

LEASE NO. _____

**TELECOMMUNICATION TOWER SITE LEASE
BETWEEN
THE NAVAJO NATION
AND**

THIS LEASE is made and entered into this ____ day of _____, _____, by and between THE NAVAJO NATION, hereinafter called the “Lessor,” or the “Nation,” whose address is P.O. Box 9000, Window Rock, Navajo Nation (Arizona) 86515, and the _____, hereinafter called the “Lessee,” whose address is _____ . This Lease is made in accordance with the provisions of 2 N.N.C. § 501(B)(2)(a), 16 N.N.C. § 2301 *et seq.*, and 25 U.S.C. § 415, as implemented by the regulations contained in 25 C.F.R. Part 162, and all amendments or successors thereto, which by this reference are made a part hereof. This Lease pertains to Lessee’s proposed new telecommunication tower site more fully described in paragraph 2 herein and also referred to as the Low Mountain Tower Site. The construction of the new telecommunication tower site at Low Mountain is part of the Navajo Nation Federal CARES Act funding pursuant to the Emergency Procurement Cares Act Funding (NNCAF / NTOETCP). Lessee’s obligations contained herein are conditioned upon Lessee receiving funding from the NNCAF / NTOETCP. Lessee shall have no obligation to complete the project, and this Lease shall be void and have no effect if Lessee does not receive said funding.

1. DEFINITIONS.

(A) “Approved Encumbrance” means an encumbrance approved in writing by Lessor in accordance with the terms and conditions of this Lease.

(B) “Sublease” means an agreement approved by the Nation, that allows Lessee to sublease space on its tower to third parties, to grant such third parties the right to co-locate cellular antennas or other telecommunications equipment on that tower, and to grant third parties access to the Leased Premises, as defined in Section 2 below, all subject to the supervision and control of and responsibility of the Lessee.

(C) “Encumbrancer” means the owner and holder of an Approved Encumbrance, including all successors and assigns.

(D) “Hazardous Substance” means any “hazardous substance as defined at § 2104 Q. of the NNCERCLA, 4 N.N.C. § 2101 *et seq.*, including all amendments or successors thereto.

(E) “NNCERCLA” means the Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act, 4 N.N.C. § 2101 et seq.

(F) “Regulated Substance” means any regulated substance as defined at § 1502 V. of the Navajo Nation Underground and Aboveground Storage Act, 4 N.N.C. § 1501 *et seq.*, which includes petroleum and petroleum products.

2. LEASED PREMISES.

For and in consideration of the rents, covenants, agreements, terms and conditions contained herein, Lessor hereby leases to Lessee all, or a portion of, that tract or parcel of land situated within the chapter of _____ Chapter, Navajo Nation, state of _____, more particularly described in the survey map with legal description attached hereto as Exhibit “A,” and by this reference made a part hereof, containing approximately _____ acre(s), more or less, together with the right of reasonable ingress and egress, and the right to install utilities pursuant to Section 10 below, subject to any prior, valid, existing rights-of-way, hereinafter called the “Leased Premises.” Lessor reserves and excepts from the Leased Premises rights-of-way for utilities constructed by or on authority of Lessor, provided that such rights-of-way do not unreasonably interfere with Lessee’s use of the Leased Premises during the Term. NLD will submit one copy of this document to BIA for recording pursuant to 16 N.N.C. §2322(B).

3. COMPLIANCE WITH FEDERAL LAW.

This Lease hereby incorporates by reference, and shall be deemed to include, all the mandatory provisions regarding a business lease set forth in 25 C.F.R. §162.413 (the “Mandatory Provisions”). Incorporation of the Mandatory Provisions into this Lease is designed to assure that the Lease complies with all applicable requirements of federal law and to facilitate the processing and administration of this Lease. The Mandatory Provisions require compliance with federal and tribal laws pursuant to the 25 C.F.R. §162.014. Please note this requires compliance with all federal and tribal historic and cultural preservation laws—specifically all work must cease and the Nation must be notified if artifacts are discovered to prevent unauthorized destruction of resources pursuant to 16 U.S.C. §470ee. In no circumstances shall the Lease be construed to waive any requirement of federal law.

