



STATE OF COLORADO
STATE BOARD OF LAND COMMISSIONERS

Tower Site Lease No. 114153

THIS LEASE ("Lease") is entered into at Denver, Colorado, on this 1st day of October, 2021 ("**Effective Date**"), by and between the State of Colorado, acting by and through its State Board of Land Commissioners ("**State Land Board**"), whose address is 1127 Sherman Street, Suite 300, Denver, CO 80203 and **ZIRKEL WIRELESS**, whose address is **1856 KAMAR PLAZA, STEAMBOAT SPRINGS, CO 80487** ("**Lessee**").

I. DESCRIPTION OF THE PREMISES AND ZONING

The State Land Board leases to the Lessee and Lessee leases from the State Land Board, exclusively for the purposes indicated below, the state trust lands, in the County of **Routt**, Colorado, described in **Exhibit A** attached hereto ("**Premises**").

Within five (5) months of the commencement of this Lease, the Lessee must provide the State Land Board a copy of the documentation from **Routt** County or other applicable local jurisdiction of the approval of the zoning and or permitting decisions authorizing the use of the Premises for the uses detailed in Section III of this Lease.

II. CONDITION OF PREMISES

Lessee represents that Lessee has had an opportunity to inspect the Premises prior to entering into this Lease, and Lessee accepts the Premises in their present condition and acknowledges that the Premises are in all respects suitable for the purposes permitted. The State Land Board disclaims any and all obligation to provide access to the Premises (except as expressly set forth in this Lease), or to fence, make any repairs to or construct any improvements upon the Premises; and the State Land Board does not warrant that the Premises are suitable for the permitted purposes.

III. USE OF THE PREMISES

The use of the Premises shall be limited to constructing, operating, repairing, replacing, upgrading, removing and maintaining a communications tower site and related appurtenances (collectively, the "**Facilities**") for **wireless broadband internet**. The use of the Premises shall also include the right of ingress and egress 24 hours per day, 7 days per week for the sole purpose of constructing, operating, repairing, replacing, upgrading, removing and maintaining said Facilities, including the installation, repair, replacement, upgrading, and maintenance of utilities related to the Facilities. No other use of the Premises by Lessee shall be permitted. The sole and singular user of the Premises shall be the Lessee named herein and its authorized agents and subcontractors. Lessee shall be solely responsible for all of its subcontracting and agency arrangements and performance by such parties in compliance with the provisions of this Lease. If Lessee uses or attempts to use the Premises for any other purpose whatsoever, then this Lease shall terminate immediately and be of no further effect, and all rights of way shall revert to the State Land Board or its successors.

IV. TERM

This Lease is effective from this **10/1/2021**, for the term of thirty (30) years, being until **10/1/2051**, subject to the covenants and agreements herein and as may be extended pursuant to **Section VI** ("**Term**").

V. RENT

A. Term

The rental amount for the first year of the Lease shall be the sum of **Seven Thousand Four Hundred Twenty-Eight and 36/100 Dollars (\$7,428.36)**, with an annual increase of **three percent (3%)**. Lessee shall pay to the State Land Board the rental due each and every year, in advance, during the Term of this Lease at the office of the State Land Board specified in the first paragraph of this Lease. No portion of any prepaid rental amount is refundable, unless otherwise stated herein. The initial rent payment will be due thirty (30) days after this Lease is fully executed. If such due date shall fall on a weekend or state holiday, such due date shall be the next business day following such weekend or holiday. The anniversary of the Effective Date shall be the "**Payment Date**." For every year after the initial year of the Lease, Lessee must pay the annual rent on or prior to the Payment Date.

Failure to make payment of any rental payment or any other payment required under this Lease which is not paid within thirty (30) days of its due date shall be subject to interest, processing fees and penalties as specified in Section XXII.B.3. The State Land Board's acceptance of less than the full amount due shall not operate as an accord and satisfaction and shall not operate as a waiver of the State Land Board's right to collect the full amount which is actually due hereunder.

B. Holdover

If Lessee remains in possession of the Premises after the termination of this Lease (by expiration or otherwise) Lessee shall be liable for rent during such holdover possession. The rent shall not be less than the rate agreed upon in this Lease, and the State Land Board may fix a new rate, which shall be paid by the Lessee during continued occupancy. At the State Land Board's option, the Lessee shall be construed to be in possession of the Premises and to be occupying the same so long as the Premises are used in any way to any extent by Lessee, or so long as any of its Authorized Improvements, unauthorized improvements or personal property remain on the Premises. Continued occupancy shall not establish a new or extended Lease Term or other right, no matter how long maintained and regardless of the State Land Board's knowledge thereof.

VI. EXTENSION TERMS AND ADJUSTMENTS

At the State Land Board's sole discretion, the State Land Board may agree to Lessee's request for an extension of this Lease on terms and conditions (including the rental amount) set forth by the State Land Board and agreed to by both parties provided a notice of intent to enter into such extension shall be given in writing to the State Land Board no later than six (6) months prior to the expiration of the initial Term. An extension will only be granted if the Lessee is in full compliance with all requirements of this Lease. The rental amount will be subject to review and adjustment by the State Land Board, and shall replace any prior rental amount.

