

EQUIPMENT COLOCATION AGREEMENT

This **EQUIPMENT COLOCATION AGREEMENT** (this “**Agreement**”) dated as of _____, 2023 (the “**Effective Date**”), is by and between CITY OF UTQIAĠVIK, an Alaska municipal corporation (the “**City**”) and THE ALASKA WIRELESS NETWORK, LLC, a Delaware limited liability company (“**AWN**”). The City and AWN are individually a “**Party**” and collectively, the “**Parties**” for the purposes of this Agreement.

BACKGROUND

- A. The City is the owner of the real property located at 1807 Momengana Street, Utqiagvik, Alaska, further described in Exhibit A (the “**Property**”)
- B. AWN is a commercial telecommunications company that currently owns and operates a 60-foot transmission tower (the “**Old Tower**”) and utilizes space in a residential home (the “**Old Shelter**”) currently situated on the Property.
- C. AWN (as successor to GCI Communication Corp.) and the City were parties to that certain Lease Agreement dated May 1, 2009, amended as of September 1, 2015 (the “**Original Lease**”), pursuant to which AWN leased a portion of the Old Shelter and the Property under the Old Tower from the City.
- D. The Original Lease expired on April 30, 2019, and the City and AWN are entering into a new Ground Lease Agreement dated as of an even date herewith (the “**Ground Lease**”).
- E. Following the execution of the Ground Lease, AWN intends to demolish the Old Tower, remove the telecommunications equipment and cable from the Old Shelter, and construct a new 70-foot transmission tower (the “**New Tower**”) and a new adjacent communications shelter (the “**New Shelter**” collectively with the New Tower, the “**New Facility**”).
- F. Until the New Facility is built and operational, AWN desires to use a portion of the Old Shelter to locate its servers and equipment, and the City desires to make available space in the Old Shelter for the location of such servers and equipment, on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, the legal sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Installation; Colocation Services.

1.1 Term. From the Effective Date and continuing until the earlier of: (a) the date that AWN completes construction of the New Shelter, or (b) the expiration of the Ground Lease (the “**Term**”), the City will make available to AWN space in the physical portions of the Old Shelter depicted in Exhibit B (“**AWN’s Space**”), and will provide AWN with access to and the right to connect all of AWN’s equipment listed in Exhibit C (the “**Equipment**”) with and into the electrical infrastructure (the “**Facility Infrastructure**”) that is incorporated into the Old Shelter

(collectively, the “**Colocation Services**”). As part of the Colocation Services, subject to the terms and conditions of this Agreement, the City hereby grants AWN, during the Term, (a) a nonexclusive right to access and use AWN’s Space; (b) a nonexclusive right to access and use the Facility Infrastructure; and (c) a nonexclusive right to collocate the Equipment in AWN’s Space, including the right to install, maintain, use, operate, monitor, repair, and replace all the Equipment in AWN’s Space—This Agreement is a services agreement and is not intended to and will not constitute a lease for any real or personal property.

1.2 Availability. During the Term, the City shall use commercially reasonable efforts to ensure that the Facility Infrastructure is available, in accordance with historical practice on the Property. In the event of a failure to meet the foregoing availability requirements, the City shall use commercially reasonable efforts to resolve such failure in a reasonably prompt manner. The City’s commercial reasonable efforts to resolve any issues relating to the availability of the Facility Infrastructure shall be AWN’s sole and exclusive remedy for any performance failure of the City relating to the availability of the Facility Infrastructure or AWN’s Space.

1.3 Third Party Services. AWN acknowledges that Colocation Services are dependent on services provided by unrelated third parties, including, but not limited to, utilities, cable providers and internet service providers (“**Third Party Services**”). The City makes no guaranty or warranty regarding the availability or quality of Third Party Services or the interoperability of Third Party Services with the Equipment. If any failure or performance issue relating to the Colocation Services is caused in whole or in part by Third Party Services, the City will use commercially reasonable efforts to notify AWN of such circumstances while the providers of Third Party Services attempt to resolve such issues.

