

## LAND AND TOWER LEASE AGREEMENT

This Agreement, made as of the latter signature date below, between Beverly C. Burger, as trustee of the Thomas A. Burger and Beverly C. Burger 2000 Trust, established June 14, 2000, with its mailing address located at PO Box 45, Yorkville CA 95494, hereinafter designated LESSOR and the County of Mendocino with its principal office located at 841 Low Gap Road, Ukiah, CA 95482 (telephone number 707-234-6050), hereinafter designated LESSEE. LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

1. PREMISES. LESSOR hereby leases to LESSEE a portion of that certain parcel of property (the entirety of LESSOR's property is referred to hereinafter as the "Property" and is legally described in Exhibit "A" attached hereto and made a part hereof), located at 9001 County Road 110, Hopland, California, containing approximately 2,300 square feet including the existing tower, communication equipment building, emergency generator and propane fuel tank constructed by the County in 2008 for the Alcatel Microwave Project, (the "Land Space"), together with the non-exclusive right for ingress and egress, seven (7) days a week twenty four (24) hours a day, on foot or motor vehicle, including trucks over or along a ten-foot (10') wide right of way extending over and through adjacent parcels of real property to and from the nearest public right of way, County Road 110, to the Land Space (the "Access Road"), said Land Space and Access Road (hereinafter collectively referred to as the "Premises") being substantially as described herein in Exhibit "B" attached hereto and made a part hereof.

2. TERM; RENTAL. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for Fifteen (15) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of Eighteen Thousand Dollars (\$18,000.00) to be paid annually, in advance, to Beverly Burger, or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 15 below. The Agreement shall commence on the first day of the month following full execution of the Agreement ("Commencement Date"). The rental amount shall increase by 3% on each annual anniversary of the Commencement Date. In addition, LESSEE shall pay a one-time administration fee of \$5,000 payable to Beverly Burger within 30 days following full execution of the agreement.

3. TAXES. LESSEE shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property which LESSOR demonstrates is solely as a result of LESSEE's use of the Premises and/or the installation, maintenance, and operation of the LESSEE's improvements, and any sales tax imposed on the rent (except to the extent that LESSEE is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property which LESSOR demonstrates arises from the LESSEE's improvements and/or LESSEE's use of the Premises. LESSOR and LESSEE shall each be responsible for the payment of any taxes, levies, assessments and other

charges imposed including franchise and similar taxes imposed upon the business conducted by LESSOR or LESSEE at the Property. Notwithstanding the foregoing, LESSEE shall not have the obligation to pay any tax, assessment, or charge that LESSEE is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property. Nothing in this Paragraph shall be construed as making LESSEE liable for any portion of LESSOR's income taxes in connection with any Property or otherwise. Except as set forth in this Paragraph, LESSOR shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property and shall do so prior to the imposition of any lien on the Property.

LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a reduction, credit, or repayment received by the LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit, or repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

4. USE; ACCESS ROAD MAINTENANCE.

- a. LESSEE shall use the Premises for the purpose of constructing, operating, maintaining and or repairing a communications facility and uses incidental thereto. A security fence consisting of chain link construction or similar but comparable construction may be placed around the perimeter of the Premises at the discretion of LESSEE (not including the access easement). All improvements, equipment, antennas and conduits shall be at LESSEE's expense and their installation shall be at the discretion and option of LESSEE. LESSOR hereby grants to LESSEE the right to sublease space and/or permit the use of the Premises by other agencies for communications purposes; provided, however, that all subleases shall be limited to government and non-profit agencies only.
- b. Electrical power is provided to the Premises by Pacific Gas & Electric, by separate meter, on power lines that cross the Property but are outside the scope of the Premises. LESSEE shall pay for the electricity consumed by LESSEE and LESSEE's equipment. In the event of any damage or disruption to the power lines that service the Premises, LESSOR shall cooperate fully with any efforts to repair said power lines and restore electrical power to the Premises, however any costs associated with restoring LESSEE's power shall be born by LESSEE.

- c. Notwithstanding anything to the contrary in this Agreement, LESSOR and LESSEE acknowledge and agree that LESSOR has the responsibility of any ongoing maintenance and repair of the Access Road on the Property. LESSEE acknowledges that the rental amount in Paragraph 2 in partiality represents LESSEE's contribution to the cost of repair and maintenance of the Access Road. Notwithstanding the foregoing:
1. LESSOR hereby authorizes LESSEE to undertake the improvements specified in the Sanel Mountain Microwave Site Hardening Plans dated November 19, 2024, subject to LESSEE obtaining all required approvals and funding; provided, however, that LESSEE has no obligation to undertake such improvements; and
  2. LESSEE shall have the right, but not the obligation, to undertake clearing and repair of the Access Road which may be necessary to access the Premises.
5. INDEMNIFICATION. Subject to Paragraph 6 below, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents.
6. INSURANCE.
- a. The Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the Property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Parties, or either of them. These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.
  - b. LESSEE agrees that at its own cost and expense, to maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. LESSEE agrees that it will include the other Party as an additional insured.
7. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraph 5 above, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology,



rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

8. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder beyond applicable notice and cure periods, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that six (6) months prior notice is given to LESSOR.

9. INTERFERENCE. LESSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LESSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's equipment causes such interference, and after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LESSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LESSOR be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of LESSEE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

10. REMOVAL AT END OF TERM. LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna structure(s) (except footings), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LESSEE 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 (as defined in Paragraph 23 below). If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then existing monthly pro-rata basis, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed.

