

EMERGENCY COMMUNICATION SITE LEASE AGREEMENT (HIGHLAND HOUSE BUILDING)
(for Cassidian P-25 Digital Radio 911 Communication System)

THIS EMERGENCY COMMUNICATION SITE LEASE AGREEMENT ("Agreement") dated and made effective as of the ___ day of _____, 2013, is between Highland House Associates, LLC a Kansas limited liability company ("Lessor", "Owner" or "Highland"), and Sedgwick County, Kansas as ("Lessee" or "County").

For good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Premises.** Lessor owns or has rights to a parcel of land ("**Land**") and a building ("**Building**") known as the Highland House Apartments, with a commonly known address of 1400 N. Woodlawn, Wichita, Kansas 67208. The Building and the Land are collectively referred to herein as the "**Property**." The Land is more particularly described in the attached Exhibit A. Subject to the provisions of Paragraph 2 below ("**Effective Date/Due Diligence Period**"), Lessor hereby licenses to Lessee, Sedgwick County and Lessee Sedgwick County licenses from Lessor approximately 418 square feet of rooftop space as reflected on the diagram sketch attached hereto as Exhibit B-1, and additional space adjacent to the roof of the Building and cable tray, conduit and riser space, approximately 154 square feet on the ground for a generator, and all other access and utility easements necessary or desirable therefore (collectively, "**Premises**") as may be described generally in the attached Exhibit B and subject at all times and from time to time to approval and consent of Lessor with respect to locations, cable runs, wire locations and routing and shed use. The use of the rooftop space shall be limited to equipment and antenna(s) scheduled in Exhibit B-2 (the "Equipment Schedule") and all subject to approval and consent of Lessor as well as subject to floor load limitations of Lessor's architect and engineers and changes thereto or substitutions thereof shall be upon notice and request of Lessee and subject to Lessor's reasonable consent and approval except that at no time shall the number of antenna(s) or supporting equipment exceed that reflected in the Equipment Schedule unless approved by Lessor under an amendment to this Lease. The installation of any and all antenna(s) and equipment shall be in accordance with all laws, rules, codes, ordinances and regulations of all governmental and quasi governmental authorities and industry associations/standards, including insurance underwriters rules and recommendations and fire underwriters as well as manufacturers guidelines (all collectively and individually referred to sometimes hereinafter as "Laws" or "laws").

2. **Effective Date/Due Diligence Period.** This Agreement shall be effective on the date of full execution hereof ("**Effective Date**") and after all necessary and desirable approvals and consents are obtained by Lessor from its board of directors and mortgagees.

3. **Use.** The Premises shall only and solely be used by Lessee in connection with the providing emergency wireless communications services, including without limitation, the transmission and the reception of microwave and radio communication signals, and the construction, maintenance and operation of related communications facilities limited solely to supporting the antenna(s) and equipment reflected from time to time on the Equipment Schedule as approved by Lessor (the "Permitted Use"). The parties acknowledge that prior to the execution hereof, Lessee has submitted to Lessor for review and approval detailed plans, specifications, and drawings describing in detail the proposed facilities to be installed by Lessee ("**Lessee's Facilities**") which the parties have dated and initialed. The approved plans, specifications and drawings of Lessee's Facilities are attached as Exhibit B-3 and may be subject to modification if required by field conditions upon approval of Lessor (which shall be reasonable) prior to the completion of installation. Following the initial installation of Lessee's Facilities, Lessee shall not install any additional equipment upon the Premises without the consent of Lessor, which consent shall not be unreasonably withheld or delayed and which shall be reflected in a Lease modification or amendment agreement with adjustments in rentals and other terms and Lessor and Lessee shall then agree to. Lessor's consent shall not be required for ordinary and routine maintenance and repair of the Lessee's Facilities or like kind replacement of equipment of similar floor loads and electrical consumption and size as the equipment being replaced. Such replaced equipment must be removed from the Premises. Lessor agrees, at no expense to Lessor, to cooperate with Lessee in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for Lessee's permitted use of the Premises and Lessee shall at all times maintain all permits and licenses required by Laws to operate the Permitted Use.

Lessor and Lessee acknowledge that the purpose of this Lease Agreement shall be to provide the necessary public safety and emergency wireless communications services to first responders and emergency personnel, including but not limited to, law enforcement, fire department, emergency medical services, etc. for the County and entities within Sedgwick County. In the event of emergency, whether declared by the Licensee or the State of Kansas under the authority vested by the Emergency Preparedness For Disasters Act, K.S.A. 48-904, *et. seq.*, or declared by the United States of America, any federal agency or any branch of the U.S. military forces, and irrespective of any undeclared emergency, whether national, state or local, Lessor shall use commercially reasonable efforts, at Lessee's sole cost and liability, to grant priority access to Lessee to the Premises over all other users of the Property other than occupants of space in the Building not related to the Premises provided that Lessee shall indemnify, defend and hold Lessor harmless from any liability, damage, claims, costs or losses resulting from such emergency use to the extent allowed by Kansas law.