4. PURPOSE, UNLAWFUL USES.

(A) Lessee shall develop, use and occupy the Leased Premises solely for the purpose of constructing, operating and maintaining a telecommunications tower and related telecommunications facilities. Lessee shall have the right to fence all, or any portion, of the Leased Premises as may be necessary to conduct Lessee’s operations. Whether or not Lessee chooses to fence the Leased Premises, Lessee shall be solely responsible for securing the Leased Premises so as to protect Lessee’s tower and any improvements or telecommunications facilities located on the Leased Premises and for protecting members of the general public, as well as Lessee’s agents and invitees, from personal injury on the Leased Premises.

(B) The Leased Premises shall not be developed or used by Lessee for any purpose other than as described in Section 4(A) above, except upon grant of a Sublease or with the prior written consent of Lessor. The consent of Lessor may be withheld, granted or granted upon conditions, solely in the discretion of Lessor.

(C) Lessee shall not use, or permit to be used, any part of the Leased Premises for any unlawful conduct or purpose, creation of a nuisance, illegal activity, or negligent use or waste of the leased premises.

5. TERM.

(A) Primary Term. The Primary Term of this Lease shall be for a period of five (5) years, commencing on the date the Lease is approved by the Nation (the "Effective Date").

(B) Additional Terms. The Lessee may request up to three (3) five (5) year terms ("Additional Term") provided Lessee has abided by the terms and conditions of this Lease and is not in default hereunder. If Lessee should decide to exercise the additional term, Lessee shall provide written notice to Lessor of its intention during the last three (3) months of the Primary Term or any additional term thereof, as the case may be, but in no event shall such notice be less than thirty (30) days prior to the expiration of any such term. Lessee shall send three (3) copies of the written notice to Navajo Land Department (NLD) with a self-addressed, stamped envelope. NLD will review Lessee's compliance with Lease and return one copy of the renewal request, which will serve as confirmation of the renewal. NLD will submit one copy of the renewal confirmation to BIA for recording pursuant to 16 N.N.C. §2322(B).

6. RENTAL.

(A) Lessee hereby covenants and agrees to pay Lessor, in lawful money of the United States, an annual rental of \$12,000.00, payable in advance. The first payment is due within forty-five (45) days of notice to the Lessee of the Effective Date. Payments of the same amount shall be due and payable in advance for each subsequent year of the Lease, on or before the anniversary of the Effective Date. Should payment be received after the anniversary of the Effective Date, a Late Charge of 12% shall be assessed and billed to the Lessee.

(B) The annual rental shall be adjusted every five years on the anniversary of the Effective Date using the increase in the Consumer Price Index (CPI), U.S. City Average for All Urban Consumers, noting that the U.S. Consumer Price Index used 1982-1984 as a base of 100, as published by the U.S. Bureau of Labor Statistics. All adjustments shall be done in accordance with the following formula: Current CPI X Base Rent/Old CPI.

(C) As set forth more particularly in the application form for the consent of the Nation to a Sublease, the Lessee shall make an additional annual of payment of \$2,000.00, subject to CPI increases beginning after the first five-year term, and every term thereafter, to the Nation for each

Sublease proposed by the Lessee and approved by the Nation. Annual payments shall be paid in advance in the same manner as required by this Lease.

(D) Payments under this Lease shall be addressed to: Navajo Nation, Accounts Receivable Section, Post Office Box 3150, Window Rock, Arizona 86515.

7. CONDITION OF LEASED PREMISES.

Lessee has examined the Leased Premises and any improvements thereon and accepts the same in “as-is” condition. No representations as to the condition of the Leased Premises have been made by Lessor or any agent of Lessor, prior to or at the time of execution of this Lease. Lessee warrants that its decision to enter into this Lease is based solely upon Lessee’s independent investigation of the Leased Premises.

8. IMPROVEMENTS.

(A) All buildings and other improvements to the Leased Premises, including the tower and any equipment shelter or cabinet (collectively, the “Improvements”), as well as any and all equipment, conduits, fixtures and personal property, shall remain the property of Lessee during the Term.

