



**WIRELESS ADDENDUM  
TO THE STANDARD POLE ATTACHMENT AGREEMENT**

**BETWEEN**

**CITY PUBLIC SERVICE OF SAN ANTONIO AND**

[ \_\_\_\_\_ ]

**CPS ENERGY WIRELESS ADDENDUM NO. \_\_\_\_\_**

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**WIRELESS ADDENDUM  
TO STANDARD POLE ATTACHMENT LICENSE AGREEMENT**

This Wireless Addendum to the CPS Energy Standard Pole Attachment License Agreement for the purpose of permitting the installation, ownership, lease, and/or operation of Wireless Installations on or supported by CPS Energy Poles or Streetlight Poles in accordance with the further terms hereof (the “Wireless Addendum”) is made and entered into on the \_\_\_ day of 20\_\_\_, (the “Effective Date”) by and between the City of San Antonio, Texas, acting by and through City Public Service Board of San Antonio, a municipal board of the City of San Antonio, Texas (“CPS Energy”) and [Company Name] (“Licensee”) (collectively, the “Parties”):

**RECITALS**

- A. Licensee is a signatory to a Standard Pole Attachment License Agreement dated \_\_\_\_\_, 20\_\_\_, (the “Agreement”), and desires to install, own, lease, and/or operate Wireless Installations on or supported by CPS Energy Poles or Streetlight Poles in accordance with the terms of the Contractual Authorities, as they may be amended from time to time.
- B. Pursuant to the terms of the Contractual Authorities,, CPS Energy may issue one or more Permits authorizing the placement, installation, operation, or use of Licensee’s Wireless Installations in specified locations, including: (1) on Poles including in the Pole Top Space, but other than within the Communications Space, Electrical Space or Supply Space, or Communication Worker Safety Zone of such Poles; (2) on Streetlight Poles; and (3) on Messenger cables attached to two Poles in the case of Mid-Span Installations.

THEREFORE, in consideration of the foregoing recitals and of the mutual covenants, terms, conditions, and remuneration herein provided, and the rights and obligations created hereunder, the Parties agree as follows:

**AGREEMENT**

**1. DEFINITIONS**

- 1.1 Except as provided herein, capitalized terms in this Wireless Addendum shall have the meanings provided in the Agreement and Pole Attachment Standards.
- 1.2 **Contractual Authorities** means the terms and conditions of this Wireless Addendum, the Agreement, and the Pole Attachment Standards, as these documents may be amended from time to time.
- 1.2 **Pole Attachment Standards** means the CPS Energy Pole Attachment Standards, made effective August 1, 2016, as they may be amended from time to time pursuant to the procedures set forth in the Agreement and the Pole Attachment Standards.
- 1.3 **Permitted Wireless Installation Space** means locations for Wireless Installations CPS Energy has specified in a Permit limited to (a) on Poles, including in the Pole Top Space,

but other than within the Communications Space, Electrical Space or Supply Space, or Communication Worker Safety Zone of such Poles; (b) on Streetlight Poles; or (c) on Messenger cables attached to two Poles in the case of Mid-Span Installations, each in CPS Energy-specified locations and in accordance with the requirements of the Pole Attachment Standards.

## **2. SCOPE OF WIRELESS ADDENDUM**

2.1 Grant of License. Subject to the provisions of the Contractual Authorities, and to the extent allowed by law, CPS Energy hereby grants Licensee within the CPS Energy service area a revocable, nonexclusive license authorizing Licensee to install, own, lease, license, use, and/or operate permitted Wireless Installations in Permitted Wireless Installation Space, each such Wireless Installation subject to the further requirements of this Wireless Addendum and the Pole Attachment Standards.

2.1.1 Agreement Continues to Apply. Except where specifically modified herein, the terms, conditions, procedures, duties, and liabilities of the Agreement and the Pole Attachment Standards continue to apply to Licensee and CPS Energy both with respect to Attachments and to Wireless Installations.

2.1.2 Wireless Installations, Permit Requirements, Unauthorized Wireless Installations. Licensee's installation, ownership, holding of a leasehold or licensure interest, use, or operation of any Wireless Installation without obtaining a Permit, or in any location other than Permitted Wireless Installation Space, or otherwise in violation of the Contractual Authorities, shall give rise to one or more Unauthorized Wireless Installations.

2.2 Applicability of Pole Attachment Standards.

2.2.1 The Pole Attachment Standards are applicable to Licensee's activities in installing, owning, leasing, licensing, using, or operating Wireless Installations. Pursuant to the Pole Attachment Standards, Licensee must apply for and obtain a Permit for every Wireless Installation.

2.2.2 As provided in the Agreement, Licensee agrees that CPS Energy has the right to amend the Pole Attachment Standards from time to time in response to changing conditions in the local market, technological advances, business requirements, policy initiatives, or changes in federal, state, or local law, and that the amended Pole Attachment Standards will be incorporated into the Agreement and this Wireless Addendum as of their effective date.

