to the Site Marketing and Access Agreement.

1.23 “New Licensed Tower Site” shall mean, at a given time, a new Tower Site on Non-Fee Ground Site Property for which Licensors has not, at such time, granted a license to Buyer and for which Licensee has provided a Utility Site Application to Licensors pursuant to the Site Marketing and Access Agreement.

1.24 “New Site” shall mean a New Licensed Tower Site or a New Licensed Ground Site for which Licensors approves a Utility Site Application (as such term is defined in the Site Marketing and Access Agreement) and for which the New Tower Site Process or the New Ground Site Process is completed. Following the Effective Date, each New Site shall be listed on Exhibit [ ] of this License.

1.25 “Non-Fee Ground Site Property” means a Ground Site Property upon which is located a Ground Site and with respect to which Utility does not own fee simple title to the land underlying the applicable Ground Site and/or the Site Access Rights associated with such Ground Site.

1.26 “Non-Fee Tower Property” means a Tower Property upon which is located a Tower Site and with respect to which Utility does not own fee simple title to the land underlying the applicable Tower and/or the Site Access Rights associated with such Tower Site.

1.27 “Pipeline Licensed Sites” means the Delivered Pipeline Tower Sites and the Delivered Pipeline Ground Sites (as such terms are defined in the Site Marketing and Access Agreement) that are licensed to Carriers pursuant to the Pipeline Contracts (as defined in the Site Marketing and Access Agreement).

1.28 “Site Access Rights” shall have the meaning set forth in the Site Marketing and Access Agreement

1.29 “Tower Equipment” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.30 “Tower Property” means the Utility Property upon which a Tower is located, including, without limitation, the physical space occupied by the Tower, and to the extent of Utility’s interest therein, real property related or proximate thereto to the extent reasonably used or usable in connection with Utility’s operation and maintenance of such Tower or the operation and maintenance of Communication Equipment by a Carrier, and/or access thereto.

1.31 “Transaction Documents” means the Purchase and Sale Agreement, the Site Marketing and Access Agreement, the Assignment and Assumption Agreements, this Agreement and the Master License Agreement.



“Utility Property” shall have the meaning set forth in the Site Marketing and Access Agreement.

1.32 “Utility Tower” shall have the meaning set forth in the Site Marketing and Access Agreement.

## 2. License of Legacy Licensed Sites and Pipeline Licensed Sites; Permitted Use.

2.1 License of Legacy Licensed Sites. Licensors hereby license to Licensee, and Licensee hereby licenses from Licensors, the Legacy Licensed Sites for the Legacy License Term, subject to the terms and conditions of this License and the Site Marketing and Access Agreement. The Legacy Licenses assigned to Licensors pursuant to the Assignment and Assumption Agreements shall be treated as sublicenses between Licensee and the Carriers and other entities that are counterparties thereto. At such time as Licensors assign to Licensee a Pipeline Contract pursuant to the Transaction Documents, Licensors shall be deemed to license to Licensee, and Licensee shall accept from Licensors, the Pipeline Licensed Sites for the Legacy License Term. For purposes of this License, any such Pipeline Licensed Sites shall be subject to the terms and conditions applicable to Legacy Licensed Sites.

2.2 Permitted Uses for Legacy Licensed Sites. Licensee may sublicense to a wireless communications carrier (i) a Legacy Tower Site for the attachment and location of Communication Equipment and other Tower Equipment and (ii) a Legacy Ground Site for the installation, construction and operation of a Communications Facility and the attachment and location of Communication Equipment thereon (the “Permitted Use”). “Permitted Use” shall also include a Carrier’s rights to use or access a Legacy Licensed Site granted to such Carrier pursuant to a Legacy License for such Site assigned to Licensee pursuant to the Assignment and Assumption Agreements, for so long as such Legacy License remains in effect. Licensee shall not use a Legacy Tower Site or Legacy Ground Site for any use or purpose other than the Permitted Use, nor shall it permit any Carrier, sublicensee or any other Person to use a Site for any use or purpose other than the Permitted Use.