4. **Term.** The term of this Agreement shall commence upon the date Lessee begins construction of the Lessee Facilities (as defined in Paragraph 6 below) or six (6) months following the Effective Date, whichever first occurs ("**Term Commencement Date**") and shall terminate on the five (5) year anniversary of the Term Commencement Date ("**Term**") unless renewed or otherwise terminated as provided herein. Provided this Lease is in full force and effect and Lessee is not in default of the terms thereof at the time of the election or at the time of the commencement of any extended or renewal term, Lessee shall have the right to extend the Term for three (3) successive, five (5) year periods ("**Renewal Terms**") on the same terms and conditions as set forth herein by providing notice of its exercise of such extension or renewal to Lessor in writing not less than 6 months prior to the expiration of the initial Term or any expiration of any extended or renewal Term.

5. **Rental Fee.** Lessee shall pay Lessor a one-time payment of Two Thousand Eight Hundred Forty Dollars (\$ 2,840.00) Dollars within thirty (30) business days of the execution of this Agreement. Within fifteen (15) business days following the Term Commencement Date and on the first day of each month thereafter, Lessee shall pay to Lessor the Rental Fee of Two Thousand Eight Hundred Forty Dollars (\$ 2,840.00) Dollars per month ("**Rental Fee**"). The Rental Fee for any fractional month at the beginning or at the end of the Term or Renewal Term shall be prorated. Rental Fees shall be payable to Lessor at the address provided. All of Lessee's monetary obligations set forth in this Agreement are conditioned upon Lessee's receipt of an accurate and executed W-9 Form from Lessor. Upon each five (5) year anniversary of the Term Commencement Date ("**Renewal Term**"), the Rental Fee shall be increased by the five percent (5%) Renewal Term Escalator, as follows:

| | |
|-------------|---|
| Years 1-5 | \$2,840.00 |
| Years 6-10 | \$2,982.00 (includes first 5% Escalator) |
| Years 11-15 | \$3,131.00 (includes second 5% Escalator) |
| Years 16-20 | \$3,288.00 (includes third 5% Escalator) |

6. **Improvements.**

6.1 Lessee has, in accordance with the Permitted Use in Paragraph 3 and the rights in accordance and subject to the requirements of Paragraph 1, to construct, maintain, install, repair secure, replace, remove and operate the Lessee's Facilities on the Premises in accordance with the terms set forth herein. In connection therewith and subject to the provisions of Paragraph 1, Lessee has the right to do all work necessary to prepare, add, maintain and alter the Premises for Lessee's emergency communications operations and to install utility lines and transmission lines connecting antennas to transmitters and receivers in accordance with this Lease Agreement and all addenda and attachments hereto. All of Lessee's construction and installation work shall be performed at Lessee's sole cost and expense, in a good and workmanlike manner, and in accordance with the plans, specifications, and drawings submitted to and approved by Lessor and in accordance with all Laws. Lessee shall maintain all such Facilities and Equipment in good working condition and shall , repair and replace damage to the rooftop caused by Lessee's construction and installation, . Lessee shall also repair and replace any damage caused by Lessee or its agents, contractors or invitees to the Property and shall at its sole cost and expense, relocate the Facilities Equipment from time to time for any needed repairs or replacement of the roof, facade or other Building areas and in the event of renovation or re-construction of the Building by Owner, provided Owner shall designate a suitable substitute location for the Facilities during the periods of renovation or re-construction. Title to the Lessee Facilities and any equipment placed on the Premises by Lessee shall be held by Lessee or its lenders or assigns and are not fixtures. Lessee shall remove the Lessee Facilities at its sole expense on or before the expiration or earlier termination of this Agreement, and Lessee shall fully repair, within accepted industry standards, any damage to the Premises caused by such removal. Following the initial installation of the Lessee's Facilities and Approved Equipment set forth in this Lease, any addition or material modification will require approval by Lessor. Upon such

request for addition or material modification by Lessee to Lessor, Lessee shall pay the reasonable and necessary direct costs for review by a professional engineer and structural analysis, as the case may be. In addition, the Lessee shall pay a ten percent (10%) administrative fee to the Lessor that shall not exceed \$1,500.00 for each such request by Lessee. Lessor reserves the right to conduct an annual audit of the rooftop use/anchoring and operations by Lessee and such audit shall be at the expense of Lessee that shall not exceed: \$500.00 annually in years 1-5; \$600.00 annually in years 6-10; \$700.00 in years 11-15; and \$800.00 in years 16-20 except to the extent such audit discloses non-compliance of Lessee or defaults of Lessee in which case actual cost of such consulting engineer or architect shall be paid by Lessee as incurred by Lessor for enforcement of the terms of this Lease.

