

STATE OF ALABAMA)
COUNTY OF MONTGOMERY)

DRAFT LEASE AGREEMENT

THIS AGREEMENT, made and entered into as of the ___ day of _____, 2018, by and between the Alabama Department of Mental Health, hereinafter referred to as “LESSOR”, and _____, hereinafter referred to as “LESSEE”,

WITNESSETH:

The tract land, hereinafter particularly described, is owned by the Alabama Department of Mental Health, and LESSOR hereby lets and rents to LESSEE, and LESSEE hereby hires and takes from LESSOR, for the term hereinafter provided, upon the covenants and conditions herein contained, such properties in Covington County, Alabama, to wit:

Description

INSERT LEGAL HERE

Exhibit A containing approximately 11,055 square feet.

1. **INITIAL TERM.** This Agreement shall be effective as of the date of execution by both Parties (“Effective Date”). The initial term of the Agreement shall be for five (5) years beginning on the Commencement Date (as hereinafter defined). The “Commencement Date” shall be the first day of the month after LESSEE begins installation of LESSEE’s communications equipment. The parties agree to acknowledge the Commencement Date in writing.

2. **EXTENSIONS.** This Agreement shall automatically be extended for four (4) additional five (5) year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least 3 months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the “Term”.

LESSOR covenants and agrees that the LESSEE, on paying the rent herein reserved, and on keeping, observing and performing all the other terms, covenants, conditions, provisions and agreements herein contained on the part of the LESSEE to be kept, observed and performed, shall during the term hereby granted, peaceably and quietly have, hold and enjoy the demised premises for the full term of years in this lease.

The leasehold premises are leased by LESSOR and accepted by LESSEE as business properties intended to be used for any legal business use; nevertheless, the LESSOR makes no representation, warranty, or guarantee to the LESSEE as to the suitability of the leased premises

for any particular use. Further, LESSOR makes no representation, warranty, or guarantee to the LESSEE concerning the condition of the property or otherwise of the leased premises, or concerning any other conditions which may interfere with or limit the proposed use and enjoyment of the lease premises. LESSEE acknowledges that LESSEE has been afforded an opportunity to inspect the leased premises and accepts the same in the condition in which LESSEE found it.

LESSOR hereby grants LESSEE the non-exclusive easement for ingress and egress from a public right-of-way, 7 days a week, 24 hours a day, over the Property to and from the Premises for the purpose of installation, operation and maintenance of LESSEE's communications equipment over or along a 30 foot wide right-of-way ("Easement"), which shall be depicted on Exhibit "B". LESSOR further grants the Easement for the installation, operation and maintenance of wires, cables, conduits and pipes for all necessary electrical, telephone, fiber and other similar support services. In the event it is necessary, LESSOR agrees to grant LESSEE or the provider the right to install such services on, through, over and/or under the Property, provided the location of such services shall be reasonably approved by LESSOR. Notwithstanding anything to the contrary, the Premises shall include such additional space sufficient for LESSEE's radio frequency signage and/or barricades as are necessary to ensure LESSEE's compliance with Laws (as defined in Paragraph 27).

3. **RENTAL.** LESSEE will pay LESSOR as rent hereunder, at Alabama Department of Mental Health, 100 North Union Street, P.O. Box 301410, Montgomery, Alabama 36130-1410, or at such other place as LESSOR may, from time to time, designate by notice to LESSEE. Rental payments shall begin on the Commencement Date and to be paid in equal monthly installments on the first day of the month, in advance, to LESSOR. The first rental payment shall be paid within 30 days of the Commencement Date. The first year of the lease agreement annual rental payment shall be \$_____. Lease Payments shall increase by 2.5% (two and a half percent) each year of the lease agreement and option(s) periods.

In addition to the rent payable under this section, LESSEE shall pay and discharge properly as the same shall become due all taxes and assessments whether general or special of every kind which may be levied or assessed or become a lien on or against the demised premises or any part thereof. Such liability shall commence on the date of this instrument and shall terminate upon the termination of this instrument.