2.3 Legacy License Term. For each Legacy Licensed Site, the term of the license granted to the Licensee pursuant to Section 2.1 shall commence on the Effective Date and shall end upon the earlier of (a) the termination of the applicable Legacy Licenses relating to such Legacy Licensed Site or (b) the Master License Expiration Date (the “Legacy License Term”).

2.4 Condition of Legacy Licensed Sites. The Legacy Licensed Sites are licensed to Licensee in their present condition on an “as-is” and “where-is” basis, without any representation or warranty of or from Licensors or any of its respective Affiliates whatsoever as to their condition or suitability for the Permitted Use or any other particular use, except as may be expressly set forth in the Transaction Documents, the remedies for a breach of which shall be solely under and subject to the terms, conditions and limitations thereof, or as may be expressly set forth in the Site Marketing and Access Agreement.

## 3. New Sites.

3.1 License of New Sites. Following the Effective Date, Licensors shall license to Licensee, and Licensee shall license from Licensors, any New Site for the Permitted Use, subject to the terms and conditions of this License and the Site Marketing and Access Agreement. Licensee

shall, immediately following the grant of such license, sublicense the New Site to a Carrier pursuant to a Carrier Agreement (as such term is defined in the Site Marketing and Access Agreement). A New Site licensed by Licensors to Licensee pursuant to this Section 3.1 shall be referred to as a “New Licensed Site”. Each New Licensed Site shall be listed on Exhibit [ ] of this License.

3.2 Permitted Use for New Sites. Each New Licensed Site shall be licensed to Licensee for the Permitted Use. For New Sites, the Permitted Use shall include the rights to use or access the New Site granted to a Carrier pursuant to the applicable sublicense agreement between Licensee and a Carrier for such New Site, provided that such Carrier Agreement is an Authorized Site Agreement (as such term is defined in the Site Marketing and Access Agreement).

3.3 Term. The term of the license for a New Licensed Site shall be the term of the sublicense to the applicable Carrier, which term shall be agreed for each New Licensed Site by Licensors and Licensee under the Site Marketing and Access Agreement, and which shall be set forth in the Carrier Agreement; provided, however, that the term for a New Licensed Site shall not extend longer than the Master License Expiration Date.

3.4 Condition of New Sites. Each New Licensed Site, when licensed under this Agreement, shall be licensed to Licensee in its then-present condition on an “as-is” and “where-is” basis, without any representation or warranty of or from Licensors or any of its respective Affiliates whatsoever as to its condition or suitability for the Permitted Use or any other particular use, except as may be expressly set forth in the Transaction Documents, the remedies for a breach of which shall be solely under and subject to the terms, conditions and limitations thereof, or as may be expressly set forth in the Transaction Documents.

#### 4. Rent.

4.1 Prepaid Rent for Legacy Licensed Sites. The Licensee has made a payment to Licensors concurrently with its execution of this License as prepayment of rent for the license of the Legacy Licensed Sites for the Legacy License Term.

4.2 Rent for New Licensed Sites. Licensee shall pay to Licensors as rent for each New Licensed Site an amount equal to the percentage of the Carrier Revenues (as defined in the Site Marketing and Access Agreement) due from Carrier for such Licensed Site as set forth in the applicable Authorized Site Agreement. The amount payable to Licensors as license fee for each New Licensed Site shall be calculated in accordance with Section 5 (Consideration for Marketing Rights) of the Site Marketing and Access Agreement. Such license fee shall be paid on a monthly basis in accordance with Section 5(e) (Monthly Utility Revenue Payment) of the Site Marketing and Access Agreement.

4.3 Late Payment. Any payment that is not paid by Licensee to Licensors when due shall bear interest at an interest rate per annum equal to the Prime Rate plus 2% (or the maximum legal rate, whichever is lower), and calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment. Any late monthly payments shall also be subject to a late payment penalty of \$\_\_\_\_\_.

4.4 Payment Without Offset or Abatement. All license fees payable by Licensee hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, in all cases except as expressly provided in this License.

4.5 License Fee Payment Procedures. All payments hereunder shall be made by Licensee by wire transfer of same day funds on or before the due date therefor, to the account specified by Licensor in writing from time to time. Any other procedures or methods of payment shall only be effective if agreed to in writing by Licensor and Licensee.