6.2 In the event Lessor shall require relocation of Lessee's antenna(s) and equipment for renovations, re-construction, repairs or improvements to the Property that require Lessee to temporarily relocate Lessee's equipment, Lessor shall provide Lessee no less than thirty (30) days' written notice of such relocation need and provide sufficient particulars of the improvements to be made to the Building or Property and to designate substitute locations for Lessee's Facilities to allow the Lessee to make a determination of the best methodology to accommodate such relocation. Lessee shall relocate its equipment as expeditiously as possible, as long as Lessee may maintain the functionality and coverage of the P-25 911 System. Lessee shall use best efforts to complete the relocation within sixty (60) days of the determination of methodology. Lessee shall be solely responsible for the costs incurred by Lessee in any relocation of Lessee's equipment and for the return of same to the Premises after such renovations, re-construction, improvements or repairs.

7. **Access and Emergency Access.**

7.1 Lessor shall provide Lessee, Lessee's employees, agents, contractors, subcontractors and permitted assigns with supervised and controlled access to the Premises during normal business hours, Monday through Friday, 8:00 a.m. to 5:00p.m., CST, at no charge to Lessee. Lessor grants to Lessee, and Lessee's agents, employees and contractors, a non-exclusive right and easement for pedestrian and vehicular ingress and egress across the Property, and such right and easement may be described generally in Exhibit B or otherwise as reasonably necessary and without material interference with other occupants of the Building to operate the Facilities at the Premises. No construction work shall be conducted by Lessee before 8:30 a.m. or after 5:00 p.m. or on weekends without the express permission of Lessor (with the exception of emergencies in Section 7.3). Authorized personnel and contractors assigned by Lessee to perform any permitted construction, maintenance and upgrades shall report to Lessor's on-site agent prior to beginning any work on-site, provide certificates of insurance as required by this Lease and shall inform the agent at the time of departure. Lessee shall be solely responsible for the acts of any such personnel while at the Property. Lessee shall provide Lessor with a list of authorized personnel and/or contractors granted access to the Property under this Agreement and shall cause same to maintain the insurance required under the Lease naming Lessor, Lessor's managing agent and any superior interest holders in the Property disclosed by Lessor. Lessee shall update the list of such persons/entities from time to time in order to keep the list updated as much as practicable. Lessor reserves the right to deny access to any persons/entity for unreasonable behavior, or activity that is a threat or disturbance to lessor's core business or other tenants. Lessee shall require all approved employees/agents of contractors authorized to have access to have criminal background checks.

7.2 Lessor shall maintain the existing or substitute access from the public roadway to the Premises during the Term of this Lease.

8. **Utilities.** In consideration of the Rental Fee, Lessor shall provide 200 amps of electrical capacity at a central point adjacent to the Premises for use by Lessee at Lessee's cost and expense. All utility services installed on the Building for the use or benefit of Lessee shall be made at the sole cost and expense of Lessee and shall be separately metered from Lessor's utilities. Lessee shall be solely responsible for obtaining additional utilities to the Building as necessary for the operation of the Approved Equipment and for the payment of utility charges including connection charges and security deposits incurred by Lessee. In the event separate metering is not available, the electrical service shall be sub-metered and billed monthly in addition to the monthly rent with all billings statements to be exchanged by the Lessor and Lessee. The first 90 days will be billed at \$400.00 per month with the meter reading to occur after 90 days and the mutually adjusted amount to be determined on the actual usage amount plus a 20% buffer. Lessee will be responsible to read the meter annually with the final adjustment between Lessor and Lessee to be made each year in order to equalize and "square up" the final annual electrical service cost, resulting in an annual mutual zero balance between the Lessor and Lessee. Lessee agrees not to connect loads or consume in amounts in excess of the capacity set forth above.