(B) Lessor agrees and acknowledges that Lessee shall have the right to remove all property, without limitation and including, but not limited to, buildings, improvements, equipment, conduits, fixtures and personal property of Lessee, at any time during the term, up to ninety (90) days past the expiration of the term. Prior and up to ninety (90) days past the expiration of the Term, at Lessee’s expense, Lessee shall remove any buildings, improvements and all personal property in a workmanlike manner, and shall restore the Leased Premises to its original state, and will be released from liability when approved by an inspection of the premises. Any buildings and other improvements which are not removed within ninety (90) days after the expiration or termination of the lease shall become the property of the Navajo Nation. The Lessee shall remain liable for any and all clean up and removal costs, should the Nation determine the land needs to be reclaimed and used for other purposes.

9. CONSTRUCTION; MAINTENANCE; REPAIR; ALTERATION.

(A) All buildings and other improvements placed on the Leased Premises by Lessee or its Subtenant shall be constructed in a good and workmanlike manner in compliance with applicable laws and building codes. All parts of buildings or other improvements visible to the public or from adjacent premises shall present a pleasant appearance and all service areas shall be screened from public view. The Nation reserves the right to require Lessee to modify or remove any improvements to the Leased Premises that do not comply with the requirements of this Section 9(A).

(B) Lessee shall maintain the Leased Premises and all buildings and other improvements thereon and any alterations, additions or appurtenances thereto, in good order and repair and in a safe, sanitary and neat condition.

10. UTILITY SERVICE LINE AGREEMENTS.

(A) Lessee is authorized to enter into appropriate service line agreements with utility companies for the provision of electricity and telecommunication services to the Leased Premises on the condition that:

- (1) such agreements are for the sole purpose of supplying electricity and telecommunication services to the Leased Premises;
- (2) such agreements authorize utility service lines only within the Leased Premises;
- (3) such agreements do not extend beyond the Term of this Lease;
- (4) executed copies of such agreements, together with plats or diagrams showing with particularity the location, size and extent of such service lines, are filed by the utility companies with Lessor within thirty (30) days of their execution;
- (5) such agreements make Lessee and its Sublessee solely responsible for any charges; and
- (6) such agreements are otherwise in accordance with the provisions of 25 C.F.R. Part 169.51-56, including any amendments or successors thereto.

(B) Nothing contained herein shall be construed to limit the right of Lessor to enter into service line agreements with utility companies for service lines across the Leased Premises, provided that such service lines do not unreasonably interfere with Lessee's use of the Leased Premises, nor otherwise affect the rights-of-way reserved to Lessor in Section 2 of this Lease.

11. LIENS; TAXES AND ASSESSMENTS; UTILITY CHARGES.

(A) Lessee shall not permit any liens arising from any work performed, materials furnished, or obligations incurred by Lessee to be enforced against the Leased Premises, any interest therein or any improvements thereon. Lessee shall discharge all such liens before any action is brought to enforce same.

(B) Lessee shall pay, before becoming delinquent, all property, use or gross receipts taxes or assessments, or any other like charges levied upon or against the Leased Premises, any interest therein or any improvements thereon, for which Lessee is liable. Upon request by Lessor, Lessee shall furnish Lessor written evidence duly certified that any and all such taxes, assessments and other like charges required to be paid by Lessee have been paid, satisfied or otherwise

discharged. Lessee shall have the right to contest any asserted tax, assessment or other like charge against the Leased Premises, any interest therein or improvements thereon, by posting bond to prevent enforcement of any lien resulting therefrom.

(C) Lessee agrees to protect and hold harmless Lessor and the Leased Premises and all interests therein and improvements thereon from any and all such taxes, assessments and like charges and from any lien therefor, any sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Upon request by Lessee, Lessor shall execute and deliver any appropriate documents with reference to real estate tax exemption of the Leased Premises, any interest therein or improvements thereon.

