

## **Master License Agreement**

### **Development and Management of Wireless Telecommunications Facilities**

THIS Master License Agreement (this "Agreement") is entered into as of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by the Wake County Board of Education ("WCBE "), having its principal office at 5625 Dillard Drive, Cary, NC 27518 and APC-EDGE, a joint venture between APC Telecom, LLC and Wireless EDGE Consultants LLC ("APC" or "Communication Tower Manager") whose address is 8601 Six Forks Road, Suite 250, Raleigh, NC 27615. collectively

WHEREAS, WCBE is the owner of, or controls, certain real property and structures throughout the County of Wake (each, a "Property" and, collectively, the "Properties") that may be usable for commercial wireless telecommunication purposes; and

WHEREAS, WCBE desires to lease certain space on the Properties ("Premises") for installation of wireless towers, antennas and other telecommunications equipment (the "Wireless Communication Tower Program" or "Program"); and

WHEREAS, WCBE and APC are agreeing that, subject to the terms and conditions set forth in this Agreement, APC will act as WCBE's exclusive representative and Communication Tower Manager regarding the telecommunications services (as defined below) to perform certain marketing, site evaluation and development, sublicensing, revenue collection, and other related site management services related to the use of WCBE Property by the commercial wireless telecommunication industry, as more fully specified in this Agreement; and

WHEREAS, APC desires to perform the commercial wireless telecommunications site management services as described above and as specified in this Agreement in accordance with the terms and conditions specified in this Agreement; and

WHEREAS, WCBE recognizes that during the term of this Agreement, APC shall have the exclusive right to market, manage and develop new tower sites on WCBE Property subject to all the provisions of this Agreement; and

WHEREAS, WCBE recognizes that APC shall have the exclusive right to construct and own all new towers that are to be constructed on any WCBE Property for commercial wireless telecommunications purposes during the term of this Agreement subject to all the provisions of this Agreement and the contractual obligations existing at the execution of this Agreement; and

WHEREAS, WCBE recognizes its obligation to work with APC as WCBE's exclusive commercial Communication Tower Manager ("CTM") under this Agreement and agrees that if WCBE or any of its departments, in their sole discretion, enter into the licensing, construction, expansion, operation or other use for commercial wireless telecommunications

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purposes of any particular Property or group of Properties owned by WCBE or any of its departments, it shall do so subject to the terms and conditions of this Agreement; and

WHEREAS, APC recognizes that WCBE shall have the right during the term of this Agreement to construct, operate, own and maintain telecommunications facilities on WCBE Property for any purpose other than commercial wireless telecommunications purposes;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, WCBE and APC agree as follows:

1. DESCRIPTION OF SERVICES. In accordance with, and subject to the terms and conditions of this Agreement, APC hereby agrees to provide to WCBE certain services related to WCBE's desire to lease to third parties space on its Property for the Program telecommunications needs of WCBE, as more particularly set forth in Exhibit A attached hereto and made a part hereof (the "Services"). APC shall perform all Services in accordance with the terms and conditions of this Agreement. All Services shall be performed (i) promptly and diligently, by competent and qualified personnel, (ii) professionally, in accordance with recognized industry standards, and (iii) in accordance with all applicable federal, state and local laws, regulations, codes in effect throughout the duration of the Services and in compliance with all applicable WCBE policies now in effect or later adopted.
2. TERM OF AGREEMENT. This Agreement shall be in effect for a period of ten (10) years from the Effective Date (the "Initial Term"). APC has the right to request an extension of this Agreement for three (3) additional terms of five (5) years (each a "Renewal Term") for a maximum term of twenty-five (25) years as permitted pursuant to N.C.G.S. §160A-272. In order to exercise such a Renewal Term, APC shall provide notice as provided in Section 24 one hundred eighty (180) days prior to the expiration of the current Term. Upon receipt of the request for renewal, WCBE shall have a period of time not to exceed thirty (30) days determine whether to approve the request for a Renewal Term. Should WCBE decide to approve the request for a new Renewal Term it shall promptly notify APC. The Initial Term and the Renewal Terms are hereinafter referred to, collectively, as the "Term"). Each Renewal Term shall be on the same terms and conditions as set forth herein. APC shall notify WCBE, in writing, of APC's request not to renew this Agreement, at least one hundred eighty (180) days prior to the expiration of the then current term. Unless APC notifies WCBE, in writing, of its intention to exercise a Renewal Term, this Agreement shall terminate.
3. PRICING; PAYMENTS. WCBE acknowledges and agrees that APC shall be entitled to compensation for the Services based on revenue sharing in accordance with Exhibit B attached hereto and made a part hereof. WCBE further acknowledges and agrees that APC shall be entitled to retain such amounts as are due to APC for the Services as follows:
  - a) EXISTING CELLULAR REVENUES FROM PRE-EXISTING LEASES. This scope of work may be elected by WCBE by letter authorization to this Agreement. APC shall provide lease management services for all existing cellular leases ("Pre-existing Leases") between WCBE and wireless carriers (the "Existing Tenants") for agreements in place prior

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to the Effective Date. The Pre-existing Leases, and all future amendments thereto, shall remain directly between WCBE and the Existing Tenants. Rental payments from the Pre-existing Leases may, at WCBE's sole discretion, be directed to APC and APC shall remit payment to WCBE in conjunction with other funds due to WCBE from the Agreement. APC shall remit 100% of the gross receivables from the Pre-existing Leases to WCBE, including applicable escalations and future amendments to those Pre-existing Leases. APC will be authorized to charge a modification application fee to Existing Tenants to cover processing and legal expenses in accordance with Exhibit B. WCBE shall retain exclusive rights to lease new or additional tenants on any towers or antennas that are subject to the Pre-existing Leases.

b) NEW TOWERS CONSTRUCTED BY APC. For each new tower site proposed by APC and approved by WCBE (each, an "APC Tower"), APC (or its affiliate) and WCBE shall enter into a Wireless Telecommunications Facility Lease Agreement, substantially in the form annexed hereto and made a part hereof as Exhibit C (each, a "New Tower Lease Agreement"). APC may enter into multiple subleases with wireless carriers (each a "Sub-tenant") on each APC Tower, and rental revenues from such Sub-tenants will be aggregated and subject to the revenue sharing with WCBE in accordance with Exhibit B.

c) - NEW CELLULAR REVENUES FROM WCBE-OWNED STRUCTURES. This scope of work may be elected by WCBE by letter authorization to this Agreement. After the Effective Date of this Agreement, for co-location of wireless carriers on existing structures (buildings, towers, water tanks, etc.) owned by WCBE, (each a "WCBE Structure"), APC (or its affiliate) and WCBE shall enter into a Wireless Telecommunications Facility Lease Agreement, in a form to be mutually agreed upon (each, an "WCBE WFL Agreement"). APC may enter into a sublease with a single wireless carrier (a "Sub-tenant") on each WCBE Structure and rental revenues from such Sub-tenant will be subject to the revenue sharing with WCBE in accordance with Exhibit B.

d) - NEW CELLULAR REVENUES FROM SMALL CELLS AND DISTRIBUTED ANTENNA SYSTEMS (DAS). This scope of work may be elected by WCBE by letter authorization to this Agreement. WCBE and APC shall enter into a Wireless Telecommunications Small Cell Master License Agreement, in a form to be mutually agreed to. APC may enter into Carrier Master License Agreements ("CMLAs") with wireless carriers (each a "Carrier") and rental revenues from Carriers will be aggregated and subject to the revenue sharing with WCBE in accordance with Exhibit B. For individual sites (non-volume), individual WFL Agreements may be used as per 3c above, at APC's discretion.

4. PROGRAM MANAGEMENT PAYMENT. APC will manage all accounts receivable and will remit payments of revenues due to WCBE Monthly. At WCBE's option, remittance payments may be made quarterly or annually on dates to be mutually agreed upon. APC will prepare and deliver a financial report on all activities related to this Agreement annually by March 31<sup>st</sup> of each year for the period covering the previous calendar year.
5. EXCLUSIVITY. APC shall be the exclusive representative of WCBE, on all of its Properties, for the Services and activities contemplated under this Agreement. WCBE shall

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notify APC promptly of any inquiries received directly by WCBE from any prospective telecommunications tenants or licensees.

6. **USE OF WCBE FACILITIES.** All Services by APC on the Properties shall be lawful and shall be in compliance with all applicable Federal Communication Commission (“FCC”) and Federal Aviation Administration (“FAA”) requirements. APC shall, at its sole expense, comply with all laws, orders, ordinances, and regulations, if any, of federal, state, and local authorities applicable to its Services or use of the Properties. APC shall maintain its facilities and the Properties in good condition, reasonable wear and tear and damages from the elements excepted. All improvements to the Properties constructed by APC for its purposes shall be at APC’s sole risk and expense, except for damage, losses or other claims resulting from WCBE negligence. Where required by an individual site agreement, the portion of a Property where APC’s equipment and facilities are installed shall be fenced-in and secured by APC against unpermitted public or third party access.

APC shall use all commercially reasonable efforts to ensure that APC’s Services do not interfere with communications equipment used by WCBE and its administrative unit the Wake County Public School System including, but not limited to, emergency response communications or any other users paying an annual license fee, existing on the commencement date of the applicable site agreement. WCBE agrees to reasonably cooperate with APC, at APC’s expense, in executing such documents or applications necessary in order for APC to obtain and maintain such licenses, permits, and other governmental approvals needed for APC Services. APC shall provide the Real Estate Services Department of the WCPSS a copy of any proposed application at least thirty (30) prior to submittal. Upon approval of the application by WCBE or WCPSS then WCBE authorizes APC to make and prosecute applications for all such approvals.

