

Site Name: Baja  
Site Number: AZ15-030

### **EXECUTED PRIME LEASE INSTRUCTIONS TO LANDLORD**

In order to ensure the prompt execution and processing of all Prime Leases, Sun State Towers respectfully requests that the instructions below are followed when preparing to return executed agreements.

1. Prior to returning to Sun State Towers, please sign and date the signature page of all copies of the Prime Lease and Memorandum of Lease.
2. Ensure that all necessary witness signatures have been obtained (if witnesses are required).
3. Ensure that all applicable notary fields are completed and stamped with the notary's stamp (only if required by law).
4. Please complete a W-9, Payment Authorization Form, and if applicable, a mortgage information form.
5. Sun State Towers will retain two (2) originals of each document. Please print as many copies as you plan to retain, along with two (2) originals for Sun State Towers.
6. Please print all signed documents on one-sided paper.
7. Send original documents to the following address:

Sun State Towers III, LLC  
Attn: Tower Development  
1426 North Marvin Street #101  
Gilbert, AZ 85233

8. Sun State Towers will return your fully executed originals to the notice address provided.

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## LEASE AGREEMENT

THIS LEASE AGREEMENT ("**Prime Lease**") is made effective as of the date of the latter signature hereof (the "**Execution Date**") and is by and between the City of San Luis, Arizona ("Landlord") and Sun State Towers ("Tenant").

### RECITALS

- A. WHEREAS, Landlord is the owner of that certain parcel of land (the "**Property**") located in the County of Yuma, State of Arizona, as more particularly described on Exhibit A;
- B. WHEREAS, Landlord desires to lease to Tenant a portion of the Property (the "**Compound**"), together with easements for ingress and egress and the installation and maintenance of utilities (the "**Easement**" and together with the Compound, the "**Site**") both being approximately located as shown and/or described on Exhibit B; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt, adequacy and sufficiency of all of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Business and Defined Terms.** For the purposes of this Prime Lease, the following capitalized terms have the meanings set forth in this paragraph 1.

- (a) **Tenant :** Sun State Towers III, LLC,  
a Delaware limited liability  
company
- (b) **Notice Address of Tenant:** Sun State Towers III, LLC  
1426 North Marvin Street #101  
Gilbert, AZ 85233  
Attn: Land Management
- (c) **Landlord:** City of San Luis,  
an Arizona municipal corporation
- (d) **Notice Address of Landlord:** P.O Box 1170  
San Luis, AZ 85349
- (e) **Initial period:** Ten years
- (f) **Renewal Period(s):** Four (4) periods of five (5) years.
- (g) **Rent during initial term:** \$1,200.00 per month subject to Section 1 (m)  
*herein below.*

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(h) **Rent during extension period: \$1,200.00 per month. Commencement Date:** December 1, 2018, subject to Section 1 (m) herein below or the first day in which Tenant commences construction whichever occurs first.

(i) **Initial Term:** Ten (10) years, commencing on the Commencement Date and continuing until midnight of the day immediately prior to the tenth (10<sup>th</sup>) anniversary of the Commencement Date.

(j) **Renewal Terms:** Each of the four (4) successive periods of five (5) years each, with the first Renewal Term commencing upon the expiration of the Initial Term and each subsequent Renewal Term commencing upon the expiration of the immediately preceding Renewal Term.

(k) **Term:** The Initial Term with any and all Renewal Terms.

(l) **Rent:** The monthly amount of \$1,200.00.

(m) **Increase Amount:** In year two (2) of the Initial Term, and every year thereafter, including throughout any Renewal Terms exercised, the yearly Rent will increase by two percent (2%) over the Rent paid during the previous year.

## 2. Term.

(a) Initial Term. The Initial Term is as provided in paragraph 1(i).

(b) Renewal Terms. Tenant will have the right to extend this Prime Lease for each of the Renewal Terms. Each Renewal Term will be on the same terms and conditions provided in this Prime Lease except that Rent will escalate as provided in paragraph 3(b). This Prime Lease will automatically be renewed for each successive Renewal Term unless Tenant notifies Landlord in writing of Sun State Towers' intention not to renew the Prime Lease at any time at least ninety (90) days prior to the expiration of the Initial Term or the Renewal Term which is then in effect.

## 3. Consideration.

(a) Tenant will make its first payment of Rent within thirty (30) days of the Commencement Date. The first payment will be 12 months of Rent in advance, \$1,200.00 times 12 for a total of \$14,400.00. Thereafter, starting on the first day of the thirteenth month of the lease, Rent is due and payable in advance on the first day of each calendar month to Landlord at Notice Address of Landlord.

(b) On the Increase Date, the Rent will increase by the Increase Amount.

(c) In the event Tenant makes an overpayment of Rent or any other fees or charges to Landlord during the Term of this Prime Lease, Tenant may, but will not be

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required, to treat any such overpayment amount as prepaid Rent and apply such amount as a credit against future Rent due to Landlord.

(d) Tenant will not be required to remit the payment of Rent to more than two (2) recipients at any given time.

(e) Tenant will make a one-time payment of \$5,000.00 within thirty (30) days of full execution to the Notice Address of Landlord.