In the event of the failure of the LESSEE to promptly pay the rental installments provided for herein or should LESSEE commit any of those acts specified in Code of Alabama 1975, Section 35-9-61(1), (2) and (3), or violates any of the other provisions of this Lease, and any such failure, default or violations shall continue and remain incurred for a period of ten (10) days after written demand by LESSOR for correction and/or compliance, then LESSOR shall have the right immediately and without further notice or demand to re-enter and take possession of the premises and at its option to declare all of the unpaid installments of rent whether then due, to be immediately due and payable and thereupon shall have the right to enforce its demand and claim for all the unpaid rent by all remedies afforded to it by law for collection of said rent and all other amounts due. Under any such circumstances, LESSEE covenants and agrees with LESSOR that LESSEE will immediately upon demand surrender possession of said premises to

LESSOR, vacating said premises and will recognize the LESSOR's lien for all unpaid rental installments due or to become due and accelerated under the provisions of this Lease. LESSEE agrees to maintain the premises in good order and to make periodic repairs thereon and to deliver the same at the expiration of this lease to the LESSOR in good condition, fair wear and tear expected.

4. **IMPROVEMENTS**. The communications equipment including, without limitation, the tower structure, antennas, conduits, fencing and other screening, and other improvements shall be at LESSEE's expense and installation shall be at the discretion and option of LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its communications equipment, tower structure, antennas, conduits, fencing and other screening, or other improvements or any portion thereof and the frequencies over which the communications equipment operates, whether or not any of the communications equipment, antennas, conduits or other improvements are listed on any exhibit.

5. **GOVERNMENT APPROVALS**. LESSEE's Use is contingent upon LESSEE obtaining all of the certificates, permits and other approvals (collectively the "Government Approvals") that may be required by any Federal, State or Local authorities (collectively, the "Government Entities") as well as a satisfactory soil boring test, environmental studies, or any other due diligence LESSEE chooses that will permit LESSEE's Use. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to LESSEE's Use.

6. **TERMINATION**. LESSEE may, unless otherwise stated, immediately terminate this Agreement upon written notice to LESSOR in the event that (i) any applications for such Government Approvals should be finally rejected; (ii) any Government Approval issued to LESSEE is canceled, expires, lapses or is otherwise withdrawn or terminated by any Government Entity; (iii) LESSEE determines that such Government Approvals may not be obtained in a timely manner; (iv) LESSEE determines any structural analysis is unsatisfactory; (v) LESSEE, in its sole discretion, determines the Use of the Premises is obsolete or unnecessary; (vii) with 3 months prior notice to LESSOR, upon the annual anniversary of the Commencement Date.

8. **INSURANCE**. LESSEE covenants and agrees to assume all responsibility and liability and to defend and save LESSOR harmless for loss or liability on account of LESSEE's failure to conduct any business on the demised premises in compliance with any law, ordinance or regulation from time to time existing. LESSEE further agrees to furnish proof of liability insurance on the demised premises in an amount of at least \$2M per occurrence/\$2M aggregate within 15 days of the commencement date of this lease agreement.

The LESSOR shall not be liable for any loss, injury, death or damage to persons or property which at any time may be suffered or sustained by the LESSEE or by any person who may at any time be suffered or sustained by the LESSEE or by any person who may at any time be using or occupying or visiting the demised premises or be in, on, or about the same, whether such loss, injury, death or damage shall be caused by or in any way result from or arise out of any act, omission or negligence of the LESSEE or of any visitor or user of the premises. LESSEE agrees to indemnify the LESSOR against all claims, liability, loss or damage including

attorneys' fees and costs whatsoever an account of any such loss, injury, death or damage. LESSEE hereby waives any and all claims against the LESSOR for damages to the buildings and improvements that are now on or hereinafter placed on the premises and to the property of the LESSEE in, on or about such premises and to injuries to persons or property in or about the premises from any cause arising at any time during the term hereof.

9. **LIMITATION OF LIABILITY.** Neither Party shall be liable to the other, or any of their respective agents, representatives, or employees for any lost revenue, lost profits, diminution in value of business, loss of technology, rights or services, loss of data, or interruption or loss of use of service, incidental, punitive, indirect, special, trebled, enhanced or consequential damages, even if advised of the possibility of such damages, whether such damages are claimed for breach of contract, tort (including negligence), strict liability or otherwise, unless applicable law forbids a waiver of such damages.

10. **INTERFERENCE.**

(a). LESSEE agrees that LESSEE will not cause interference that is measurable in accordance with industry standards to LESSOR's equipment. LESSOR agrees that LESSOR and other occupants of the Property will not cause interference that is measurable in accordance with industry standards to the then existing equipment of LESSEE.

(b). Without limiting any other rights or remedies, if interference occurs and continues for a period in excess of 48 hours following notice to the interfering party via telephone to LESSEE'S Network Operations Center (at 800-852-2671 or to LESSOR at (334-343-0180), the interfering party shall or shall require any other user to reduce power or cease operations of the interfering equipment until the interference is cured.