VII. PERMITS

Lessee may terminate this Lease upon written notice to the State Land Board if Lessee is unable to obtain, or maintain as required approval(s) or the issuance of, a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Facilities as now or hereafter intended by Lessee so long as Lessee pays a termination fee equal to three (3) months rent at the then-current rate pursuant to Section V.

VIII. GOVERNMENTAL IMMUNITY

Liability for claims or injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act, C.R.S. § 24-10-101 et seq., and the risk management statutes C.R.S. § 24-30-1501 et seq., as amended. No term or condition of this Lease will be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Governmental Immunity Act as applicable now or hereafter amended.

IX. INDEMNIFICATION

Lessee assumes all liability arising from the use, occupation or control of the Premises by Lessee under this Lease. This assumption includes, but is not limited to, liability for all personal injuries (including death) and environmental and property damage and destruction. Lessee agrees to defend, indemnify and hold harmless the State Land Board from and against any and all liabilities, losses, damages, liens, expenses, claims, demands, debts, obligations, fines, penalties, suits or actions, judgments, and costs of any kind whatsoever arising from the use, occupation or control of the Premises, caused by any act, omission or neglect of Lessee, or Lessee's employees, agents, guests, invitees, contractors or assigns. This provision shall survive termination, cancellation or relinquishment of this Lease and any cause of action by the State Land Board to enforce it shall not be deemed to accrue until the State Land Board's actual discovery of said liability, claim, loss, damage, or exposure. This indemnity is in addition to any other indemnity provided for in this Lease. Lessee will not be responsible for any liability caused by persons granted other uses of the Premises by the State Land Board.

X. INSURANCE

Lessee, at its sole cost and expense, shall during the entire term of this Lease procure, pay for and keep in full force and effect an occurrence based general liability insurance policy from an insurance carrier licensed to do business in Colorado, in an amount not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. Lessee, at its sole cost and expense, shall during the entire term of this Lease procure, pay for and keep in full force and effect a property insurance policy from an insurance carrier licensed to do business in Colorado covering all insurable improvements owned by the State Land Board located on the Premises in an amount not less than necessary to cover the replacement cost. All policies shall name the State Land Board as an additional insured, shall provide that the coverage is primary and noncontributory over any other insurance coverage available to the State Land Board, its agents and employees and shall include a clause waiving all rights of recovery, under subrogation or otherwise against the State Land Board, its agents and employees. Failure to buy and maintain the required insurance is a default of this Lease. Before starting work under this Lease, Lessee shall, at the State Land Board's request, furnish a certificate of liability insurance, referencing the lease number and reflecting the above requirements. The State Land Board may alter any requirements of this section to meet the requirements of the Colorado Governmental Immunity Act or any requirements determined by the Colorado Office of Risk Management.

XI. PERFORMANCE BOND

The Lessee shall execute a bond (or other sureties as may be approved by the State Land Board) at the time this Lease is executed by the parties in the amount of Twenty-Five Thousand and no/100 Dollars (\$25,000.00). The bond shall guarantee performance of this Lease by Lessee, which includes, but is not limited to, the payment of rent in accordance with Section V and the restoration of the Premises in accordance with Section XIV. The bond shall consist of cash, letter of credit, or other sureties as may be approved by the State Land Board. However, if the bond is other than cash, the bond must be in a form that will guarantee payment in cash to the State Land Board upon receipt by any bank or insurance company of written demand by the State Land Board, without further condition. The State Land Board shall return the bond to the Lessee if and when Lessee has fully complied with the terms of this Lease.

The Lessee is aware and understands that certain covenants and agreements relating to surface reclamation may require additional time beyond the Term, and agrees to keep this bond in place until all agreements related to surface reclamation have been satisfied by inspection and approved by the State Land Board staff or their designee. In the State Land Board's discretion, the State Land Board may draw upon the bond after Lessee has failed to perform its obligations under the Lease beyond the stated cure periods provided in the Lease.

XII. SURVEY

- A. Prior to the Effective Date, a plat and survey performed by **Thomas H. Effinger Jr.**, Colorado PLS No. **17651**, dated **7/15/2021 Survey Date** was submitted by the Lessee to depict the location of the Premises and/or Facilities, as required by the State Land Board. The survey included a metes and bounds legal description of the Premises and is in form and substance sufficient to meet the State Land Board's survey standards.
- B. If the Premises and/or the footprint of the Facilities are to be enlarged, replaced, relocated, or added to in the future, the Lessee shall request of the State Land Board such change and furnish surveys, plats, and description of the change to the State Land Board. The State Land Board may, at its sole discretion, approve or deny such request. In the event that the State Land Board approves such change, the State Land Board may, at its sole discretion, require the Lessee to pay additional consideration.