5. Installation, Maintenance, Repair, Modifications and Removal of Sites.

5.1 Operations Standards. Licensee shall (or shall cause a sublessee Carrier to) install, operate, maintain, repair, replace, modify and remove Communication Equipment on New Sites and perform all other work on Licensed Sites pursuant to the requirements and standard set forth in the Site Marketing and Access Agreement, and other guidelines provided by Licensor to Licensee or a sublessee Carrier during the applicable term of the license for a Licensed Site. Licensee shall observe all other conditions for work performed at Licensed Sites, including conditions set forth in the Site Marketing and Access Agreement.

5.2 Licensor Safety Standards. For all work performed at a Licensed Site, Licensee shall comply with the safety standards and guidelines of Licensor, including the standards described as the “Utility Safety Standards” in the Site Marketing and Access Agreement.

5.3 Access and Use of Licensed Sites. For each Licensed Site, Licensor shall provide to Licensee and Carriers access to the applicable Licensed Site, subject to any procedures, special conditions and restrictions set forth in the applicable sublicense agreement between Licensee and the Carrier or otherwise communicated by Licensor to Licensee or a Carrier. Licensee’s and Carrier’s use of a Licensed Site shall at all times and in all respects be subordinate to Licensor’s use of a Licensed Site and any other Utility Property to provide utility services.

5.4 Removal of Sites. Upon the expiration or earlier termination of the license of a Licensed Site under this Agreement, which shall occur no later than the Master License Expiration Date, Licensee shall decommission the Licensed Site in accordance with the Site Decommission Procedures (as described in the Site Marketing and Access Agreement).

5.5 End of Term Obligations. Upon the Master License Expiration Date, or at an earlier date if the SMAA is terminated earlier than the Master License Expiration Date in accordance with its terms, Licensor shall elect to either (A) receive an assignment of all rights and assume all obligations thereafter accruing under the sublicenses with Carriers for Licensed Sites then in effect (“Assignment Election”) or (B) require Licensee to decommission such Licensed Site, in accordance with the procedures described in the Site Marketing and Access Agreement (“Decommission Election”).

5.5.1 For Licensed Sites for which Licensor makes an Assignment Election, Licensee shall assign to Licensor (or its designee) Licensee’s right, title and interest in all sublicenses with Carriers for the Licensed Sites for which an Assignment Election is made by Licensor, which may be some or all of the then-existing sublicenses, without charge to Licensor, and without liability to Licensor for, or assumption by Licensor of, any obligations of Licensee

accruing prior to the expiration or termination of the license of such Licensed Site under this Agreement or the Master License Expiration Date. Notwithstanding the provisions of this License that address a potential Assignment Election, Licensee may not, and there shall be no implication that Licensee is permitted to, sublicense any Licensed Site to a Carrier for a term that extends beyond the Master License Expiration Date.

5.5.2 For Licensed Sites for which Licensors makes a Decommission Election, Licensee shall follow the procedures set forth in Section 25(c) and 25(d) of the Site Marketing and Access Agreement.

5.6 Holdover. If Licensee or Carrier continues to occupy or otherwise use any Licensed Site after the termination of a Licensed Site pursuant to this Agreement or the expiration or termination of the applicable sublicense agreement between Licensee and the Carrier, there shall be no renewal or extension of the term as to such Licensed Site by operation of Law. Such use or holding over shall constitute and be construed to be a month-to-month extension of such Licensed Site at a monthly license fee equal to 150% of the greater of (i) all sublicensing revenue and amounts due to Licensee by such Carrier for such Licensed Site on a monthly basis, or (ii) the fair market license fee for such occupation or use, plus any other payments due under the terms of this Agreement. Monthly holdover amounts shall be equitably pro-rated and shall be due on the last day of each month and shall continue to accrue until Licensee (and Carrier) surrender possession of the affected Licensed Site in the condition required following completion of the decommission procedures set forth in Section 25(c) and 25(d) of the Site Marketing and Access Agreement. Licensors reserves the right to terminate any such month-to-month occupancy of Licensee or a Carrier at any time. Notwithstanding any contrary provision hereof, Licensors shall have the right to recover possession of a Licensed Site on the expiration or earlier termination of the Licensed Site under this Agreement.