(D) Lessee shall pay, before becoming delinquent, all charges for electricity and telecommunication services supplied to the Leased Premises. Lessee may permit Sublessees to pay such charges directly, but in the event of nonpayment by Sublessee, Lessee shall be responsible for paying such charges. Lessee shall have no right to recover any payment on behalf of a Sublessee from Lessor or to offset such payments against rent owed to Lessor.

(E) Lessor shall have the right to pay any lien, tax, assessment or other charge payable by Lessee under this Lease, or to settle any action therefor, if, within a reasonable time after written notice thereof from Lessor, Lessee fails to pay or to post bond against enforcement thereof. All costs and other expenses incurred by Lessor in so doing shall be repaid by Lessee to Lessor on demand, together with interest at the greater of (a) ten percent (10%) per annum, or (b) the highest allowable rate from the date of payment or incursion thereof by Lessor until repayment is made by Lessee. Interest shall accrue from the date of payment or incursion thereof by Lessor until repayment is made by Lessee.

12. ASSIGNMENTS AND SUBLEASES.

Lessee shall not assign, convey, or otherwise transfer this Lease without the prior written approval of Lessor, and then only upon the condition that the assignee or other successor in interest shall agree, in writing, to be bound by each and every covenant, agreement, term and condition of this Lease. Any such attempted assignment, conveyance, or transfer, without Lessor's prior written approval shall be void and of no effect. The approval of Lessor may be granted, granted upon conditions, or withheld at the sole discretion of Lessor. Any Sublease of the Leased Premises shall be effective only upon approval of the Sublease by the Nation, as provided in Section 14 below. The Leasehold may be sold, assigned or transferred by the Lessee, with approval or consent of the Lessor, to Lessee's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Lessee's assets by reason of a merger, acquisition or other business reorganization. No change of stock ownership, partnership interest or control of Lessee or transfer upon partnership or corporate dissolution of Lessee shall constitute an assignment hereunder.

13. REMEDIAL ACTIONS.

Lessee acknowledges that all telecommunications activities on lands of the Nation, as the Nation is defined by 7 N.N.C. § 254, are under the jurisdiction of and regulated by the Navajo Nation Telecommunications Regulatory Commission (NNTRC), in accordance with the

Telecommunications Regulatory Act, 21 N.N.C. §§ 501 *et seq.* Lessee shall take prompt and immediate action to rectify any measurable interference caused by Lessee's facility (alone or in combination with other equipment) to other telecommunications facilities located on or near the Leased Premises at the time this Lease was executed or before the interfering equipment was installed by Lessee or its Sublessee, as well as other actions that may be required by the NNTRC. Lessee agrees to make modifications to its equipment promptly should its facilities cause any measurable interference to other telecommunication facilities to the extent required above. If such modifications do not eliminate the interference, Lessee shall immediately cease all telecommunications activities upon demand by the Nation.

14. SUBLEASES.

Lessor may approve Subleases that allow Lessee to permit a Sublessee to co-locate cellular antennas or other telecommunications equipment on the Lessee's tower, provided all applicable laws and regulations of the U.S. or the Nation have been complied with. A Sublease shall become effective only after the Lessor executes a Sublease with Sublessor and Sublessee and rental payment for the first year's Sublease is received in advance. To maximize the efficient use of Nation land, Lessee shall not unreasonably restrict Subleases of its telecommunications tower or unreasonably limit access to the Leased Premises. Notwithstanding the foregoing, the Lessee may require that any Sublease to be on commercially reasonable terms as negotiated between the parties. NLD will submit one copy of each Sublease to BIA for recording pursuant to 16 N.N.C. §2322(B).

15. QUIET ENJOYMENT.

Lessor hereby covenants and agrees that, upon performing each of its covenants, agreements, terms and conditions contained in this Lease, Lessee shall peaceably and quietly have, hold and enjoy the Leased Premises without any hindrance, interruption, ejection or molestation by Lessor or by any other person or persons claiming from or under Lessor.

