



WIRELESS ADDENDUM

BETWEEN

CITY PUBLIC SERVICE OF SAN ANTONIO AND

[_____]

CPS ENERGY WIRELESS ADDENDUM NO. _____

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**WIRELESS ADDENDUM
TO STANDARD POLE ATTACHMENT LICENSE AGREEMENT**

This Addendum to the CPS Energy Standard Pole Attachment License Agreement (the “Agreement”) for the purpose of permitting the installation, ownership, lease, and/or operation of Wireless Installations on or supported by CPS Energy Poles or Streetlight Poles in accordance with the further terms hereof (the “Wireless Addendum”) is made and entered into on the ___ day of 20___, (the “Effective Date”) by and between the City of San Antonio, Texas, acting by and through City Public Service Board of San Antonio, a municipal board of the City of San Antonio, Texas (“CPS Energy”) and [Company Name] (“Licensee”) (collectively, the “Parties”):

RECITALS

- A. Licensee is a signatory to a Standard Pole Attachment License Agreement (the “Agreement”), dated _____, 20___, and desires to install, own, lease, and/or operate Wireless Installations on or supported by CPS Energy Poles or Streetlight Poles in accordance with the terms of this Wireless Addendum, the Agreement, and the Pole Attachment Standards, as they may be amended from time to time.
- B. Although not required to do so under state or federal law, CPS Energy is willing, when it may lawfully do so, to issue one or more Permits authorizing the placement, installation, operation, or use of Licensee’s Wireless Installations in specified locations, including: (1) on Poles, other than within the Communications Space, Electrical Space or Supply Space, or Neutral Space of such Poles; (2) on Streetlight Poles; and (3) Mid-span Installations supported by a Messenger cable attached to two Poles, each subject to the further requirements of this Wireless Addendum, the Agreement, and the Pole Attachment Standards, as they may be amended from time to time.

THEREFORE, in consideration of the foregoing recitals and of the mutual covenants, terms, conditions, and remuneration herein provided, and the rights and obligations created hereunder, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS

- 1.1 Except as provided herein, capitalized terms in this Wireless Addendum shall have the meanings provided in the Agreement and Pole Attachment Standards.
- 1.2 Pole Attachment Standards means the CPS Energy Pole Attachment Standards, made effective August 1, 2016, as they may be amended from time to time pursuant to the procedures set forth in the Agreement and the Pole Attachment Standards.
- 1.3 Permitted Wireless Installation Space means locations for Wireless Installations CPS Energy has specified in a Permit limited to (a) on Poles, other than within the Communications Space, Electrical Space or Supply Space, or Neutral Space of such Poles; (b) on Streetlight Poles; or Mid-span Installations supported by a Messenger cable attached to two Poles, each in CPS Energy-specified locations and in accordance with the requirements of the Pole Attachment Standards.

- 1.4 Unauthorized Wireless Installation means a Wireless Installation (a) that is not authorized by a Permit issued by CPS Energy after Licensee's submission of a complete and accurate Application; (b) that is nominally authorized by a Permit issued by CPS Energy, but the Application for which was based upon inaccurate or incomplete information supplied by or on behalf of Licensee; (c) that is without a required franchise, easement, or license to use the public rights-of-way within a municipality or administered by another governmental authority or the private property occupied in whole or in part by the Wireless Installations; or (d) for which any costs or fees owed to CPS Energy for engineering, construction, installation, rental, or inventory have not been paid as prescribed by this Wireless Installation Agreement or the Pole Attachment Standards.
- 1.5 Wireless Agreement means an agreement in a form approved by CPS Energy authorizing a provider of Wireless Services using licensed or unlicensed spectrum to install, own, lease, license, use, or operate one or more Wireless Installations.

2. SCOPE OF ADDENDUM

- 2.1 Grant of License. Subject to the provisions of (a) the Agreement, (b) the Pole Attachment Standards, which are incorporated herein and made effective to Licensee pursuant to the Agreement, and (c) this Wireless Addendum, and to the extent allowed by law, CPS Energy hereby grants Licensee a revocable, nonexclusive license authorizing Licensee to install, own, lease, license, use, and/or operate permitted Wireless Installations in Permitted Wireless Installation Space, each such Wireless Installation subject to the further requirements of this Wireless Addendum and the Pole Attachment Standards, as they may be amended from time to time.
- 2.1.1 Agreement Continues to Apply. Except where specifically modified herein, the terms, conditions, procedures, duties, and liabilities of the Agreement and the Pole Attachment Standards continue to apply to Licensee and CPS Energy both with respect to Attachments and to Wireless Installations.
- 2.1.2 Wireless Installations, Permit Requirements, Unauthorized Wireless Installations. Licensee's installation, ownership, holding of a leasehold or licensure interest, use, or operation of any Wireless Installation without obtaining a Permit, or in any location other than Permitted Wireless Installation Space, or otherwise in violation of the Agreement, the Pole Attachment Standards, or this Wireless Addendum, shall give rise to one or more Unauthorized Wireless Installations.
- 2.2 Applicability of Pole Attachment Standards.
- 2.2.1 The Pole Attachment Standards are applicable to Licensee's activities in installing, owning, leasing, licensing, using, or operating Wireless Installations. Pursuant to the Pole Attachment Standards, Licensee must apply for and obtain a Permit for every Wireless Installation.
- 2.2.2 As provided in the Agreement, Licensee agrees that CPS Energy has the right to amend the Pole Attachment Standards from time to time in response to changing conditions in the local market, technological advances, business requirements, policy initiatives, or changes in federal, state, or local law, and that the amended Pole Attachment Standards will be incorporated into the Agreement and this Wireless Addendum as of their effective date.