#### 4. Use.

(a) Tenant will be permitted to use the Site for the purpose of constructing, maintaining, removing, replacing, securing, and operating a communications facility and uses incidental thereto, including, but not limited to, the construction or installation and maintenance of a telecommunications tower (the "**Tower**"), structural tower base(s), guy anchors, guy wires, communications equipment, one or more buildings or equipment cabinets, equipment, radio transmitting and receiving antennas, personal property and related improvements and facilities on the Compound (collectively, the "**Tower Facilities**"), to facilitate the use of the Site as a site for the transmission and receipt of communication signals including, but not limited to, voice, data and internet transmissions and for any other uses which are incidental to the transmission and receipt of communication signals of any kind and frequency (the "**Intended Use**"). The Intended Use shall include Sun State's ability to install utilities (including, but not limited to, electricity and electric power sources or creation of any kind, fiber optic lines, cable lines, and any cabling or transmission conduits of any kind or type) in, on, and to the Site. The Intended Use shall also include the Sun State's right to access, ingress, and egress the Site at its sole discretion 24 hours a day, seven (7) days a week, 365 days a year. It is understood and agreed that the primary purpose of the Property being leased is that of a retention basin for the purposes of retaining runoff water. No action of the construction, installation, or maintenance of the Tower or any action of occupation by Sun State Towers, or any successor thereto, including a Collocator, shall interfere in or affect the use of the Property for its primary purpose as a retention basin. It is further understood that a secondary purpose is for park and recreation purposes and certain improvements exist for that purpose. Any damage to the present improvements caused by construction of Tower Facilities shall be repaired, and such park and recreation improvements shall be restored at least to the condition they were in prior to the establishment of said Tower Facilities.

(b) Sun State Towers, at its sole discretion, will have the right, without prior notice or the consent of Landlord, to license or sublease all or a portion of the Site or the Tower Facilities to other parties (each, a "**Collocator**" and collectively, the "**Collimators**"). Notwithstanding anything in this Prime Lease to the contrary, Tenant shall be required to pay additional Rent for any Collocator, in the amount of ten percent of its gross revenue from the Collocator. The Collimators will be entitled to modify the Tower Facilities and to erect additional improvements on the Compound, including, but not limited to antennas, dishes, cabling, additional buildings or shelters ancillary to the Intended Use. The Collimators will be entitled to all rights of ingress and egress to the Site and the right to

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install utilities on, in, and to the Site that Tenant has under this Prime Lease, and shall have all rights and inclusions of the Site's Intended Use described herein including, but not limited to, the use of any easement described below and on the same terms as Sun State Towers, and to all other rights set forth herein. In allowing these Collocator rights, it is understood that the primary purpose of the Property being leased is that of a retention basin for the purposes of retaining runoff water. No action of the construction, installation, or maintenance of the Tower or any action of occupation by Sun State Towers, or any successor thereto, including a Collocator, shall interfere in or affect the use of the Property for its primary purpose as a retention basin.

## **5. Tower Facilities.**

(a) Tenant will have the right, at Tenant's sole cost and expense, to erect the Tower Facilities which will be the exclusive property of Tenant throughout the Term as well as upon the expiration or termination of this Prime Lease.

(b) Landlord grants Tenant a non-exclusive license in, over, across and through the Property, as more particularly described and/or depicted on Exhibit B, and other real property owned by Landlord contiguous to the Site as may be reasonably required for construction, installation, maintenance, and operation of the Tower Facilities including: (i) access to the Site for construction machinery and equipment, (ii) storage of construction materials and equipment during construction of the Tower Facilities, and (iii) use of a staging area for construction, installation and removal of equipment. It is understood and agreed that the primary purpose of the Property being leased is that of a retention basin for the purposes of retaining runoff water. No action of the construction, installation, or maintenance of the Tower or any action of occupation by Tenant, or any successor thereto, including a Collocator, shall interfere in or affect the use of the Property for its primary purpose as a retention basin. The license granted hereunder shall terminate upon the termination or expiration of this lease.

(c) Tenant may, at its sole expense, use any and all appropriate means of restricting access to the Compound or the Tower Facilities, including, without limitation, construction of a fence and may install and maintain identifying signs or other signs required by any governmental authority on or about the Site, including any access road to the Site. It is understood that the primary purpose of the Property being leased is that of a retention basin for the purposes of retaining runoff water. No action of the Tenant or any Collocator shall interfere in or affect the use of the Property for its primary purpose as a retention basin. It is also understood that a secondary purpose of the Property is as park and recreation facilities. Any fence constructed by Tenant shall not be greater than 25' by 25' square, and no restriction on access shall interfere in the present-day park and recreational use of the Property.

(d) Tenant will maintain the Compound, including the Tower Facilities, in a reasonable condition throughout the Term. Tenant is not responsible for reasonable wear and tear or damage from casualty and condemnation. Landlord grants Sun State the

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right to clear all trees, undergrowth, or other obstructions and to trim, cut, and keep trimmed all tree limbs which may interfere with or fall upon the Tower Facilities or the Site.

(e) Tenant (and any Collocators — which are collectively referred to herein as “**Sun State**”) may replace and augment Sun State’s equipment or portions thereof and add or modify the frequencies upon which such equipment operates as needed to meet Sun State’s business objectives, whether such equipment or frequencies are specified or not on any attachments to the applicable site lease supplement with a respective Collocator. Sun State shall be permitted to make “**Equipment Modifications**” (as defined below) without incurring any increase in the then current Rent, and without Landlord’s approval thereof conditioned upon any extension of the remaining Term or other change to the terms and conditions of any such supplement (including the terms and conditions of this Prime Lease). For purposes of this Prime Lease, “**Equipment Modifications**” means removal of Sun State’s equipment installed at the Site, (collectively, the “**Old Equipment**”), and replacing the same with new equipment (collectively, the “**Replacement Equipment**”).

(f) Tenant will remove or cause to be removed all of the above-ground portions of the Tower Facilities within one hundred eighty (180) days following the expiration or termination of this Prime Lease. Tenant or their successor will remain responsible for the payment of rent during any holdover period following the expiration or termination of this Prime Lease.