16. ENCUMBRANCE.

- A. This Lease or any right to or interest therein may not be encumbered without the prior written approval of the Lessor, and no such encumbrance shall be valid or binding without such prior written approval. An encumbrance shall be confined to the leasehold interest of the Lessee or the sublease hold interest of a Sublessee and shall not jeopardize in any way Lessor's interest in the land. Lessee agrees to furnish any requested financial statements or analyses pertinent to the encumbrance that the Lessor may deem necessary to justify the amount, purpose and terms.
- B. In the event of default by Lessee or Sublessee of the terms of an approved encumbrance, Encumbrancer may exercise any rights provided in such approved encumbrance, provided that prior to any sale of leasehold, whether under power of sale or foreclosure, the Encumbrancer shall give to Lessor notice of the same character and duration as is required to be given to Lessee by the terms of such Approved Encumbrance and by applicable law. In the event of such default, Lessor shall have the right, which may be exercised at any time prior to the completion of sale, to pay to Encumbrancer any and

- all amounts secured by the Approved Encumbrance, plus unpaid interest accrued to the date of such payment, plus expenses of sale incurred to the date of such payment.
- C. If Lessor exercises the above right, all right, title and interest of Lessee in this Lease shall terminate and Lessor shall acquire this Lease; provided, however, that such termination shall not relieve Lessee of any obligation or liability which shall have accrued prior to the date of termination. Acquisition of this Lease by Lessor under these circumstances shall not serve to extinguish this Lease by merger or otherwise.
- D. If Lessor declines to exercise the above right and sale of the leasehold under the Approved Encumbrance shall occur, the purchaser at such sale shall succeed to all of the right, title and interest of Lessee in this Lease. It is further agreed that the purchaser at such sale if it is the Encumbrancer, the Encumbrancer may sell and assign this Lease without any further approval by Lessor, provided that the assignee shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such assignment shall be valid unless and until the assignee shall so agree. If Encumbrancer is the purchaser, it shall be required to perform the obligations of this Lease only so long as it retains title thereto. If the purchaser is other than the Encumbrancer, the purchaser shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such purchase shall be valid unless and until purchaser shall so agree.

17. DEFAULT.

(A) Time is declared to be of the essence in this Lease. Should Lessee default in any payment of monies when due under this Lease, fail to post any required bond, failure to cooperate with request to make appropriate records, reports, information available or be in violation of any other provision of this Lease, and should such violation not be cured within thirty (30) days of written notice from Lessor, or, with respect to any default other than a failure to make a timely payment of monies due and owed, within such additional time as is needed to cure provided Lessee is diligently prosecuting the same to completion, said violation may be acted upon by the Nation in accordance with the provisions of 25 C.F.R. Part 162, including any amendments or successors thereto.

(B) In addition to the rights and remedies provided by the aforementioned regulations, Lessor may exercise the following options upon Lessee's default, authorized by applicable law subject to the provisions of subsection (D) below:

- (1) Collect, by suit or otherwise, all monies as they become due hereunder, or enforce by suit or otherwise, Lessee's compliance with all provisions of this Lease; or
- (2) Re-enter the premises, if the Lessee has abandoned the premises and defaulted on payment of rent, or has failed to conduct its telecommunication operations for six months without notice, and remove all property therefrom, and re-let the premises without terminating this Lease, for the account of Lessee, but without prejudice to Lessor's right to terminate the Lease under applicable law thereafter, and without invalidating any right of

Lessor or any obligations of Lessee hereunder. The terms and conditions of any re-letting shall be in the sole discretion of Lessor, who shall have the right to alter and repair the Leased Premises as it deems advisable and to re-let with or without any equipment or fixtures situated thereon. Rents from any such re-letting shall be applied first to the expense of altering and repairing or re-letting the Leased Premises and collecting any related expenses, including reasonable attorney's fees and any reasonable real estate commission actually paid, together with any insurance, taxes and assessments paid, and thereafter toward payment to liquidate the total liability of Lessee. Lessee shall pay to Lessor monthly when due, any deficiency and Lessor may sue thereafter as each monthly deficiency shall arise; or

(3) Take any other action authorized or allowed under applicable law.

(C) No waiver of a breach of any of the terms and conditions of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other term or condition of this Lease. Exercise of any of the remedies herein shall not exclude recourse to any other remedies, by suit or otherwise, which may be exercised by Lessor, or any other rights or remedies now held or which may be held by Lessor in the future.