7. **TERMINATION FOR DEFAULT.** Either party may terminate this Agreement if (i) all or a substantial portion of the assets of the other party are transferred to an assignee for the benefit of creditors or to a receiver or a trustee in bankruptcy, (ii) a proceeding is commenced by such party for relief under bankruptcy laws and such proceeding is not terminated or withdrawn within 90 days of its commencement, (iii) a proceeding is commenced against such party for relief under bankruptcy laws and such proceeding is not terminated or withdrawn within 90 days of its commencement, or (iv) the other party breaches a material provision of this Agreement and such breach continues for 30 days after written notice thereof from the non-breaching party. Notwithstanding the foregoing, in the event that any such breach cannot be cured within such 30 day period, the non-breaching party shall not be entitled to terminate this Agreement if the breaching party has commenced efforts, and proceeds diligently, to cure such breach within a reasonable time period. Notwithstanding the foregoing, any failure to make payments due hereunder shall be considered a material breach of this Agreement if such failure is not cured within 5 business days of written notice that such payment is due.
8. **ASSIGNMENT.** APC shall not sell, transfer, assign, or otherwise dispose of the Agreement or any portion thereof, or of its right, title, or interest therein, without the prior written consent of WCBE, which consent may be withheld in its sole discretion.

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9. **TAXES.** EACH PARTY SHALL pay taxes and similar assessments, levies and government-imposed obligations with respect to revenue received. If real estate taxes are assessed with respect to any Property excluding the Wireless Communication Tower Program equipment owned by APC or any third party, WCBE shall be solely responsible for the payment of the taxes attributable to such Property, including any penalty, interest, tax or other charge that may be levied or assessed under any law or regulation as a result of the delay or failure of WCBE to pay any such taxes, assessments, levies or obligations or to file any required return. APC shall be solely responsible for the payment of the ad valorem taxes attributable to the towers, antennas and ancillary structures or buildings constructed by APC or the applicable wireless carrier subtenant for APC Towers including any penalty, interest, tax or other charge that may be levied or assessed under any law or regulation as a result of the delay or failure of APC or its subtenant to pay any such taxes, assessments, levies or obligations or to file any required return.
10. **OWNERSHIP.** The towers, antennas and ancillary structures or buildings constructed by APC for APC Towers shall be the property of APC or the applicable wireless carrier subtenant. All equipment or property of APC or the applicable wireless carrier subtenant including temporary construction or maintenance equipment which is attached to or otherwise brought onto the site by APC shall also remain the personal property of APC and may be removed, at APC's expense, subject to the provisions of this Agreement. During the term of any individual site agreement, APC may replace any of its towers, antennas, equipment, and facilities at its sole cost and expense, consistent with the provisions of this Agreement.
11. **MECHANIC'S LIENS.** APC shall keep the Properties free from any liens arising from work performed, materials furnished or obligations incurred by APC and shall defend, indemnify, hold WCBE harmless from any liens and encumbrances arising from any work performed or materials furnished by or at the direction of APC. Upon completion of any construction activity, copies of the signed lien waivers, if any, shall be supplied to WCBE.
12. **NON-INTERFERENCE WITH WCBE.** Any construction, reconstruction, maintenance, repair, replacement and operation of APC's equipment and improvements on a Property and all work in connection therewith, shall be performed and arranged in a manner which will not materially interfere with WCBE's use of its Property, the free and safe flow of traffic, WCBE construction or maintenance work, or with WCBE's radio or other communications, unless written approval is expressly granted by WCBE, such approval not to be unreasonably withheld, conditioned or delayed.
13. **ACCESS.** In the event of an emergency such that reasonable advance notice cannot be provided, WCBE hereby grants APC access to the Premises over, under and across the Properties ("Access") twenty-four (24) hours per day, seven (7) days per week, for the purpose of ingress, egress, installation, maintenance, repair, replacement and operation of the telecommunications facilities, any associated utilities, and the performance of the Services. Otherwise, access to the Premises shall only occur upon advance notice no less than twenty four hours in advance to the designated representative for each school Property. The Access right granted herein shall automatically extend to all of APC's agents, representatives,

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contractors, invitees and vendors, as well as to all licensees, subtenants and their agents, representatives, contractors, invitees and vendors. WCBE's access to the Premises shall be restricted as follows: (i) unless an emergency condition exists, all access shall be on reasonable notice to APC; (ii) WCBE shall take commercially reasonable precautions to ensure that no damage occurs to the telecommunications facilities or other improvements or any of the property of APC or any subtenant during or as a result of such access; and (iii) WCBE shall promptly repair, to APC's reasonable satisfaction, any damage caused as a result of any such access. APC shall provide WCBE, in writing, with a list of all personnel in charge of work on the project and keep said list current. APC shall provide WCBE with a list of authorized persons to be contacted in the event of an emergency.

14. **SALE OF A PROPERTY.** In the event WCBE desires to sell or convey a Property, APC will make no claim to prevent such sale. The sale shall be subject to the terms and conditions of this Agreement and any individual site agreements. Any transfer of ownership of, or rights in, any Property by WCBE shall be subject to this Agreement and any individual site agreement and such assignee shall assume the obligations hereunder.

15. **SUBSEQUENT LEGISLATION, REGULATIONS, PROCEDURES.** It is foreseeable that additional legislation pertaining to the licensing of WCBE Property may be passed after the date of this Agreement, or that WCBE may adopt regulations, or additional procedures pertaining to licensing of the same; provided, however, WCBE shall not adopt any regulations which would result in this Agreement, being deemed illegal or unenforceable. Should any of these events, or any combination of them occur, all of the relevant statutory provisions, regulations, or procedures, including subsequent amendments thereto, will become part of this Agreement. If any of these events, or any combination of these events occur, any language or terms now in this Agreement inconsistent with the relevant new statutes, regulations, or procedures will be void immediately upon the effective date of such statute, regulation or procedure; provided, however, that no such changes shall result in: (i) a default of this Agreement by APC; (ii) an increase in the obligations of APC hereunder; (iii) a decrease in the rights of APC hereunder; or (iv) any changes to any existing Wireless Telecommunications Facility Lease Agreement. Further, in the event of any such changes, APC shall be entitled to such time as is reasonable under the circumstances to comply with such changes.

16. **NO RECORDATION.** The parties hereto agree that neither party shall record any memorandum or instrument pertaining to this Agreement.

17. **APPLICABLE LAWS.**

a) This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of North Carolina. Any provision of this Agreement prohibited by the law of North Carolina shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of North Carolina, and the Parties hereby irrevocably consent to such jurisdiction. The undersigned hereby irrevocably submit to the exclusive jurisdiction and venue of Wake

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County for any State Court proceeding or the Eastern District of North Carolina for any action arising in Federal Court.

b) APC shall comply with all federal, state, and local laws, ordinances, rules and applicable WCBE policies (as identified in the Lease) applicable to the construction and operation of the APC Services provided for in the Agreement.

## 18. DISPUTE RESOLUTION.

- a) Mediation. In the event of any controversy or claim arising out of or relating to this Agreement, its interpretation, application or enforcement, or the breach or alleged breach thereof (defined herein as “Claim” or “Controversy”), the party asserting any such Claim or Controversy shall provide prompt written notice of the existence of the Claim or Controversy to the other party (the “Notice”). To the extent the parties cannot resolve the Claim or Controversy, then the parties hereby agree to attend at least one (1) mediation session within thirty (30) days of the Notice, unless the parties jointly agree to a different timeframe for the mediation. The parties may not commence any arbitration, litigation or other judicial or quasi-judicial proceeding (“Proceeding”) prior to the mediation session, except that any party may commence a Proceeding prior to the mediation if: (i) by operation of law the Proceeding must be commenced prior to the mediation in order for the Proceeding to be timely under applicable statute(s) of limitations, in which event the parties shall take no further action in the proceedings post-filing and the litigation will be stayed by agreement until seven days following the mediation session; and/or (ii) the party commencing the proceeding is seeking temporary and/or preliminary injunctive relief.
- b) Attorneys Fees. In the event of that either party seeks to enforce the terms of this Agreement, the non-prevailing party shall be responsible for the prevailing party’s reasonable attorneys’ fees, costs and disbursements.
- c) APC and WCBE may exercise those legal remedies as may be available to them in connection with any dispute arising out of this Agreement which cannot be settled by the provisions of this Section.

## 19. INDEMNITY AND INSURANCE

a) APC agrees to indemnify, save, and hold harmless the WCBE and all of its agents and employees from any and all claims, demands, actions, or causes of action of any nature or character arising out of, or by reason of, the administration of the Marketing Agreement, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of any character arising as a result of APC’s administration of the Wireless Communication Tower Program whether or not such action or claim alleges negligence of WCBE, its agents or employees, in supervision or approval of APC’s activities, or failure to discover and/or prevent the APC’s negligence.