## 6. Utilities.

(a) Sun State will have the right to install utilities, at Tenant expense, and to improve existing utilities on the Property and the Site. Sun State will have the right to place utilities on permanently (or to bring utilities across or under) the Site to service the Compound and the Tower Facilities. It is understood that the primary purpose of the Property being leased is that of a retention basin for the purposes of retaining runoff water and a secondary purpose as park and recreation facilities. No action of the construction, installation, or maintenance of the Tower, the installation of utilities, or any action of occupation by Sun State Towers, or any successor thereto, including a Collocator, shall interfere in or affect the use of the Property for its primary purpose as a retention basin or its secondary purpose as park and recreation facilities

(b) If utilities necessary to serve the equipment of Sun State cannot be located within the Site, Landlord agrees to allow the installation of utilities on the Property or other real property owned by Landlord without requiring additional compensation from Sun State. Landlord will, upon Sun State Towers’ request, execute a separate recordable written easement or lease to the utility company providing such service evidencing this right.

(c) Sun State may install backup generator(s).

(d) Sun State shall solely be responsible for and promptly pay all charges for any utility service used or consumed by the Tower Facilities. If necessary, Sun State

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shall have an electrical current meter installed on the leased premises, and the cost of the meter and of installation, maintenance, and repair thereof shall be paid by Sun State.

**7. Access.**

(a) In the event that the Site loses access to a public right of way during the Term, Landlord and Tenant will amend this Prime Lease, at no imposed cost to either Party, to provide access to a public way by: (i) amending the location of the Easement; or (ii) granting an additional easement to Sun State.

(b) To the extent damage (including wear and tear caused by normal usage) to the license or any other route contemplated hereunder intended to provide Sun State with access to the Site and the Tower Facilities is caused by Landlord or Landlord's tenants, licensees, invitees or agents, Landlord will repair the damage at its own expense.

(c) Landlord will maintain access to the Compound from a public way in a free and open condition so that no interference is caused to Sun State by Landlord or lessees, licensees, invitees or agents of Landlord. In the event that Sun State's access to the Compound is impeded or denied by Landlord or Landlord's lessees, licensees, invitees or agents, in addition to any and all rights and remedies set forth in this Prime Lease, Sun State shall have the right to pursue any and all rights and remedies that it may have at law or in equity.

**8. Holding Over**

Should Sun State or any successor thereto hold possession of the Property or any portion thereof after the date of expiration or termination of this lease or any extension thereof, Sun State or its successor shall become a tenant on a month-to-month basis upon all the terms, covenants, and conditions of this Lease except those pertaining to the Lease term and during any such month-to-month tenancy, Tenant shall pay monthly rent in one hundred twenty percent (120%) of the amount which was paid by tenant during the immediately preceding lease year. Nothing in this Section is to be construed as a consent by Landlord to the occupancy or possession of the leased premises by Tenant after the expiration of the lease term.

**9. Representations and Warranties of Landlord.** Landlord represents and warrants to Sun State and Sun State's successors and assigns:

- (a) Landlord has the full right, power, and authority to execute this Prime Lease;
- (b) There are no pending or threatened administrative actions, including bankruptcy or insolvency proceedings under state or federal law, suits, claims or causes of action against Landlord or which may otherwise affect the Property;
- (c) The Property is not presently subject to an option, lease or other contract which may adversely affect Landlord's ability to fulfill its obligations under this Prime Lease, and the execution of this Prime Lease by Landlord will not cause a breach or an event of default of any other agreement to which Landlord is a Party. Landlord agrees

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that it will not grant an option or enter into any contract or agreement which will have any adverse effect on the Intended Use or Sun State's rights under this Prime Lease;

(d) No licenses, rights of use, covenants, restrictions, easements, servitudes, subdivision rules or regulations, or any other encumbrances relating to the Property prohibit or will interfere with the Intended Use;

(e) Landlord has good and marketable fee simple title to the Site, the Property and any other property across which Landlord may grant a license to Sun State. Landlord covenants that Sun State will have the quiet enjoyment of the Compound during the term of this Prime Lease. Tenant will at all times during this Prime Lease enjoy ingress, egress, and access from the Site twenty four (24) hours a day, seven (7) days a week, three hundred sixty five (365) days a year, to an open and improved public road which is adequate to service the Site and the Tower Facilities; and

(f) These representations and warranties of Landlord and Tenant survive the termination or expiration of this Prime Lease.

**10. Interference.** Except for the primary use as a Retention basin and secondary purpose as Park and Recreation facilities, which uses shall have primacy over the use as a Tower Facility, Landlord will not use, nor will Landlord permit its tenants, licensees, invitees or agents to use any portion of the Property in any way which interferes with the Intended Use, including, but not limited to, any use on the Property or surrounding property that causes electronic or physical obstruction or degradation of the communications signals from the Tower Facilities ("**Interference**"). Interference will be deemed a material breach of this Prime Lease by Landlord and Landlord will have the responsibility to terminate Interference immediately upon written notice from Sun State Towers. Notwithstanding anything in this Prime Lease to the contrary, if the Interference does not cease or is not rectified as soon as possible, but in no event longer than 24 hours after Tenant written notice to Landlord, Landlord acknowledges that continuing Interference will cause irreparable injury to Sun State, and Tenant will have the right, in addition to any other rights that it may have at law or in equity, to bring action to enjoin the Interference.