(c). The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore the Parties shall have the right to equitable remedies such as, without limitation, injunctive relief and specific performance.

11. **REMOVAL AT END OF TERM.** Upon expiration or within 90 days of earlier termination, LESSEE shall remove LESSEE's Communications Equipment (except footings) and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that the communications equipment shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. If such time for removal causes LESSEE to remain on the Premises after termination of the Agreement, LESSEE shall pay rent as hold over tenant.

12. **HOLDOVER.** If LESSEE holds over after the expiration or earlier termination of the Term, then this Agreement shall continue on a month to month basis at the then existing monthly rental rate or the existing monthly pro-rata basis if based upon a longer payment term, until the removal of the communications equipment is completed.

13. **RIGHTS UPON SALE.** Should LESSOR, at any time during the Term, decide (i) to sell or otherwise transfer all or any part of the Property, or (ii) to grant to a third

party by easement or other legal instrument an interest in and to any portion of the Premises, such sale, transfer, or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder. In the event that LESSOR completes any such sale, transfer, or grant described in this Paragraph without executing an assignment of the Agreement whereby the third party agrees in writing to assume all obligations of LESSOR under this Agreement, then LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of the Agreement.

14. **LESSOR'S TITLE.** LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises. LESSOR represents and warrants to LESSEE as of the Effective Date and covenants during the Term that LESSOR has full authority to enter into and execute this Agreement and that there are no liens, judgments, covenants, easement, restrictions or other impediments of title that will adversely affect LESSEE's Use.

15. **ASSIGNMENT.** Without any approval or consent of the other Party, this Agreement may be sold, assigned or transferred by either Party to (i) any entity in which the Party directly or indirectly holds an equity or similar interest; (ii) any entity which directly or indirectly holds an equity or similar interest in the Party; or (iii) any entity directly or indirectly under common control with the Party. LESSEE may assign this Agreement to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the FCC in which the Property is located by reason of a merger, acquisition or other business reorganization without approval or consent of LESSOR. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the other Party, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of either Party shall constitute an assignment hereunder. LESSEE may sublet the Premises in LESSEE's sole discretion.

16. **NOTICES.** All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: Alabama Department of Mental Health
ATTN: Land Manager Suite 480
100 N. Union Street
Montgomery, AL 36130

LESSEE: Rural Cellular Corporation
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

17. **SUBORDINATION AND NON-DISTURBANCE.** At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Property; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement for LESSEE's benefit in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's rights under this Agreement. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Property, Lender or such successor-in-interest or Purchaser will honor all of the terms of the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Property and (3) agrees to accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the payment and/or other performance of any mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

18. **DEFAULT.** It is a "Default" if either Party fails to comply with this Agreement and does not remedy the failure within 30 days after written notice by the other Party or, if the failure cannot reasonably be remedied in such time, if the failing Party does not commence a remedy within the allotted 30 days and diligently pursue the cure to completion within 60 days after the initial written notice.

19. **REMEDIES.** In the event of a Default, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate this Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Property is located. Further, upon a Default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. If LESSEE undertakes any such performance on LESSOR's behalf and LESSOR does not pay LESSEE the full amount within 60 days of its receipt of an invoice setting forth the amount due, LESSEE may offset the full amount due against all fees due and owing to LESSOR under this Agreement until the full amount is fully reimbursed to LESSEE.

20. **ENVIRONMENTAL.** LESSEE shall conduct its business in compliance with all applicable laws governing the protection of the environment or employee health and safety (“EH&S Laws”). LESSEE shall indemnify and hold harmless the LESSOR from claims to the extent resulting from violation(s) of LESSEE, LESSEE’s agent(s), and/or LESSEE’s licensee(s) of any applicable EH&S Laws or to the extent that LESSEE, LESSEE’s agent(s), and/or LESSEE’s licensee(s) causes a release of any regulated substance to the environment. LESSOR shall indemnify and hold harmless LESSEE from all claims resulting from the violation of any applicable EH&S Laws or a release of any regulated substance to the environment except to the extent resulting from the activities of LESSEE. The Parties recognize that LESSEE is only leasing a small portion of the Property and that LESSEE shall not be responsible for any environmental condition or issue except to the extent resulting from LESSEE, LESSEE’s agent(s), and/or LESSEE’s licensee(s) specific activities and responsibilities. In the event that LESSEE encounters any hazardous substances that do not result from its activities, LESSEE may relocate its facilities to avoid such hazardous substances to a mutually agreeable location or, if LESSEE desires to remove at its own cost all or some the hazardous substances or materials (such as soil) containing those hazardous substances, LESSOR agrees to sign any necessary waste manifest associated with the removal, transportation and/or disposal of such substances.