## 6. Licensee Obligations.

6.1 Compliance with Law; Governmental Approvals. Licensee shall comply with all applicable Laws in connection with the occupancy, use, operation, maintenance, repair or replacement of the Licensed Sites and any Communication Equipment or other Licensee or Carrier property located thereon. Licensee shall, at its own cost and expense, obtain and maintain in effect all Governmental Approvals required or imposed by Governmental Authorities in connection with its sublicense to Carriers, and management, of the Licensed Sites under this Agreement.

6.2 Environmental Obligations. Licensee covenants and agrees that (i) Licensors shall not, and shall cause a Carrier and any of Licensee's or a Carrier's contractors, subcontractors, sublicensees, invitees or other representatives ("Licensee Parties") to not, conduct or allow to be conducted upon any Licensed Site any business operations or activities, or employ or use a Licensed Site, to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials in violation of applicable Laws, any Applicable Requirement (as defined in the Site Marketing and Access Agreement) or other than as commonly used or stored in operating a Tower Site or Ground Site; (ii) Licensee shall carry (and cause each Licensee Party to carry) on its business and operations at each Licensed Site in compliance with all applicable Environmental Laws; (iii) Licensee shall coordinate with all Carriers at a Licensed Site to facilitate compliance with applicable Environmental Laws applicable to the Licensed Site

based on information either readily available to Licensee or information provided by other Carriers to Licensee to promote Licensed Site compliance; (iv) Licensee shall not create or permit to be created any Lien against any Licensed Site for the costs of any response, removal or remedial action or clean-up of Hazardous Materials; and (v) Licensee shall promptly conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting each Licensed Site in accordance with, and to the extent necessary to comply with, all applicable Environmental Laws, to the extent Licensee or a Licensee Party caused or permitted the Hazardous Material condition necessitating the remedial actions.

### 6.3 Frequencies; Non-Interference.

6.3.1 For each Licensed Site, Licensee shall require, to the extent permitted in the applicable sublicense agreement between Licensee and the Carrier, the Carrier to broadcast only the FCC authorized frequencies and transmitting powers specified in the applicable sublicense agreement between Licensee and Carrier.

6.3.2 If any Communication Equipment installed on a Licensed Site interferes with the operation of Licensor's equipment, or with the pre-existing equipment of third parties, Licensee shall promptly, following its receipt of notice thereof, at Licensee's sole cost and expense, subject to the terms of the applicable sublicense agreement between Licensee and a Carrier, require the applicable Carrier to take reasonable steps necessary or recommended by Licensor or regulatory agencies to eliminate the interference.

### 6.4 Limitations on Liens.

6.4.1 Licensee agrees that, during the Term, it shall not directly or indirectly, incur, grant or permit to exist (and shall cause all Licensee Parties not to incur, grant or permit to exist) any Liens on or against any Utility Property, Utility Tower or Licensed Site or any part of a Utility Property, Utility Tower or Licensed Site.

6.4.2 If any such Lien is incurred, granted or permitted (including as a result of any act or omission) by Licensee, a Carrier or any other Licensee Party with respect to any Utility Property, Utility Tower or Licensed Site in violation of Section 6.4.1, Licensee shall cause such Lien to be discharged by payment, satisfaction or posting of bond promptly, and not later than ten days after Licensee has obtained knowledge of such Lien. If Licensee fails to cause any Lien to be discharged within such time, Licensor shall have the right (but not the obligation) to have the Lien discharged by payment of the amount required to discharge the Lien. If Licensor elects to discharge a Lien, Licensee shall reimburse Licensor for the full amount paid by Licensor, together with interest at the maximum rate allowed by applicable Law from the date of Licensor's payment until such payment is made, within ten (10) days after such payment. If Licensee does not pay such reimbursement to Licensor within ten (10) days after such payment, Licensee shall pay to Licensor, in addition to such amount, a fixed charge of 10% of the amount unpaid plus interest on the unpaid amount at the interest rate set forth in Section 4.3 of this Agreement.