**11. Termination.** This Prime Lease may be terminated, without any penalty or further liability upon written notice as follows:

(a) By either Party upon a default of any covenant or term of this Prime Lease by the other Party which is not cured within sixty (60) days of receipt of written notice of default (without, however, limiting any other rights available to the parties in law or equity); provided, that if the defaulting Party commences efforts to cure the default within such period and diligently pursues such cure, the non-defaulting Party may not terminate this Prime Lease as a result of that default.

(b) Upon thirty (30) days' written notice by Tenant to Landlord if Tenant is unable to obtain, maintain, renew or reinstate any agreement, easement, permit, certificates, license, variance, zoning approval, or any other approval which may be

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required from any federal, state or local authority necessary to the construction and operation of the Tower Facilities or to the Intended Use (collectively, the "**Approvals**"); or

(c) Upon thirty (30) days' written notice from Tenant to Landlord if the Site is or becomes unsuitable, in Tenant's sole, but reasonable judgment for use as a wireless communications facility by Sun State or by Sun State's licensee(s) or sub lessee(s). In the event that Tenant should give notice of such termination, Tenant shall pay to Landlord an amount equal to twelve (12) months' rent as an early termination fee.

## **12. Taxes.**

(a) Tenant will pay any personal property taxes assessed on or attributable to the Tower Facilities. Tenant will reimburse Landlord for any increase to Landlord's real property taxes that are directly attributable to Sun State Towers' Site and/or Tower Facilities upon receipt of the following: (1) a copy of Landlord's tax bill; (2) proof of payment; and (3) written documentation from the assessor of the amount attributable to Sun State Towers. Tenant shall have no obligation to reimburse Landlord for any taxes paid by Landlord unless Landlord requests reimbursement within twelve (12) months of the date said taxes were originally due. Additionally, as a condition precedent to Landlord having the right to receive reimbursement, Landlord shall, within three (3) days of receipt of any notice from the taxing authority of any assessment or reassessment, provide Tenant with a copy of said notice. Tenant shall have the right to appeal any assessment or reassessment relating to the Site or Tower Facilities and Landlord shall either (i) designate Tenant as its attorney-in-fact as required to effect standing with the taxing authority, or (ii) join Tenant in its appeal.

(b) Landlord will pay when due all real property taxes and all other fees and assessments attributable to the Property, Compound and Easement. If Landlord fails to pay when due any taxes affecting the Property or the Site, Tenant will have the right, but not the obligation, to pay such taxes and either: (i) deduct the full amount of the taxes paid by Tenant on Landlord's behalf from future installments of Rent, or (ii) collect such taxes by any lawful means.

## **13. Environmental Compliance.**

(a) Landlord represents and warrants that:

(i) No Hazardous Materials have been used, generated, stored or disposed of, on, under or about the Property in violation of any applicable law, regulation or administrative order (collectively, "**Environmental Laws**") by either Landlord or to Landlord's knowledge, any third party; and

(ii) To Landlord's knowledge, no third party has been permitted to use, generate, store or dispose of any Hazardous Materials on, under, about or within the Property in violation of any Environmental Laws.

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(b) Landlord will not, and will not permit any third party to use, generate, store or dispose of any Hazardous Materials on, under, about or within the Property in violation of any Environmental Laws.

(c) Tenant covenants throughout the term of this lease, at Tenant's sole cost and expense, promptly to comply with all laws and ordinances and the orders, rules and regulations, and requirements of all federal, state, and municipal governments and appropriate departments, commissions, boards, and officers of these entities, or any other body now or subsequently constituted exercising similar functions, and whether or not the same require structural repairs or alterations, which may be applicable to the premises, or the use or manner of use of the premises. Tenant will likewise observe and comply with the requirements of all policies of public liability, fire and all other policies of insurance at any time in force with respect to the premises and the improvements and equipment on the premises.

(d) In addition to all other provisions of this lease, Tenant, at its cost and expense, shall comply with all laws, statutes, ordinances, rules, and regulations of any governmental authority having jurisdiction concerning environmental matters, including but not limited to any discharge into the air, waterways, sewers, soil, or groundwater of any substance or "pollutant."

(e) Landlord and its agents and representatives shall have reasonable access to the premises for the purpose of ascertaining the nature of the activities being conducted on the premises and of determining the type, kind and quantity of all products, materials, and substances brought onto the premises or made or produced on the premises. Tenant and all occupants of the premises claiming under Tenant shall provide to Landlord copies of all manifests, schedules, correspondence, and other documents when filed or provided to an appropriate governmental agency or otherwise required to be maintained by such an agency or as such matters are received from any governmental agency having jurisdiction over these matters. Landlord and its agents and representatives shall have the right to take samples in quantity sufficient for scientific analysis of all products, materials and substances present on the premises including but not limited to samples of products, materials, or substances brought onto or made or produced on the premises by Tenant or an occupant claiming under Tenant or otherwise present on the premises.

(f) Notwithstanding any provision of this lease or applicable statutes or judicial decisions to the contrary, with reference to any assignment, subletting, grant of license, concession, or any other permission to use the premises by any person other than Tenant, Landlord shall have the right to withhold Landlord's consent if, in Landlord's sole judgment and discretion, the assignee, subtenant, licensee, concessionaire, or any other person is not capable of performing or is not sufficiently qualified to perform in accordance with the requirements of this section. Any assignment, sublease, license, or other permission to use the premises from which lessor withholds its consent as provided in this section, shall be void.