- 2.3 Licensee's Privilege to Install, Own, Use, and/or Operate Wireless Installations. Licensee must obtain a Permit pursuant to the procedures of the Pole Attachment Standards for each Wireless Installation it installs, owns, leases, licenses, uses, or operates. The issuance or maintenance of such Permit or Permits is subject at all times to CPS Energy's right to provide core electric utility services, including any and all internal communications service essential to the proper operations of such core electric utility services using its Poles and Streetlight Poles. Nothing in this Wireless Addendum, the Agreement, or the Pole Attachment Standards, other than a properly issued Permit, shall be construed as authorization to install, lease, license, use, or operate a Wireless Installation on any specific Pole or Streetlight Pole.
- 2.4 No Interest in Property. No use, however lengthy, of any CPS Energy Facilities, and no payment of any fees or charges required under this Wireless Addendum, the Agreement, or the Pole Attachment Standards, shall create or vest in Licensee any easement or other ownership or property interest of any nature in any portion of such CPS Energy Facilities. Neither the Pole Attachment Standards, the Agreement, this Wireless Addendum, nor any Permit granted under the Pole Attachment Standards shall constitute an assignment of any of CPS Energy's rights to CPS Energy Facilities. Notwithstanding anything in the Pole Attachment Standards, the Agreement, this Wireless Addendum, or any Permit to the contrary, Licensee shall at all times be and remain a licensee only.
- 2.5 Non-Exclusivity. CPS Energy has previously granted or will grant rights or privileges to use CPS Energy Poles or Streetlight Poles to others not a party to this Wireless Addendum or the Agreement, including for the purpose of installing, owning, leasing, licensing, using, or operating permitted Wireless Installations. After the execution of this Wireless Addendum, CPS Energy shall continue to grant access to its Poles and Streetlight Poles to other persons similarly situated to Licensee seeking to install Wireless Installations on nondiscriminatory terms and conditions.
- 2.6 Franchise, Authority to Use Public Rights-of-Way, and Other Permits.
- 2.6.1 Licensee warrants and agrees that CPS Energy does not have the power to grant Licensee the right to conduct business within the City of San Antonio or other cities or jurisdictions within the CPS Energy service area.
- 2.6.2 Licensee warrants and agrees that this Wireless Addendum does not constitute a franchise or license to use public rights-of-way within the City of San Antonio or any other jurisdiction within the CPS Energy service area.
- 2.6.3 Licensee warrants and agrees that it is the obligation of Licensee to obtain (a) a franchise or other authority by ordinance, regulation, or state law authorizing Licensees to install, own, use, erect, maintain, lease, license, or operate one or more Wireless Installations in the public rights-of-way from the applicable governing authority or authorities; and (b) other necessary permits, authority, or consents from federal, state, municipal, or other public authorities to conduct such activities.
- 2.6.4 Licensee warrants that it is in compliance with the requirements of Section 2.6.3 based on its current deployment plan and will provide CPS Energy copies of relevant municipal and/or state franchises, licenses or certificate of authority, or other authority upon request.
- 2.7 Permitted Uses. Licensee shall only use Wireless Installations to provide Wireless Services for which Licensee has lawful authority and shall not engage in any illegal practices, anticompetitive behavior, or collusion with regard to construction activities related to the

installation, operation, maintenance, transfer, relocation, use, lease, license, or removal of its Wireless Installations. Licensee shall fully and timely cooperate with CPS Energy, Other Attaching Entities, other owners of Wireless Installations, and governmental authorities, as prescribed in the Agreement, Pole Attachment Standards, and this Wireless Addendum with regard to the transfer and relocation of Wireless Installations. Licensee understands that preventing or unreasonably delaying any Other Attaching Entity or other owners of Wireless Installations from installing, transferring, or relocating an Attachment or Wireless Installation on a Pole or interfering with the quiet enjoyment of any Other Attaching Entity's or other Wireless Installation owner's privileges will constitute a material breach of this Wireless Addendum and the Agreement.

- 2.8 No Rights after Termination. Nothing in this Wireless Addendum or the Agreement shall be construed to require CPS Energy to allow Licensee to use any Pole or Streetlight Pole after the termination of the Agreement or this Wireless Addendum.
- 2.9 Parties Bound by Wireless Addendum. Licensee and CPS Energy are bound by the duties outlined in this Wireless Addendum.