(D) Lessor shall give to an Encumbrancer a copy of each notice of default by Lessee at the same time as such notice of default shall be given to Lessee. Lessor and shall accept performance by an Encumbrancer of any of Lessee's obligations under this Lease, with the same force and effect as though performed by Lessee. An Encumbrancer shall have standing to pursue any appeals permitted by applicable federal or Navajo Nation law that Lessee would be entitled to pursue. Lessor shall not terminate this Lease if an Encumbrancer has cured or is diligently taking action to cure Lessee's default and has commenced and is pursuing diligently either a foreclosure action or an assignment in lieu of foreclosure.

18. SANITATION.

Lessee hereby agrees to comply with all applicable sanitation laws, regulations or other requirements of the United States and the Nation, and to dispose of all solid waste in compliance with applicable federal and Nation law. Lessee further agrees at all times to maintain the entire Leased Premises in a safe and sanitary condition, presenting a good appearance both inside and outside the Leased Premises.

19. HAZARDOUS AND REGULATED SUBSTANCES.

(A) Lessee shall not cause or permit any Hazardous or Regulated Substance to be used, stored, generated or disposed of on or in the Leased Premises without first notifying Lessor and obtaining Lessor's prior written consent. If Hazardous or Regulated Substances are used, stored, generated or disposed of on or in the Leased Premises, with or without Lessor's consent, or if the premises become contaminated in any manner, Lessee shall indemnify and hold harmless the Lessor from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses

(including, without limitation, a decrease in value of the Leased Premises, damages due to loss or restriction of rentable or usable space, any and all sums paid for settlement of claims, and any costs related to marketing the Leased Premises), as well as attorneys' fees, consultant and expert fees arising during or after the Lease term and arising as a result of such contamination regardless of fault, with the exception that the lessee is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct. This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal or restoration mandated by the federal government or the Nation. Without limitation of the foregoing, if Lessee causes or permits any Hazardous or Regulated Substance on the Leased Premises and the presence of such results in any contamination of the Leased Premises, including, but not limited to, the improvements, soil, surface water or groundwater, Lessee shall promptly, at its sole expense, take any and all necessary actions to return the Leased Premises to the condition existing prior to the contamination by any such Hazardous or Regulated Substance on the Leased Premises. Lessee shall first obtain Lessor's approval for any such remedial action.

(B) Lessee shall provide the Navajo Environmental Protection Agency and the Risk Management Department of the Nation with a clear and legible copy of all notices or reports concerning release of Hazardous or Regulated Substance, testing, or remediation at the premises subject to this Lease which Lessee is required by applicable law, or regulation, to provide to the United States Environmental Protection Agency or which Lessee otherwise provides to the United States Environmental Protection Agency. Service of documents as required by this Lease upon the Navajo Environmental Protection Agency shall be by first class mail to:

Waste Regulatory and Compliance Program
Navajo Environmental Protection Agency
Post Office Box 3089
Window Rock, Navajo Nation (Arizona) 86515

and,

Risk Management Department
Navajo Environmental Protection Agency
Post Office Box 1690
Window Rock, Navajo Nation (Arizona) 86515

or their respective institutional successors.

20. PUBLIC LIABILITY INSURANCE.

(A) Lessee shall obtain and maintain a commercial public liability insurance policy in an amount of no less than \$1,000,000.00 for personal injury to one person and \$2,000,000.00 per occurrence and \$500,000.00 for damage to property. Lessor and the United States shall be named as an Additional Insured with respect to this Lease. This coverage shall be primary to the Additional Insured, and not contributing with any other insurance or similar protection available to the Additional Insured, whether said other available coverage by primary, contributing or

excess. Lessee shall provide for notification to Lessor prior to any change in said policy or any cancellation or non-renewal of said policy for any reason including non-payment of premium. Certificate of Insurance evidencing the above coverage shall be furnished to Lessor annually, or upon written request.

(B) Lessor may require that the amount of the insurance policy required by subsection (A) of this Section 20 be increased at any time, whenever either shall determine that such increase reasonably is necessary for the protection of Lessor or the United States.