9. **Interference.** Lessee shall operate the Lessee Facilities in compliance with all Federal Communications Commission ("FCC") requirements. Lessee shall operate its Lessee Facilities without interference to communications facilities of Lessor or other leases or lessees of the Property, provided that the installation and operation of any such facilities predate the installation of the Lessee Facilities. Subsequent to the installation of the Lessee Facilities, Lessor will not permit its current lessees or new lessees, to install new equipment on or make any alterations to the Property or property contiguous thereto owned or controlled by Lessor, if such new equipment or modifications are likely to cause interference with Lessee's operations. Lessee shall reasonably cooperate with Lessor to accommodate such subsequent uses provided Lessee shall not be required to modify its Permitted Use in any material way. Lessor acknowledges that Lessee's use of the premises shall be for emergency communication purposes and that the continued uninterrupted use and availability of Lessee's Facilities shall be given a first right superior to any such other leases or lessees use or operation on the Land, Property or Premises except as such pre-exist this Lease. If interference or degradation occurs from any such Owner controlled lease, lessee and/or as a result of additions or modifications occurring after the Term commencement, Lessor agrees to use commercially efforts to immediately eliminate such interference or degradation. Lessor's failure to comply with this paragraph shall be a material breach of this Agreement. The parties acknowledge and agree that Lessee is a public entity and that the Premises is currently used by Lessee for emergency communications facilities for itself and other first responders and that this use shall continue for the term and any renewal of this Agreement. Lessee will make a good-faith effort to avoid causing interference with Lessor's or any other lessee's communications signals; however, Lessor waives any claim for damages or for breach of this Agreement if Lessee's use of the Premises for the Permitted Use in accordance with Laws for emergency communications purposes nonetheless causes interference with Lessor's or any other lessee's operations and signals. Lessor and Lessee each waive any rights to claim consequential or indirect damages under the terms of this Lease in general and specifically with respect to any interference as contemplated herein. Such remedy for breach hereof shall be solely limited to injunctive relief.

Subject to the last sentence of the preceding paragraph, nothing herein shall prejudice, limit or impair Lessee's rights under Applicable Law, including, but not limited to, FCC Rules and Regulations to redress any Interference independently of the terms of this section. Notwithstanding anything herein to the contrary, the provisions set forth in this section shall be interpreted in a manner so as not to be inconsistent with Applicable Law, including, but not limited to, FCC Rules and Regulations and nothing herein relieves Lessee and/or Lessor from complying with all Applicable Laws governing the propagation of radio frequencies and/or radio frequency interference. The Parties acknowledge that currently FCC Rules and Regulations govern the obligations of wireless telecommunication service providers with respect to the operation of equipment and use of frequencies. Consequently, the provisions set forth in this section are expressly subject to CFR, Title 47, including but not limited to Part 15, et seq, governing Radio Frequency Devices; Part 20, et seq, governing commercial mobile radio services; Part 24, et seq, governing personal communications services; and Part 90, et seq, governing private land mobile radio services. In addition, in accordance with good engineering practice and standard industry protocols, lessee's employ a wide range of techniques and practices, including those involving the use of proper types of equipment as well those related to the adjustment of operating parameters, in a mutually cooperative effort to identify and mitigate sources of Interference. The obligation of Part 20 lessees, including, but not limited to, private paging, specialized mobile radio services, cellular radiotelephone service and personal communications services, to avoid Interference is set forth in 47 CFR Part 90, Subpart N – Operating Requirements, §90.403(e). Claims of Interference are ultimately cognizable before the FCC's Enforcement Bureau, Spectrum Enforcement Division. Lessee shall observe good engineering practice and standard industry protocols, applying such commercially reasonable techniques as constitute best practices among lessees, in the deployment of their frequencies and the operation of the Approved Equipment.

9.1 **Public Safety Interference.** As of the Commencement Date, Lessor and Lessee are aware of the publication of FCC Final Rule, Private Land Mobile Services; 800 MHz Public Safety Interference Proceeding, *Federal Register*: November 22, 2004 (Volume 69, Number 224), Rules and Regulations, Page 67823-67853 ("**Final Rule**"). Claims of Interference made by or against users which are public safety entities shall be in compliance with the Final Rule as and when effective, or otherwise in accordance with FCC Rules and Regulations.

10. **Taxes.** The parties acknowledge that Lessee is a tax exempt public entity. However, to the extent any taxes are due and assessable against Lessee; Lessee shall pay the personal property taxes assessed against the Lessee Facilities. Lessor shall pay when due, all real property taxes and all other taxes, fees and assessments attributable to the Premises or this Agreement.

11. **Termination.**

11.1 This Agreement may be terminated without further liability on thirty (30) days prior written notice as follows by either party upon a default of any covenant or term hereof by the other party, which default is not cured within thirty (30) days of receipt of written notice of default, except that this Agreement shall not be terminated if the default cannot reasonably be cured within such thirty (30) day period and the defaulting party has commenced to cure the default within such thirty (30) day period and diligently pursues the cure to completion; provided that the grace period for any monetary default is twenty (20) days from receipt of written notice. This Agreement may be terminated by Lessee without further liability for any reason or for no reason, provided Lessee delivers written notice of termination to Lessor prior to the Commencement Date and fully restores the Premises and reimburses Lessor for any costs incurred by Lessor directly with respect to this Lease, including, but not limited to, installation of utility services, wiring or meters.

11.2 **Nonappropriation.** Lessee is obligated only to pay such Rental Fees under this Lease Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current Fiscal Year. Should Lessee fail to budget, appropriate or otherwise make available funds sufficient to pay Lease Payments following the then current Original Term or Renewal Term, this Lease Agreement shall be deemed terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least ninety (90) days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term.