3. FEES AND CHARGES

3.1 Wireless Installation Fees.

3.1.1 Pursuant to this Wireless Addendum and the incorporated Pole Attachment Standards, CPS Energy shall assess, and Licensee shall pay, in addition to any compensation required for Attachments and other fees or charges under the Agreement, fees and charges for the privilege of installing, owning, leasing, licensing, using, or operating Wireless Installations on Poles or Streetlight Poles on a per-Wireless Installation basis. Licensee shall be subject to the annual Wireless Installation Fee and applicable Application Fees as provided in Appendix H of the Pole Attachment Standards.

3.1.2 Licensee shall pay all assessed Wireless Installation Fees in full within forty-five (45) days of Licensee's receipt of a statement from CPS Energy.

3.1.3 Licensee failure to pay timely all statements from CPS Energy for Wireless Installation Fees shall constitute a breach of this Wireless Addendum and the Agreement.

- 3.2 Penalties for Unauthorized Wireless Installations. In the event that Licensee, its agents, or its contractors installs, owns, leases, licenses, uses, or operates one or more Unauthorized Wireless Installations, Licensee shall pay CPS Energy the sum of \$500 per month for each Unauthorized Wireless Installation, in addition to any costs or expenses required of Licensee under this Wireless Addendum, the Agreement, or the Pole Attachment Standards to apply for and obtain a Permit for the Wireless Installation. If Licensee either does not apply for a Permit for the Wireless Installation within ten (10) business days of notice that it has installed an Unauthorized Wireless Installation, or if Licensee does not obtain a permit within forty-five (45) days of notice, the Wireless Installation shall be removed in accordance with the Pole Attachment Standards at Licensee's expense.

4. PRIVATE AND REGULATORY COMPLIANCE

- 4.1 Necessary Authorizations. Licensee shall be responsible for obtaining from the appropriate

public or private authority or other appropriate persons any required authorization to construct, operate, or maintain its Communications Facilities or Wireless Installations on public or private property before it occupies any portion of CPS Energy's Poles or Streetlight Poles. Licensee must provide CPS Energy, as required by the Pole Attachment Standards, a copy of a license, franchise, certificate of authority, or other authorization that grants Licensee access to municipal rights-of-way for the purpose of installing Communications Facilities or Wireless Installations, as applicable. With regard to access to public or private property, other than municipal rights-of-way, Licensee shall provide CPS Energy upon request with evidence that appropriate authorization has been obtained before any Permit is issued to Licensee. Licensee's obligations under this Section 4 include, but are not limited to, its obligation to obtain all necessary approvals to occupy public or private rights-of-way and to pay all costs associated therewith, and to maintain such approval for the term of a Permit.

4.2 Lawful Purpose and Use. Licensee's Communications Facilities and Wireless Installations must at all times serve a lawful purpose, and the use of such facilities must comply with all applicable federal, state, and local laws. The use of Attachments or Wireless Installations for any illegal or unauthorized purpose shall constitute a breach of this Wireless Addendum and the Agreement.

4.3 Forfeiture of CPS Energy's Rights. Any Permit, which on its face covers a Wireless Installation that would result in forfeiture or diminution of CPS Energy's rights (as determined by any order, decision, action, or ruling by a court or other governmental authority of competent jurisdiction), shall be deemed invalid as of the installation date of the Wireless Installation referenced by such order, decision, action, or ruling. Further, if any of Licensee's existing Communications Facilities or Wireless Installations, whether installed pursuant to a valid Permit or not, would cause such forfeiture or diminution (as determined by any order, decision, action, or ruling by a court or other governmental authority of competent jurisdiction), Licensee shall promptly remove its Communications Facilities or Wireless Installations upon receipt of written notice from CPS Energy of such order, decision, action, or ruling. If Licensee does not remove its Communications Facilities or Wireless Installations after the expiration of forty-five (45) calendar days from CPS Energy's issuance of the written notice, CPS Energy will perform such removal at Licensee's expense. If the rights of CPS Energy, Other Attaching Entities, or other owners of Wireless Installations to occupy the real property on which CPS Energy Poles or Streetlight Poles are located are terminated solely as a result of Licensee's Unauthorized Wireless Installation(s) or the failure to remove Licensee's Communications Facilities or Wireless Installations within the 45-day period set forth in this Section 4.3, Licensee shall use best efforts to restore CPS Energy or other Attaching Entities or Wireless Installation owners to their original status before such Unauthorized Wireless Installation was installed.