XIII. CONSTRUCTION OF IMPROVEMENTS

- A. No improvements or Facilities (including access roads) shall be built or placed upon the Premises without the prior written consent of the State Land Board, which shall not be unreasonably withheld, conditioned, or delayed. Lessee shall provide designs, construction plans, and building specifications for the State Land Board's review and approval prior to construction of any improvements. Lessee shall not commence to build any structure or permanent improvement or construct replacements, additions, or significant alterations of any kind without first obtaining said approval. Improvements placed upon the Premises by the Lessee with the State Land Board's written authorization shall be referred to herein as "Authorized Improvements." All Authorized Improvements shall be the property of the Lessee, unless they are deemed abandoned pursuant to Section XIV.B below. If the Authorized Improvements are abandoned, such assets shall become the property of the State and may be removed, retained or sold by the State in accordance with Section XIV.B below.
- B. All improvements and/or Facilities shall be constructed in a manner that minimizes soil disturbance and native vegetation as much as possible, and any utilities required hereunder shall not be larger than is minimally necessary to provide utilities services required by the Facilities. Whenever reasonably possible, telecommunications lines shall be placed along existing or newly developed access road rights-of-way and construction of new access roads shall be minimized.
- C. During construction of improvements and during the Term of this Lease, Lessee shall make a reasonable effort to treat the existing occurrences of noxious weed species (Ex. Canada Thistle) on the Premises and to prevent the spread of noxious weeds from other areas by washing vehicles and other equipment, stockpiling topsoil separately from other fill materials, and in cases where timely natural revegetation of native plants is not likely to occur, to seed bare sites with native plant species as soon as appropriate to prevent establishment of undesirable plant species.
- D. If any Facilities are constructed outside of the defined boundary of the Premises, the State Land Board, at its discretion, may require Lessee, a developer (if any), or their successors or assignees to relocate the Facilities to within the defined boundaries of the Premises at no cost to the State Land Board.

- E. The Lessee shall not fence or otherwise obstruct free and open access to and travel upon, the Premises, without written authorization from the State Land Board.

XIV. TREATMENT OF IMPROVEMENTS AND SURRENDER OF PREMISES UPON TERMINATION OF LEASE

- A. Upon expiration or termination of this Lease, and provided Lessee is not then in breach of or in default under this Lease, all Authorized Improvements shall, at the Lessee's option, either be:
 - 1. Removed by Lessee without damage to the Premises; or
 - 2. Sold by Lessee to a subsequent lessee of the Premises.

If improvements are removed, Lessee shall comply with the provisions of this Section XIV.

- B. All Authorized Improvements, unauthorized improvements and/or personal property not so removed or sold within one-hundred twenty (120) days after termination of this Lease shall be deemed abandoned and may, at the State Land Board's option, be removed by the State Land Board at the Lessee's expense in accordance with this Section XIV, retained by the State Land Board for use by subsequent lessees, or sold by the State Land Board with all proceeds going to the State Land Board.
- C. Lessee shall not be entitled to compensation for, or to sell or remove, any Authorized Improvements and/or unauthorized improvements when the Lease is terminated by the State Land Board for violation by the Lessee of the Lease provisions. At the State Land Board's option, the Authorized Improvements, unauthorized improvements and/or personal property on the Premises shall be removed by the State Land Board at the Lessee's expense in accordance with this Section XIV, retained by the State Land Board for use by subsequent lessees, or sold by the State Land Board with all proceeds going to the State Land Board.
- D. Upon expiration or termination of this Lease, the Lessee shall peaceably and quietly leave, and surrender possession of the Premises to the State Land Board in accordance with this Section XIV, and at its own expense shall promptly and diligently within one-hundred twenty (120) days remove, demolish and/or clear off from the Premises all Authorized improvements, unauthorized improvements and personal property and restore the Premises to its original or native vegetative condition or to such other conditions as may be approved by the State Land Board regardless of whether the Lessee has funds budgeted and allocated for the removal and restoration. Any Authorized Improvements, unauthorized improvements and personal property remaining after one-hundred twenty (120) days following termination of this Lease shall, at the option of the State Land Board, become the property of the State Land Board, at the State Land Board's discretion. The State Land Board can seek reimbursement from Lessee for any costs associated with removing and disposing of any property or improvements remaining on the Premises after one-hundred twenty (120) days following termination of this Lease.
- E. Notwithstanding any provisions to the contrary, the Lessee shall have no right to remove, alter or demolish all or part of the Lessee's improvements at any time the Lessee is in default or breach of any term, provision or covenant of this Lease.

XV. NO PARTNERSHIP

Nothing in this Lease shall cause the State Land Board in any way to be construed as a partner, a joint venturer or associated in any way with the Lessee in the operation of the Premises, or subject the State Land Board to any obligation, loss, charge or expense connected with or arising from the operation or use of the Premises or any part thereof.

XVI. MAINTENANCE AND REPAIR

The State Land Board shall have no duty of maintenance or repair with respect to the Premises, Facilities, or any improvements constructed thereon. The Lessee shall keep and maintain the Premises, Facilities,

and improvements thereon in constant good order and repair in the same condition as when initially constructed, ordinary wear and tear excepted. All repairs made by the Lessee shall be at least equal in quality to the original improvements. During the Term, the Lessee shall provide continued maintenance of the area disturbed by the Facilities, to maintain the integrity of the installation.