(g) If Tenant breaches the obligations stated in this section, or if the presence of hazardous material on the premises caused or permitted by Tenant results in contamination of the premises, or if contamination of the premises by hazardous material otherwise occurs for which Tenant is legally liable to Landlord for damage resulting from the same, then Tenant shall indemnify, defend and hold Landlord

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harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including but not limited to diminution in value of the premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the premises, damages arising from any adverse impact on marketing of the premises, and sums paid in settlement of claims, attorney's fees, consultant fees, and expert fees) which arise during or after the term of the lease as a result of such contamination. This indemnification of Landlord by Tenant includes but is not limited to costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of hazardous material present in the soil or groundwater on or under the premises. Without limiting the above, if the presence of any hazardous material on the premises caused or permitted by Tenant results in any contamination of the premises, Tenant shall promptly take all actions at its sole expense as are necessary to return the premises to the condition existing prior to the introduction of any such hazardous material to the premises provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as these actions would not potentially have any material adverse long-term or short-term effect on the premises.

(h) As used in this lease, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of Arizona or the United States Government.

(i) The term "Hazardous Material" includes but is not limited to any material or substance which is (i) defined as a "hazardous waste" or other hazardous material or substance under any of the laws of the State where the premises are located, (ii) petroleum, (iii) asbestos, (iv) designated as a "hazardous substance" pursuant to the Federal Water Pollution Control Act, (v) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, as amended, or (vi) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended.

#### **14. Indemnification.**

(a) General.

(i) Landlord, its heirs, grantees, successors, and assigns will exonerate, hold harmless, indemnify, and defend Sun State from any claims, obligations, liabilities, costs, demands, damages, expenses, suits or causes of action, including costs and reasonable attorney's fees, which may arise out of: (A) any injury to or death of any person; (B) any damage to property, if such injury, death or damage arises out of or is attributable to or results from the acts or omissions of Landlord, or Landlord's principals, employees, invitees, agents or independent contractors; or (C) any breach of any representation or warranty made by Landlord in this Prime Lease.

(ii) Tenant, its grantees, successors, and assigns will exonerate, hold harmless, indemnify, and defend Landlord from any claims, obligations, liabilities,

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costs, demands, damages, expenses, suits or causes of action, including costs and reasonable attorney's fees, which may arise out of: (A) any injury to or death of any person; (B) any damage to property, if such injury, death or damage arises out of or is attributable to or results from the negligent acts or omissions of Sun State Towers, or Sun State Towers' employees, agents or independent contractors; or (C) any breach of any representation or warranty made by Tenant in this Prime Lease.

(b) Environmental Matters.

(i) Landlord, its heirs, grantees, successors, and assigns will indemnify, defend, reimburse and hold harmless Sun State from and against any and all damages arising from the presence of Hazardous Materials upon, about or beneath the Property or migrating to or from the Property or arising in any manner whatsoever out of the violation of any Environmental Laws, which conditions exist or existed prior to or at the time of the execution of this Prime Lease or which may occur at any time in the future through no fault of Sun State Towers. Notwithstanding the obligation of Landlord to indemnify Sun State pursuant to this Prime Lease, Landlord will, upon demand of Sun State Towers, and at Landlord's sole cost and expense, promptly take all actions to remediate the Property which are required by any federal, state or local governmental agency or political subdivision or which are reasonably necessary to mitigate environmental damages or to allow full economic use of the Site, which remediation is necessitated from the presence upon, about or beneath the Property of a Hazardous Material. Such actions include but not be limited to the investigation of the environmental condition of the Property, the preparation of any feasibility studies, reports or remedial plans, and the performance of any cleanup, remediation, containment, operation, maintenance, monitoring or actions necessary to restore the Property to the condition existing prior to the introduction of such Hazardous Material upon, about or beneath the Property notwithstanding any lesser standard of remediation allowable under applicable law or governmental policies.

(ii) Tenant, its grantees, successors, and assigns will indemnify, defend, reimburse and hold harmless Landlord from and against environmental harm and damage as set forth in Section 13 above. Landlord be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Site or Property, unless such conditions or concerns are caused by the specific activities of Tenant in the Site.

(iii) In the event that abatement of Hazardous Materials is required in connection with the construction of the Site, Landlord shall take responsibility as generator of the waste resulting from the abatement and shall cooperate with any

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necessary abatement procedures, including signing all necessary documents and manifest required for abatement.

**15. Casualty.**

a) In the event of damage by fire or other casualty to the Site or Property that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt Tenant's operations at the Site for more than forty-five (45) days, then Sun State may, at any time following such fire or other casualty, provided Landlord has not completed the restoration required to permit Tenant to resume its operation at the Site, terminate this Prime Lease upon fifteen (15) days prior written notice to Landlord. Any such notice of termination shall cause this Prime Lease to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Prime Lease and the parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Prime Lease. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which Tenant's use of the Site is impaired.

**16. Assignment.**

(a) Any sublease, license or assignment of this Prime Lease that is entered into by Landlord or Tenant is subject to the provisions of this Prime Lease.

(b) Landlord may assign this Prime Lease in its entirety to any third party in conjunction with a sale of the Property in accordance with paragraph 16 of this Prime Lease. Landlord will not otherwise assign less than Landlord's full interest in this Prime Lease without the prior written consent of Sun State Towers.

(c) Tenant may assign this Prime Lease only upon the consent of Landlord. Consent shall not be unreasonably withheld.