1.4 Changes to AWN’s Space. The City reserves the right to change the configuration of AWN’s Space, provided that the City shall provide AWN at least 10 days’ prior written notice before making any such change in the configuration of AWN’s Space and, provided further, that no such change shall materially reduce the Colocation Services. The City and AWN shall work in good faith to minimize any disruption in Colocation Services that may be caused by such changes in the configuration of AWN’s Space. The City will be responsible all costs and expenses of any such re-configuration, unless requested or required by AWN or necessary to comply with Applicable Laws (as defined in Section 4.2). The City may freely change or reconfigure any other part of the Old Shelter without notice to AWN.

1.6 Changes to Colocation Services. The City may make changes to the scope of the Colocation Services upon 10 days’ prior written notice to AWN, provided that such changes do not materially reduce the Colocation Services.

1.7 Use of Subcontractors. The City may engage subcontractors to provide the Colocation Services under this Agreement.

2. AWN Rights and Obligations

2.1 Access to AWN’s Space. Except with the advance written consent of an authorized representative of the City or as necessary to address an emergency, AWN’s access to AWN’s Space shall be limited solely to it representatives, agents, subcontractors, and invitees (“**AWN Representatives**”), and such access to AWN’s Space shall occur only during regular business

hours between 9:00 a.m. and 6:00 p.m. (Alaska time), and shall provide at least 2 business days' prior notice of any access to the other tenant in the Old Shelter, except as set forth in Section 2.7 below. Awn will be solely responsible for all acts and omissions of all Awn Representatives. All Awn Representatives shall cooperate with the City and comply with all reasonable security and safety measures issued by the City from time to time, including the use of keys, access cards, or other personal identification recognition devices, and other mechanisms and devices for registering, tracking, and limiting access to the Old Shelter and Awn's Space. The City reserves the right to revoke the entry privileges of any Awn Representative at any time if the exercise of such right is reasonable. Awn will be solely responsible for the security of all such keys, key codes and access cards and for all acts and omissions that occur by the individuals using such keys, key codes and access cards. The City reserves the right to institute additional access control measures to further control and regulate access to Awn's Space or any part thereof, so long as such measures are reasonable.

2.2 Alterations; Damage. Notwithstanding any contrary provision in this Agreement, Awn shall not make or cause to be made any physical alterations, additions, or improvements to Awn's Space or to any other portion of the Old Shelter without the prior written consent of an authorized representative of the City. Unless an authorized representative of the City agrees otherwise in an executed writing, Awn will be solely responsible for all costs and expenses of all alterations, additions, improvements, or replacements to Awn's Space or to any other portion of the Old Shelter undertaken by Awn or any third party acting on behalf of Awn. If Awn fails to complete any alteration, addition, or improvement undertaken by Awn or Awn Representatives or if Awn or Awn Representatives cause damage to Awn's Space or to other portions of the Old Shelter and does not remedy such failure or damage within a reasonable time after notice by the City, the City may, at Awn's expense, engage a third party to complete such alteration, addition, or improvement or to repair such damages.

2.3 Safeguarding of Tools. Awn Representatives may bring tools and test equipment into the Old Shelter, provided that Awn Representatives must keep all work areas neat and must remove tools and test equipment upon their departure from the Old Shelter or, with approval by an authorized representative of the City, upon their completion of the relevant project. Awn will be solely responsible for the care and safeguarding of all tool and test equipment brought to the Old Shelter by Awn Representatives, and hereby waives all claims against the City related thereto.

2.4 Permitted Use. Awn may only use the Colocation Services, Awn's Space, and the Facility Infrastructure for its corporate, lawful business purposes, which may include the storage and operation of telecommunications equipment for Awn, its affiliates and customers. Placement of the Equipment in Awn's Space or use of the Colocation Services for any other purpose is prohibited. Awn acknowledges that (i) it will comply with the Facility Rules (as defined in Section 4.1) with respect to permitted uses of Awn's Space, and (ii) a portion of the Old Shelter outside of Awn's space may be leased to at least one residential tenant, and Awn agrees not to disturb or disrupt such tenant's or tenants' quiet enjoyment of the Old Shelter.