XVII. DAMAGE OR DESTRUCTION

In case of damage to or destruction of the Authorized Improvements and/or Premises or any part thereof, by any cause whatever, the Lessee shall give or cause to be given to the State Land Board prompt notice of such occurrence and shall promptly proceed with due diligence to repair, restore, replace or rebuild so as to make the Premises and Authorized Improvements at least equal in quality to the original improvements, restore the same to such modified plans as shall be previously approved in writing by the State Land Board, or remove all Authorized Improvements and restore the Premises to a native vegetative condition.

XVIII. TAXES, UTILITIES AND OTHER EXPENSES

It is understood and agreed that this Lease shall be a net lease with respect to the State Land Board, and that all taxes, assessments, insurance, utilities, water, sewer, wastewater, sanitation, telephone and other operating costs including those which could otherwise result in a lien being placed against the Premises and/or the Authorized Improvements as well as the cost of all repairs, remodeling, renovations, alterations, and improvements, and all other direct costs, charges and expenses of any kind whatsoever respecting the Premises and the Authorized Improvements shall be borne by the Lessee and not by the State Land Board so that the rental return to the State Land Board shall not be reduced, offset or diminished directly or indirectly by any cost or charge, nor subject to suspension or termination for any cause. If Lessee is a tax exempt entity, it shall be Lessee's responsibility to obtain and maintain such tax exemption, to provide proof of such exemption and to receive the benefits of such exemption.

XIX. RESERVATIONS TO THE STATE LAND BOARD

This Lease is subject to any and all presently existing easements, rights-of-way and other interests, whether or not visible on the ground; and, in addition to its reversion upon termination of this Lease, the State Land Board hereby reserves:

- A. The right to access, inspect, and monitor the Premises at all reasonable times by the State Land Board, its employees, agents, lessees, licensees, permittees, contractors or assigns. Lessee hereby grants to the State Land Board, its employees, agents, or contractors a non-revocable license for access on, over, across or through Lessee's other lands during the term of this Lease for access to the Leased Premises. The State Land Board may access, inspect, and monitor the Leased Premises utilizing all reasonable means and methods, including but not limited to gate counters, game cameras, and Unmanned Aerial Systems (UAS). The use of UAS will be in accordance with applicable Federal Aviation Administration (FAA) rules and regulations. Lessee will cooperate and not interfere with all reasonable means and methods of access, inspection and monitoring including taking actions necessary to comply with FAA rules and regulations.
- B. The right at any and all times during the Term to sell, exchange, or otherwise dispose of all or any portion of the land underlying the Premises or adjoining lands.
- C. The right to cancel this Lease as to all or any portion of the Premises, upon one year's prior written notice to the Lessee, if the State Land Board elects to sell, exchange, otherwise dispose of, or otherwise Lease all or any portion of the Premises free and clear of this Lease, refunding to Lessee the unearned portion of the prepaid rental amounts.
- D. All rights to all minerals, ores, and metals of any kind and character, and all coal, asphaltum, oil, gas, sand, gravel, clay, quarry products or other like substances in or under such land, and all geothermal resources and the right of ingress and egress for the purpose of mining, together with enough of the surface of the same as may be necessary for the proper and convenient working of such minerals and

substance. Lessee shall not enter into any agreement to restrict mineral development in any way, including but not limited to, agreements to purchase, to buy out or to buy-down with the mineral lessee, its successors or assigns, without the written approval of the State Land Board.

- E. The right to lease all or any portion of the Premises to other persons for the purposes of exploring for and removing timber, minerals, ores, metals, coal, asphaltum, oil, gas, sand, gravel, clay, quarry products, peat, geothermal resources, and all other naturally occurring resources, together with reasonable and adequate rights of entry and surface rights necessary or convenient to exercise such reserved rights, so long as the exercise of such rights do not unreasonably interfere with Lessee's authorized use of the Premises.
- F. Title to all water rights associated or appurtenant to the Premises. In addition, no water, ditch, reservoir, well, spring, seepage or other right, permit, or use of any kind ("Water Right") may be initiated, established, appropriated or adjudicated (for use on or off the Premises) by Lessee without the prior written approval of the State Land Board. All applications and documents pertaining to any such Water Right must be made in the name of the State Land Board, and the State Land Board reserves the right to make or convert any related applications or documents in or to its own name. Any such Water Right, approved or unapproved is the sole and absolute Property of the State Land Board without cost to the State Land Board.
- G. The right to administrative access to the Premises under Section XIX.A.
- H. The right at any time to grant any right-of-way or easement upon, over or across all or any portion of the Premises so long as the exercise of such rights does not unreasonably interfere with Lessee's authorized use of the Premises. This reservation includes, but is not limited to, the right to grant rights-of-way on, over, under, and across the Premises for the installation, emplacement, replacement, repair, operations, and maintenance of utilities which shall conform with plans duly submitted by the Lessee and approved by the State Land Board. If and when such right-of-way or easement is granted to a third party, the Lessee shall be compensated by the grantee for any damages to Lessee's personal property and Authorized Improvements. The State Land Board reserves the right to use, or permit the use of, the lands within the utilities corridor for any new purpose which will not unreasonably interfere with or endanger Lessee's Facilities or use of the Premises.
- I. The right to put the Premises to additional uses by granting additional leases, permits, access, or rights to the Premises or any portion thereof, at any time and for any purpose, including but not limited to hunting, fishing and other recreational purposes so long as the exercise of such rights do not unreasonably interfere with Lessee's authorized use of the Premises.
- J. All rights, privileges and uses of every kind or nature not specifically granted to Lessee by this Lease so long as the exercise of such rights does not unreasonably interfere with Lessee's authorized use of the Premises.
- K. All treasure trove and articles of antiquity on or under the Premises are and remain the property of the State Land Board. The Lessee shall immediately report discovery to the State Land Board and to the Colorado State Historical Society.