Nothing in this Agreement shall be construed as an indemnification by WCBE for liabilities of the other party or third parties for property loss or damage or personal injury or death arising out of and/or during the activities and Services described in this Agreement. WCBE

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accepts all responsibility, and hereby agrees to indemnify, save, and hold harmless APC, its agents, employees, officers, contractors, subcontractors and principals for any loss, liability, damages, or claims for injury, death, or whatever nature to any person, property, or business caused by or resulting from any event or occurrence in, on, or about any Property resulting from the negligent activities of WCBE, its agents, servants, employees and invitees.

b) It is hereby understood and agreed that any and all employees of WCPSS and all other persons employed by it in the performance of its responsibilities under the Agreement shall not be considered employees of the APC and that any and all claims that may or might arise under the Workers Compensation Act of the State of North Carolina on behalf of the WCPSS employees while so engaged and acting within the scope of their employment shall in no way be the obligation or the responsibility of the APC.

c) It is hereby understood and agreed that any and all employees of APC and all other persons employed by the APC in the administration of this Agreement shall not be considered employees of WCPSS or Wake County and that any and all claims that may or might arise under the North Carolina Workers Compensation Act on behalf of said employees while so engaged and any and all claims made by any third party as a consequence of any act or admission on the part of said APC employees while engaged in the administration of this Agreement shall in no way be the obligation or responsibility of WCPSS.

d) APC, at its own expense, shall carry and keep in force during the full term of this Agreement including any extensions or renewals thereof, a policy or policies of insurance which shall also name WCBE as an additional insured, in the minimum amounts and of the types as follows:

(i) general liability insurance for claims for bodily injury or death and property damage with combined single limits of not less than \$1,000,000 per occurrence with a general aggregate limit of \$2,000,000.

(ii) workers' compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the North Carolina Worker's Compensation Law of not less than \$1,000,000 per occurrence; and

(iii) if Tenant operates owned, hired or non-owned vehicles on or about the Property, comprehensive automobile liability insurance with a limit of not less than \$1,000,000 combined bodily injury and property damage.

(iv) professional liability insurance, where applicable, of not less than \$2,000,000 per occurrence, which coverage may be provided directly through licensed professional providing services for APC under the Agreement.

20. DRUG FREE WORKPLACE. APC agrees to comply with all applicable state and federal laws regarding drug-free workplace. APC shall make a good faith effort to ensure that its employees, while working on the Property, will not purchase, transfer, use or possess illegal drugs ( alcohol or smoking or vaping or abuse prescription drugs) in any way.

21. EQUAL EMPLOYMENT OPPORTUNITY

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a) In carrying out this contract, APC shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, sexual orientation, gender identity, genetic information, or age. APC will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, disability, sexual orientation, gender identity, genetic information, or age. Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.

b) APC agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. APC shall not discriminate on the basis of race, color, or national origin in its programs or activities.

22. NOTICES. All notices under this Agreement and any individual site agreements must be in writing and shall be deemed validly given if sent by email with overnight delivery or regular certified mail, return receipt requested, effective the third day following the date the notice is postmarked. Notices should be addressed as follows:

if to WCBE: Wake County Public School System  
Attn: Superintendent  
5625 Dillard Drive  
Cary, North Carolina 27518

with a copy to : Wake County Public School System  
Real Estate Services  
1429 Rock Quarry Road, Suite 116  
Raleigh, NC 27610  
Attention: Senior Director of Real Estate Services Department

with a copy to: Boxley, Bolton, Garber & Haywood, LLP  
Post Office Drawer 1429  
Raleigh, NC 27602  
Attention: Kenneth C. Haywood

if to APC: APC Telecom, LLC  
8601 Six Forks Road, Suite 250  
Raleigh, NC 27615  
Attention: Communications Tower Manager

Either party may change the designated recipient of notices and the address by so notifying the other party in writing.

23. ENVIRONMENTAL LAWS.

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a) As used herein, the term "Environmental Laws" shall mean any and all local, state or federal statutes, regulations or ordinances pertaining to the environment or natural resources. As used herein, the term "Hazardous Substance" shall mean any toxic or hazardous waste, material, or substance that is regulated by Environmental Laws, including, without limitation, asbestos and petroleum products; hazardous or solid wastes.

b) WCBE and APC each represent, warrant and agree that it will conduct its activities on the Properties in compliance with all applicable Environmental Laws. WCBE further represents, warrants and agrees that to the best of its knowledge neither WCBE, nor to WCBE's knowledge, any third party, has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Substance on, under, about or within any of the Premises in violation of any Environmental Law, unless otherwise disclosed at the time of site selection.

c) If at any time during the Term, contamination is revealed on the Premises, APC must notify WCBE of said discovery. Other than WCBE, APC shall not notify or contact any local, state or federal authority to agency of the discovery of any contamination. If APC violates the covenant of nondisclosure then it shall be considered a default pursuant to Section 7 with a remedy of termination by WCBE. If, following discovery of such contamination, WCBE decides to proceed with use and/or development of such Property, it shall, at its own cost and expense, undertake any monitoring or remedial activities required pursuant to any applicable laws or regulations. Except where such monitoring or remedial activities are voluntarily undertaken by APC in order to advance its development of a site, APC shall not be responsible for any monitoring or remedial activities, unless directly caused by the negligence of APC.

#### 24. GENERAL PROVISIONS.

a) Waivers and Amendments. No provision of this Agreement shall be deemed waived, amended or modified by either party, unless such waiver, amendment or modification is in writing and signed by the authorized representative of the party against whom such waiver, amendment or modification is enforced.

b) Severability. The provisions of this Agreement are severable. If a court of competent jurisdiction rules that any provision of this Agreement is invalid or unenforceable, such provision shall be replaced by another provision which is valid and enforceable and most closely approximates and gives effect to the intent of the invalid or unenforceable provision. Furthermore, such ruling shall not affect the validity or enforceability of any other provision of this Agreement.

c) Survival. The terms, conditions and warranties contained in this Agreement shall survive the termination or expiration of this Agreement for a period of twelve (12) months.

d) Counterparts. This Agreement may be executed in any number of counterparts, any of which may be executed and transmitted by facsimile or other electronic method, and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

e) Signatory Authority. The individual or individuals signing on behalf of any corporation, partnership, trust or other entity signing this Agreement represents to all parties to this Agreement that he or she has full authority to do so, has received all required consents, and that his or her signature (together with the signature or signatures of any other individual

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signing below on behalf of such corporation, partnership, trust or other entity) is (are) the only signatures required to bind the person on whose behalf he or she is signing this Agreement.

f) Entire Agreement. This Agreement, any exhibits specifically referred to herein and attached hereto contemporaneously with the execution hereof, and any and all executed written requests for optional services constitutes the entire agreement between the parties with respect to the subject matter hereof. All prior agreements, representations, statements, negotiations, understandings and undertakings are superseded by this Agreement.

g) Hold Harmless. APC agrees to defend, indemnify and hold WCBE harmless from and against any and all claims arising directly from the Services performed by APC at any Property, except for claims arising from the negligence or intentional acts of WCBE, its employees, agents, representatives or independent contractors. WCBE accepts all responsibility for any loss, liability, damages, or claims for injury, death, or whatever nature to any person, property, or business caused by or resulting from any event or occurrence in, on, or about any Property resulting from the negligent activities of WCBE, its agents, servants, employees and invitees

h) Casualty. If any part of the Premises is destroyed or damaged, through no fault of APC, so as in APC's reasonable judgment to substantially and adversely affect the effective use of such Premises, then APC may elect not to provide Services related to such Premises and, in such event, all rights and obligations of the parties regarding such Premises shall cease as of the date of the damage or destruction. In the event that WCBE wishes to have Services at such Premises, it shall undertake to repair such damage, to APC's reasonable satisfaction.

i) The rights and remedies provided in the Agreement are cumulative and not exclusive of any remedies provided by law, and nothing contained in the Agreement shall impair any of the rights of either party under applicable law, subject in each case to the terms and conditions in the Agreement.

j) A waiver of any right or remedy by either party at any one time shall not affect the exercise of such right or remedy or any other right or remedy by that party at any other time. In order for any waiver to be effective, it shall be in writing, signed by an authorized person or board, and be express and unequivocal and specify precisely the rights or remedies being waived. The failure of either party to take any action in the event of any breach by the other party shall not be deemed or construed to constitute a waiver of any of its rights or to otherwise affect the right of that party to take any action permitted by the Agreement at any other time, in the event that such breach has not been cured, or with respect to any other breach.

IN WITNESS WHEREOF, the Parties have entered into this Contract as of the last date written below.

**APC-EDGE a joint venture between  
APC Telecom, LLC**

By: \_\_\_\_\_

Name: Daniel C. Agresta III

Title: Principal

Date: \_\_\_\_\_

**Wireless EDGE Consultants LLC**

By: \_\_\_\_\_

Name: John E Arthur

Title: Principal

Date: \_\_\_\_\_

The Wake County Board of Education

By: \_\_\_\_\_  
Chair

Attested By: \_\_\_\_\_  
Cathy Q. Moore, Secretary

Approved as to form

BY: \_\_\_\_\_  
Attorney for WCBE

## **Exhibit A**

### **APC will perform the following Services for the Program:**

- a. Submit a report of sites that are considered viable locations for the installation of wireless telecommunications facilities.
- b. Provide a proposal to describe how the WCBE Property is to be marketed to approved Carriers or subtenants.
- c. Prepare and present each site proposal to the WCBE designated representative for review and approval.
- d. Provide all capital funding required to develop and construct new telecommunications facilities to include all associated expenses.
- e. Prepare site construction packages, to include a license exhibit, zoning and permitting drawings.
- f. Prepare architectural/engineering design drawings and provide as-built in both hard copy and electronic format. Provide to WCBE easement surveys of the Property at the time of the installation of the telecommunications equipment as well as any updates to surveys undertaken by or for APC.
- g. Secure all necessary governmental approvals including Federal Aviation Administration (FAA), State Historic Preservation Office (SHPO), National Environmental Policy Act (NEPA), Phase 1 and/or Phase II, abatement quotes, environmental studies, storm water management studies, zoning approvals, building permits, site plan approvals, easements, and any other governmental approval required for the construction of new telecommunications facilities. In the event any waivers or modifications of the Zoning Ordinance or other government requirements are necessary, all fees and steps necessary to amend or waive the requirements are the sole responsibility of the APC Contractor.
- h. Coordinate and manage construction of new telecommunications facilities and any collocations, in coordination with the WCBE.
- i. Negotiate sub-license agreements for use of telecommunications facilities with third party approved Carriers.
- j. Ensure compliance with all recommendations, regulations and applicable WCBE policies.
- k. Provide WCBE with monthly rental and income reports for all sites managed by the Contractor, as well as, updates for all new installations.
- l. Establish formal evaluation and quality control procedures to monitor each facet of the Master License Agreement. The evaluation and quality control procedure must provide sufficient information to allow the WCBE to monitor APC's successful progress and effectiveness. The WCBE will use the report summarizing licensing and marketing to evaluate the effectiveness of the services provided on an annual basis. APC will submit the quality control report to the Real Estate Services Department of the Wake County Public School System identified in the Master License Agreement not later than June 1 of each contract year.
- m. Pay any associated taxes as a result of the telecommunications facilities. The WCBE is exempt from any taxes imposed by State and/or Federal Government. Upon notification, the WCBE will furnish a certificate of tax exemption.