6.4.3 Without limiting the foregoing, Licensee shall not file or record, in any public record, secretary of state's office, county recorder's office, local filing office or any other

office or place in any jurisdiction, any UCC-1 financing statement, any of the Assignment and Assumption Agreements or any other document relating to this Agreement, the Marketing Rights, any Licensed Site or Utility Property, except as agreed by Licensor in writing.

6.5 Insurance. Licensee shall procure, and shall maintain in full force and effect at all times during the Term, the insurance required to be maintained by Licensee under the Site Marketing and Access Agreement. Licensor shall procure, and shall maintain in full force and effect at all times during the Term, the insurance required to be maintained by Licensor under the Site Marketing and Access Agreement.

6.6 Books and Records. Licensee shall maintain books and records in accordance with Section 6(f) of the Site Marketing and Access Agreement.

6.7 Damage or Destruction.

6.7.1 If a Licensed Site, or Utility Tower or Utility Property on which such Licensed Site is located, is damaged or destroyed, for any reason other than as a result of an act or omission by Licensee or a Carrier, and as a result there is a material interference with a Carrier's Permitted Use of a Licensed Site or related Site Access Rights (as defined in the Site Marketing and Access Agreement) for a period of 90 days, then the procedures and terms set forth in Section 24(a) of the Site Marketing Access Agreement shall apply.

6.7.2 If a Utility Tower, Licensed Site or any material Site Access Rights related thereto are appropriated or acquired by condemnation or the power of eminent domain by a public or quasi-public authority or other Governmental Authority (a "Taking"), or use thereof involuntarily discontinued in anticipation of a Taking, then the license granted hereunder to Licensee for such Licensed Site shall terminate to the extent of the Taking. The procedures and terms set forth in Section 25(b) of the Site Marketing and Access Agreement shall further apply in the event of such a Taking.

6.8 Taxes.

6.8.1 Licensee shall pay (1)(i) for Licensed Sites that are Tower Sites, increases in real property taxes levied against any such Licensed Site or any related Utility Property directly attributable to an increase in assessed value of the Licensed Site or Utility Property as a result of the Tower Equipment installed or placed thereon; (ii) any increases in real property taxes levied against any Licensed Sites that are Ground Sites or any related Utility Property directly attributable to an increase in assessed value of the Licensed Site or Utility Property as a result of the Communications Facilities constructed thereon; (2) any fee, tax, or other charge that a Governmental Authority may assess against Licensor for occupancy or use of the Licensed Site by Licensee or a Carrier; or (3) any increase in Licensor's income taxes due to an Internal Revenue Service ruling that the attachment of Tower Equipment or any Communications Facilities on Utility Property is considered a taxable contribution in aid of construction ("CIAC"). Licensor shall invoice Licensee for any amount due hereunder and Carrier agrees to pay such amount, including any income tax component of the contribution ("ITCC") relating to that property at the prevailing ITCC rate in place at the time that the CIAC is deemed taxable to Licensor, as directed by Licensor.

6.8.2 Except as otherwise provided in Section 6.8.1, all sales, use, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, and recording fees (“Transfer Taxes”) imposed for the license of the Licensed Sites to Licensee shall be paid by the Licensee. Licensee shall be responsible for and shall pay any Transfer Taxes attributable to any transfer, assignment or sublicense of its rights under this Agreement.

7. Assignment.

7.1 Licensee may not assign this Agreement or any of Licensee’s rights, interests, duties or obligations under this Agreement in whole or in part to any Person, except as set forth in, and subject to, Section 22(a) of the Site Marketing and Access Agreement.

7.2 Licensor may not assign, sell, convey, transfer, lease, sublicense, license or otherwise dispose of this Agreement or any of its rights, duties or obligations under this Agreement in whole or in part without the prior written consent of Licensee (which consent shall not be unreasonably withheld), except as set forth in, and subject to, Section 22(b) of the Site Marketing and Access Agreement.

8. Indemnification. For each Licensed Site, Licensor and Licensee agree to the indemnification, defense and hold harmless rights, obligations and procedures set forth in Section 20 of the Site Marketing and Access Agreement.