Lessee agrees to permit and not interfere with the new or additional uses that meet the requirements of this Section XIX.

XX. ASSIGNMENTS AND SUBLEASING

This Lease shall be binding on the parties hereto, their heirs, representatives, successors, and permitted assigns.

- A. This Lease shall not be assigned, transferred or sold, voluntarily or by operation of law, without the prior written consent and upon such terms and conditions as determined by the State Land Board, which shall not be unreasonably withheld, conditioned, or delayed. It shall be understood that any name change, or changes in ownership of the Lessee shall be considered an assignment. A change in name without a corresponding change in ownership and a change in name and/or ownership resulting from a merger or acquisition between Lessee, its partners, members or affiliates shall be considered an approved assignment (each an "Approved Assignment"), provided that the change in name and/or assignment is made in accordance with such terms and conditions as determined by the State Land Board. For each assignment that does not qualify as an Approved Assignment, Lessee shall be required to submit an assignment fee of \$500.00 plus an assignment consideration of fifty percent (50%) of the current annual rental amount at the time of its notification to the State Land Board. The assignment fee and assignment consideration requirements shall not apply to Approved Assignments. There shall be no partial assignments of this Lease.
- B. Assignment or other transfer without written consent of the State Land Board shall not effect a novation of this Lease, and shall, nevertheless, make the assignee responsible and liable, along with the Lessee, for performing this Lease. The acceptance by the State Land Board of any payment due hereunder from any person other than the Lessee shall not be deemed a waiver by the State Land Board of any provision of this Lease or to be consent to any assignment.
- C. Subleasing, encumbering, pledging or otherwise transferring this Lease is expressly prohibited under the terms of this Lease except as expressly provided in this Lease.
- D. Subleasing (including co-location of facilities not belonging to Lessee) is prohibited without the prior written consent of the State Land Board, which consent shall be at the State Land Board's sole discretion. Lessee shall request and obtain the State Land Board's approval of any proposed subleasing or co-location of facilities prior to entering into any agreement to co-locate and prior to co-location of facilities on the Premises. Within thirty (30) calendar days of the anniversary date of the Effective Date (and each subsequent one-year date thereafter), the Lessee shall provide a report of all approved subleases including an accounting of the related sublease income and gross receipts received, including in-kind services and equipment. At that time, Lessee shall pay to the State Land Board an amount equal to 25% of gross receipts received during the previous year from subtenants or one-half (1/2) the previous year's annual rental amount pursuant to Section V, whichever is greater. All entities with subleasing arrangements that include land outside of the boundaries of the Premises and are owned by the State Land Board shall be required to enter into a separate agreement with the State Land Board.
- E. Lessee shall be responsible to assure that the sublessees comply with all the terms, conditions, and covenants of this Lease. A breach or default of this Lease by a sublessee shall be considered a breach of the Lease as if the Lessee had committed the breach; however, Lessee shall still be responsible for the performance and liabilities of all terms, conditions and covenants of this Lease.

XXI. PROTECTION, CONSERVATION AND COOPERATION

Lessee shall not permit, commit, or allow, and shall protect the Premises against, any loss, damage, any dangerous condition, injury, or waste, except as caused by persons granted other uses of the Premises by the State Land Board. Lessee may use the Premises only for the purposes granted and in accordance with good resource conservation practices. Lessee shall not cut, remove, or use or allow to be cut, removed or used, any timber or trees, or remove, use or allow to be removed or used any minerals, ores, metals, coal, asphaltum, oil, gas, sand, gravel, clay, quarry products, peat, geothermal resources or other naturally occurring resources unless approved in advance in writing by the State Land Board. Lessee shall conduct all activities on the Premises in a manner that protects soil fertility and forage production, and does not contribute to soil erosion, noxious weeds or pests. Lessee shall comply with all applicable federal, state and local laws, ordinances, and regulations, including but not limited to criminal, land use, fencing,

noxious weed, environmental, wetlands protection, hazardous waste, health and safety laws, ordinances and regulations.

XXII. DEFAULTS AND REMEDIES

A. Defaults

The occurrences of any one or more of the following events shall constitute a default hereunder by the Lessee:

1. Failure by the Lessee to make any payment of rental or other payment of additional rental or charge required to be made by the Lessee hereunder, as and when due.
2. Use of the Premises by the Lessee, its successors and assigns or attempted use of the Premises for any other purpose than those permitted by this Lease without the prior written consent of the State Land Board.
3. Failure by the Lessee to perform any of the covenants, conditions or requirements contained herein. Provided further that if the nature of the Lessee's default is such that more than thirty (30) days are reasonably required to cure such default then the Lessee shall not be deemed to be in default if the Lessee shall commence such cure within said thirty (30) day period and thereafter diligently pursue such cure to completion.

