

Market: [REDACTED]
Cell Site Number: [REDACTED]
Cell Site Name: [REDACTED]
Fixed Asset Number: [REDACTED]

FIFTH AMENDMENT TO LICENSE AGREEMENT

THIS FIFTH AMENDMENT TO LICENSE AGREEMENT ("Amendment"), dated as of the latter of the signature dates below, effective October 1, 2021, is by and between the [REDACTED] (hereinafter referred to as "Licensor"), having a mailing address of [REDACTED], MI [REDACTED] and [REDACTED] Inc., having a mailing address of [REDACTED] (hereinafter referred to as "Licensee").

WHEREAS, Licensor and [REDACTED] or its predecessor-in-interest entered into a License Agreement dated June 17, 1996, First Amendment dated March 30, 2004, Second Amendment dated September 24, 2008, Third Amendment dated September 6, 2011, Fourth Amendment dated September 25, 2018, (collectively, the "Agreement" See Exh D-5) whereby Licensor licensed [REDACTED] to utilize for certain wireless telecommunications purposes, certain Premises, therein described, which are a portion of the Property located at [REDACTED]; and

WHEREAS, Licensor and [REDACTED] desire to amend the Agreement to allow [REDACTED] to modify [REDACTED] existing Antenna Facilities; and

WHEREAS, Licensor and [REDACTED] desire to amend the Agreement to allow for the installation of additional antennas, associated cables and other communications instruments; and

WHEREAS, Licensor and [REDACTED] desire to amend the Agreement to extend the term of the original Agreement; and

WHEREAS, Licensor and [REDACTED] desire to amend the Agreement to adjust the License Fees, both upon execution of this amendment and monthly; and

WHEREAS, Licensor and [REDACTED] desire to amend the Agreement to add indemnification by AT&T and such other amendments as contained herein; and

WHEREAS, Licensor and [REDACTED] desire to amend the Agreement to modify the notice section thereof; and

WHEREAS, Licensor and [REDACTED] in their mutual interest, wish to amend the Agreement as set forth below accordingly.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensors and [REDACTED] agree as follows:

1. **Equipment.** Licensors acknowledge and agree that [REDACTED] all have the right to change, modify or add equipment as more completely described in attached Exhibit D-4, within one (1) year of the execution of this amendment. All work to be done in accordance with all plans, specifications and applications to be submitted to, reviewed and approved by the [REDACTED], such approval not to be unreasonably withheld. Future changes, modifications or additions of equipment requested by [REDACTED] for installation after June 17, 2022, or those changes, modifications or additions of equipment beyond the scope of the changes included in Exhibit D-4, shall require review and approval of all plans and specifications and, consent of the Licensors. All direct and reasonable costs incurred by Licensors related to these adjustments presently or in the future to be reimbursed by Licensee upon proof of payment.

2. **Rent.** Commencing on October 1, 2021, Rent shall be increased by One Thousand Five Hundred Fifty and No/100 Dollars (\$1,550.00) per month, for a monthly rent of Four Thousand Four Hundred and Fifty Six Dollars (\$4,456.00) due and owing as of October 1, 2021 subject to further adjustments as provided in the Agreement. Further, the Consumer Price Index based annual rental increase found in Section 8 of the addendum NO 1 to license agreement is removed and replaced with a 3.5% yearly increase.

3. **Extension of Term.** In addition to the Extension Terms presently set forth in the Agreement, the parties hereby agree to add six (6) additional Extension Terms of five (5) years each. Accordingly, at the end of the final Extension Term presently set forth in the Agreement, the Term will automatically renew for six (6) separate consecutive additional periods of five (5) years each (each being defined as an Extension Term) upon the same terms and conditions of the Agreement, unless [REDACTED] notifies Licensors in writing of [REDACTED] intention not to renew the Agreement at least sixty (60) days prior to the expiration of the existing Term. As consideration for the extension of term [REDACTED] agrees to pay a one-time signing bonus of One Hundred and Twenty Thousand and No/100 Dollars (\$120,000.00) to be paid at the start of the new term, receipt acknowledged as of execution of this agreement by the [REDACTED]

4. **Indemnification.** (a) Licensee agrees to indemnify, defend and hold Licensors harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the installation, use, operation, maintenance, repair or removal of the Communication Facility or Licensee's breach of any provision of this Agreement, except to the extent attributable to the intentional act or omission of Licensors, its employees, agents or independent contractors. (b) The indemnified party: (i) shall promptly provide the indemnifying party with written notice of any claim, demand, lawsuit, or the like for which it seeks indemnification pursuant to this Section and provide the indemnifying party with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of the indemnifying party; and (iii) shall fully cooperate with the indemnifying party in the defense of the claim, demand,

lawsuit, or the like. A delay in notice shall not relieve the indemnifying party of its indemnity obligation, except (1) to the extent the indemnifying party can show it was prejudiced by the delay; and (2) the indemnifying party shall not be liable for any settlement or litigation expenses incurred before the time when notice is given. Paragraph 8(h) of the June 17, 1996 License is hereby stricken and replaced in its entirety by this paragraph.