9. General Provisions.

9.1 Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

9.2 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

9.3 Submission to Jurisdiction. Each Party agrees that it shall bring any action or proceeding in respect of any claim arising out of or related to this Agreement or the transactions contained in or contemplated by this Agreement exclusively in the state and federal courts of and located in California and appellate courts having jurisdiction of appeals from the foregoing (the “Chosen Courts”), and, solely in connection with claims arising under this Agreement or the transactions that are the subject of this Agreement, (a) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (b) waives any objection to laying venue in any such action or proceeding in the Chosen Courts, (c) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party hereto and (d) agrees that service of process upon such Party in any such action or proceeding shall be effective if notice is given in accordance with this Agreement.

9.4 Notices. All notices, requests, demands, waivers and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been delivered (i) the next Business Day when sent overnight by a nationally recognized overnight

courier service, (ii) upon transmission of an e-mail (followed by delivery of an original via nationally recognized overnight courier service), or (iii) upon delivery when personally delivered to the receiving Party. All such notices and communications shall be sent or delivered as set forth below or to such other person(s), e-mail address or address(es) as the receiving Party may have designated by written notice to the other Party. All notices shall be delivered to the relevant Party at the address set forth below.

If to Licensor, to:

Southern California Edison Company

[ ]

[ ]

[ ]

ATTN: [ ]

Telephone: ( ) -

Email: [ ]

With copies to (which does not constitute notice):

Southern California Edison Company

[ ][ ]

ATTN: [ ]

Telephone: [ ]

Email: [ ]

If to Licensor, to:

[ ]

[ ]

ATTN: [ ]

Telephone: [ ]

Email: [ ]

9.5 Successors and Assigns; Successors and Assigns; Third-Party Beneficiaries. Except as set forth in Section 7 of this Agreement and Section 22 of the Site Marketing Access Agreement (Assignment Rights), this Agreement shall not be assignable by either Party without the prior written consent of the other Party and any such assignment in violation of the foregoing shall be null and void. This Agreement shall be binding upon and inure solely to the benefit of each Party and its successors, heirs, legal representatives and permitted assigns. This Agreement is not intended to confer upon any Person other than the Parties any rights or remedies hereunder.

9.6 Amendment; Waivers; Etc. No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the Party against which enforcement of the amendment, modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time. The waiver by a Party of a breach of or a default under any of the provisions of this Agreement or to exercise any right or privilege hereunder, shall not



be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder. The rights and remedies herein provided are cumulative and none is exclusive of any other, or of any rights or remedies that any Party may otherwise have at law or in equity.

9.7 Binding Effect. All of the covenants, agreements, terms and conditions contained in this License shall apply to and be binding upon Licensor and Licensee and their respective heirs, executors, administrators, and permitted successors and assigns.

9.8 Entire Agreement. This Agreement and the Transaction Documents (including the exhibits and schedules hereto and thereto) constitutes the entire agreement among the Parties with respect to the subject matter of this Agreement, and supersede all other prior agreements, understandings, representations and warranties both written and oral, among the Parties, with respect to the subject matter hereof.

9.9 Agreement Subject to Site Marketing and Access Agreement. The terms and provisions of the Site Marketing and Access Agreement, to the extent related to Licensed Sites, are hereby incorporated herein by reference. In the event of a conflict between any term or provision contained in this License and a term or provision set forth in the Site Marketing and Access Agreement, the applicable terms and provisions of the Site Marketing and Access Agreement shall govern and prevail.

9.10 Quiet Enjoyment. Licensor covenants that, so long as this License is in full force and effect and has not been terminated, Licensee shall and may peaceably and quietly have, hold and enjoy each Licensed Site for the term set forth herein, subject to the terms and conditions of this License, without disturbance by or from Licensor or anyone claiming by or through Licensor.

9.11 Force Majeure. In the event that either Party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of events of Force Majeure, or any delay caused by the acts or omissions of the other Party in violation of this Agreement, then the performance of such act shall be excused for the period of delay and the period for performance of any such act shall be extended for a period equivalent to the period required to perform as a result of such delay. In the case of an extended Force Majeure where Licensor is unable to perform its material obligations under this Agreement with respect to a Licensed Site for a continuous period in excess of nine months ("Suspension Period"), Licensor may suspend Licensee's operations at such Licensed Site during such Suspension Period. The Suspension Period shall terminate and the use of the Site by Licensee shall resume once operations can be safely resumed. Notwithstanding any contrary provision hereof, in no event shall Force Majeure excuse or affect in any manner any monetary obligation of a Party under this Agreement.