Any of the above events of default may be cured by the Lessee within thirty (30) days after written notice thereof from the State Land Board to the Lessee in accordance with Section XXVI.K.

B. Remedies

In any event of default and in addition to any or all other rights or remedies of the State Land Board hereunder or by the law provided, the State Land Board may exercise the following remedies at its sole option:

1. Termination. Terminate the Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and the Lessee shall immediately surrender possession of the Premises to the State Land Board according to the terms of Section XIV. In such event of termination, the State Land Board shall be entitled to recover from the Lessee:
 - a) The unpaid rental, taxes and/or damages which have accrued up until the time of termination together with interest; and
 - b) Any other amount necessary to compensate the State Land Board for the Lessee's failure to perform its obligations under this Lease or which would be likely to result therefrom, including, but not limited to, the cost of recovering possession of the Premises, expenses of reletting, including necessary repair, renovation and alteration of the Premises, reasonable attorneys fees, and any other reasonable costs; and
 - c) Interest upon such amounts, which shall be one point five percent (1.5%) per month or portion thereof. Said interest shall accrue from the dates such amounts accrued to the State Land Board until paid by the Lessee.
2. Rent During Unlawful Detainer. In any successful action for unlawful detainer commenced by the State Land Board against the Lessee by reason of any default hereunder, the reasonable rental value of the Premises for the period of the unlawful detainer shall be two (2) times the current rental amount specified in Section V and other charges or payments, prorated on a per diem basis, to be made by the Lessee under this Lease for such period.
3. Interest and Processing Fees; Penalties. Interest and processing fees in the amount of one point five percent (1.5%) per month or portion thereof shall be imposed for late payments and

improper or partial payments. In addition, the State Land Board may charge penalties as provided in the State Land Board's published fee schedules, as they may be amended from time to time. Said interest, processing fees, and penalties (if any) shall accrue from the dates such amounts accrued to the State Land Board until paid by the Lessee.

4. **Cumulative Rights.** The rights and remedies reserved to the State Land Board, including those not specifically described, shall be cumulative, and the State Land Board may pursue any or all of such rights and remedies, at the same time or separately.

XXIII. HAZARDOUS SUBSTANCES

- A. The Lessee shall not place, store, use or dispose on the Premises, temporarily or permanently, any substance that is hazardous, toxic, dangerous or harmful or which is defined as a hazardous substance by the Comprehensive Environmental Response Compensation and Liability Act, 42 USC §9601 (each a "**Hazardous Substance**" and collectively, the "**Hazardous Substances**"); except for the following:
 1. any potentially Hazardous Substance contained within batteries installed by Lessee at the Premises, which shall be used for the sole purpose of supplying electrical power to the Facilities; and
 2. small quantities of "over the counter" degreasers, lubricants, and cleaning solvent products, which shall be used for the sole purpose of maintenance and operation of the Facilities.

All Hazardous Substances shall be used and stored in compliance with all federal, state, and local environmental laws. Lessee shall provide the State Land Board with an inventory of all Hazardous Substances at the State Land Board's request.

- B. The Lessee is also prohibited from storing any gasoline or other fuel on the Premises without the State Land Board's prior written permission; except Lessee is permitted to store diesel, propane or gasoline fuel in a tank on the Premises for the sole purpose of supplying fuel to the Facilities in the event of an electrical power outage, provided that a spill containment structure is installed in a manner that is capable of holding the entire volume of the tank in the event of a tank spill or rupture. Such written permission shall be at the State Land Board's sole discretion and upon such terms and conditions as determined by the State Land Board.
- C. The Lessee shall immediately notify the State Land Board of all spills, releases, inspections, correspondence, orders, citations, notices, fines, response and/or cleanup actions, and violation of laws, regulation or ordinance which affect the Premises.

XXIV. CONDEMNATION

- A. In the event the State Land Board receives notification of any condemnation proceedings affecting the Premises, the State Land Board will provide notice of the proceeding to Lessee within ten (10) business days.
- B. If all of the Premises are taken by any public authority under the power of eminent domain, this Lease shall terminate as of the date possession was taken by said public authority pursuant to such condemnation. If part of the Premises is taken and, in the opinion of either the State Land Board or the Lessee, it is not economically feasible to continue this Lease, either party may terminate this Lease.