12. **Default.** The occurrence of any of the following shall be a default of this Agreement by Lessee: (i) any failure of Lessee to pay the Monthly Rent, or any other charge for which Lessee has the responsibility of payment under this Agreement, within 5 calendar days of the date following written notice to Lessee from Lessor, or its designee, of such delinquency, it being understood, however, that Lessor is obligated to provide such notice only two times in each calendar year, and the third instance of the failure to pay the Monthly Rent or any other charge shall be an immediate default without notice to Lessee if not paid within 5 calendar days of the date when due; (ii) any failure of Lessee to perform or observe any term, covenant, provision or condition of this Agreement which failure is not corrected or cured by Lessee within 30 days of receipt by Lessee of written notice from Lessor, or its designee, of the existence of such a default; except such 30 day cure period shall be extended as reasonably necessary to permit Lessee to complete a cure so long as Lessee commences the cure within such 30 day cure period and thereafter continuously and diligently pursues and completes such cure; (iii) failure of Lessee to abide by the Interference provisions as set forth in Provision 8; (iv) Lessee shall become bankrupt, insolvent or file a voluntary petition in bankruptcy, have an involuntary petition in bankruptcy filed against Lessee which cannot be or is not dismissed by Lessee within 60 days of the date of the filing of the involuntary petition, filed for reorganization or arrange for the appointment of a receiver or trustee in bankruptcy or reorganization of all or a substantial portion of Lessee's assets, or Lessee makes an assignment for such purposes for the benefit of creditors; (v) this Agreement or Lessee's interest herein or Lessee's interest in the Property are executed upon or attached; (vi) Lessee commits or fails to perform an act which results in a default under or nonconformance with the Ground Lease or other superior interest of or at the Property and the same shall not be cured within 5 Business Days (or such shorter time as permitted under the Ground Lease or other superior interest to cure) of the date following written notice to Lessee from Lessor, or its designee, of such default; or (vii) the imposition of any lien on the Approved Equipment except as may be expressly authorized by this License, or an attempt by Lessee or anyone claiming through Lessee to encumber Lessor's interest in the Property, and the same shall not be dismissed or otherwise removed within 10 Business Days of written notice from Lessor to Lessee. Upon the occurrence of a Lessee default under this Agreement, Lessor shall be entitled to pursue any and all legal and equitable rights and remedies permitted by Kansas Law, subject to the terms hereof and limitations contained in this Agreement.

It shall be considered to be a default of this Agreement by Lessor if Lessor shall fail to observe or perform any of the material terms and conditions of this Agreement to be observed or performed by Lessor which materially interferes with the Permitted Use, and Lessor shall not remedy such failure within 30 days following written notice from Lessee, or if such failure is not reasonably susceptible to being remedied within such 30 day period, if Lessor shall not within such 30 day period commence to remedy such failure and thereafter exercise commercially reasonable efforts to prosecute such remedy to completion. Upon the occurrence of a Lessor default under this Agreement, Lessee shall be entitled to pursue any and all legal and equitable rights and remedies permitted by Kansas Law, subject to the terms hereof and limitations contained in this Agreement.

13. **Destruction or Condemnation.** If the Premises or Lessee Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, Lessee and Lessor may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice each to the other no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation or with respect to Lessor, at any time that Lessor determines not to restore or rebuild the Building. If Lessor has not elected to terminate the Lease and elects to restore the Building and Lessee chooses not to terminate this Agreement, the Rental Fee shall be reduced or abated in proportion to the actual reduction or abatement of use of the Premises until such time as the Building is repaired and restored by Lessor.

14. **Insurance; Subrogation; and Indemnity.**

14.1 Lessee is a self-insured government entity and shall determine that all contractors and sub-contractors maintain in effect Commercial General Liability, including Contractual Liability, relating to Lessee's construction and operations of the "Premises" defined herein in an amount of not less than \$1,000,000.00 per occurrence. Lessee, as a self-insured government entity, shall maintain sufficient assets to pay up to the coverage amounts set forth herein and Lessor shall be entitled to all rights and coverage's allowed by Kansas law as if Lessee actually maintained insurance. Such insurance shall name Lessor as an additional insured as required by the terms of this Lease.

14.2 Lessor, at its sole cost and expense, shall procure and maintain Commercial General Liability insurance covering bodily injury and property damage with a combined single limit of at least \$1,000,000.00 per occurrence.