(d) Tenant may mortgage or grant a security interest in this Prime Lease and the Tower Facilities and may assign this Prime Lease and the Tower Facilities to any such mortgagees or holders of security interests including their successors and assigns (collectively, "**Secured Parties**"). If requested by Sun State Towers, Landlord will execute such consent to such financing as may reasonably be required by Secured Parties. In addition, if requested by Sun State Towers, Landlord agrees to notify Tenant and Tenant Secured Parties simultaneously of any default by Tenant and to give Secured Parties the same right to cure any default as Sun State Towers. If a termination, disaffirmance or rejection of the Prime Lease by Tenant pursuant to any laws (including any bankruptcy or insolvency laws) occurs, or if Landlord will terminate this Prime Lease for any reason, Landlord will give to Secured Parties prompt notice thereof and Secured Parties will have the right to enter upon the Compound during a 30-day period commencing upon Secured Parties' receipt of such notice for the purpose of removing any Tower Facilities. Landlord acknowledges that Secured Parties are third-party

Site Name: Baja  
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beneficiaries of this Prime Lease. Landlord shall be entitled to rent during any period of occupation of the demised premises by the Tower Facilities and shall be entitled to a landlord's lien to secure payment of any unpaid rent. The right of Secured Parties to remove any Tower Facilities shall be subject to this lien.

**17. Condemnation.** In the event of any condemnation of all or any portion of the Property, and as a result of such condemnation, Sun State Towers, in Sun State Towers' sole discretion, is unable to use the Site for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt Sun State Towers' operations at the Site for more than forty-five (45) days, Tenant may, at Tenant's option, to be exercised in writing within fifteen (15) days after Landlord shall have given Tenant written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession), terminate this Prime Lease effective as of the date the condemning authority takes such possession. Tenant shall be entitled to and shall receive and retain that part of the award or price paid by the condemning authority which is attributable to the improvements, fixtures, conduits, antennas, equipment; and all other things of Tenant situated on the Site or the Property which cannot be removed, (collectively, "**Losses**"). In addition, Tenant may on its own behalf make a claim for its Losses in any condemnation proceeding involving the Site. Any such notice of termination shall cause this Prime Lease to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Prime Lease and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to each other under this Prime Lease. If Tenant does not terminate this Prime Lease in accordance with the foregoing, this Prime Lease shall remain in full force and effect as to the portion of the Site remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Site taken bears to the total rentable area of the Site. In the event that this Prime Lease is not terminated by reason of such condemnation, Landlord shall promptly repair any damage to the Site caused by such condemning authority. In the event this Prime Lease is not terminated, Tenant shall also be entitled to an award for its Losses.

**18. Insurance.**

(a) Tenant will purchase and maintain in full force and effect throughout the Option Period, and the Term such general liability and property damage policies as Tenant may deem necessary. Said policy of general liability insurance will at a minimum provide a combined single limit of \$1,000,000.00.

(b) Landlord will purchase and maintain in full force and effect throughout the Option Period, and the Term such general liability and property damage policies as Landlord may deem necessary. Said policy of general liability insurance will at a minimum provide a combined single limit of \$1,000,000.00.

**19. Recording.** Landlord agrees to execute a Memorandum of this Prime Lease which Tenant may record with the appropriate officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to the commencement of either the Term of rent payments.

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Site Number: AZ15-030

**20. Notices.** All notices or demands by or from Tenant to Landlord, or Landlord to Sun State Towers, required under this Prime Lease will be in writing and sent (United States mail postage pre-paid, certified with return receipt requested or by reputable national overnight carrier service, transmit prepaid) to the other Party at the addresses set forth in paragraph 1 of this Prime Lease or to such other addresses as the parties may, from time to time, designate consistent with this paragraph 24, with such new notice address being effective thirty (30) days after receipt by the other Party. Notices will be deemed to have been given upon either receipt or rejection.

**21. Memorandum of Lease.** Simultaneously with the execution of this Prime Lease, the parties will enter into the Memorandum of Lease attached to this Prime Lease as Exhibit C which Tenant may record in the public records of the county of the Property. Landlord acknowledges and agrees that after Landlord signs the Memorandum of Lease, but before Tenant records the Memorandum of Lease, Tenant may add both: (a) a reference to the recording granting Landlord its interest in the Property; (b) a legal description of the Property as Exhibit A to the Memorandum of Lease, and (c) a legal description of the Site as Exhibit B to the Memorandum of Lease. Landlord agrees to execute and return to Tenant a recordable amendment to the Memorandum of Lease in a form supplied by Tenant if: (i) the information included in the Memorandum of Lease changes, or (ii) if it becomes clear that such information is incorrect or incomplete or if this Prime Lease is otherwise amended.

**22. Miscellaneous.**

(a) This Prime Lease runs with the Property and is binding upon and will inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

(b) Tenant may, at Sun State Towers' sole cost and expense, procure an abstract of title, a commitment to issue a policy of title insurance, or an owner's policy of title insurance with respect to Sun State Towers' leasehold interest in the Property (collectively "**Title Coverage**").

(c) The substantially prevailing Party in any litigation arising hereunder is entitled to its reasonable attorney's fees and court costs, including appeals if any.

(d) Each Party agrees to furnish to the other, within thirty (30) days after a request, such estoppel information as the other may reasonably request.

(e) This Prime Lease constitutes the entire agreement and understanding of Landlord and Tenant with respect to the subject matter of this Prime Lease and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not stated in this Prime Lease. Any amendments to this Prime Lease must be in writing and executed and delivered by Landlord and Sun State Towers.

Site Name: Baja  
Site Number: AZ15-030

(f) If either Landlord or Tenant is represented by a real estate broker in this transaction, that Party is fully responsible for any fees due to such broker and will hold the other Party harmless from any claims for commission by such broker.

(g) The Prime Lease will be construed in accordance with the laws of the state in which the Site is situated.

(h) Landlord recognizes that this Prime Lease is a lease of real property under which Sun State, in addition to all rights and privileges it receives herein, is entitled to all rights and protections under 11 U.S.C. § 365(h), as amended from time to time.