- C. Such termination by either party shall be made by notice to the other party given not later than thirty (30) days after possession is so taken. If part of the Premises is taken and neither the State Land Board nor the Lessee elects to terminate this Lease, the payment due under this Lease shall be abated in the same proportion as the portion of the Premises so taken bears to the whole of the Premises.
- D. All damages awarded for the taking or damaging of all or any part of the Premises, or the State Land Board owned improvements thereon, shall belong to and become the property of the State Land Board, and the Lessee hereby disclaims and assigns to the State Land Board any and all claims to such award. The State Land Board shall not claim any interest in any Authorized Improvements. Lessee may pursue a separate award from the condemnation authority for its relocation expenses and for the loss of or damage to its Facilities.
- E. If the temporary use (defined as less than one year) of the whole or any part of the Premises shall be taken at any time during the Term of this Lease, the Lessee shall give prompt notice thereof to the State Land Board; however, the Term, rentals and other obligations of the Lessee under this Lease shall not be reduced or affected in any way. The Lessee shall be entitled to compensation as determined by applicable law for any such temporary taking of the Premises.

XXV. LIENS AND CLAIMS

A. Mechanics' Liens

1. The Lessee shall not suffer or permit to be enforced against the Premises, or any part thereof, or any improvements thereon, any mechanics', material men's, contractors', or subcontractors' liens arising from, or any claim for damage growing out of the work of any construction, repair, restoration, replacement or improvement, or any other claim or demand howsoever the same may arise, but the Lessee shall pay or cause to be paid all of said liens, claims, or demands before any action is brought to enforce the same against the Premises or improvements.
2. The Lessee agrees to defend, indemnify and hold the State Land Board and the Premises free and harmless from all liability for any and all such liens, claims, demands, and actions (each a "Lien" and collectively, the "Liens") together with reasonable attorney's fees and all costs and expenses in connection herewith.

To the extent permitted by law, the Lessee agrees to defend, indemnify and hold the State Land Board and the Premises free and harmless from all liability for any and all such liens, claims, demands, and actions (each a "Lien" and collectively, the "Liens") together with reasonable attorney's fees and all costs and expenses in connection herewith.

To the extent permitted by law, the Lessee agrees to accept responsibility and liability for any and all such liens, claims, demands, and actions (each a "Lien" and collectively, the "Liens") together with reasonable attorney's fees and all costs and expenses in connection herewith.

B. Rights to Contest

Notwithstanding the foregoing, if the Lessee shall in good faith contest the validity of any such Lien, then the Lessee shall at its sole expense defend itself and the State Land Board against the same and shall pay and satisfy any adverse expense or cost or adverse judgment that may be rendered thereon before the enforcement thereof against the State Land Board or the Premises, upon the condition that if the State Land Board shall require, the Lessee shall furnish a surety bond satisfactory in form and amount to the State Land Board. Said bond shall not be less than one hundred twenty percent (120%) of such contested Lien indemnifying the State Land Board against liability for the same, and holding the Premises free from the effect of such lien.

Notwithstanding the foregoing, if the Lessee shall in good faith contest the validity of any such Lien, then the Lessee shall at its sole expense defend itself and the State Land Board against the same and

shall pay and satisfy any adverse expense or cost or adverse judgment that may be rendered thereon before the enforcement thereof against the State Land Board or the Premises.

C. Posted Notice

The Lessee shall, upon execution of this Lease at its cost, prepare a Notice, pursuant to CRS §38-22-105, and cause the same to be posted for the purpose of protecting the State Land Board against any Liens or encumbrances upon the Premises by reason of work, labor, services or materials contracted for or supplied to the Lessee.

XXVI. MISCELLANEOUS

A. False Statements

Any false certification or statement by the Lessee in the application, public disclosure statement or qualification of financial responsibility statement required to be submitted with the application for the Lease, or in any other document or report required to be submitted under this Lease, shall at the discretion of the State Land Board, result in termination of this Lease and an action for damages.

B. Lease Document Controls

In the event of inconsistency or conflict between this Lease and documents incorporated herein by reference, this Lease shall control.

C. Compliance with Laws

The Lessee shall comply with all applicable federal, state and local ordinances, regulations and laws regarding the Premises and activities conducted thereon or by virtue thereof. Furthermore the Lessee shall not use or permit the Premises to be used in violation of any such rule, regulation or law or for any purpose tending to damage or harm the Premises or improvements thereon or adjacent thereto, or the image or attractiveness thereof, or for any improper, offensive or immoral use or purpose, or in any manner which shall constitute waste, nuisance or public annoyance.

D. Authority

1. Lessee. If the Lessee is an entity other than an individual, Lessee acknowledges and represents that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Lease and that this Lease is binding upon said entity in accordance with its terms. In addition, each individual executing this Lease on behalf of said entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said entity and that this Lease is binding upon said entity in accordance with its terms. The Lessee shall deliver a certified copy of the appropriate document evidencing authorization for such execution.
2. State Land Board. This Lease is entered into pursuant to the authority granted to the State Land Board by Colorado law. The State Land Board acknowledges and represents that it is duly organized and validly existing and has the right, power and authority to enter into this Lease.

E. Captions

The captions and headings in this Lease are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

F. Counterparts

This Lease may be executed in any number of counterparts, which together shall constitute one agreement. Signatures required in this lease shall be original "wet" handwritten signatures. Executed signature pages may be delivered using pdf or similar file type transmitted via electronic mail, cloud

based server or other similar electronic means. Any such transmittal shall constitute delivery of the executed agreement, with signatures binding on the parties as if they were originals.