5. **Notices.** All notices, requests, demands and communications hereunder will be given by first class, certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undeliverable. Notice will be addressed to the parties as follows:

If to Licensors:

City Manager
City of [REDACTED]

With a copy to:

Michael J. Watza
1 Woodward Suite 2400
Detroit, MI 48226
Mike.watza@kitch.com

If to Licensee:

[REDACTED]

With a Copy To:

[REDACTED]

6. **Unmanned Aircraft System.** If Licensee elects to utilize a properly and fully licensed Unmanned Aircraft System ("UAS") in connection with its installation, construction, monitoring, site audits, inspections, maintenance, repair, modification, or alteration activities at a Property, Licensee shall provide thirty days' notice of such intent, specifying date, time and route. Licensors shall grant such UAS access, absent timely identification of specific objections based upon reasonable grounds concerning specific public safety, health and welfare concerns. Licensors grant to Licensee, or any properly and fully licensed UAS operator acting on Licensee's behalf, shall include permission to fly over the applicable Property and Premises, and consents to the use of audio and video navigation and recording in connection with the use of the UAS.

7. **Collocation.** Licensee acknowledges that Licensor may collocate other licensees or tenants on the tower at Licensor's sole discretion. Licensor shall require that any such collocating licensee or tenant does not materially interfere with [REDACTED]ilities or signals related to the Tower.

8. **Tower Quit Claim Deed or Bill of Sale.** Licensee shall provide a Quit Claim Deed or Bill of Sale related to the transfer of ownership of the Tower to Licensor as required by Section 4 of the June 17, 1996 Addendum No. 1 to License Agreement. See Exh D-5

9. **Late Payments.** Licensee shall pay a late fee of \$100 in the event of a monthly payment that is more than Ten (10) days overdue. Late payments shall be subject to 18% interest if they remain overdue more than 30 days.

10. **Early termination.** In the event Licensee terminates its obligations under this License prior to the end of any of the Six (6) Five (5) year terms, it shall pay a penalty equal to the rent otherwise owed on that term, up to but not exceeding one (1) full year.

11. **Removal Bond.** Licensee shall produce and maintain in full force for the life of this license, a bond in the amount of Fifty Thousand Dollars (\$50,000) to pay for the removal of Licensee's antennas and related equipment at the termination of this license, such removal to occur, or not, at the sole discretion of the Licensor. See Exh D-5

12. **Default and Consequence Upon Default.** In the Event of Default by Licensee, Licensor shall have and may pursue all rights and remedies permitted by applicable law, including but not limited to the following:

a. Accelerate all payments due for the remaining term of five years, up to one full year of payments otherwise due including any and all other charges, payments, costs and expenses due from Licensee to Licensor and in arrears at the time of the Event of Default, including all necessary attorney fees and costs related to such default;

b. Terminate this License on at least five (5) days' notice to Licensee and, on the date specified in such notice, this License and the term hereby demised and all rights of Licensee hereunder shall expire and terminate and Licensee shall thereupon quit and surrender possession of the Demised Premises to Licensor in the condition elsewhere herein required in which event Licensee shall remain liable to Licensor as herein provided.

c. Suspend the supply of electrical power and any and all other utilities to the Facilities unless and until the default is cured by Licensee, and Licensor shall have no liability to Licensee, and Licensee shall have no right to an abatement of Base License fees for such suspension and Licensee hereby waives all claims for damages against Licensor resulting from such suspension of services.

d. In the event Licensee shall fail to keep or perform any of the terms, conditions or covenants contained in this License to be performed or observed by Licensee, and Licensor does not remedy such failure within thirty (30) days after written notice thereof is given to Licensor, Licensee shall have and shall be entitled to exercise any and all rights and remedies permitted by applicable law.

13. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the original license Agreement dated June 17, 1996, Addenda thereto or any other Amendments entered into prior to this Amendment, the terms of this Amendment shall control. Except as expressly set forth in this Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Amendment.

14. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

15. **Proof of Insurance** naming [REDACTED] as an additional insured. See Exh D-5. (There are no Exhibits D-1, D-2 or D-3 related to this document.)

IN WITNESS WHEREOF, the parties have caused this Amendment to be effective as of the last date written below.

LICENSOR:

As approved by City Council 12/6/21

By: [REDACTED]
Print Name:
Its:
Date: 2-24-22

By: [REDACTED]
Print Name:
Date: 3/7/22

Approved for Signature
[REDACTED]
City Attorney
Date: Feb. 16, 2022