5. **LIABILITY AND INDEMNIFICATION**

5.1 Liability. In addition to the liability provisions of the Agreement, Section 5.1 thereof, CPS Energy reserves to itself the right to maintain and operate its Pole and Streetlight Pole system in such manner as will best enable it to fulfill its service requirements. AS A MATERIAL PART OF THE CONSIDERATION OF THIS WIRELESS ADDENDUM, LICENSEE TAKES AND ACCEPTS CPS ENERGY POLES AND STREETLIGHT POLES "AS IS" IN THE CONDITION IN WHICH LICENSEE FINDS THE CPS ENERGY POLES AND

STREETLIGHT POLES, WITH ANY AND ALL LATENT AND PATENT DEFECTS AND WITH NO EXPRESS OR IMPLIED WARRANTIES BY CPS ENERGY OF MERCHANTABILITY, FITNESS, SUITABILITY, OR THAT THE POLES OR STREETLIGHT POLES ARE FIT FOR ANY PARTICULAR PURPOSE. LICENSEE ACKNOWLEDGES THAT IT IS NOT RELYING UPON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION WITH RESPECT TO THE CONDITION OF THE CPS ENERGY POLES OR STREETLIGHT POLES, BUT IS RELYING UPON ITS OWN EXAMINATION OF THE CPS ENERGY POLES OR STREETLIGHT POLES. CPS ENERGY shall NOT be liable to Licensee, its customers, or anyone else for any interruption to service associated with any Wireless Installations or any interference with the operation of Licensee's Facilities, except where caused by CPS Energy's negligence or willful misconduct. With the exception of third-party claims subject to Section 5.2, neither Party shall be liable to the other for any indirect, special, incidental, or consequential damages suffered by the other Party such as, but not limited to, loss of any anticipated profits, claims of customers, loss of revenue, loss of use of Licensee's Facilities, Wireless Installations, or system, cost of capital, increased expenses or operation of other facilities, or cost of replacement equipment, facilities or power.

5.2 Indemnification. Licensee shall defend, indemnify, and hold harmless CPS Energy and its officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors (each an "Indemnitee," and collectively, the "Indemnitees") against any and all liability, costs, damages (including indirect or consequential damages), fines, taxes, special charges by others, penalties, payments (including payments made by Indemnitees under any Workers' Compensation Laws or under any plan for employees' disability and death benefits), and expenses (including reasonable attorneys' fees of Indemnitees and all other costs and expenses of litigation) of every kind or character arising from the performance of this Wireless Addendum or the Agreement, including any act, omission, failure, negligence, or willful misconduct in connection with the construction, maintenance, repair, presence, use, relocation, transfer, removal, or operation by Licensee or Licensee's officers, directors, employees, agents, or contractors of Licensee's Attachments, Communications Facilities, and Wireless Installations, the Communications Facilities or Wireless Installations of any Other Attaching Entity, or CPS Energy Facilities ("Additional Covered Claims"). Licensee's indemnification obligations for Additional Covered Claims shall apply irrespective of any negligence or alleged negligence of Indemnitees, except to the extent that CPS Energy's negligence or willful misconduct gives rise to such Additional Covered Claims, in which case it is expressly agreed that Licensee's obligations of indemnity under this section 5.2 shall be effective only to the extent of its pro rata share of liability. Additional Covered Claims include, but are not limited to, the following:

5.2.1 Claims related to intellectual property infringement, libel and slander, and claims or ransom demands resulting from malicious cybersecurity breaches or cyber-attacks perpetrated against CPS Energy's internal computer networks, systems, gateways, or software applications arising from, resulting from, or related to Licensee's online access to CPS Energy's electronic systems, databases, applications, or software utilized by Licensee in the Make-Ready Engineering design process, the installation of Attachments or Wireless Installations, or the construction of Licensee's Communications Facilities or Wireless Installations;

5.2.2 Claims associated with cost of work performed by CPS Energy that was necessitated

by Licensee's failure, or the failure of Licensee's officers, directors, employees, agents, or contractors, to install, maintain, use, transfer, or remove Communications Facilities, Wireless Installations, or CPS Energy Facilities in accordance with the requirements and specifications of the Pole Attachment Standards;

- 5.2.3 Claims for damage to or destruction of Communication Facilities of any Other Attaching Entity, the Wireless Installations of other persons, CPS Energy Facilities, private property of any third-party, or injury to or death of any person or persons that arise out of or are caused by the erection, installation, maintenance, presence, operation, use, rearrangement, or removal of or from CPS Energy Poles or Streetlight Poles of Licensee's Attachments, Licensee's Facilities, or Licensee's Wireless Installations, or the proximity of Licensee's Facilities or Wireless Installations to CPS Energy Facilities, or by any act, omission, or negligence of Licensee or its contractors, agents and employees on or in the vicinity of CPS Energy Facilities;
 - 5.2.4 Liabilities incurred as a result of Licensee's violation, or a violation by Licensee's officers, directors, employees, agents, or contractors, of any law, rule, or regulation of the United States, the State of Texas, or any other governmental entity or administrative agency;
 - 5.2.5 Claims of governmental bodies, property owners, or others alleging that Licensee does not have sufficient right or authority for placing and maintaining Licensee's Facilities or Wireless Installations at the locations of Poles or Streetlight Poles owned by CPS Energy;
 - 5.2.6 Claims for taxes or special charges by others that arise directly or indirectly from the construction, maintenance, or operation of Licensee's Facilities or Wireless Installations and are payable by Licensee pursuant to federal, state, or local regulation, statute, or other requirement;
 - 5.2.7 Claims caused by or relating in any manner to a breach of this Wireless Addendum or the Agreement by Licensee or its agents and employees or by Licensee's contractors;
 - 5.2.8 Claims arising from or due to environmental conditions arising from Licensee's use, storage, maintenance, disposal, or release of any Hazardous Substances on, under, adjacent, or proximate to CPS Energy Facilities.
- 5.3 Procedure for Indemnification.
- 5.3.1 Indemnatee shall give prompt notice to Licensee of any claim or threatened claim wherein Indemnatee is seeking indemnification pursuant to Section 5.2, specifying the alleged factual basis for such claim and the amount of the claim. If the claim relates to an action, suit, or proceeding filed by a third-party against Indemnatee, Indemnatee shall give the written notice to Licensee no later than ten (10) calendar days after Indemnatee receives written notice of the action, suit, or proceeding.
 - 5.3.2 Indemnatee's failure to give the required notice will not relieve Licensee of its obligation to indemnify Indemnatee unless and to the extent Licensee is materially prejudiced by such failure.
- 5.4 Environmental Hazards. Licensee represents and warrants that its use of CPS Energy's Poles or Streetlight Poles will not generate Hazardous Substances, that it will not store or dispose of Hazardous Substances on or about CPS Energy's Poles or Streetlight Poles, that it will not