2.5 Inspection; Safety. Awn acknowledges that other portions of the Old Shelter will be utilized by other third parties, including residential tenants, and that the City and such other third parties may access the Old Shelter from time to time. With at least 2 days prior notice, the City and its designees may enter Awn's Space and inspect or observe the Equipment for purposes

of safety and security, provided, that, subject to the additional terms of this Section 2.5, the City will not access, remove, or modify the Equipment without the consent of AWN. The City may access, remove, or modify the Equipment only if the City reasonably believes that such actions are necessary to protect the Old Shelter from damage or to protect the safety of individuals in or near the Old Shelter. If any such event occurs, the City will notify AWN as soon as reasonably possible.

2.6 No Liens. Notwithstanding anything to the contrary herein, in no event shall AWN have any right (express or implied) to create or permit there to be established any lien or encumbrance of any nature against the Old Shelter or against the City's or AWN's interest therein or hereunder, including, without limitation, for any improvement or improvements by AWN, and AWN shall fully pay the cost of any improvement or improvements made or contracted for by AWN.

2.7 Emergency Access. In the event that AWN's access to AWN's Space is necessitated by an emergency situation, AWN shall have the right to access AWN's Space outside of normal business hours; provided that AWN provide to the City and the other tenant in the Old Shelter with at least 2 business days' prior written notice, unless such notice period is not possible, in which case AWN shall provide to the City and the other tenant as much advance written notice as practical.

3. Fees and Expenses. The City and AWN are entering into this Agreement as mutual consideration for the execution of the Ground Lease. There shall be no monthly fee charged to AWN for the use of AWN's Space hereunder. Notwithstanding the foregoing, AWN will pay or reimburse the City for all taxes and duties, however designated, which are levied or imposed by reason of the performance by the City under this Agreement, excluding, however, taxes based upon the City's net or gross income. Any expenses, taxes, or duties incurred by the City that are the responsibility of AWN shall be invoiced by the City, without markup, and AWN shall pay such expenses within 10 days after the City's delivery of such invoices.

4. Compliance.

4.1 Facility Rules. During the Term, AWN's use of AWN's Space shall be subject to, and AWN, and AWN Representatives shall comply with the rules and regulations for access to and use of the Old Shelter and AWN's Space ("**Facility Rules**") attached as Exhibit D. The City may amend or supplement the Facility Rules from time to time upon 10 days' prior written notice to AWN, provided that such changes to the Facility Rules may not materially reduce AWN's access to AWN's Space. AWN will be solely responsible for the compliance with such Facility Rules by AWN Representatives.

4.2 Compliance with Applicable Laws. AWN shall take all actions required to ensure that the Equipment and anything else stored in AWN's Space complies with all laws (including environmental laws, and laws governing the use, import, export and control of data), ordinances, building codes, rules, regulations, orders and directives of any governmental authority having jurisdiction, and all covenants, conditions and restrictions affecting the Old Shelter, AWN's Space and/or the Equipment (collectively, "**Applicable Law(s)**"). AWN shall not use AWN's Space, or permit AWN's Space to be used, in any manner which: (a) violates or conflicts with any Applicable Law; (b) causes or is reasonably likely to cause damage to the Old Shelter, AWN's Space, or the Property and/or property systems and equipment, including, without limitation, all

fire/life safety, electrical, HVAC, plumbing or sprinkler, mechanical, telecommunications, elevator systems and equipment (collectively, the “**Building Systems**”); (c) will invalidate or otherwise violates a requirement or condition of any fire, extended coverage or any other insurance policy covering the Old Shelter, AWN’s Space, the Facility Infrastructure and/or the Building Systems located therein, or will increase the cost of any of the same; or (d) constitutes or is reasonably likely to constitute a nuisance, annoyance, or inconvenience to other tenants or occupants of the Old Shelter or to cause damage to any equipment, facilities, or systems of any such tenant.

4.3 Insurance. During the Term, AWN shall, at AWN’s expense, procure and maintain the insurance policies as set forth in Article 5 of the Ground Lease.

5. Warranties; Disclaimers.

5.1 Warranties. AWN represents and warrants to the City that: (a) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation; (b) it has the legal right and authority to enter into and perform its obligations under this Agreement; (c) the execution and performance of this Agreement will not conflict with or violate any provision of any Applicable Law; and (d) this Agreement, when executed and delivered, will constitute a valid and binding obligation of the Party and will be enforceable against such Party in accordance with its terms.