G. Entire Understanding

This Lease represents the complete integration of all understandings between the parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

H. Modification

1. By the Parties. Except as specifically provided in this Lease, modifications of this Lease shall not be effective unless agreed to in writing by the parties in an amendment to this Lease.
2. By Operation of Law. This Lease is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Lease on the effective date of such change, as if fully set forth herein.

I. Certain Rules of Construction

Time is of the essence in the performance of this Lease. Unless the context clearly implies otherwise, each and every act to be performed or obligation to be fulfilled by the Lessee under this Lease shall be performed or fulfilled at the Lessee's sole cost and expense.

J. Governing Law and Venue

This Lease shall be governed by and construed in accordance with the laws of the State of Colorado and venue shall be in the City and County of Denver.

K. Notices

Every notice, demand, request, designation, consent, approval or other document or instrument required or permitted to be served hereunder shall be in writing, shall be deemed to have been duly served on the day of receipt or rejection and shall be sent by registered or certified United States mail, postage prepaid, return receipt requested, or by a nationally recognized overnight courier service which provides written evidence of delivery, as addressed to the parties hereto. The parties may change the place for serving of such papers on it, or provide for the delivery of not more than two (2) additional copies, by giving the other party at least thirty (30) days prior written notice to such effect. Notices shall be sent to:

Lessee:
ZIRKEL WIRELESS
1856 KAMAR PLAZA
STEAMBOAT SPRINGS CO 80487

State Land Board:
Colorado State Board of Land Commissioners
/co Lease No. 114153
1127 Sherman Street Suite 300
Denver Colorado 80203

L. Severability

Provided this Lease can be executed and performance of the obligations of the parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the parties can continue to perform their obligations under this Lease in accordance with its intent.

M. Survival of Certain Lease Terms

Notwithstanding anything herein to the contrary, provisions of this Lease requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State Land Board if Lessee fails to perform or comply as required.

N. Third Party Beneficiaries

Enforcement of this Lease and all rights and obligations hereunder are reserved solely to the parties. Any services or benefits which third parties receive as a result of this Lease are incidental to the Lease, and do not create any rights for such third parties.

O. Waiver

Waiver of any breach under a term, provision, or requirement of this Lease, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

P. Colorado Open Records Act ("CORA") Disclosure

To the extent not prohibited by federal law, this Lease and the performance measures if any, are subject to public release through CORA, C.R.S. § 24-72-2000.0 et seq.

Q. Costs of Suit: Attorneys Fees

In the event that the State Land Board shall, without fault on the State Land Board's part, be made party to any litigation instituted by the Lessee or by any third party against the Lessee, or by or against any person holding under or using the Premises by license of the Lessee, or for the foreclosure of any lien for labor or material furnished to or for the Lessee or any such other person or otherwise arising out of or resulting from any action or transaction of the Lessee or of any such other person, the Lessee hereby indemnifies and holds the State Land Board harmless from and against any judgment rendered against the State Land Board or the improvements or any part thereof, and all costs and expenses, including reasonable attorney's fees, incurred by the State Land Board in or in connection with such litigation.

In the event that the State Land Board shall, without fault on the State Land Board's part, be made party to any litigation instituted by the Lessee or by any third party against the Lessee, or by or against any person holding under or using the Premises by license of the Lessee, or for the foreclosure of any lien for labor or material furnished to or for the Lessee or any such other person or otherwise arising out of or resulting from any action or transaction of the Lessee or of any such other person, to the extent permitted by law, the Lessee hereby indemnifies and holds the State Land Board harmless from and against any judgment rendered against the State Land Board or the improvements or any part thereof, and all costs and expenses, including reasonable attorney's fees, incurred by the State Land Board in or in connection with such litigation.

IN WITNESS WHEREOF, Lessor and Lessee, by their signatures below, agree to the terms of this Lease:

ZIRKEL WIRELESS .

By: Alan Belvo 10/12/12
Signature Date

Alan Belvo President
Printed Name Title

STATE OF COLORADO BY THE
STATE BOARD OF LAND COMMISSIONERS

By: David S. Rodenberg
David S. Rodenberg - Tower Site Leasing Manager

Date: 10/12/21

**EXHIBIT A
THE PREMISES
LEGAL DESCRIPTION**

A parcel of land in the NE1/4SE1/4 of Section 31, T.7 N., R.88 W. of the 6th P.M., Routt County, Colorado described as follows:

BEGINNING at a point on the north line said NE1/4SE1/4 from which the NE corner thereof being the East ¼ Corner said Section 33 and an alloy cap on a #5 rebar marked LS 16442 bears S 89°29'37"E 108.69 feet,

thence N 89°29'37"W 172.81 feet along the north line said NE1/4SE1/4,
thence S 19°09'34"E 48.40 feet to a guy anchor consisting of an "I" beam in concrete,
thence S42°44'37"E 163.77 feet to a guy anchor consisting of an "I" beam in concrete,
thence N16°42'28"E 158.81 feet to a guy anchor consisting of an "I" beam in concrete,
thence N 00°30'23"E 12.35 feet to the Point of BEGINNING.

Containing 0.37 acres more or less.