14.3 Lessor and Lessee shall each indemnify, defend and hold the other harmless from and against all claims, losses, liabilities, damages, costs, and expenses (including reasonable attorneys' and consultants' fees, costs and expenses) (collectively "Losses") arising from the indemnifying party's breach of any term or condition of this Agreement or from the negligence or willful misconduct of the indemnifying party or its agents, employees or contractors in or about the Property. The duties described in this Section shall apply as of the Effective Date of this Agreement and survive the termination of this Agreement. Nothing in this Section shall be deemed as a waiver of any protection or limit of liability afforded to Lessee under the Kansas Tort Claims Act.

15. **Assignment.** Lessee shall not assign, mortgage or sublease this Lease or its Lessee's interest hereunder or allow occupancy or operations of any others at the Premises without in each instance the written approval and consent of Lessor and any superior interest holder, which consent and approval by Landlord with respect to an assignment of Lessee's interest in the Lease to another governmental entity shall not be unreasonably withheld provided at the time of such request to assign, Lessee is not in default under the Lease. It shall not be deemed an assignment for changes in governmental entity or required assignment from Lessee to a State entity required by any future Law. In the event of any request of Lessee to assign or sublet to a non-governmental entity, Lessee shall make reasonable amendments to this Lease required by Lessor or any superior interest holders with respect to security deposits, insurance requirements and other terms under the Lease as a condition to such approval. In all instances the Permitted Use shall be conducted at the Premises.

16. **Title and Quiet Enjoyment.**

16.1 Lessor and Lessee both represent and warrant that (i) they have full right, power, and authority to execute this Agreement, (ii) with respect to Lessor, that Lessee may peacefully and quietly enjoy the Premises and such access thereto, subject to any superior interests now or hereafter existing and provided that Lessee is not in default hereunder after notice and expiration of all cure periods, and (iii) they have obtained all necessary approvals and consents, and have taken all necessary action to enter into this Agreement.

16.2 Lessee has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice. Lessee acknowledges that this Lease is and will be subject to and subordinate to any existing or future superior interest and superior interest holders and such shall not be an objection to Lessee's leasehold title or under this Lease.

17. **Environmental.** As of the Effective Date of this Agreement: (1) Lessee hereby represents and warrants that it shall not use, generate, handle, store or dispose of any Hazardous Material in, on, under, upon or affecting the Property in violation of any applicable law or regulation, and (2) Lessor hereby represents and warrants that (i) it has no knowledge of the presence of any Hazardous Material located in, on, under, upon or affecting the

Property in violation of any applicable law or regulation; (ii) no notice has been received by or on behalf of Lessor from any governmental entity or any person or entity claiming any violation of any applicable environmental law or regulation in, on, under, upon or affecting the Property; and (iii) it will not permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Material in, on, under, upon, or affecting the Property in violation of any applicable law or regulation. Without limiting Paragraph 12.3 and subject to the waivers for consequential and indirect damages contained in the Lease, Lessor and Lessee shall each indemnify, defend and hold the other harmless from and against all Losses (specifically including, without limitation, attorneys', engineers', consultants' and experts' fees, costs and expenses) arising from (i) any breach of any representation or warranty made in this Paragraph 15 by such party; and/or (ii) environmental conditions or noncompliance with any applicable law or regulation that result, in the case of Lessee, from operations in or about the Property by Lessee or Lessee's agents, employees, invitees or contractors, and in the case of Lessor, from the ownership or control of, or operations in or about, the Property by Lessor and their respective agents, employees or contractors. The provisions of this Paragraph 15 shall apply as of the Effective Date of this Agreement and survive termination of this Agreement. "**Hazardous Material**" means any solid, gaseous or liquid wastes (including hazardous wastes), regulated substances, pollutants or contaminants or terms of similar import, as such terms are defined in any applicable environmental law or regulation, and shall include, without limitation, any petroleum or petroleum products or by-products, flammable explosives, radioactive materials, asbestos in any form, polychlorinated biphenyls and any other substance or material which constitutes a threat to health, safety, property or the environment or which has been or is in the future determined by any governmental entity to be prohibited, limited or regulated by any applicable environmental law or regulation.

18. **Waiver of Lessor's Lien.** Lessor hereby waives any and all lien rights it may have, statutory or otherwise concerning the Lessee Facilities or any portion thereof which shall be deemed personal property for the purposes of this Agreement, whether or not the same is deemed real or personal property under applicable laws, and Lessor gives Lessee and Mortgagees the right to remove all or any portion of the same from time to time, whether before or after a default under this Agreement, in Lessee's and/or Mortgagee's sole discretion and without Lessor's consent. Lessee and Lessee's contractors or agents shall not file any lien on the Property and these provisions shall not be deemed granting any right for contractors, materialmen or others to lien any interest or attach the Property, the Premises or any interests under the Lease. Should any lien be filed against the Premises, Property, Lease or any portions or interests therein, Lessee shall cause the same to be paid and discharged within 20 days from the receipt of notice of the filing and/or recording thereof and in the failure of which, Lessor may discharge the same and Lessee shall reimburse as additional rental hereunder Lessor for all costs and expenses (including attorney fees and court costs for collection and enforcement as well) relating therewith. Such obligation of Lessee shall survive any expiration or termination of the Term of this Lease.

19. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by for next-business-day delivery by a nationally recognized overnight carrier to the following addresses:

| If to Lessee, to: | If to Lessor, to: | With copy to: |
|--|--|---|
| Sedgwick County Emergency Communications Attn: Site Leasing 714 N. Main Wichita, KS 67203 Telephone: 316-660-4984 And Office of the County Counselor Sedgwick County Courthouse 525 N. Main, Ste. 359 Wichita, KS 67203 | Highland House Associates, LLC Attention: Beth Corozza 1400 N. Woodlawn 67208 Telephone: 316-684-7994 | Palatine Capital Partners Attn: Brooke C. Klink 1111 Lincoln Rd. Ste. 805 Miami Beach, FL 33139 Telephone: 904-607-8414 And General Partner 26 Park St. Montclair, NJ 07042 |

Lessor or Lessee may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received upon actual receipt or refusal to accept delivery.

20. **Miscellaneous.**

20.1 If Lessee is to pay the Rental Fee to a payee other than the Lessor, Lessor shall notify Lessee in advance in writing of the payee's name and address.

20.2 If any provision of the Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

20.3 Terms and conditions of this Agreement which by their sense and context survive the termination, cancellation or expiration of this Agreement will so survive.

20.4 This Agreement shall be governed under law of the State in which the Premises are located, and be binding on and inure to the benefit of the permitted successors and permitted assignees of the respective parties.

20.5 A Memorandum of Agreement in the form attached hereto as Exhibit C may be recorded by Lessee confirming the (i) effectiveness of this agreement, (ii) expiration date of the Term, (iii) the duration of any Renewal Terms, and/or other reasonable terms consistent with this Agreement provided Lessee shall deposit with Lessor an "un-recording" piece for the removal thereof at the end of the Term or earlier termination thereof.

20.6 All Exhibits referred herein are incorporated herein for all purposes.

20.7 Lessor shall make a diligent and good faith effort to obtain a Non-disturbance Agreement for the benefit of Lessee from each lender with a security interest recorded upon the title to the Site at the time of execution of this Agreement and any existing or future superior interest holder. In the event Lessor converts the Property or Building to a condominium form of ownership, such conversion and resulting declaration of condominium shall recognize this Lease provided it is in full force and effect at the time.

20.8 This Agreement constitutes the entire Agreement between the parties, and supersedes all understandings, offers, negotiations and other leases concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. Any amendments, modifications or waivers of any of the terms and conditions of this Agreement must be in writing and executed by both parties.

20.9 Except as expressly set forth herein, Lessee shall have no right to use, modify or connect to any Building systems without prior written consent of Lessor. Building systems shall be deemed to include, but not be limited to, all electrical, plumbing, restroom, heat, ventilation and air condition, elevators, rooftop machine rooms, electrical cabinets or wiring rooms and the similar.

20.10 In the event Lessor during the existence of this Agreement, files for bankruptcy protection or files a petition under the Bankruptcy Abuse Prevention and Consumer Act of 2005(BAPCPA), as amended, the parties agree and stipulate that this Agreement shall be interpreted as a safe harbor contract (regardless of being defined as a forward contract, forward agreement, master netting agreement, etc.) and that the Lessee shall be entitled to exercise all rights and remedies, including but not limited to, setoff, liquidation, netting, termination, acceleration, or close out and that Lessee's rights shall not be stayed, avoided or otherwise limited by operation of any provision of BAPCPA, or by any other order of the court or administrative agency in any proceeding therein.

20.11 Any wiring, risers or other systems or attachments to the Property allowed by Lessor shall at all times be maintained by Lessee and kept in compliance with all Laws and maintained in a safe condition. At the end of the Term or the useful life of such, Lessee shall remove such and restore the Property. In the event there are in violations of Laws issued for the Premises or Lessee's Facilities Equipment or appurtenant systems or wiring, Lessee shall cause such to be removed and paid for within 10 days of the issuance of the violation.

20.12 Lessee warrants and covenants that no broker has been involved with this Lease.

20.13 Lessee acknowledges that it has inspected the Premises and accepts same in their "where is" and "as is" condition. Lessee acknowledges neither Owner nor any representative or agent of Owner has made any representation or warranty, express or implied, as to the physical condition, state of repair, layout, footage or use

of the Premises or any matter or thing affecting or relating to Premises except as specifically set forth in this Lease. Lessee has not been induced by and has not relied upon any statement, representation or agreement, whether express or implied, not specifically set forth in this Lease. Owner shall not be liable or bound in any manner by any oral or written statement, broker's "set-up", representation, agreement or information pertaining to the Premises, the Building or this Lease furnished by any real estate broker, agent, servant, employee or other person, unless specifically set forth herein, and no rights are or shall be acquired by Lessee by implication or otherwise unless expressly set forth herein.