2.3 Licensee's Privilege to Install, Own, Use, and/or Operate Wireless Installations. Licensee must obtain a Permit pursuant to the procedures of the Pole Attachment Standards for each Wireless Installation it installs, owns, leases, licenses, uses, or operates. The issuance or maintenance of such Permit or Permits is subject at all times to CPS Energy's right to provide core electric utility services, including any and all internal communications service essential to the proper operations of such core electric utility services using its Poles and Streetlight Poles. Nothing in the Contractual Authorities other than a properly issued Permit, shall be construed as authorization to install, lease, license, use, or operate a Wireless Installation on any specific Pole or Streetlight Pole.

- 2.4 No Interest in Property. No use, however lengthy, of any CPS Energy Facilities, and no payment of any fees or charges required under the Contractual Authorities shall create or vest in Licensee any easement or other ownership or property interest of any nature in any portion of such CPS Energy Facilities. Neither the Contractual Authorities nor any Permit granted under the Pole Attachment Standards shall constitute an assignment of any of CPS Energy's rights to CPS Energy Facilities. Notwithstanding anything in the Contractual Authorities, or any Permit to the contrary, Licensee shall at all times be and remain a licensee only.
- 2.5 Non-Exclusivity. CPS Energy has previously granted or will grant rights or privileges to use CPS Energy Poles or Streetlight Poles to others not a party to this Wireless Addendum or the Agreement, including for the purpose of installing, owning, leasing, licensing, using, or operating permitted Wireless Installations. After the execution of this Wireless Addendum, CPS Energy shall continue to grant access to its Poles and Streetlight Poles to other persons similarly situated to Licensee seeking to install Wireless Installations on nondiscriminatory terms and conditions.
- 2.6 Franchise, Authority to Use Public Rights-of-Way, and Other Permits.
- 2.6.1 Licensee warrants and agrees that CPS Energy does not have the power to grant Licensee the right to conduct business within the City of San Antonio or other cities or jurisdictions within the CPS Energy service area.
- 2.6.2 Licensee warrants and agrees that this Wireless Addendum does not constitute a franchise or license to use Public Rights-of-Way within the City of San Antonio or any other jurisdiction within the CPS Energy service area.
- 2.6.3 Licensee warrants and agrees that it is the obligation of Licensee to obtain (a) a franchise or other authority by ordinance, regulation, or state law authorizing Licensees to install, own, use, erect, maintain, lease, license, or operate one or more Wireless Installations in the Public Rights-of-Way from the applicable governing authority or authorities; and (b) other necessary permits, authority, or consents from federal, state, municipal, or other public authorities to conduct such activities.
- 2.6.4 Licensee warrants that it is in compliance with the requirements of Section 2.6.3 and will provide CPS Energy copies of relevant municipal and/or state franchises, licenses or certificate of authority, or other authority upon request.
- 2.7 Permitted Uses. Licensee shall only use Wireless Installations to provide Wireless Services for which Licensee has lawful authority and Licensee shall not engage in any illegal practices, anticompetitive behavior, or collusion with regard to construction activities related to the installation, operation, maintenance, transfer, relocation, use, lease, license, or removal of its Wireless Installations. Licensee shall fully and timely cooperate with CPS Energy, other Attaching Entities, and governmental authorities, as prescribed in Contractual Authorities with regard to the installation, operation, maintenance, transfer, replacement, relocation, and removal of Wireless Installations. Licensee understands that preventing or unreasonably delaying any other Attaching Entity from installing, transferring, or relocating an Attachment or Wireless Installation on a Pole or interfering with the quiet enjoyment of any other Attaching Entity's privileges will constitute a material breach of this Wireless Addendum and the Agreement.

- 2.8 No Rights after Termination. Nothing in this Wireless Addendum or the Agreement shall be construed to require CPS Energy to allow Licensee to use any Pole or Streetlight Pole after the termination of the Agreement or this Wireless Addendum.
- 2.9 Parties Bound by Wireless Addendum. Licensee and CPS Energy are bound by the duties outlined in this Wireless Addendum.