11. EXPIRATION; HOLDOVER; OPTION. LESSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal

period set forth in Paragraph 10 herein. In the event that LESSEE holds over in violation of Paragraph 10 and this Paragraph 11, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 11 shall equal 125% of the monthly pro-rata rent applicable during the month immediately preceding such expiration or earlier termination. Notwithstanding the foregoing, LESSEE shall have the option to extend this Agreement for an additional two (2) years, commencing on the termination date. To exercise this option, LESSEE must notify LESSOR in writing no less than ninety (90) days prior to the expiration of this Agreement. If LESSEE exercises such option to extend, the annual rent for the first year of the option term shall be 125% of the annual rent for the year immediately preceding said year, and the annual rent for the second year of the option term shall be increased by three percent (3%).

12. TITLE. LESSOR represents and warrants to LESSEE as of the execution date of this Agreement, and covenants during the Term that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LESSEE as set forth above.

13. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either LESSOR or LESSEE in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. 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 under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

14. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located.

15. NOTICES. All notices hereunder must be in writing and shall be given by first class mail to the below address (or any other address that the Party to be notified may have designated to the sender by like notice), with notice being effective five (5) calendar days after deposit in a United States Postal Service office or mailbox.

LESSOR: Beverly C. Burger  
PO Box 45,  
Yorkville, CA 95494

LESSEE: County of Mendocino  
841 Low Gap Road  
Ukiah, CA 95482

16. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

17. DEFAULT.

- a. In the event there is a breach by LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LESSOR shall give LESSEE written notice of such breach. After receipt of such written notice, LESSEE shall have thirty (30) days in which to cure any monetary breach and sixty (60) days in which to cure any non-monetary breach, provided LESSEE shall have such extended period as may be required beyond the sixty (60) days if the nature of the cure is such that it reasonably requires more than sixty (60) days and LESSEE commences the cure within the sixty (60) day period and thereafter continuously and diligently pursues the cure to completion. LESSOR may not maintain any action or effect any remedies for default against LESSEE unless and until LESSEE has failed to cure the breach within the time periods provided in this Paragraph.
- b. In the event there is a breach by LESSOR with respect to any of the provisions of this Agreement or its obligations under it, LESSEE shall give LESSOR written notice of such breach. After receipt of such written notice, LESSOR shall have thirty (30) days in which to cure any such breach. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LESSOR fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LESSOR if the failure to perform such an obligation interferes with LESSEE's ability to conduct its business on the Property.

18. REMEDIES. 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 on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. 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. In the event of a default by either Party with respect to a material provision of this Agreement, 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 the 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 Premises are located.

19. ENVIRONMENTAL.

- a. LESSOR will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Property, unless such conditions or concerns are caused by the specific activities of LESSEE in the Premises.
- b. LESSOR shall hold LESSEE harmless and indemnify LESSEE from and assume all duties, responsibility and liability at LESSOR's sole cost and expense, for all duties, responsibilities, and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: a) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such non-compliance results from conditions caused by LESSEE; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Property or activities conducted thereon, unless such environmental conditions are caused by LESSEE.

20. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon thirty (30) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, (a) the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LESSEE's use of the Premises is impaired, and (b) in the event of a casualty affecting the Access Road, LESSEE shall have the right, but not the obligation, to undertake clearing and repair of the Access Road which may be necessary to access the Premises in order to commence use of its communications site as quickly as possible.

21. CONDEMNATION. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Property, LESSEE, in LESSEE's sole discretion,



is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, LESSEE may, at LESSEE's option, to be exercised in writing within fifteen (15) days after LESSOR shall have given LESSEE written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If LESSEE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, LESSOR shall promptly repair any damage to the Premises caused by such condemning authority.

22. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

23. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Property in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws").

24. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.



25. ATTORNEYS' FEES. In any action to enforce or interpret the terms of this Agreement, including but not limited to any action for declaratory relief, each party shall be solely responsible for and bear its own attorneys' fees, regardless of which party prevails.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year last written below.

IN WITNESS WHEREOF

**DEPARTMENT FISCAL REVIEW:**

Darcie Antle

DEPARTMENT HEAD DATE

Budgeted: ☐ Yes ☐ No **05/12/2025**

Budget Unit: ITMW

Line Item: 862061

Grant: ☐ Yes ☐ No

Grant No.: \_\_\_\_\_

**COUNTY OF MENDOCINO**

By: John Haschak

JOHN HASCHAK, Chair  
BOARD OF SUPERVISORS

Date: 06/03/2025

**ATTEST:**

DARCIE ANTLE, Clerk of said Board

By: Antle  
Deputy 06/03/2025

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

DARCIE ANTLE, Clerk of said Board

By: Antle  
Deputy 06/03/2025

**INSURANCE REVIEW:**

By: Darcie Antle

Risk Management

Date: **05/12/2025**

**CONTRACTOR/COMPANY NAME**

By: Beverly C. Burger  
Beverly C. Burger, as trustee of the Thomas A. Burger and Beverly C. Burger 2000 Trust, established June 14, 2000

Date: **5-17-2025**

**NAME AND ADDRESS OF CONTRACTOR:**

Beverly C. Burger

PO BOX 47

Yorkville, CA 95494

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

**COUNTY COUNSEL REVIEW:**

APPROVED AS TO FORM:

By: Man/Kian  
COUNTY COUNSEL

Date: **05/12/2025**

**EXECUTIVE OFFICE/FISCAL REVIEW:**

By: [Signature]  
Deputy CEO or Designee

Date: **05/12/2025**