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- n. Provide telecommunications facility designs, including tower and foundation designs, for all new facilities and an updated structural report certified by an engineer that the facilities, including tower or other structure, has adequate capacity to hold the proposed loading.
- o. At WCBE's sole discretion, to compensate the WCBE an agreed percentage or fixed fee for each third party license the Contractor negotiates for telecommunications facilities built on WCBE property. Alternatively, agreed upon services in-kind or a combination of cash and service-in-kind may be requested by the WCBE in lieu of percentage or fixed fee..
- p. This Agreement does not provide for management of existing telecommunications facilities and marketing of rooftop and non-tower structures. However, the parties may so agree by written amendment to the Master License Agreement.
- q. On an annual basis APC is to provide written notice to WCBE the contact information for its employee(s) who exercise oversight of the Leases governed by this Agreement.
- r. Installation of signage at each Structure located on the Premises to include emergency contact information for APC and if applicable all subtenants in the event of an emergency.

## Exhibit B

### Pricing Schedule

#### Revenue Sharing Rates

	To WCBE
<b>NEW TOWERS BY APC (§3b):</b>	
Sublease Bonus - Anchor Carrier	<b>\$25,000</b>
Sublease Bonus - Each Additional Carrier	<b>\$5,000</b>
Start of Construction Bonus	<b>\$20,000</b>
3 <sup>rd</sup> Renewal Term Bonus at start of year 31	<b>\$10,000</b>
Co-location Rents:	
Anchor Carrier 1 – years 1 & 2	<b>100%</b>
Anchor Carrier 1 – year 3 on	<b>50%</b>
Carriers 2 and on	<b>50%</b>
Narrowband Carriers	<b>50%</b>
Minimum Guarantee per year (Years 1 & 2)	<b>\$30,000</b>
Sublease Annual Escalation	<b>3% per year</b>
<b>WCBE STRUCTURE LEASES:</b>	
<b>(Below options required WCBE authorization)</b>	
New Cellular Revenues From WCBE-Owned Structures (§3a):	<b>50%</b>
Existing Cellular Revenues From Pre-existing Leases (§3a :	<b>100%</b>

*Confidential*



New Cellular Revenues From Small Cells and Distributed Antenna Systems (DAS) (§3e):	<b>50%</b>

**Exhibit C**

**Form of**

**Wireless Telecommunications Facility Lease Agreement**

**WIRELESS TELECOMMUNICATIONS FACILITY LEASE AGREEMENT  
(New Tower)**

This Wireless Telecommunications Facility Lease Agreement (“Lease”) is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”) by and between The Wake County Board of Education, a body corporate (“WCBE” and APC-EDGE, a joint venture between APC Telecom, LLC and Wireless EDGE Consultants LLC (“APC” or “Communication Tower Manager”) whose address is 8601 Six Forks Road, Suite 250, Raleigh, NC 27615 (“APC”).

W I T N E S S E T H:

WHEREAS, WCBE and APC have entered into a Master License Agreement setting forth the terms and conditions under which APC may lease certain property owned by WCBE; and

WHEREAS, WCBE is the owner of certain real property more particularly described on Exhibit “A” attached hereto (the “Property”) and more commonly known as [insert school name]; and

WHEREAS, WCBE and APC are entering into this Lease for a portion of the Property measuring approximately \_\_\_\_\_ square feet as more particularly described on Exhibit “B” attached hereto (the “Premises”) to permit APC to develop the Premises as a wireless telecommunications facility (“Facility”). In the event any of the terms and conditions stated in this Lease conflict with the Master License Agreement, the Parties hereby agree and understand that the Master License Agreement controls and this Lease is governed by the language as stated in the Master License Agreement; and

WHEREAS, in order to develop the Premises, APC shall construct a tower, as generally depicted on Exhibit “C” attached hereto (collectively, the “Structure”), as well as equipment sheds and related facilities and improvements to accommodate multiple wireless carriers, as well as WCBE’s public service antennas; and

WHEREAS, APC intends to market portions of the Structure and Premises to wireless carriers, and to enter into appropriate agreements with such carriers to use the Structure and Premises; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, WCBE and APC hereby agree as follows:

1) Premises. WCBE hereby leases to APC the Premises and APC hereby leases from WCBE the Premises upon the terms and conditions contained in this Lease.

2) Term.

(a) The Initial Term of the Lease shall be ten (10) years (the “Initial Term”), commencing upon the date (“Commencement Date”) that APC commences the actual

NC-XXXX  
Site Name

construction of the Structure on the Premises. Upon commencing such construction, APC shall notify WCBE of the Commencement Date. APC shall have the right to extend this Lease for three (3) renewal terms of five (5) years each (each, a "Renewal Term"; the Initial Term and any Renewal Term are hereinafter referred to collectively as the "Lease Term"). Each Renewal Term shall be on the same terms and conditions as set forth herein.

(b) If APC elects not to exercise APC's right to renew the Term or any Renewal Term, as the case may be, APC shall notify WCBE, in writing, of APC's intention not to renew this Lease, at least one hundred eighty (180) days prior to the expiration of the then current term. Unless APC notifies WCBE, in writing, of its intention not to exercise a Renewal Term, such Renewal Term shall be deemed automatically exercised and this Lease shall continue pursuant to the terms hereof.

(c) If APC remains in possession of the Premises at the expiration of the Lease Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy and the rent payable during such holdover period shall be an amount equal to 150% of the rent paid immediately prior to the termination of the term just ending and shall otherwise be under the same terms and conditions of this Lease. Such tenancy at sufferance may be terminated by WCBE upon notice to APC.

### 3) Rent.

(a) Upon the Commencement Date, APC shall pay WCBE or WCBE's designee, as rent, a percentage share of the amounts actually collected from wireless carriers using portions of the Structure and the Premises as specified in Section 6(c) below.

(b) **Sublease Bonus:** In addition to any sums due pursuant to Section 3(a) above, for each Co-location sublease signed by a regional or national wireless services carrier pursuant to 6(c) below, APC shall pay WCBE: (i) for the initial Anchor Co-locator (as hereinafter defined), Twenty-Five Thousand Dollars (\$25,000.00) payable within ten (10) business days of receipt of all Governmental Approvals to construct the Facility, and (ii) for the second and any subsequent Co-locators, Five Thousand Dollars (\$5,000.00) each, which shall be payable to WCBE within ten (10) business days of full execution of the applicable sublease.

(c) **Term and Renewal Bonus:** Within ten (10) business days of start of construction of the Facility, APC shall pay WCBE the sum of Twenty Thousand Dollars (\$20,000). Upon exercise by APC of each of the third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) Renewal Terms only, APC shall pay to WCBE a renewal payment in the total sum of Ten Thousand Dollars (\$10,000) for each such Renewal Terms.

(d) **Easement Costs:** Should APC requests additional easements for utilities beyond the initial easement at the beginning of the Terms and Board incurs costs in relocating any above ground or below ground improvements to make such easement area available, then APC shall reimburse WCBE its costs for such relocation expenses.

(e) WCBE acknowledges and agrees that the total compensation or remuneration which WCBE shall be entitled to charge and collect from APC, in any manner related to APC's use and operation of the Premises, shall be solely as set forth in Section 3(a), 3(b), 3(c) and 3(d). In this regard, WCBE agrees that it shall not levy any additional fees, taxes and/or assessments upon APC, in any manner related to APC's use and operation of the Premises.

(f) All payments required by this Agreement shall be sent to WCBE and mailed to the following address, or to such address or account as WCBE shall identify:

Payments shall be payable to: WCBE

If made by check, payment shall be mailed to:

Wake County Public School System  
Attn: Superintendent  
5625 Dillard Drive  
Cary, North Carolina 27518

If made by wire transfer is acceptable to WCBE, payment instructions shall be provided by WCBE to APC.

4) Permitted Use; Governmental Approvals; Construction.

(a) The Premises may be used by APC for the construction, maintenance and operation of the Facility and, in particular, the Structure, for the transmission and reception of communications signals, including wireless communication purposes and uses incidental thereto. APC shall obtain all licenses, certificates, permits, authorizations or approvals from all applicable government and/or regulatory entities including, but not limited to all necessary building permits and certificates of occupancy (collectively, the "Governmental Approvals").