5.2 Disclaimer of Warranties. TO THE FULLEST EXTENT PERMITTED BY LAW, THE COLOCATION SERVICES ARE PERFORMED AND AWN’S SPACE IS PROVIDED ON AN “**AS-IS, WHERE-IS**” BASIS WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES WHATSOEVER, AND THE CITY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. AWN’S USE OF THE COLOCATION SERVICES IS AT ITS OWN RISK AND THE CITY DOES NOT WARRANT THAT THE COLOCATION SERVICES ARE ERROR FREE OR WILL BE UNINTERRUPTED OR MEET AWN’S REQUIREMENTS. AWN AGREES THAT THE CITY WILL NOT HAVE ANY RESPONSIBILITY OR LIABILITY FOR ANY THEFT OF OR DAMAGE TO THE EQUIPMENT, DATA BREACHES, CYBERATTACKS, OR INTERRUPTION OF AWN’S OPERATIONS WHICH IS CAUSED BY ANY THIRD PARTY, INCLUDING, WITHOUT LIMITATION, OTHER TENANTS, OCCUPANTS, GUESTS, OR LICENSEES OF THE OLD SHELTER OR THE PROPERTY AND THEIR EMPLOYEES, CONTRACTORS, INVITEES, AND REPRESENTATIVES.

6. Default, Early Termination and Removal of Equipment.

6.1 Default. Any failure by AWN to pay any amount due hereunder or any amount due to the City under the Ground Lease within 5 days after the City provides written notice to AWN of such failure, or AWN’s failure to observe or perform any of the obligations of AWN provided herein or under the Ground Lease within 30 days after the City provides written notice to AWN of such failure, will be an “**Event of Default.**”

6.2 Remedies of the City. If an Event of Default occurs, the City may thereafter take any one or more of the following actions:

- A. Terminate this Agreement and require AWN to immediately surrender AWN's Space to the City;
- B. Enter and take possession of AWN's Space and remove the Equipment, with or without having terminated this Agreement;
- C. Take such action as may be necessary to cure such default and charge the reasonable cost (including actual attorneys' fees) of cure to AWN; or
- D. Exercise any other remedy available to the City at law or in equity.

6.3 Early Termination. In addition to the above, the City may immediately terminate this Agreement, subject to the requirements of Applicable Law, if AWN engages in an activity at the Old Shelter or the Property that is not permitted under this Agreement or the Ground Lease or if the Ground Lease is terminated or expires. The City may terminate this Agreement upon 60 days' prior written notice if, in the City's reasonable judgment, any new law or any amendment to a then-existing law makes the performance of this Agreement unlawful or impracticable.

6.4 Removal of the Equipment. Immediately upon the expiration or termination of this Agreement, AWN shall remove all the Equipment and all other property owned by AWN from AWN's Space and Old Shelter and shall restore AWN's Space to its original condition, ordinary wear and tear excepted. If AWN fails to perform the foregoing obligations, the City may, at its option, and without limiting its rights and remedies: (a) disconnect, remove, and store such the Equipment and/or (b) engage a third party to restore AWN's Space to its original condition. The City will use commercially reasonable efforts to notify AWN that the Equipment has been removed and stored. If AWN fails to collect the Equipment and other AWN property from storage within 30 days after removal, the City may dispose of such the Equipment and AWN property without notice. All actions taken by the City pursuant to this Section shall be at AWN's sole risk and expense. Upon demand, AWN shall pay all costs and expenses incurred by the City related to the retention, removal, storage, and disposal of the Equipment and other property owned by AWN and all costs and expenses incurred by the City in restoring or repairing AWN's Space to its original condition. The City shall not be obligated to release the Equipment to AWN unless AWN has paid all such costs and expenses and all other charges due and owing by AWN to the City under the Agreement. The City shall not be liable for any loss or damage incurred by AWN arising out of the City's disconnection, removal, storage, or disposal of the Equipment or third party equipment pursuant to this Section.

6.5 Effect of Termination. Upon any termination of the Agreement, the City shall have no further obligation to provide any Colocation Services.