transport to CPS Energy's Poles or Streetlight Poles any Hazardous Substances, and that Licensee's Communications Facilities do not constitute or contain and will not generate any Hazardous Substances, including any such activities in violation of federal, state, or local law now or hereafter in effect, including any amendments. The term "Hazardous Substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state, or local laws, regulations, or rules now or hereafter in effect, including any amendments. Licensee further represents and warrants that in the event of breakage, leakage, incineration, or other disaster, its Communications Facilities and Wireless Installations will not release such Hazardous Substances.

- 5.5 Municipal Liability Limits. No provision of this Wireless Addendum or the Agreement is intended or shall be construed to be a waiver for any purpose by CPS Energy of any applicable State limits on municipal liability.
- 5.6 No Limitation. No indemnification provision contained in this Wireless Addendum or the Agreement under which Licensee indemnifies CPS Energy shall be construed in any way to limit any other indemnification provision contained in this Agreement.

6. DUTIES, RESPONSIBILITIES, AND EXCULPATION

- 6.1 Duty to Inspect. Licensee acknowledges and agrees that CPS Energy does not warrant the condition or safety of CPS Energy's Facilities or the premises surrounding the Facilities, and Licensee further acknowledges and agrees that it has an obligation to inspect Poles and Streetlight Poles, or premises surrounding the Poles and Streetlight Poles prior to commencing any work on Poles or Streetlight Poles or entering the premises surrounding the Poles or Streetlight Poles.
- 6.2 Knowledge of Work Conditions. By executing this Wireless Addendum, Licensee warrants that it has acquainted, or will fully acquaint, itself and its employees or contractors and agents with the conditions relating to the work that Licensee will undertake under the Pole Attachment Standards and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.
- 6.3 Duty to Inform and Protect. Licensee further warrants that it understands the imminent dangers, INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION, inherent in the work necessary to make installations on Poles or Streetlight Poles by Licensee's employees, servants, agents, contractors or subcontractors, and Licensee accepts as its duty and sole responsibility to notify, inform, and keep informed Licensee's employees, servants, agents, contractors or subcontractors of such dangers, and to keep them informed regarding same. Licensee also warrants that it will implement all precautions, procedures, and measures in the Pole Attachment Standards to protect public safety and the safety of personnel working close to electrified lines.
- 6.4 Protection of Utility Data. During the term of this Wireless Addendum, Licensee may have access to CPS Energy's geodatabase electronic records of Pole or Streetlight Pole locations, strand and underground routes, substation locations, and other pertinent information related to CPS Energy's electric distribution system. Such electronic records consist of proprietary and confidential CPS Energy information related to critical infrastructure and shall be treated as confidential by Licensee and protected from public disclosure. Licensee shall implement physical and cybersecurity measures to protect the geodatabase information from

public disclosure, theft, and widespread internal distribution, such as the best practices outlined in the Federal Trade Commission’s “Start with Security” cybersecurity guidelines.

- 6.5 Licensee’s Confidential Information. To the extent that Licensee considers any document or information submitted to CPS Energy under the terms of this Wireless Addendum, the Agreement, or the Pole Attachment Standards to be trade secret, proprietary, or otherwise confidential under law, it shall label or mark the document or information conspicuously with the words “Confidential Information.” If any person requests access to Licensee’s information submitted to CPS Energy under the terms of this Wireless Addendum, the Agreement, or the Pole Attachment Standards, CPS Energy will treat such information as required under the Texas Public Information Act, Chapter 552, Texas Government Code.