(C) In no event shall the amount of Lessee's insurance policy limit Lessee's liability or its duty to indemnify Lessor under this Agreement.

21. PERFORMANCE BOND

Lessee shall obtain a performance bond in the amount of \$12,000 to cover the rental and cost of removal and remediation. Lessee may avoid obtaining the Performance Bond should the annual rental payment be made in advance of the due date.

22. NON-LIABILITY.

Neither Lessor nor the United States Government, nor their officers, agents, or employees (collectively, the "Lessor Parties"), shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of Lessee or any other person whomsoever, that is caused by any use of the Leased Premises by Lessee or any Sublessee, or that results from any defect in any structure existing or erected thereon, or that arises from accident, fire, or from any other casualty on said premises or from any other cause whatsoever, except to the extent of the Lessor Parties' negligence or intentional misconduct. Lessee, as a material part of the consideration for this Lease, hereby waives on Lessee's behalf all claims against Lessor and the United States Government and agrees to defend and hold Lessor and the United States Government free and harmless from liability for all claims for any loss, damage, injury or death arising from the condition of the premises or use of the premises by Lessee, together with all costs and expenses in connection therewith to the full extent permitted by applicable law, excepting however, all claims to the extent arising from the Lessor Parties' negligence or intentional misconduct.

23. INSPECTION.

The Lessor and its authorized representatives shall have the right, upon reasonable notice to Lessee, to enter upon the Leased Premises, or any part thereof, to inspect the same and all improvements erected and placed thereon for purposes, including, but not limited to, conditions affecting the health, safety and welfare of those entering the premises, the protection of the Leased Premises, any improvements thereto or any adjoining property or uses, or compliance with applicable environmental health or safety laws and regulations. No showing of probable cause shall be required for such entry and inspection. If testing for environmental contamination reveals environmental contamination in violation of applicable law, Lessee shall pay the costs of such testing provided such contamination arose due to Lessee's acts or omissions. Nothing in this

section shall limit Lessee's obligation under applicable law or this Lease to perform testing or remediation or otherwise limit Lessee's liability.

24. MINERALS.

All minerals, including sand and gravel, contained in or on the Leased Premises are reserved for the use of Lessor. Lessor also reserves the right to enter upon the Leased Premises and search for and remove minerals located thereon, paying just compensation for any damage or injury caused to Lessee's personal property or any improvements constructed by Lessee.

25. EMINENT DOMAIN.

If the Leased Premises or any part thereof is taken under the laws of eminent domain at any time during the term of this Lease, Lessee's interest in the Leased Premises or the part of the Leased Premises taken shall thereupon cease. Compensation awarded for the taking of the Leased Premises or any part thereof, including any improvements located thereon, shall be awarded to Lessor and Lessee as their respective interests may appear at the time of such taking, provided that Lessee's right to such awards shall be subject to the rights of an Encumbrancer under an Approved Encumbrance.

26. DELIVERY OF LEASED PREMISES.

At the termination of this Lease, Lessee will peaceably and without legal process deliver up the possession of the Leased Premises, in good condition, usual wear and tear excepted.

27. HOLDING OVER.

Except as otherwise provided, holding over by Lessee after termination of this Lease shall not constitute a renewal or extension thereof or give Lessee any rights hereunder in or to the Leased Premises or to any improvements located thereon.

28. ATTORNEY'S FEES.

Lessee agrees to pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by Lessor in enforcing the provisions of this Lease or in pursuing an action against Lessee or any Sublessee for breach, default or liability arising under this Lease.

29. INDEMNIFICATION.

Except to the extent of the negligence or intentional misconduct of Nation and its agents, employees and contractors, Lessee shall defend, indemnify and hold harmless the Nation and its authorized agents, employees, land users and occupants, against any liability for loss of life, personal injury and property damages arising from the construction on or maintenance, operation, occupancy or use of the Leased Premises by Lessee or any Sublessee.