6.6 Survival. The following sections and all defined terms shall survive termination of this Agreement for any reason: Sections 2.2 (Alterations; Damage), 2.3 (Safeguarding of Tools), 2.6 (No Liens), 3 (Fees and Expenses), 4.3 (Insurance), 5 (Warranties; Disclaimers), 6.4 (Removal of the Equipment), 7 (Indemnification; Limitations of Liability), 8.2 (Notices), and 8.3 (Governing Law and Venue). Termination of this Agreement shall not release either Party from the obligation

to make payment of all amounts then or thereafter due and payable hereunder. In the event AWN fails to comply with its obligations under Section 6.2 (Remedies of the City), all applicable terms and conditions of this Agreement shall survive until all Equipment and other AWN property has been removed or disposed.

7. Indemnification; Limitations of Liability.

7.1 Indemnification by AWN. AWN shall indemnify, defend, and hold harmless the City from and against any liability or expense (including attorneys' fees and costs) incurred as result of any claim or demand by a third party arising from (a) any breach of this Agreement; (b) AWN's use of AWN's Space, the Old Shelter, the Colocation Services or the Equipment, including any claim or demand alleging damage to property or personal injury or death, whether brought by any AWN Representatives or arising from the acts or omissions of any AWN Representatives; (c) any claim that AWN's use of AWN's Space, Old Shelter, the Colocation Services or the Equipment violates or misappropriates the intellectual property rights or other proprietary rights (including rights of privacy) of a third party, or (d) the negligence, gross negligence, or willful misconduct of AWN or any AWN Representative.

7.2 Procedures. The City shall be entitled to indemnification hereunder and shall give written notice to AWN of any claims, suits or proceedings by third parties which may give rise to a claim for indemnification with reasonable promptness after receiving written notice of such claim (or, in the case of a proceeding, is served in such proceeding); provided, however, that failure to give such notice shall not relieve AWN of its obligation to provide indemnification. Once AWN confirms in writing to the City that it is prepared to assume its indemnification obligations hereunder, AWN shall have control over the defense of the claim, at its own cost and expense; provided, however, that the City shall have the right to be represented by its own counsel at its own cost in such matters. Notwithstanding the foregoing, AWN shall not settle or dispose of any such matter in any manner which would require the City to make any admission, or to take any action (except for ceasing use or distribution of the items subject to the claim) without the prior written consent of an authorized representative of the City, which shall not be unreasonably withheld or delayed. AWN shall reasonably cooperate with the City and its counsel in the course of the defense of any such suit, claim or demand, such cooperation to include using reasonable efforts to provide or make available documents, information and witnesses and to mitigate damages.

7.3 Limitations and Exclusions of Liability.

- A. THE CITY SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS (WHETHER DEEMED DIRECT OR INDIRECT DAMAGES), LOSS OF USE, TRANSACTION LOSSES, OPPORTUNITY COSTS, INTERRUPTION OF BUSINESS, COSTS OF PROCURING SUBSTITUTE GOODS OR COSTS OF LOST OR DAMAGED DATA) RESULTING FROM, ARISING OUT OF OR IN ANY WAY RELATING TO AWN'S USE OF AWN'S SPACE, THE COLOCATION SERVICES, OR THIS AGREEMENT.

B. THE ABOVE EXCLUSIONS AND LIMITATIONS SHALL APPLY REGARDLESS OF (I) THE FORM OF CLAIM OR ACTION, AND (II) WHETHER DAMAGES ARE FORESEEN OR FORESEEABLE, EVEN IF THE CITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE EXCLUSIONS AND LIMITATIONS ARE CONDITIONS FOR ENTERING INTO THIS AGREEMENT, AND ARE REFLECTED IN THE LACK OF FEES CHARGED HEREUNDER. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION AND EXCLUSION OF CERTAIN DAMAGES SHALL APPLY REGARDLESS OF THE SUCCESS OR EFFECTIVENESS OF ANY OF THE EXCLUSIVE REMEDIES PROVIDED FOR UNDER THIS AGREEMENT.

7.4 No Maintenance and Support. AWN acknowledges that the City does not offer any maintenance or support for the Equipment pursuant to this Agreement and that the City accepts no responsibility for maintenance or support of the Equipment.

8. Miscellaneous.

8.1 Assignment. This Agreement may not be assigned by AWN, in whole or in part, including by operation of law, without the prior written consent of the City, in its sole and absolute discretion. Any attempted assignment by AWN in violation of this provision shall be void.