7. INSURANCE

- 7.1 Applicability of Insurance Coverage under Agreement. The insurance obligations, duties, coverages, and requirements set out in the Agreement and the claims coverage procedures outlined in the Pole Attachment Standards shall apply to this Wireless Addendum. Such obligations, duties, coverages, and requirements shall apply to all activities of the Parties related to the design, review, construction, maintenance, operation, upgrade, relocation, replacement, and any other related activities associated with Wireless Installations authorized by this Wireless Addendum, the Agreement, and the Pole Attachment Standards whether such activities are conducted by the Parties or the Parties’ employees, officers, agents, or contractors. Nothing in this Wireless Addendum shall be used to deny insurance coverage of any eligible claim or as a defense against covering any claim for damages related to activities arising under this Wireless Addendum.

8. AUTHORIZATION NOT EXCLUSIVE

CPS Energy shall have the right to grant, renew, and extend nondiscriminatory rights and privileges to others not party to this Wireless Addendum, by contract or otherwise, to use CPS Energy Facilities. Such rights shall not interfere with the privileges granted to Licensee by the specific Permits issued pursuant to this Wireless Addendum, the Agreement, and the Pole Attachment Standards. Licensee’s privileges under a Permit issued pursuant to this Wireless Addendum, the Agreement, and the Pole Attachment Standards shall not interfere with the privileges of any Other Attaching Entity or other provider of Wireless Services that has been issued a Permit. In the event of a conflict between the privileges of Licensee and any Other Attaching Entity or other provider of Wireless Services that cannot be resolved by reference to the Pole Attachment Standards, CPS Energy shall resolve the conflict as the Pole or Streetlight Pole owner based on non-discriminatory principles.

9. ASSIGNMENT

- 9.1 Limitations on Assignment. Licensee shall not assign its privileges or obligations under this Wireless Addendum or the Agreement, nor any part of such privileges or obligations, without the prior written consent of CPS Energy, which consent shall not be unreasonably withheld, conditioned, or delayed.
- 9.2 Obligations of Assignee/Transferee and Licensee. Notwithstanding any provision in this Wireless Addendum or the Agreement to the contrary, Licensee shall have the privilege to

assign this Wireless Addendum, together with the Agreement, to any parent, subsidiary, Affiliate, or any person, firm, or corporation that shall control, be under the control of, or be under common control with Licensee, or to any entity into which Licensee may be merged or consolidated or which purchases all or substantially all of the assets of Licensee that are subject to this Wireless Addendum and the Agreement. No assignment or transfer under this Section 9 shall be allowed, however, until the assignee or transferee becomes a signatory to this Wireless Addendum and the Agreement and assumes all obligations of Licensee arising under this Wireless Addendum and the Agreement. Licensee shall furnish CPS Energy with prior written notice of the transfer or assignment, together with the name and address of the transferee or assignee. Notwithstanding any assignment or transfer, Licensee shall remain fully liable under this Wireless Addendum and the Agreement for claims that arose during the time period Licensee operated pursuant to the Wireless Addendum and the Agreement, and Licensee shall not be released from those claims.

- 9.3 Sub-Licensing. Licensee shall not sub-license space on a CPS Energy Pole or Streetlight Pole to any third party, or place a Wireless Installation for the benefit of any third-party, including an Affiliate, on a Pole, Streetlight Pole, or Attachment Arm, unless such third-party shall also be party to (a) a Wireless Agreement; and (b) the Pole Attachment Standards. Any such action shall constitute a material breach of this Wireless Addendum and the Agreement.

10. FAILURE TO ENFORCE, NONWAIVER

Failure of CPS Energy or Licensee to take action to enforce compliance with any of the terms or conditions of this Wireless Addendum, the Agreement, or the Pole Attachment Standards or to give notice or declare this Wireless Addendum or the Agreement or any authorization granted thereunder in default or terminated shall not constitute a waiver or relinquishment of any term or condition of this Wireless Addendum, the Agreement, or the Pole Attachment Standards, but the same shall be and remain at all times in full force and effect until terminated in accordance with their terms.

11. TERMINATION OF WIRELESS ADDENDUM

- 11.1 CPS Energy shall have the right, pursuant to the procedure set out in Section 11.2, to terminate this Wireless Addendum, or any Permit issued pursuant to the Pole Attachment Standards, and to pursue any and all remedies provided in this Wireless Addendum or the Agreement, whenever Licensee is in default of any term or condition of this Wireless Addendum, including, but not limited to:
- 11.1.1 Construction, operation, maintenance, use, lease, or licensure of Licensee's Wireless Installations or any Communications Facilities supporting the Wireless Installation in violation of law or in aid of any unlawful act or undertaking;
 - 11.1.2 Construction, operation, maintenance, use, lease, or licensure of Licensee's Wireless Installations or any Communications Facilities supporting the Wireless Installations after any authorization required of Licensee has lawfully been denied or revoked by final action of any governmental or private authority;
 - 11.1.3 Construction, operation, maintenance, use, lease, or licensure of Licensee's Wireless Installations or any Communications Facilities supporting the Wireless Installations without the insurance and/or performance bond coverage required under Sections 7

and 15;

11.1.4 Failing to pay in full an invoice for any charge, fee, penalty, or interest as provided in this Wireless Addendum, or the Pole Attachment Standards related to Wireless Installations; or

11.1.5 Failing to promptly and fully perform any other covenant, condition, provision, or agreement contained in this Wireless Addendum, or the Pole Attachment Standards related to Wireless Installations.