20.14 Lessee shall, without charge at any time and from time to time, within ten (10) days after written request by Owner, certify (by written instrument, duly executed, acknowledged and delivered; hereinafter an "Estoppel Certificate") to Owner and/or to any mortgagee, purchaser, or any other person or entity or superior interest holder specified by Owner whether the Lease is in full force and effect and whether there has been any modifications (and listing any such if applicable) as well as other information requested by Owner. Lessee's failure to provide such Estoppel Certificate shall be a material default under the Lease.

20.15 Submission by Owner of this Lease for execution by Lessee shall confer no rights nor impose any obligations on either party unless and until both Owner and Lessee shall have executed this Lease and such Lease is approved by the holder of any superior interest holders, if required, and duplicate originals of such approved Leases shall have been delivered to the respective parties.

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date first above written.

LESSEE:

LESSOR:

Board of County Commissioners of Sedgwick County

Highland House Associates, LLC, a Kansas limited liability company

By: _____

By: _____

Name: James B. Skelton

Name: _____

Title: Chairman of the Board of Commissioners

Title: _____

Date: _____

Date: _____

Tax ID: 20-0366544

Attest:

Kelly Arnold, County Clerk

Approved to form:



Jennifer Magaña, Deputy County Counselor

EXHIBIT A

DESCRIPTION OF LAND

Description of Land to the Agreement dated _____ 2013, by and between Sedgwick County, as Lessee, and Highland House Associates, LLC, a Kansas limited liability company, as Lessor.

The Land is described and/or depicted as follows (metes and bounds description):

Lot 2, Block 1, Highland House, an addition to Wichita, Sedgwick County, Kansas.

EXHIBIT B

DESCRIPTION OF PREMISES

Description of Premises to the Agreement dated _____, 2011, by and between the Sedgwick County, as Lessee, and Highland House Associates, LLC, a Kansas limited liability company, as Lessor.

[Provide sketch of the area of the rooftop for "Premises" and plans and specifications for B-1 and B-2

Work at the Premises by Lessee, subject to approvals of plans and submissions by Owner are described as follows:

[Open for discussion and subject to the alterations and construction provisions of the Lease]

The generator will and the installation thereof as well as operations comply with all Laws and be insulated for vibration and noise to the reasonable satisfaction of Owner and shall include a residential exhaust system to reduce noise during the operation and will be powered by natural gas or by diesel (if diesel, with containment for fire and explosion as required by Law and Owner and Owner's insurance provider). Generator will be placed on concrete slabs with appropriate insulation, noise dampening and fire protection. Security fencing will be installed as agreed upon to restrict access to generator and coax feeders. The County has identified two preferred locations for the generator – either in the vicinity of the NW corner of the parking garage, adjacent to the gravel alleyway, or in the vicinity of the SE side near where the pool fence & parking garage meet, all of which shall be subject to approval of Owner prior to installation or relocation.

To connect the rooftop antennas with the equipment, RF feeder cables will be installed on the outside of the building, underneath a weather shield, subject to attachment and routing as provided by the terms of the Lease and Owner's approvals. The weather shield provides protection against the elements, completely covers the feeders, and will be painted to match the building's architectural characteristics. All hangers, brackets, and materials would be selected to resist rust/corrosion (i.e. stainless or galvanized etc.). The rooftop equipment would consist of: 2 x 6-foot microwave dishes, mounted on rooftop skids, and located on the main roof, and 3' x 21' whip-type antennas, side-mounted on the outer walls of the penthouse. {Mounting to side outer walls subject to review and open}

Notes:

1. [Open and any survey attached shall be subject to review of Owner] Lessee may replace this Exhibit with a survey of the Premises once Lessee receives it.
2. [Open and must be located on B-1 and B-2 plans and sketches and approved by Owner]The Premises shall be setback from the Property's boundaries as required by the applicable governmental authorities.
3. The access road's is "as is" , "where is" and any changes requested by Lessee shall be at Lessee's cost and approval, comply with Laws and subject to Owner's reasonable consent and any rights of existing lessees and superior interest holders.
4. All antennae and other wiring and equipment shall be reflected and actually located and subject to Owen's consent if deviated from as provided in the Lease.
5. [Open] The locations of any utility easements are illustrative only. The actual locations will be determined by the servicing utility company in compliance with all local laws and regulations.

EXHIBIT C

DEPICTION OF PREMISES

The Premises are depicted as follows: [Open for review]

[A DRAWING/DIAGRAM OF THE PREMISES ARE ATTACHED HERETO]