8.2 Notices. Notices shall be given pursuant to the terms contained in Section 9.1 of the Ground Lease.

8.3 Governing Law and Venue. The provisions of this Agreement and all questions arising concerning this Agreement shall be determined and resolved in accordance with the laws of the State of Alaska, without regard to conflicts of law principles. Jurisdiction and venue as to any action, claim, or proceeding arising out of, or based upon this Agreement, including, but not limited to, any action for declaratory or injunctive relief, shall be convened in the trial courts of the State of Alaska, in the Second Judicial District, Utqiagvik, Alaska.

8.4 Specific Performance. AWN acknowledges and agrees that any breach of this Agreement would give rise to irreparable harm to the City for which monetary damages would not be an adequate remedy. AWN accordingly agrees that, in addition to any other rights or remedies it may have at law or in equity, the City shall be entitled to seek to enforce the terms of this Agreement by decree of specific performance without the necessity of proving the inadequacy of monetary damages as a remedy. AWN waives any defense that a remedy at law is adequate and any requirement to post bond or provide similar security in connection with actions instituted for injunctive relief or specific performance of this Agreement.

8.5 No Agency. For purposes of this Agreement, the Parties are independent contractors and not partners, joint venturers, or otherwise affiliated and neither Party has the right or authority to bind the other Party in any way. Neither Party hereto is an agent or legal representative of the other Party for any purpose. Neither Party shall enter into any contracts in the name of, or on behalf of the other Party, nor will a Party be entitled to pledge the credit of the other Party in any way or hold itself out as having authority to do so. Each Party will be solely

responsible for payment of any taxes and fees applicable to the respective Party relating to its performance pursuant to the Agreement.

8.6 Force Majeure. No Party shall be liable to the other for any loss or damage attributable to, and neither Party shall be deemed to be in default hereunder as a result of, any failure or delay in performance (other than the payment of amounts due under this Agreement) caused by Force Majeure. For purposes of this Agreement, the term “**Force Majeure**” shall include strike, lockout, earthquake, hurricane, flood, fire, or other acts of God or nature, war, rebellion, civil disorders, piracy, acts of civil or military authorities, widespread electrical or telecommunications failures (including successful attacks on the internet infrastructure), and any other causes beyond the reasonable control of the Party whose performance is affected. Both Parties shall use all reasonable efforts to minimize the consequences of Force Majeure and AWN shall give the City prompt notice of any damage to the Old Shelter or AWN’s Space caused by Force Majeure.

8.7 Entire Agreement; Amendment. This Agreement collectively with the Ground Lease, including the Exhibits hereto, constitute the entire agreement of the Parties with respect to the subject matter hereof and thereof, and supersede all prior and contemporaneous agreements and proposals, whether oral or written. There are no promises, terms, conditions or obligations other than those contained herein. This Agreement may be modified only in a writing signed by authorized representatives of both Parties.

8.8 Conflicts; Construction. Unless expressly provided otherwise, any conflict between the terms of the Agreement and any Exhibit shall be resolved in favor of this Agreement. Headings are used in this Agreement for convenience only and do not affect its interpretation. The word “including” when used herein is not intended to be limited and may be read as “including, without limitation.”

8.9 Waiver. No failure by either Party to take any action or assert any right hereunder shall be deemed to be a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any waiver by a Party of any of its rights under this Agreement shall be in writing signed by an authorized representative of such Party.

8.10 Severability. If any provision of this Agreement is found unenforceable under any laws or regulations applicable thereto, such provision shall be deemed stricken from this Agreement, but such invalidity or unenforceability shall not invalidate any of the other provisions of this Agreement.

8.11 No Third Party Beneficiaries. Nothing in this Agreement, whether express or implied, will confer upon any person or entity, other than the parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of this Agreement.

8.12 Counterparts. This Agreement may be executed in two or more counterparts, and each such counterpart shall be deemed an original hereof. Facsimile or PDF signature pages shall be deemed original counterparts.

IN WITNESS WHEREOF, the Parties hereto have executed this Equipment Colocation Agreement as of the Effective Date.