[Signature page immediately follows]

IN WITNESS WHEREOF the Parties hereto have executed this License effective as of the Effective Date.

“Licensor”

Southern California Edison,  
a California corporation

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

Its: \_\_\_\_\_

“Licensee”

[\_\_\_\_\_] ,  
a [\_\_\_\_\_]

By: [\_\_\_\_\_]   
Name: [\_\_\_\_\_]   
Its: [\_\_\_\_\_]

## **Appendix F**

### **Financial Statements, Including Balance Sheet and Statement of Income**

SOUTHERN CALIFORNIA EDISON COMPANY

**(h) A balance sheet as of the latest available date, together with an income statement covering the period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.**

STATEMENT OF INCOME  
NINE MONTHS ENDED SEPTEMBER 30, 2023

(In millions)

OPERATING REVENUE	<u>\$ 12,586</u>
OPERATING EXPENSES:	
Purchase power and fuel	4,453
Operation and maintenance	3,170
Wildfire-related claims, net of insurance recoveries	575
Wildfire insurance fund expense	159
Depreciation and amortization	1,969
Property and other taxes	425
Total operating expenses	<u>10,751</u>
OPERATING INCOME	1,835
Interest expense	(997)
Other income	375
INCOME BEFORE TAXES	<u>1,213</u>
Income tax expense	96
NET INCOME	<u>1,117</u>
Less: Preference stock dividend requirements	<u>88</u>
NET INCOME AVAILABLE FOR COMMON STOCK	<u>\$ 1,029</u>

SOUTHERN CALIFORNIA EDISON COMPANY

BALANCE SHEET  
SEPTEMBER 30, 2023  
ASSETS  
(in millions)

UTILITY PLANT:

Utility plant, at original cost	\$ 62,381
Less- accumulated provision for depreciation and amortization	12,928
	<u>49,453</u>
Construction work in progress	5,275
Nuclear fuel - at amortized cost	124
	<u>54,852</u>

OTHER PROPERTY AND INVESTMENTS:

Nonutility property - less accumulated depreciation of \$97	196
Nuclear decommissioning trusts	3,943
Other investments	65
	<u>4,204</u>

CURRENT ASSETS:

Cash and equivalents	317
Receivables, less allowances of \$340 for uncollectible accounts	2,335
Accrued unbilled revenue	929
Inventory	505
Prepaid expenses	101
Regulatory assets	2,408
Wildfire insurance fund contributions	204
Other current assets	269
	<u>7,068</u>

DEFERRED CHARGES:

Regulatory assets (Includes \$1,571 related to VIEs)	8,774
Wildfire insurance fund contributions	2,002
Operating lease right-of-use assets	1,283
Long-term insurance receivables	129
Long-term insurance receivables due from affiliate	431
Other long-term assets	1,162
	<u>13,781</u>
	<u>\$ 79,905</u>

SOUTHERN CALIFORNIA EDISON COMPANY

BALANCE SHEET  
SEPTEMBER 30, 2023  
CAPITALIZATION AND LIABILITIES  
(in millions)

CAPITALIZATION:

Common stock	2,168
Additional paid-in capital	8,447
Accumulated other comprehensive loss	(8)
Retained earnings	8,223
Common shareholder's equity	18,830
Long-term debt (Includes \$1,539 related to VIEs)	25,459
Preferred stock	1,945
Total capitalization	46,234

CURRENT LIABILITIES:

Short-term debt	616
Current portion of long-term debt	2,939
Accounts payable	2,105
Wildfire-related claims	150
Customer deposits	175
Regulatory liabilities	717
Current portion of operating lease liabilities	177
Other current liabilities	1,691
	8,570

DEFERRED CREDITS:

Deferred income taxes and credits	7,944
Pensions and benefits	99
Asset retirement obligations	2,695
Regulatory liabilities	8,570
Operating lease liabilities	1,106
Wildfire-related claims	1,583
Other deferred credits and other long-term liabilities	3,104
	25,101

\$ 79,905