21. **CASUALTY.** If a fire or other casualty damages the Property or the Premises and impairs LESSEE’s Use, rent shall abate until LESSEE’S Use is restored. If LESSEE’s Use is not restored within 45 days, LESSEE may terminate this Agreement.

22. **CONDEMNATION.** If a condemnation of any portion of the Property or Premises impairs LESSEE’s Use, LESSEE may terminate this Agreement. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to LESSEE’s communications equipment, relocation costs and, specifically excluding loss of LESSEE’s leasehold interest, any other damages LESSEE may incur as a result of any such condemnation.

23. **NON-DISCLOSURE.** The Parties agree this Agreement and any information exchanged between the Parties regarding the Agreement are confidential. The Parties agree not to provide copies of this Agreement or any other confidential information to any third party without the prior written consent of the other or as required by law. If a disclosure is required by law, prior to disclosure, the Party shall notify the other Party and cooperate to take lawful steps to resist, narrow, or eliminate the need for that disclosure.

24. **MISCELLANEOUS.** This Agreement contains all agreements, promises and understandings between the LESSOR and the LESSEE regarding this transaction, and no oral agreement, promises or understandings shall be binding upon either the LESSOR or the LESSEE in any dispute, controversy or proceeding. This Agreement may not be amended or varied except in a writing signed by all Parties. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns hereto. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights hereunder shall not waive such rights and such party shall have the right to enforce such rights at any time. The performance of this Agreement shall be governed, interpreted, construed and regulated by the laws of the State of Alabama without reference to its choice of law rules.

Except as expressly set forth in this Agreement, nothing in this Agreement shall grant, suggest or imply any authority for one Party to use the name, trademarks, service marks or trade names of the other for any purpose whatsoever. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement.

25. **PROPERTY CONDITION**. During the term of this lease, all ditches, culverts, and roads on the demised premises will be maintained in a reasonably good condition. All existing fences and gates on the demised premises shall, during the term of this lease, be maintained by LESSEE in as good or better condition as exists at the time of the commencement of the term of this lease, with LESSEE to provide all labor, posts, new wire and material reasonably required for maintenance of such fences.

LESSEE will exercise reasonable diligence and efforts to keep all trespassers from the demised premises, to prevent the cutting of timber thereon, the commission of waste there against and the use of such premises for hauling or transportation of products, and as a passageway by unauthorized persons.

26. **EMMINENT DOMAIN**. In the event that all or any part of the demised properties are taken by eminent domain or surrendered or conveyed to any unit of government, corporation or other entity possessing such right of eminent domain, under threat of such taking, LESSOR and LESSEE shall each be entitled to receive the damages or compensation attributable to their respective interests, and if such taking, surrender or conveyance renders the remaining properties unsuitable for the conduct of LESSEE's business thereon as theretofore conducted, then it may, by notice to LESSOR, thereupon cancel and terminate this lease.

27. **NON WAIVER**. No act or acts, omission or omissions, or series of acts or omissions, or waiver or acquiescence or forgiveness by either party, LESSOR or LESSEE, of any default in or failure of performance, either in whole or part, by the other party as to the terms or conditions of this lease, shall be deemed or constructed to be a waiver by such party of the right at all times to insist upon the full and complete performance by the other party of each and all the covenants, terms, provisions and conditions hereof thereafter to be performed, according to the provisions of this lease in the same manner and to the same extent as such are herein covenanted to be performed by such other party.

28. **VENUE**. Whenever any question or matter of dispute arises, such issue should be forwarded in writing to the Commissioner of the Department of Mental Health for a determination of how said matter should be resolved. Proper venue for any legal dispute arising from this lease agreement shall be Montgomery County, Alabama.

29. **GENERAL**. This lease agreement shall inure to the benefit of and be binding upon the respective heirs, devisees, personal representatives, successors and assigns of the parties hereto, as the case may be. No hunting shall be permitted on the premises leased herein.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, on the day and year first above written.

LESSEE:

By: _____

LESSOR:

ALABAMA DEPARTMENT OF MENTAL
HEALTH

By: _____
Lynn T. Beshear, Commissioner

APPROVED:

Kay Ivey, Governor

By: _____
DMH Legal Counsel
DMH Approval as to Legal Form, laws,
rules and regulations of the State of Alabama

DRAFT