11.2 CPS Energy will notify Licensee in writing within fifteen (15) calendar days, or as soon as reasonably practicable, of any condition of default under Section 11.1, above. Licensee shall take immediate corrective action to cure such default within fifteen (15) calendar days, or such longer time period mutually agreed to by the Parties not to exceed sixty (60) calendar days, unless such cure cannot be accomplished in such time period, provided Licensee has commenced and is diligently pursuing such cure. Such agreement to extend the period to cure shall not be unreasonably withheld by CPS Energy. Upon correcting such condition, but no later than the expiration of the applicable cure period, Licensee shall confirm in writing to CPS Energy that the cited condition has ceased or been corrected. If Licensee fails to cure such condition, CPS Energy may immediately terminate this Wireless Addendum, or any Permit related to a Wireless Installation at its option and provide written notice to Licensee. In the event of termination of this Wireless Addendum or the Agreement or any of Licensee's privileges or authorizations thereunder, Licensee shall remove its Wireless Installations and Attachments at Licensee's expense pursuant to the Pole Attachment Standards. If Licensee fails to remove its Wireless Installations or Attachments as provided in the Pole Attachment Standards, the Wireless Installations or Attachments shall be deemed abandoned, and CPS Energy may remove them at Licensee's expense.

11.3 Termination upon Termination of Agreement. If at any time, for any reason, the underlying Agreement is terminated this Wireless Addendum shall terminate.

12. TERM OF WIRELESS ADDENDUM

12.1 Term Coextensive With Agreement. This Wireless Addendum shall become effective on the Effective Date and expire or terminate on the date that the Agreement expires or terminates, whether under the Initial Term or any renewal. The initial term for the Wireless Addendum shall be the same as the Initial Term of the Agreement regardless of when the Wireless Addendum is executed by Licensee. Any renewal of the Agreement will serve to renew the Wireless Addendum.

12.1.1 The above notwithstanding, following the expiration of the Initial Term of the Agreement, either Party may terminate this Wireless Addendum upon giving the other Party six (6) months' written notice of termination or pursuant to other applicable terms of this Wireless Addendum.

12.2 Survival of Obligations. Any expiration or termination of Licensee's privileges under this Wireless Addendum or the Agreement shall not relieve Licensee of any obligation, whether indemnity or otherwise, which has accrued prior to such expiration or termination of this Wireless Addendum or the Agreement or removal of Licensee's Wireless Installations or Attachments.

13. DISPUTE RESOLUTION

The dispute resolution procedures set forth in Section 14 of the Agreement with respect to Attachments shall be applicable to disputes arising under this Wireless Addendum for Wireless Installations. Use of the dispute resolution procedures provided in Section 14 of the Agreement shall not impair the right of Licensee or CPS Energy to invoke any other remedy provided in the Agreement, this Wireless Addendum, at law, or in equity.

14. NOTICES

14.1 Notices. Wherever notice is required to be given by either Party to the other, the form, content, timing, addressee, and method of delivery of such notice shall be governed by the Agreement.

14.2 Emergency Contact. An emergency contact for purposes of notice or coordination of emergencies arising out of the performance of this Wireless Addendum shall be maintained in accordance with the terms of the Agreement and the Pole Attachment Standards.

15. PERFORMANCE BONDS

Prior to making any Wireless Installations and within thirty (30) days of the Effective Date of this Wireless Addendum, Licensee shall provide to CPS Energy a performance bond in the amount one hundred thousand and 00/100 dollars (\$100,000.00) in the form corresponding with the requirements of Appendix C to the Agreement. Such performance bond shall apply exclusively to activities related to Wireless Installations and shall be separate from the performance bond required under the Agreement. All provisions of the Agreement with respect to the posting and other attributes of a bond shall apply to the bond required for Wireless Installations.

16. ENTIRE AGREEMENT; NON-WAIVER

This Wireless Addendum, together with the Agreement and the incorporated Pole Attachment Standards, supersede all previous oral and written agreements between CPS Energy and Licensee regarding the approval, placement, transfer, maintenance, and removal of Licensee's Wireless Installations on CPS Energy's Poles or Streetlight Poles within the geographical service area covered by the Agreement. All provisions, terms, and conditions to this Wireless Addendum are expressed herein. Notwithstanding any contrary provision, term, or condition herein, this Wireless Addendum shall neither waive nor be interpreted to waive any claims of any nature, any amounts or credits owed, or any obligations or duties arising under a prior agreement between the Parties or the Parties' performance thereunder. Nor shall this Wireless Addendum act as a waiver of any claims for the prior use of CPS Energy Poles or Streetlight Poles without valid authorization.

17. SEVERABILITY

The invalidity of one or more clauses, sentences, sections, or articles of this Wireless Addendum shall not affect the validity of the remaining portions of this Wireless Addendum or the Agreement, provided that the material purposes of this Wireless Addendum and the Agreement can be determined and effected.