(b) WCBE hereby authorizes APC and its subAPCs to prepare, execute, and file all required applications for the Governmental Approvals. Prior to submittal of any applications for Governmental Approvals, APC shall send copies of the proposed applications to all parties entitled to Notice pursuant to Section 20 for their review at least twenty (20) days in advance of such submittal.

(c) APC and APC's prospective subtenants shall have the right, at APC's expense, to conduct engineering tests, environmental tests, and all other feasibility studies necessary or desirable for APC's use of the Premises. Such testing by APC shall not unreasonably interfere with the operations of the WCBE at the Property.

(d) Upon obtaining all Governmental Approvals, APC shall have the right, at APC's expense, to construct, maintain, repair, replace and upgrade the Facility and, in particular, the Structure on the Premises. In this regard, APC shall have the right to install, at APC's sole cost and expense, utilities and conduits necessary to service the Structure, to improve the present utilities on the Property, and/or install an emergency power generator on the Premises. All work by APC shall be performed in compliance with applicable laws and ordinances and shall be done in a fashion so as to minimize interference with the use of the area surrounding the Premises by WCBE and, upon completion of such construction, any area disturbed by the work, shall be restored to the condition it was in prior to the commencement of said work.

5) Access; Utilities and Taxes.

(a) WCBE hereby grants APC access to the Premises over, under and across the easement

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Site Name

created for utility installation to serve the Structure pursuant to LA (“Access”) twenty-four (24) hours per day, seven (7) days per week, for the purpose of ingress, egress, installation, maintenance and operation of the Structure and any associated utilities. APC’s access to the Premises shall be restricted as follows: (i) unless an emergency condition exists, all access shall be on reasonable notice to the Principal’s office for the school being operated at the Property; (ii) APC shall take commercially reasonable precautions to ensure that no damage occurs to the Property; and (iii) APC shall promptly repair, to the Board’s reasonable satisfaction, any damage caused as a result of any such access. The Access right, restrictions and liability clauses granted herein shall automatically extend to all of APC’s agents, representatives, contractors, invitees and vendors, as well as to all subtenants and their agents, representatives, contractors, invitees and vendors.

(b) WCBE’s access to the Premises shall be restricted as follows: (i) unless an emergency condition exists, all access shall be on reasonable notice to APC; (ii) WCBE shall take commercially reasonable precautions to ensure that no damage occurs to the Structure or other improvements or any of the property of APC or any subtenant during or as a result of such access; and (iii) WCBE shall promptly repair, to APC’s reasonable satisfaction, any damage caused as a result of any such access.

(c) APC shall have the right to obtain, for itself and on behalf of its subtenants, sufficient utility services to the Premises, including, without limitation, electric service and telephone service. Subject to WCBE’s reasonable approval (not to be unreasonably withheld, conditioned or delayed) of the location, and at APC’s sole cost, APC shall have the right to install conduits, utility lines, related equipment and other items to connect the Premises to such utility services. At the time of such installation by APC, if applicable, and if requested by WCBE, APC shall provide conduits and sufficient electrical capacity to allow WCBE to operate WCBE’s public safety antenna systems at the Premises. Such installation by APC shall not unreasonably interfere with the operations of the WCBE at the Property. APC shall pay any charges to install utilities to the Premises, including emergency power generators, and shall pay all utilities charges for utilities consumed by APC at the Premises. WCBE agrees to reasonably cooperate with APC to obtain any required local public utility easements, if necessary. WCBE shall be responsible for obtaining its own meter and paying for its electrical service usage.

(d) WCBE hereby acknowledges and agrees that APC shall have an obligation to pay to WCBE or any municipal agency or taxing authority under WCBE’s jurisdiction any real estate taxes, property taxes or ad valorem taxes of any kind or nature on or related to the Premises, the Structure, APC’s use of the Premises or the Structure or any income or proceeds received by APC from the project contemplated by this Lease. Arising from APC activities

6) Assignment and Subletting.

(a) APC may not assign this Lease without obtaining the prior consent of WCBE, which consent shall be granted or denied in the sole discretion of WCBE. Notwithstanding the foregoing, APC shall have the right to assign this Lease, without the consent of WCBE: to a parent, affiliate, or subsidiary of APC, or an entity controlling, controlled by or under common control with APC. In the event APC assigns this Lease, APC shall give notice to WCBE within thirty (30) business days of such assignment. APC’s notice to WCBE shall specify the name and

mailing address of the assignee. Upon assignment of this Lease by WCBE, APC shall be relieved of all obligations of this Lease.

(b) APC shall have the further right, without the consent of WCBE, to sublet the Structure and the Premises, in whole or in part, to wireless carriers ("co-locators") in accordance with the permitted uses of the Premises set forth in Section 4 above. APC shall give notice to WCBE each time APC enters into any such sublease. APC's notice to WCBE shall specify the name and mailing address of the subAPC. WCBE and APC shall share the Rental Income from subleases as described in subsection (c) below. APC shall be responsible for all costs arising from marketing activities, acquisition of subtenants APCs and the preparation and negotiation of legal sublease documentation.

(c) APC shall pay to WCBE on a monthly basis a percentage of all amounts of Rental Income (as such term is hereinafter defined) actually received from all leases and subleases at the Facility as follows: APC shall pay WCBE an amount (the "Co-location Share") calculated as follows: (i) an amount equal to One Hundred Percent (100%) of the Rental Income from the first sublease by a BBE (Broadband Equivalent) Carrier (the "Anchor Co-locator") of the Premises for the first two (2) years of such sublease Term; (ii) an amount equal to Fifty (50%) of the Rental Income from the Anchor Co-locator for years three (3) and beyond of such sublease Term; (iii) an amount equal to Fifty Percent (50%) of all amounts of Rental Income received from the second and subsequent subleases by BBE (Broadband Equivalent) Carriers of the Premises; and (iv) an amount equal to Fifty Percent (50%) of all amounts of Rental Income received from additional subleases by NBE (Narrowband Equivalent) Carriers (governmental, paging, etc. occupying the top portion of the monopole) of the Premises. If the Anchor Co-locator sublease is terminated, APC shall designate by notice to WCBE the co-locator sublease that shall replace the Anchor Co-locator sublease. The term "Rental Income" as used in this Lease shall mean the gross rent paid to APC by subtenants (co-locators), In the event that any amount of Rental Income is received by APC in a month other than the month for which such Rental Income is due, APC will make appropriate adjustments in order to properly allocate such amounts to the proper month.

(d) At the time of initial tower design, APC shall provide structural capacity and reserved space on the Structure for WCBE's public service antennas. At no cost to WCBE, APC shall install WCBE's antenna(s) and related equipment on the Structure and Premises, as applicable, promptly following the completion of the construction of the Structure. APC shall provide such space on the Structure to WCBE free of rent. WCBE shall be solely responsible for all costs to maintain WCBE's antennas.

(e) WCBE may not assign its rights or obligations under this Lease to a nongovernmental entity or a purchaser that is not a unit of a local government without the prior written consent of APC. Notwithstanding the foregoing, on written notice to APC, WCBE shall be entitled to: (i) assign its right to receive Rent; and (ii) sell the Property, provided that such transfer is for a legitimate business purpose and the purchaser agrees to assume all of WCBE's obligations hereunder.

(f) Subject to the laws then in effect relating to WCBE's requirement for surplus property, if at any time after the Effective Date, WCBE receives a bona fide written offer from a third party seeking an assignment of (or otherwise seeking to acquire) the rental stream associated

with this Lease (a “Purchase Offer”), WCBE shall within fifteen (15) days furnish APC with a copy of the Purchase Offer, together with a representation that the Purchaser Offer is valid, genuine and true in all respects (a “Purchase Offer Notice”). APC shall have the right within thirty (30) days after it receives the Purchase Offer Notice to agree in writing to match the terms of the Purchase Offer. If APC chooses not to exercise this right of first refusal or fails to provide written notice to WCBE within the thirty (30) day period, WCBE may assign the rental stream pursuant to the Purchase Offer subject to the terms of this Lease (including, without limitation, the terms of this Subparagraph 6(f), to the person or entity that made the Purchase Offer provided that (i) the assignment is on the same terms contained in the Purchase Offer and (ii) the assignment occurs within one hundred twenty (120) days of APC’s receipt of a copy of the Purchase Offer. If such third party modifies the Purchase Offer or the assignment does not occur within such one hundred twenty (120) day period, WCBE shall re-offer to APC, pursuant to the procedure set forth in this Subparagraph 6(e), the assignment on the terms set forth in the Purchase Offer, as amended and the foregoing time periods and terms/conditions shall re-apply to the amended Purchase Offer. The right of first refusal hereunder shall (i) survive any transfer of all or any part of the Property or assignment of all or any part of the Lease; (ii) bind and inure to the benefit of, WCBE and APC and their respective heirs, successors and assigns; (iii) run with the land; and (iv) terminate upon the expiration or earlier termination of this Lease without the necessity of any further written confirmation of said termination of this right of first refusal. Notwithstanding any language to the contrary stated herein, WCBE may at any time sale, transfer or assign the Property to the County of Wake.

(g) WCBE shall not, at any time after the Effective Date or during the Lease Term, for itself, or for any other party, directly or indirectly agree to sublease, assign, license, expand or otherwise permit the occupancy of any portion of the Property by any party that would allow such party to use and occupy the existing building(s) or other structures for any purpose that would directly or indirectly compete with or adversely affect APC’s use of the Premises as contemplated herein including, but not limited to, the ability to sublease the Structure to third parties.