30. AGREEMENT TO ABIDE BY NAVAJO NATION AND FEDERAL LAWS.

Lessee and Lessee's employees or agents, and Sublessees and their employees or agents agree to abide by all laws, regulations, and ordinances of the Nation and all applicable laws, regulations and ordinances of the United States now in force and effect or as may be hereafter in force and effect including, but not limited to the Navajo Preference in Employment Act, 15 N.N.C. § 601 *et seq.* (NPEA) and the Navajo Nation Business Opportunity Act, (NNBOA), 5 N.N.C. § 201 *et seq.*

31. GOVERNING LAW.

Except as may be prohibited by applicable federal law, the laws of the Nation shall govern the construction, performance and enforcement of this Lease. Any action or proceeding brought by Lessee against the Nation in connection with or arising out of the terms and conditions of this Lease, to the extent authorized by Navajo law, shall be brought only in the courts of the Nation, and no such action or proceeding shall be brought by Lessee against the Nation in any court or administrative body of any State.

32. DISPUTE RESOLUTION.

In the event that a dispute arises under this Lease, Lessee, before initiating any action or proceeding, agrees to use good faith efforts to resolve such disputes through mediation, informal discussion, or other non-binding methods of dispute resolution in connection with this Lease.

33. CONSENT TO JURISDICTION.

Lessee hereby consents to the legislative, executive and judicial jurisdiction of the Nation in connection with all activities conducted by the Lessee within the Nation.

34. COVENANT NOT TO CONTEST JURISDICTION.

Lessee hereby covenants and agrees not to contest or challenge the legislative, executive or judicial jurisdiction of the Nation in connection with any enforcement of this Lease, on the basis that such jurisdiction is inconsistent with the status of the Nation as an Indian nation, or that the Nation government is not a government of general jurisdiction, or that the Nation government does not possess police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing in this section shall be construed to negate or impair federal responsibilities with respect to the Leased Premises or to the Nation.

35. NO WAIVER OF SOVEREIGN IMMUNITY.

Nothing in this Lease shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Nation.

36. INTEREST OF MEMBER OF CONGRESS.

No member of or delegate to Congress or any Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise here from. This provision shall not be construed to extend to this Lease if made with a corporation or company for its general benefit.

37. OBLIGATIONS TO THE UNITED STATES.

It is understood and agreed that while the Leased Premises are in trust or restricted status, all of Lessee’s obligations under this Lease and the obligations of its sureties are to the United States as well as to Lessor.

38. NOTICES AND DEMANDS.

(A) Any notices, demands, requests or other communications to or upon either party provided for in this Lease, or given or made in connection with this Lease, (hereinafter referred to as “Notices,”) shall be in writing and shall be addressed as follows:

To or upon Lessor:

President
The Navajo Nation
Office of the President/Vice-President
P.O. Box 9000
Window Rock, Navajo Nation (Arizona) 86515
Fax: 1- 928-871-4025

To or upon Lessee:

(B) All Notices shall be given by personal delivery, by registered or certified mail, postage prepaid, or by facsimile transmission or e-mail, followed by surface mail. Notices shall be effective and shall be deemed delivered: if by personal delivery, on the date of delivery if during normal business hours; or if not, during normal business hours on the next business day following delivery; if by registered or certified mail, or by facsimile transmission or e-mail, followed by surface mail, on the next business day following actual delivery and receipt.

(C) Lessor and Lessee may at any time change their addresses for purposes of this section by Notice.

39. SUCCESSORS AND ASSIGNS.

The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors of Lessee. Except as the context otherwise requires, the term "Lessee," as used in this Lease, shall be deemed to include all such successors, heirs, executors, assigns, employees and agents.

40. RESERVATION OF JURISDICTION.

There is expressly reserved to the Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease; and the area under the Lease and all lands burdened by the Lease shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

41. EFFECTIVE DATE; VALIDITY.

This Lease shall take effect on the date it is executed by both parties. No modification of or amendment to this Lease shall be valid or binding on either party until it is executed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first above written.

THE NAVAJO NATION, LESSOR _____, **LESSEE**

Date: _____

Date: _____

By: _____

Jonathan Nez, *President*

By: _____

Exhibit A

**Legal Description
and Survey Map of Leased Premises**