(i) If any term of the Prime Lease is found to be void or invalid, the remainder of this Prime Lease will continue in full force and effect.

(j) With respect to Sun State Towers' acquisition of Title Coverage, Landlord will cooperate by promptly executing any documentation required by the title insurance company.

(k) This Prime Lease may be executed in two (2) or more counterparts, all of which are considered one and the same agreement and become effective when one or more counterparts have been signed by each of the parties, it being understood that all parties need not sign the same counterpart.

(l) Landlord will not, during the Option Period or the Term, enter into any other lease, license, or other agreement for the same or similar purpose as the Intended Use, on or adjacent to the Property.

(m) Failure or delay on the part of either Party to exercise any right, power or privilege hereunder will not operate as a waiver thereof, and waiver of breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach.

(n) The parties agree that irreparable damage would occur if any of the provisions of this Prime Lease were not performed in accordance with their specified terms or were otherwise breached. Therefore, the parties agree the parties will be entitled to an injunction(s) in any court in the state in which the Site is located to prevent breaches of the provisions of this Prime Lease and to enforce specifically the terms and provisions of the Prime Lease, this being in addition to any other remedy to which the parties are entitled at law or in equity.

(o) Each Party executing this Prime Lease acknowledges that it has full power and authority to do so and that the person executing on its behalf has the authority to bind the Party.

(p) The parties agree that a scanned or electronically reproduced copy or image of this Prime Lease will be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence hereof notwithstanding the failure or inability to produce or tender an original, executed

Site Name: Baja  
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counterpart of this Prime Lease and without the requirement that the unavailability of such original, executed counterpart of this Prime Lease first be proven.

- (q) This lease is subject to the cancellation provisions of A.R.S. §38-511.
- (r) Tenant hereby certifies that it is not boycotting Israel.
- (s) Time is of the essence of this lease.
- (t) Venue. Any legal action relating to this agreement shall be brought in either the Yuma County Superior Court or in the United States District Court for the District of Arizona at the election of the plaintiff in such legal action, provided, however, that nothing in this paragraph will be deemed to have authorized the bringing of any legal action in a court which does not otherwise have jurisdiction to adjudicate the legal action.
- (u) No Personal Liability. No member, official or employee of the Landlord shall be personally liable to Sun State, any Collocator or subtenant, or any successor or assignee, (a) in the event of any default or breach by the Landlord (b) for any amount which may become due to Sun State or its successor or assign, or (c) pursuant to any obligation of the Landlord under the terms of this contract.
- (v) Employment Eligibility. Sun State hereby warrants and shall require its contractors or subcontractors to warrant, that it is in compliance with all federal immigration laws and regulations that relate to its employees and with A.R.S. §23-214 relating to verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the agreement and is subject to penalties up to and including termination of this agreement. Landlord retains the legal right to inspect the papers of Sun State and any contractor or subcontractor employee of Sun State to ensure that Sun State and any of its contractors or subcontractors are compliant with this warranty

[SIGNATURES APPEAR ON NEXT PAGE]

Site Name: Baja  
Site Number: AZ15-030

IN WITNESS WHEREOF, Landlord and Tenant have each executed this Prime Lease as of the respective dates written below.

**LANDLORD:**

CITY OF SAN LUIS,  
an Arizona municipal corporation

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

Name: \_\_\_\_\_

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

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

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, \_\_\_\_\_ the undersigned, a Notary Public for the State, personally appeared \_\_\_\_\_, who is the \_\_\_\_\_ of CITY OF SAN LUIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

[Affix Notary Seal]

\_\_\_\_\_  
Notary Public  
My commission expires:

\_\_\_\_\_

Site Name: Baja  
Site Number: AZ15-030

**SUN STATE TOWERS:**

SUN STATE TOWERS III, LLC,  
a Delaware limited liability company

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

Name: \_\_\_\_\_

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

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

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, \_\_\_\_\_ the undersigned, a Notary Public for the State, personally appeared \_\_\_\_\_, who is the \_\_\_\_\_ of SUN STATE TOWERS III, LLC, a Delaware limited liability company, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

[Affix Notary Seal]

\_\_\_\_\_  
Notary Public  
My commission expires:

\_\_\_\_\_

Site Name: Baja  
Site Number: AZ15-030

## EXHIBITS

The following exhibits are attached to this Prime Lease and incorporated into this Prime Lease:

- Exhibit A Description of Property
- Exhibit B Description of Site
- Exhibit C Memorandum of Lease

Site Name: Baja  
Site Number: AZ15-030

## EXHIBIT A

### DESCRIPTION OF PROPERTY

#### LANDLORD'S LEGAL DESCRIPTION

TRACT "A," LAS VILLAS DE SAN LUIS PHASE 1, ACCORDING TO BOOK 15 OF PLATS, PAGE 81, RECORDS OF YUMA COUNTY, ARIZONA;

EXCEPT ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF A GASEOUS NATURE, COAL, METALS, MINERALS, FOSSILS, FERTILIZERS OF EVERY NAME AND DESCRIPTION TOGETHER WITH ALL URANIUM, THORIUM OR ANY OTHER MATERIAL WHICH IS OR MAY BE DETERMINED BY THE LAWS OF THE UNITED STATES, OR OF THIS STATE, OR DECISIONS OF COURT, TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE RIGHT THERETO, ON, IN, OR UNDER THE ABOVE DESCRIBED LANDS, SHALL BE AND REMAIN AND ARE HEREBY RESERVED IN AND RETAINED BY THE STATE OF ARIZONA, TOGETHER WITH THE RIGHT OF THE STATE OF ARIZONA, ITS LESSEES OR PERMITTEES TO ENTER UPON THOSE LAND FOR THE PURPOSE OF SUBSTANCES AS PROVIDED BY THE RULES AND REGULATIONS OF THE STATE LAND DEPARTMENT AND THE LAWS OF ARIZONA.