(h) If WCBE has existing cellular installations occupying the Property in proximity to the Facility, WCBE may, at WCBE’s sole discretion, request that those cellular installations relocate to the Facility. In such case, WCBE will terminate the applicable leases and APC shall enter into new subleases with the wireless carrier(s) for occupancy on the Facility. APC shall pay WCBE an amount (the “Re-location Rent”) from those relocated subleases calculated as follows: a fixed starting rent amount equal to One Hundred percent (100%) of the then current rent rate paid by the carrier for the existing lease. The sublease shall escalate at a rate equal to the existing lease escalation for that carrier, unless otherwise agreed by WCBE and APC.

7) Maintenance, Repair and Removal. APC shall, at APC’s expense, keep and maintain in good condition and repair the Premises. APC shall install and operate the Structure in compliance with all applicable laws and ordinances to the extent that such compliance is required as a result of APC's use or occupancy of the Premises. Upon termination of this Lease, WCBE shall have the option of requiring that APC remove the Structure and all other installations made by APC at the Premises, including utility lines. Whether or not WCBE



requires the removal, of the Structure, APC shall repair any damage caused by any such removal and restore the Premises to the condition existing upon the Commencement Date, reasonable wear and tear excepted Notwithstanding the foregoing, in the event that WCBE requires APC to remove the Structure as contemplated herein, WCBE acknowledges and agrees that APC shall have no obligation to remove the foundation of the Structure beyond ten (10) feet below grade.

8) APC 's Default .

(a) APC fails to pay any monetary amounts due under this Lease within ten (10) days after the same is due.

(b) APC fails to perform or observe any other term, condition, covenant or obligation required under this Lease (other than those governed by subsections (c) through (e) below) for a period of thirty (30) days after written notice thereof from WCBE; provided, however, that if the nature of APC's default is such that more than thirty (30) days are reasonably required to cure, then such default shall be deemed to have been cured if APC commences such performance within said thirty (30) day period and thereafter diligently completes the required action within a reasonable time.

(c) APC shall vacate or abandon the Premises, or fail to occupy the Premises or any substantial portion thereof for a period of thirty (30) days.

(d) APC shall assign or sublet all or a portion of the Premises in violation of the provisions of Section 6 of this Lease.

(e) All or substantially all of APC's assets in the Premises or APC's interest in this Lease are attached or levied under execution (and APC does not discharge the same within sixty (60) days thereafter); a petition in bankruptcy, insolvency or for reorganization or arrangement is filed by or against APC (and APC fails to secure a stay or discharge thereof within sixty (60) days thereafter); APC is insolvent and unable to pay its debts as they become due; APC makes a general assignment for the benefit of creditors; APC takes the benefit of any insolvency action or law; the appointment of a receiver or trustee in bankruptcy for APC or its assets if such receivership has not been vacated or set aside within thirty (30) days thereafter; or, dissolution or other termination of APC's corporate charter if APC is a corporation.

(f) The parties agree that if APC receives written notice of a violation of the performance of any (but not necessarily the same) term or condition of this Lease three (3) or more times during any twelve (12) month period, regardless of whether such violations are ultimately cured, then such conduct shall, at WCBE's option, represent a separate Default.

9) WCBE Remedies Upon Default. Upon the occurrence of any Default by APC, WCBE shall have the following rights and remedies, in addition to those stated elsewhere in this Lease and those allowed by law or in equity, any one or more of which may be exercised without further notice to APC:

(a) WCBE may re-enter the Premises and cure any such Default of APC, and APC shall, immediately upon demand, reimburse WCBE, as Additional Rent, for any costs and expenses that WCBE thereby incurs; and WCBE shall not be liable to APC for any loss or damage that APC may sustain by reason of WCBE's action.

(b) WCBE may terminate this Lease by giving APC notice of termination, in which event this Lease shall expire and terminate on the date specified in such notice of termination and all rights of APC under this Lease and in and to the Premises shall terminate, except with respect to any provisions thereunder that expressly survive such termination. APC shall remain liable for all obligations under this Lease arising up to the date of such termination, and APC shall surrender the Premises to WCBE on the date specified in such notice.

(c) Without terminating this Lease, WCBE may terminate APC's right to possession of the Premises, and thereafter, neither APC nor any person claiming under or through APC shall be entitled to possession of the Premises. In such event, APC shall immediately surrender the Premises to WCBE, and WCBE may re-enter the Premises and dispossess APC and any other occupants of the Premises by any lawful means and may remove their effects, without prejudice to any other remedy that WCBE may have. Upon termination of possession, WCBE may re-let all or any part thereof as the agent of APC for a term different from that which would otherwise have constituted the balance of the Lease Term and for rent and on terms and conditions different from those contained herein, whereupon APC shall be immediately obligated to pay to WCBE an amount equal to (i) the difference between the rent provided for herein and that provided for in any lease covering a subsequent re-letting of the Premises, for the period which would otherwise have constituted the balance of the Lease Term had this Lease not been terminated (said period being referred to herein as the "Remaining Term"), (ii) the costs of recovering possession of the Premises and all other expenses, loss or damage incurred by WCBE by reason of APC's Default ("Default Damages"), which shall include, without limitation, expenses of preparing the Premises for re-letting, demolition, repairs, APC finish improvements, brokers' commissions and attorneys' fees, and (iii) all unpaid Minimum Annual Rent and Additional Rent that accrued prior to the date of termination of possession, plus any interest and late fees due hereunder (the "Prior Obligations"). Neither the filing of any dispossessory proceeding nor an eviction of personalty in the Premises shall be deemed to terminate this Lease.

(d) WCBE may terminate this Lease and recover from APC all damages WCBE may incur by reason of APC's default, including, without limitation, an amount which, at the date of such termination is equal to the sum of the following: (i) the present value of the excess, if any, discounted at the Prime Rate, of (A) the Minimum Annual Rent, Additional Rent and all other sums that would have been payable hereunder by APC for the Remaining Term, less (B) the aggregate reasonable rental value of the Premises for the Remaining Term, as determined by a real estate broker licensed in the State of North Carolina who has at least ten (10) years of experience, (ii) all of the Default Damages, and (iii) all Prior Obligations. WCBE and APC acknowledge and agree that the payment of the amount set forth in clause (i) above shall not be deemed a penalty, but shall merely constitute payment of liquidated damages, it being understood that actual damages to WCBE are extremely difficult, if not impossible, to ascertain. It is expressly agreed and understood that all of APC's liabilities and obligations set forth in this subsection (d) shall survive termination of this Lease.

(e) With or without terminating this Lease, declare immediately due and payable the sum of the following: (i) the present value (discounted at the Prime Rate) of all Minimum Annual Rent and Additional Rent due and coming due under this Lease for the entire Remaining Term (as if

by the terms of this Lease they were payable in advance), (ii) all Default Damages, and (iii) all Prior Obligations, whereupon APC shall be obligated to pay the same to WCBE; provided, however, that such payment shall not be deemed a penalty or liquidated damages, but shall merely constitute payment in advance of all Minimum Annual Rent and Additional Rent payable hereunder throughout the Remaining Term, and provided further, however, that upon WCBE receiving such payment, APC shall be entitled to receive from WCBE all rents received by WCBE from other assignees, APC and subtenants on account of said Premises during the Remaining Term (but only to the extent that the monies to which APC shall so become entitled do not exceed the entire amount actually paid by APC to WCBE pursuant to this subsection (e), less all Default Damages of WCBE incurred but not yet reimbursed by APC.

(f) WCBE may sue for injunctive relief or to recover damages for any loss resulting from the Default.

10) WCBE's Default. WCBE shall be in default if it fails to perform any term, condition, covenant or obligation required under this Lease for a period of thirty (30) days after written notice thereof from APC to WCBE; provided, however, that if the term, condition, covenant or obligation to be performed by WCBE is such that it cannot reasonably be performed within thirty (30) days, such default shall be deemed to have been cured if WCBE commences such performance within said thirty-day period and thereafter diligently undertakes to complete the same.

11. APC's Remedies. Upon the occurrence of any such default by WCBE, APC may sue for injunctive relief or to recover damages for any loss directly resulting from such default, but APC shall not be entitled to terminate this Lease or withhold, offset or abate any sums due hereunder. In no event, however, shall WCBE be liable to APC for any consequential or punitive damages.

12.) Limitation of WCBE's Liability. If WCBE shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Lease, and if APC shall, as a consequence thereof, recover a money judgment against WCBE, APC agrees that it shall look solely to WCBE's right, title and interest in and to the Building for the collection of such judgment; and APC further agrees that no other assets of WCBE shall be subject to levy, execution or other process for the satisfaction of APC's judgment.

13) Nonwaiver of Defaults. Neither party's failure nor delay in exercising any of its rights or remedies or other provisions of this Lease shall constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision at that time or in the future. No waiver of any default shall be deemed to be a waiver of any other default. WCBE's receipt of less than the full rent due shall not be construed to be other than a payment on account of rent then due, nor shall any statement on APC's check or any letter accompanying APC's check be deemed an accord and satisfaction, and WCBE may accept such payment without prejudice to WCBE's right to recover the balance due or to pursue any other remedy available to WCBE. No act or omission by WCBE or its employees or agents during the Lease

Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such a surrender shall be valid unless in writing and signed by WCBE.

14) Termination.

(a) This Lease may be terminated by WCBE without any penalty or further liability, at any time in the event that APC is in Default after written notice and the expiration of any applicable cure period. In such event, WCBE, in its sole discretion, may require upon written notice to APC, that APC remove the Structure and all other installations made by APC at the Premises, in accordance with Section 7 hereof.