THE CITY:

City of Utqiagvik

By: _____
Name: Elizabeth Asisaun Toovak
Title: Mayor

AWN:

The Alaska Wireless Network, LLC

By: _____
Name: _____
Title: _____

Exhibit A
Property Description

Exhibit B
Depiction of AWN's Space

Exhibit C
List of Equipment

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Exhibit D

Facility Rules

This Exhibit D is attached to and made a part of the Equipment Colocation Agreement (“**Agreement**”) by and between the CITY OF UTQIAGVIK, an Alaska municipal corporation (the “**City**”), and THE ALASKA WIRELESS NETWORK, LLC, a Delaware limited liability company (“**AWN**”). Capitalized terms not otherwise defined have the meanings set forth in the Agreement.

1. AWN and AWN Representatives are subject to these Facility Rules in connection with their use of the City Colocation Services.
2. The Equipment must be configured and run at all times in compliance with the manufacture’s specifications, including power outlet, power consumption and clearance requirements. All new Equipment installation activities must be approved by the City except for those that are required for normal maintenance and repair. All installation activities must take place during normal business hours unless after hours installation is pre-approved by an authorized representative of the City.
3. AWN’s Space shall be kept neat and orderly at all times. AWN Representatives shall remove all trash and debris upon departure from AWN’s Space or the Old Shelter. At conclusion of work being done in AWN’s Space, AWN shall ensure all cables are routed and dressed neatly in cabinets and all doors and any cages are closed and locked. The City shall have the right to remove and discard any trash and debris left in the Old Shelter in violation of the foregoing.
4. No sign, advertisement, notice or object shall be displayed by AWN in or on the exterior of the Old Shelter walls, doors, ceilings, cabinets, or racks without the City’s prior written approval.
5. AWN and AWN Representatives shall not bring into or keep upon the Old Shelter premises any hazardous, inflammable, combustible, explosive or otherwise dangerous fluid, chemical or substance at any time. No acids, vapors, or other materials shall be discharged or permitted to be discharged into the waste lines, vents or flues of the Old Shelter. AWN may not bring, or make use of, food or drink, tobacco products, explosives, weapons, chemicals, illegal drugs, alcohol or other intoxicants, electro-magnetic devices, radioactive materials or recording equipment of any kind (other than tape back-up or monitoring equipment).
6. The City reserves the right to inspect all objects to be brought into or taken out of the Old Shelter, and to exclude from the Old Shelter all objects which violate any of these Facility Rules. The City may require any person entering or leaving the Old Shelter with any package document the contents of the said package.
7. Only those individuals specifically identified by AWN on an authorized personnel list maintained by the City may access the Old Shelter. AWN will require the return of all access keys from authorized personnel who cease employment with AWN or who otherwise do not require access to the Old Shelter. The City may rely on the most current AWN authorized personnel list in deciding who shall gain access and may require such individuals to sign an access log upon

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entry and exit. Upon termination of the Agreement, AWN agrees to immediately return all access keys to the City.

8. AWN and AWN Representatives may not:

- Misuse or abuse any City or other tenant property or equipment;
- Harass or block access to any individual, including City personnel or other tenants on the Property;
- Engage in any activity that is in violation of the law or aid in criminal activity while on City property or in connection with the Colocation Services. AWN and AWN Representatives may not assist or permit any persons in engaging in any of the activities described above;
- Infringe or misappropriate the intellectual property rights of others. This includes posting copyrighted materials without appropriate permission, using trademarks of others without appropriate permission or attribution, and posting or distributing trade secret information of others in violation of a duty of confidentiality;
- Violate the personal privacy rights of others. This includes collecting and distributing information about users without their permission, except as permitted by applicable law; or
- Send, post, wear, or host harassing, abusive, libelous, or obscene materials or take any similar actions.

9. If AWN becomes aware of any activities described in Section 8 of this Exhibit D, AWN shall use best efforts to stop such activities immediately, including, if necessary, terminating AWN Representative's or authorized personnel's access to the Old Shelter.

10. The City reserves the right to change these Facility Rules in accordance with the Agreement. AWN is responsible for regularly reviewing these Facility Rules. Continued use of the Colocation Services following any such changes shall constitute AWN's acceptance of such changes. The City reserves the right to deny access to anyone not adhering to the Facility Rules.

11. AWN may only engage in any activities permitted under Section 2.4 of the Agreement (the "**Permitted Use**") in the Old Shelter and AWN's Space.