Site Name: Baja  
Site Number: AZ15-030

## EXHIBIT B

### DESCRIPTION OF SITE

#### **LEASE AREA LEGAL DESCRIPTION**

A PORTION OF TRACT "A," LAS VILLAS DE SAN LUIS PHASE 1, ACCORDING TO BOOK 15 OF PLATS, PAGE 81, RECORDS OF YUMA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT "A"; THENCE NORTH 89°40'26" WEST ALONG THE SOUTH LINE OF SAID TRACT, 19.39 FEET; THENCE DEPARTING SAID SOUTH LINE NORTH 00°00'00" EAST, 8.17 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 90°00'00" WEST, 8.88 FEET; THENCE NORTH 00°00'00" EAST, 25.00 FEET; THENCE NORTH 90°00'00" EAST, 25.00 FEET; THENCE SOUTH 00°00'00" EAST, 17.18 FEET; THENCE SOUTH 42°19'58" WEST, 10.57 FEET; THENCE NORTH 90°00'00" WEST, 9.00 FEET TO THE POINT OF BEGINNING.

#### **ACCESS AND UTILITY EASEMENT LEGAL DESCRIPTION**

A 12.00 FOOT WIDE STRIP OF LAND BEING A PORTION OF TRACT "A," LAS VILLAS DE SAN LUIS PHASE 1, ACCORDING TO BOOK 15 OF PLATS, PAGE 81, RECORDS OF YUMA COUNTY, ARIZONA, LYING 6.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT "A"; THENCE NORTH 89°40'26" WEST ALONG THE SOUTH LINE OF SAID TRACT, 19.39 FEET TO THE POINT OF BEGINNING.

THENCE DEPARTING SAID SOUTH LINE NORTH 00°00'00" EAST, 8.17 FEET TO THE POINT OF TERMINUS.

Site Name: Baja  
Site Number: AZ15-030

**EXHIBIT C**  
**MEMORANDUM OF LEASE**

*[see following pages]*

Prepared by and Return To:  
Sun State Towers III, LLC  
1426 North Marvin Street #101  
Gilbert, AZ 85233  
Site # AZ15-030  
Site Name: Baja  
Tax Parcel No.: 776-35-900

### Memorandum of Lease Agreement

THIS MEMORANDUM OF LEASE AGREEMENT ("**Memorandum**") is executed this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between CITY OF SAN LUIS, an Arizona municipal corporation, with a mailing address of \_\_\_\_\_ ("**Landlord**") and SUN STATE TOWERS III, LLC, a Delaware limited liability company, with a mailing address of 1426 North Marvin Street #101, Gilbert, AZ 85233 ("**Tenant**") and evidences that on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, a Lease Agreement ("**Agreement**") was entered into by and between Landlord and Sun State Towers.

1. 2. **Property.** Landlord owns certain real property described in Exhibit A ("**Property**"). Subject to the terms of the Agreement, Landlord has granted to Sun State Towers an option to lease a portion of the Property ("**Compound**") and to acquire certain easements for ingress, egress and utilities for the benefit of Sun State Towers and Sun State Towers' sublessees and invitees ("**Easements**" and collectively with the Compound, the "**Site**", as shown on Exhibit B), a license to use certain other portions of the Property and a right of first refusal to purchase the Site and/or the Property.

3. **Lease.** The Initial Term of the lease will be for ten (10) years commencing June 1, 2018. The Agreement will automatically renew for two additional periods of five (5) years each, unless Tenant notifies Landlord of its decision not to renew the Agreement.

4. **Notices.** All notices, requests, demands, and other communications to Landlord or Sun State Towers will be made at the following addresses:

**Landlord:** City of San Luis  
P.O. Box 1170  
San Luis, AZ 8549  
Attn: City Manager

**Sun State Towers:** Sun State Towers III, LLC  
1426 North Marvin Street #101  
Gilbert, AZ 85233  
Attn: Land Management

5. **Construction of Memorandum; Availability of Agreement.** This Memorandum is not a complete summary of the terms and conditions contained in the Agreement. Provisions in the Memorandum will not be used in interpreting the Agreement provisions. In the event of a conflict between this Memorandum and the Agreement, the Agreement will control. The Agreement is a public record of the City of San Luis, Arizona and is available for inspection and copying at the Office of the City Clerk of the City of San Luis, Arizona.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date first set forth above.

**LANDLORD:**

CITY OF SAN LUIS,  
an Arizona municipal corporation

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

Name: \_\_\_\_\_

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

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

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, \_\_\_\_\_ the undersigned, a Notary Public for the State, personally appeared \_\_\_\_\_, who is the \_\_\_\_\_ of CITY OF SAN LUIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

[Affix Notary Seal]

\_\_\_\_\_  
Notary Public  
My commission expires:

\_\_\_\_\_

**SUN STATE TOWERS:**

SUN STATE TOWERS III, LLC,  
a Delaware limited liability company

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

Name: \_\_\_\_\_

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

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, \_\_\_\_\_ the undersigned, a Notary Public for the State, personally appeared \_\_\_\_\_, who is the \_\_\_\_\_ of SUN STATE TOWERS III, LLC, a Delaware limited liability company, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

[Affix Notary Seal]

\_\_\_\_\_  
Notary Public  
My commission expires:

\_\_\_\_\_

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## EXHIBIT B

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