(b) This Lease may be terminated by APC, without any penalty or further liability, on thirty (30) days prior notice to WCBE as follows: (i) if APC is unable to obtain in a timely manner any Governmental Approval necessary for the installation and/or operation of the Structure at the Premises, or any Governmental Approval is canceled, expires, lapses or is otherwise withdrawn or terminated; or (ii); or (iii) if APC is unable to occupy and utilize the Premises due to an action of the Federal Communications Commission including, without limitation, a take back of channels or change in frequencies; or (iv) if Hazardous Substances (as defined in Section 16) are or become present on the Property or Premises in violation of Environmental Laws (as defined in Section 16).

(c) Either WCBE or APC shall have the right to immediately terminate this Lease in the event the Master License Agreement is terminated.

15. Insurance and Subrogation.

(a) APC shall maintain the following insurance during the Lease Term relating to the Property and Premises further described on Exhibit A and B:

(i) general liability insurance for claims for bodily injury or death and property damage with combined single limits of not less than \$1,000,000 per occurrence with a general aggregate limit of \$2,000,000.

(ii) workers' compensation insurance insuring against and satisfying APC's obligations and liabilities under the workers' compensation law of the state in which the Premises are located of not less than \$1,000,000 per occurrence; and

(iii) if APC operates owned, hired or non-owned vehicles on or about the Property, comprehensive automobile liability insurance with a limit of not less than \$1,000,000 combined bodily injury and property damage.

(iv) an umbrella policy of \$2,000,000.

Each such policy (except workers' compensation) shall list WCBE as an additional insured, and shall provide that it will not be terminated during the Lease Term or modified to affect the coverage required except after thirty (30) days prior notice thereof to WCBE.

(b) APC shall have the right to fulfill its insurance obligations under this paragraph by obtaining appropriate endorsements to any master policy of liability insurance that APC or its affiliates may maintain.

(c) APC shall, prior to commencing construction of the Structure and annually thereafter, furnish to WCBE certificates of insurance listing WCBE either as additional named insured or additional insured on a primary basis to the extent permitted by applicable insurance regulations.

(d) At all times during the Lease Term, WCBE will carry and maintain commercial general liability insurance on the Property, including any common area, in commercially reasonable amounts.

(e) WCBE and APC each waive any and all rights to recover against the other, or against the officers, directors, shareholders, partners, joint ventures, employees, agents, customers, invitees or business visitors of such other party, for any loss or damage to such waiving party arising from any cause covered or required to be covered by any property insurance required to be carried pursuant to this paragraph or any other property insurance actually carried by such party, provided that the party against whom relief is sought, has complied with the terms of this Section 10. WCBE and APC will cause their respective insurers to issue waiver of subrogation rights endorsements to all property insurance policies carried in connection with the Structure or the Premises or the contents of either.

16) Hold Harmless. APC agrees to protect, defend, indemnify and hold harmless WCBE its agents, employees, guests, licensees, students and contractors of all tiers from any and all claims, damages, demands, penalties, costs, liabilities, losses, and expenses (including reasonable attorneys' fees and expenses at the trial and appellate levels) to the extent (a) arising out of or relating to any act, omission, negligence, or willful misconduct of APC or APC's agents, representatives, guests, employees, contractors, customers or invitees in or about the Leased Premises, the Building, the Common Areas or the Park, (b) arising out of or relating to any of WCBE Property, or (c) arising out of any other act or occurrence within the Leased Premises, in all such cases except to the extent caused directly by the negligence or willful misconduct of WCBE, its agents, employees or contractors. To the extent allowed by law and without waiving its rights of sovereign immunity, WCBE shall protect, defend, indemnify and hold harmless APC, its agents, employees and contractors of all tiers from and against any and all claims, damages, demands, penalties, costs, liabilities, losses and expenses (including reasonable attorneys' fees and expenses at the trial and appellate levels) to the extent arising out of or relating to any act, omission, negligence or willful misconduct of WCBE or WCBE's agents, representatives, guests, employees or contractors

17) Subordination. This Lease is and shall be expressly subject and subordinate at all times to the lien of any present or future mortgage or deed of trust encumbering fee title to the Leased Premises for the benefit of WCBE or the County of Wake. If any such mortgage or deed of trust be foreclosed, upon request of the mortgagee or beneficiary, as the case may be, APC will attorn to the purchaser at the foreclosure sale. The foregoing provisions are declared to be self-operative and no further instruments shall be required to effect such subordination and/or attornment; provided, however, that subordination of this Lease to any present or future mortgage or trust deed shall be conditioned upon the mortgagee, beneficiary, or purchaser at foreclosure, as the case may be, agreeing that APC's occupancy of the Premises and other rights under this Lease shall not be disturbed by reason of the foreclosure of such mortgage or trust deed, as the case may be, so long as APC is not in default under this Lease. Within ten (10) days following receipt of a written request from WCBE, APC shall execute and deliver to

WCBE, without cost, any instrument that WCBE deems reasonably necessary or desirable to confirm the subordination of this Lease.

18) Notices. All notices, requests, demands and other communications shall be in writing and shall be deemed given, (i) if personally delivered or mailed, upon delivery, or if (ii) by certified mail, return receipt requested, five (5) days after mailing, or if (iii) sent by overnight carrier, upon receipt, to the addresses for WCBE and APC stated below or as otherwise directed by either Party:

if to WCBE: Wake County Public School System  
Attn: Superintendent  
5625 Dillard Drive  
Cary, North Carolina 27518

w/copy to: Wake County Public School System  
Real Estate Services Senior Director  
1429 Rock Quarry Road, Suite 116  
Raleigh, North Carolina 27610  
Email: [bparker@wcpss.net](mailto:bparker@wcpss.net)

w/copy to: Kenneth C. Haywood  
Boxley, Bolton, Garber & Haywood, LLP  
Post Office Box 1429  
Raleigh, North Carolina 27602  
Email: [khaywood@bbghlaw.com](mailto:khaywood@bbghlaw.com)

If to APC: 8601 Six Forks Road, Suite 250  
Raleigh, NC 27615  
Attention: WCPSS Communications Tower Manager

19) Attorneys' Fees. If either party defaults in the performance or observance of any of the terms, conditions, covenants or obligations contained in this Lease and the non-defaulting party obtains a judgment against the defaulting party, then the defaulting party agrees to reimburse the non-defaulting party for reasonable attorneys' fees incurred in connection therewith.

20) Quiet Enjoyment, Title and Authority. WCBE represents, warrants and covenants to APC that (i) WCBE has full right, power and authority to execute this Lease and WCBE has taken all necessary action to approve this Lease and has authorized the signatories of this Lease to sign same; (ii) the Property is free and clear of any unrecorded covenants, restrictions, liens or mortgages which would interfere with APC's rights to or use of the Premises; (iii) no consents are required from any mortgagee, licensee or any other occupant of the Property with respect to APC's use of the Premises; (v) the execution and performance of this Lease will not

NC-XXXX  
Site Name

violate any local laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on WCBE. WCBE shall be responsible for any costs due to the failure of the Property to comply with all applicable local, state and federal laws, ordinances, codes, and regulations that would impact APC's ability to perform its obligations under this Lease. WCBE covenants that at all times during the term of this Lease, APC's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as APC is not in Default after notice and the expiration of any applicable cure period. Notwithstanding anything to the contrary stated herein, Exhibit F lists any title exceptions that encumber the Property. APC hereby acknowledges and takes subject to such matters of title and by acceptance of this Lease APC represents that they do not interfere with APC's rights to use of the Property or Premises.

21) Casualty or Condemnation. If the Property or the Structure located on the Premises are destroyed or damaged so as in APC's commercially reasonable judgment to substantially and adversely affect the effective use of the Structure, then APC may elect to terminate this Lease and in such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction, and APC shall be entitled to the reimbursement of any Rent prepaid by APC. If APC elects to continue this Lease, then all Rent shall abate until APC is able to use the Structure for the intended purpose. In the event of a condemnation of all or any part of the Property, APC shall have the right to terminate this Lease if such condemnation disrupts APC's operation at the Property or renders the Premises unsuitable for APC's use. WCBE and APC shall each be entitled to pursue their own separate awards with respect to such taking. Sale of all or part of the Premises to a purchaser other than the County of Wake with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation. WCBE shall have the express authority to sale, transfer in any form or assign the Property to the County of Wake for any purpose which shall not be considered a taking by condemnation.

22) Waiver of WCBE's Lien; Financing. The Structure shall remain the exclusive property of APC. In this regard, WCBE hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Structure or any portion thereof, as well as and all other installations made by APC at the Premises, whether same are deemed real or personal property under applicable laws, and WCBE gives APC the right to remove all or any portion of same from time to time. APC may enter into a secured financing arrangement for which the Structure or APC's share of the Rental Income expressly excluding all Rent due to WCBE under this Lease is security, provided such an arrangement shall not impair or abridge the rights of WCBE under this Lease and such secured party agrees to be bound by the terms and provisions of this Lease from the time it succeeds to the interest of APC under this Lease. Notwithstanding any language to the contrary stated herein, APC is not permitted to pledge any leasehold interest in the Premises as security for any financing.

23) Environmental Laws.

(a) As used herein, the term "Environmental Laws" shall mean any and all local, state or federal statutes, regulations or ordinances pertaining to the environment or natural resources. As used herein, the term "Hazardous Substance" shall mean any toxic or hazardous waste, material, or substance that is regulated by Environmental Laws, including, without limitation, asbestos and petroleum products; hazardous or solid wastes.

(b) APC and WCBE each represent, warrant and agree that it will conduct its activities on the Property in compliance with all applicable Environmental Laws. WCBE further represents, warrants and agrees that neither WCBE, nor to WCBE's knowledge, any third party, has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Substance on, under, about or within the Property or Premises in violation of any Environmental Law.