18. GOVERNING LAW

The validity, performance and all matters relating to the effect of this Wireless Addendum and the Agreement and any amendment hereto shall be governed by the laws (without reference to choice of law) of the State of Texas.

19. INCORPORATION OF RECITALS, APPENDICES, AND POLE ATTACHMENT STANDARDS

The recitals stated above, all appendices to this Wireless Addendum, the Agreement, and the Pole Attachment Standards, as they may be amended from time to time, are incorporated into and constitute part of this Agreement.

20. MISCELLANEOUS PROVISIONS

- 20.1 Preexisting Wireless Installations. Licensee shall not be required to obtain multiple Permits for unauthorized Wireless Installations in place prior to the Effective Date of this Wireless Addendum. However, Licensee must account for all preexisting Wireless Installations by submitting a Permit Application with an inventory of preexisting Wireless Installations identifying for each installation its physical address, identification of supporting Pole(s), GPS coordinates, type of equipment, electricity account serving the equipment, and other relevant information requested by CPS Energy. Licensee shall also include as part of the Permit Application demonstrative engineering design drawings of the type(s) of Wireless Installations and equipment specifications. All such preexisting Wireless Installations shall be subject to inspection by CPS Energy and must be in compliance with all Applicable Engineering Standards prior to the issuance of the Permit. CPS Energy shall issue a Permit for such preexisting Wireless Installations following compliance with the Permit requirements and upon payment of any rent in arrears, penalties, and unpaid electricity associated with such preexisting Wireless Installations.
- 20.2 Termination of Pole Use for Rate Challenge. The Parties agree that the Wireless Rate is not governed by FCC rules or PURA, for a host of reasons, including restrictions on the placement of Wireless Installations set forth in this Wireless Addendum and the Standards, which require among other things that Wireless Installations be placed in space considered unusable for other purposes, including the installation of Attachments. The Parties further agree that if any Attaching Entity challenges the Pole Attachment Rate CPS Energy proposes in any year on the basis of (a) claims that the Pole Attachment Rate should be reduced based upon revenues generated from Wireless Installations; (b) the nominal increase in space on a pole actually used, if not “usable” within the meaning of FCC regulations; (c) the revenues generated from permission to install Wireless Installations; (d) costs incurred or avoided as a result of permission to install Wireless Installations; or (e) any other basis related to Wireless Installations; then CPS Energy may terminate the privilege of Licensee and all other Attaching Entities that have installed Wireless Installations on CPS Energy Poles. Within one hundred eighty (180) days of receiving written notice of termination to use CPS Energy Poles, Licensee and such Attaching Entities shall remove all Wireless Installations from distribution Poles and will only have access to Streetlight Poles thereafter.
- 20.3 Compliance with Wireless Addendum, Agreement, and Standards. All Wireless Installations made on or after the Effective Date of this Wireless Addendum are and shall

be authorized by the procedures, requirements, and limitations of this Wireless Addendum, subject to Licensee's compliance with all the terms and conditions of the Pole Attachment Standards. Licensee's failure to maintain all Wireless Installations in accordance with the Pole Attachment Standards shall be considered a default, and Unauthorized Wireless Installations shall be subject to removal at Licensee's expense.

- 20.4 Contractors and Agents Bound. Licensee agrees to include in all its contracts and agreements with independent contractors or agents provisions that are consistent with and which will fulfill the requirements of this Wireless Addendum.
- 20.5 No Third-Party Beneficiaries. The terms and provisions of this Wireless Addendum are intended to be for the benefit of CPS Energy and Licensee. Except as otherwise provided herein, nothing in this Wireless Addendum or the Agreement, express or implied, is intended to confer upon any other person or entity, other than the Parties, any benefits, rights or remedies under or by reason of this Wireless Addendum or the Agreement.
- 20.6 Reciprocity of Terms and Conditions. Unless otherwise agreed in writing, to the extent that Licensee owns poles or streetlight poles on which CPS Energy has attached or desires to attach either a CPS-owned Wireless Installation or CPS Energy Facilities, CPS Energy shall be entitled to make such Wireless Installations or Attachments on rates, terms, and conditions equivalent to the rates, terms, and conditions extended to Licensee pursuant to this Wireless Addendum, the Agreement, and the Pole Attachment Standards.

21. INTEREST ON PAST-DUE AMOUNTS

In the event Licensee fails to pay an amount due under the terms of this Wireless Addendum within the period of time set forth for payment, interest shall accrue on the unpaid balance at the rate of one and 17/100ths percent (1.17%) per month (or such lesser rate as may be required by law) for each month starting from the date the payment is due until such time as payment is received.

22. ATTORNEY'S FEES

If CPS Energy or Licensee brings any action at law or in equity to enforce any provision of this Wireless Addendum or the Agreement, including the incorporated Pole Attachment Standards, the prevailing party will be entitled to recover its reasonable costs and attorney's fees in addition to any other relief to which it may be entitled.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first written above.

City Public Service of San Antonio

[Company Name]

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

DRAFT V.1