(c) APC shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substances on, under or about the Premises, or the transportation to or from the Premises of any Hazardous Substances, except as necessary and appropriate for its Permitted Use in which case the use, storage or off-site disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and the highest standards prevailing in the industry.

(d) Notices, Affidavits, Etc. APC shall immediately (a) notify WCBE of (i) any violation by APC, its employees, agents, representatives, guests, customers, invitees or contractors of any Environmental Laws on, under or about the Premises, or (ii) the presence or suspected presence of any Hazardous Substances on, under or about the Premises, and (b) deliver to WCBE any notice received by APC relating to (a)(i) and (a)(ii) above from any source. APC shall execute affidavits, representations and the like within five (5) days of WCBE's request therefor concerning APC's best knowledge and belief regarding the presence of any Hazardous Substances on, under or about the Premises.

(e) APC's Indemnification. To the extent allowed by applicable Laws, APC shall indemnify, defend and hold harmless WCBE from and against any and all claims, losses, liabilities, costs, expenses, penalties and damages, including attorneys' fees, costs of testing and remediation costs, incurred by WCBE in connection with any breach by APC of APC's obligations under this Article 15.

(f) Survival. The covenants and obligations under this Section 17 shall survive the expiration or earlier termination of this Lease.

24) WCBE Board Policies.

(a) Lunsford Act. APC acknowledges that G.S. § 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. APC shall conduct or arrange to have conducted, at its own expense, sexual offender registry checks on each of its employees, agents, and subcontractors ("contractual personnel") who will engage in any service on the Premises. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry ("the Registries"). For APC's convenience only, all of the



required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. APC shall conduct an initial check of the registries within 30 days of APC's execution of this Agreement and prior to allowing any contractual personnel to perform any services on the Premises. In addition, APC agrees to conduct the registry checks before any additional contractual personnel are used to provide services on the Premises. APC further agrees to conduct annual registry checks of all contractual personnel at each anniversary date of this Agreement. APC shall not assign any individual to provide services on the Premises if said individual appears on any of the listed registries. APC agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to WCBE upon request.

(b) Applicable Wake County Board of Education Policies. Provider acknowledges that the Wake County Board of Education has adopted policies governing conduct on all property owned by the Board of Education and leased to Wake County, and agrees to abide by any and all relevant board policies while on its property. The Provider acknowledges that it has received copies of and will abide by the following Wake County Board of Education policies:

- Policy 2212: Prohibited Conduct on School Property and at School Events
- Policy 2302: Weapons Prohibited on School Property
- Policy 2305: Code of Ethics and Standard of Conduct
- Policy 2307: Drug-Free Workplace Environment
- Policy 2308: Tobacco-Free Environment
- Policy 2321: Conduct of Employees Toward Students
- Policy 2334: Registered Sex Offenders

25) Miscellaneous.

(a) This Lease shall run with the Property, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

(b) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by the party against whom enforcement is sought.

(c) Each party agrees to cooperate with the other in executing any documents (including a memorandum of lease and/or easement agreement) in a form reasonably satisfactory to both parties necessary to protect its rights or use of the Premises. APC may record the memorandum of lease.

(d) APC agrees that it will pay or cause to be paid all costs for work done by it or caused to be done by it on the Premises, and will keep the Premises free and clear of all mechanics' liens on account of work done by APC or persons claiming under it. APC may contest the validity or amount of any such lien and may appeal any adverse judgment or decree, provided, however, that at the reasonable written request of WCBE, APC shall post a bond sufficient to remove such lien pending contest against the enforcement of the lien against WCBE. If APC

shall default in paying any charge for which a mechanic's lien and suit to foreclose the lien have been filed, and shall not be taking appropriate actions to contest the validity or amount of such lien with ninety (90) days of the filing of such lien, WCBE may (but shall not be required to), after written notice to APC, pay said claim and the amount so paid shall be immediately due and owing from APC to WCBE, and APC shall pay the same to WCBE upon demand.

(e) This Lease and the rights and obligations of the undersigned parties shall be governed by and construed in accordance with the laws of the State of North Carolina without giving effect to principles of conflict of laws. The undersigned hereby irrevocably submit to the jurisdiction and venue of any State or Federal Court located in the State and County where the Property is located, over any action or proceeding arising out of any dispute between the undersigned, with respect to this Lease.

(f) The provisions of this Lease are severable. If a court of competent jurisdiction rules that any provision of this Lease is invalid or unenforceable, such provision shall be replaced by another provision which is valid and enforceable and most closely approximates and gives effect to the intent of the invalid or unenforceable provision. Furthermore, such ruling shall not affect the validity or enforceability of any other provision of this Lease.

(g) Any consent required hereunder shall not be unreasonably withheld, conditioned, or delayed.

(h) This Lease may be executed in any number of counterparts, any of which may be executed and transmitted by facsimile or other electronic method, and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(i) No failure on the part of either party to exercise, and no delay in exercising, any right under the Lease shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other right, all subject to the conditions and limitations contained in the Lease.

(j) A waiver of any right or remedy by either party at any one time shall not affect the exercise of such right or remedy or any other right or remedy by that party at any other time. In order for any waiver to be effective, it shall be in writing, signed by an authorized person or board, and be express and unequivocal and specify precisely the rights or remedies being waived. The failure of either party to take any action in the event of any breach by the other party shall not be deemed or construed to constitute a waiver of any of its rights or to otherwise affect the right of that party to take any action permitted by the Lease at any other time, in the event that such breach has not been cured, or with respect to any other breach.

(k) The rights and remedies provided in the Lease are cumulative and not exclusive of any remedies provided by law, and nothing contained in the Lease shall impair any of the rights of either party under applicable law, subject in each case to the terms and conditions in the Lease.

(l) APC hereby represents and warrants that (i) APC is duly organized, validly existing and in good standing (if applicable) in accordance with the laws of the jurisdiction under which it was organized; (ii) APC is authorized to do business in the jurisdiction where the Premises is located; and (iii) the individual(s) executing and delivering this Lease on behalf of APC has been properly authorized to do so, and such execution and delivery shall bind APC to its terms.

(m) WCBE hereby represents and warrants that (i) WCBE is duly organized, validly existing and in good standing (if applicable) in accordance with the laws of the jurisdiction under which

it was organized; (ii) WCBE is authorized to do business in the jurisdiction where the Building is located; and (iii) the individual(s) executing and delivering this Lease on behalf of WCBE has been properly authorized to do so, and such execution and delivery shall bind WCBE to its terms.

(n) Time is of the essence of each term and provision of this Lease.

(o) For purposes hereof, (a) "Anti-Corruption Laws" shall mean all Laws applicable to a pertinent party from time to time concerning or relating to bribery or anti-corruption; (b) "Sanctions" shall mean all applicable economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (i) the U.S. federal government, including those administered by the Office of Foreign Assets Control, the United States Department of Treasury ("OFAC") or the U.S. Department of State, or (ii) the United Nations Security Council, the European Union, any European Union member state in which a pertinent party or any of its subsidiaries conduct operations or Her Majesty's Treasury of the United Kingdom; and (c) "Sanctioned Person" shall mean, at any time, (i) any person or entity listed in any Sanctions-related list of designated persons or entities maintained by OFAC, the U.S. Department of State, or by the United Nations Security Council, the European Union or any European Union member state in which the pertinent party or any of its subsidiaries conducts operations, (ii) unless otherwise authorized by OFAC, any person or entity operating, organized or resident in any country or territory which is itself the subject or target of any full-scope (non-list based) Sanctions, or (iii) any ownership of fifty percent (50%) or more of an entity by persons or entities described in the foregoing clauses (i) or (ii). Each of WCBE and APC represents and warrants that neither it nor any of its subsidiaries, nor to its knowledge, their respective directors, officers, employees or agents, is a Sanctioned Person. Each party further represents that it and its subsidiaries, and to its knowledge, their respective directors, officers, employees and agents, complies and shall continue to comply in all material respects with all Sanctions and with all Anti-Corruption Laws. Each party will use reasonable efforts to notify the other in writing if any of the foregoing representations and warranties are no longer true or have been breached or if such party has a reasonable basis to believe that they may no longer be true or have been breached. In the event of any violation of this Section by APC, WCBE will be entitled to immediately terminate this Lease and take such other actions as are permitted or required to be taken under law or in equity.

(p) This Lease shall not be recorded, except in Memorandum Form

IN WITNESS WHEREOF, the parties have executed this Lease as of the date and year first above written.

The Wake County Board of Education

By: \_\_\_\_\_  
Chair

Attested By: \_\_\_\_\_  
Cathy Q. Moore, Secretary

NC-XXXX  
Site Name

APC-EDGE, a joint venture between APC Telecom, LLC and Wireless EDGE Consultants LLC

\_\_\_\_\_  
By:

\_\_\_\_\_  
Title:

NC-XXXX  
Site Name

**EXHIBIT A**

**Description of the WCBE's Property**

That certain parcel of real property located in the City/Town of \_\_\_\_\_, County of Wake, State of North Carolina, designated on the Tax Map \_\_\_\_\_ as Block \_\_\_\_\_, Lot \_\_\_\_\_ and commonly known as \_\_\_\_\_ a portion of which property is more particularly shown on Exhibit B attached hereto.

Legal or other Description:

**EXHIBIT B**

**Description of the Leased Premises**

**EXHIBIT C**

**Description of the Easements**

**EXHIBIT D**

**The Structure**



**EXHIBIT E**

**Title Exceptions**