### **3. FEES AND CHARGES**

#### **3.1 Wireless Installation Fees.**

- 3.1.1 Pursuant to this Wireless Addendum and the incorporated Pole Attachment Standards, CPS Energy shall assess, and Licensee shall pay, in addition to any compensation required for Attachments and other fees or charges under the Agreement, fees and charges for the privilege of installing, owning, leasing, licensing, using, or operating Wireless Installations on Poles or Streetlight Poles on a per-Wireless Installation basis. Licensee shall be subject to Make-Ready Charges, the annual Wireless Installation Fee, and applicable Application Fees as provided in the Pole Attachment Standards.
- 3.1.2 As prescribed in the Pole Attachment Standards, Licensee shall be responsible for paying all Make-Ready Charges in full directly to CPS Energy or its contractors prior to the commencement of any Make-Ready Electrical Construction.
- 3.1.3 Licensee shall pay all assessed Wireless Installation Fees in full within forty-five (45) days of Licensee's receipt of a statement from CPS Energy.
- 3.1.4 Licensee failure to pay timely all statements from CPS Energy for Wireless Installation Fees shall constitute a breach of this Wireless Addendum and the Agreement.
- 3.2 Penalties for Unauthorized Wireless Installations. In the event that Licensee, its agents, or its contractors installs, owns, leases, licenses, uses, or operates one or more Unauthorized Wireless Installations, Licensee shall pay CPS Energy the Unauthorized Wireless Installation Charge prescribed in the Pole Attachment Standards for each Unauthorized Wireless Installation, in addition to any costs or expenses required of Licensee under the Contractual Authorities to apply for and obtain a Permit for the Wireless Installation. If Licensee does not apply for a Permit for the Wireless Installation within ten (10) business days of notice that it has installed an Unauthorized Wireless Installation, the Wireless Installation may be removed in accordance with the Pole Attachment Standards at Licensee's expense. Notwithstanding the above, consistent with Section 20.1, Licensee may have forty-five (45) days from the Effective Date to apply for a Permit for any pre-existing Wireless Installations installed prior to the Effective Date without CPS Energy's authorization or such Wireless Installations may be removed in accordance with the Pole Attachment Standards at Licensee's expense. In the event Licensee fails to remove the Unauthorized Wireless Installations, or submit an Application for such Unauthorized Wireless Installations, within the forty-five (45) day period for Permit submittal, Licensee

shall begin to incur Unauthorized Wireless Installation Charges per Unauthorized Wireless Installation as prescribed in the Pole Attachment Standards.

#### **4. PRIVATE AND REGULATORY COMPLIANCE**

- 4.1 Necessary Authorizations. Licensee shall be responsible for obtaining from the appropriate public or private authority or other appropriate persons any required authorization to construct, operate, or maintain its Communications Facilities or Wireless Installations on public or private property before it occupies any portion of CPS Energy's Poles or Streetlight Poles. Licensee must provide CPS Energy, as required by the Pole Attachment Standards, a copy of a license, franchise, certificate of authority, or other authorization that grants Licensee access to Public Rights-of-Way for the purpose of installing Communications Facilities or Wireless Installations, as applicable. With regard to access to public or private property, other than Public Rights-of-Way, Licensee shall provide CPS Energy upon request with evidence that appropriate authorization has been obtained before any Permit is issued to Licensee. Licensee's obligations under this Section 4 include, but are not limited to, its obligation to obtain all necessary approvals to occupy public or private property and to pay all costs associated therewith, and to maintain such approval for the term of a Permit.
- 4.2 Lawful Purpose and Use. Licensee's Communications Facilities and Wireless Installations must at all times serve a lawful purpose, and the use of such facilities must comply with all applicable federal, state, and local laws. The use of Attachments or Wireless Installations for any illegal or unauthorized purpose shall constitute a breach of this Wireless Addendum and the Agreement.
- 4.3 Forfeiture of CPS Energy's Rights. Any Permit, which on its face covers a Wireless Installation that would result in forfeiture or diminution of CPS Energy's rights (as determined by any order, decision, action, or ruling by a court or other governmental authority of competent jurisdiction), shall be deemed invalid as of the installation date of the Wireless Installation referenced by such order, decision, action, or ruling. Further, if any of Licensee's existing Communications Facilities or Wireless Installations, whether installed pursuant to a valid Permit or not, would cause such forfeiture or diminution (as determined by any order, decision, action, or ruling by a court or other governmental authority of competent jurisdiction), Licensee shall promptly remove its Communications Facilities or Wireless Installations upon receipt of written notice from CPS Energy of such order, decision, action, or ruling. If Licensee does not remove its Communications Facilities or Wireless Installations after the expiration of forty-five (45) calendar days from CPS Energy's issuance of the written notice, CPS Energy will perform such removal at Licensee's expense redeemable from Licensee's performance bond. If the rights of CPS Energy, or other Attaching Entities, to occupy the real property on which CPS Energy Poles or Streetlight Poles are located are terminated solely as a result of Licensee's Wireless Installation(s) or the failure to remove Licensee's Communications Facilities or Wireless Installations within the 45-day period set forth in this Section 4.3, Licensee shall use best efforts to restore CPS Energy or other Attaching Entities to their original status before such Wireless Installation was installed.

## 5. **LIABILITY AND INDEMNIFICATION**

The Agreement is amended by means of this Wireless Addendum to provide liability limitations and Indemnification for Additional Covered Claims, defined herein, relating to Licensee's installation, ownership, lease, use or operation of Wireless Installations, to the same extent that liability limitations and indemnification extend under the terms of the Agreement to the use of Poles or Street Poles, as defined in the Agreement, and Covered Claims, as defined therein.

5.1 Liability. CPS Energy's liability for activities arising out of or related to Licensee's installation of Wireless Installations on CPS Energy Poles or Street Light Poles is limited to the same extent set forth in the Agreement for the use of CPS Energy Poles for Attachments.

5.2 Indemnification.

5.2.1 Additional Covered Claims shall mean and include any and all liability, costs, damages (including indirect or consequential damages), fines, taxes special charges by others, penalties, payments (including payments made by Indemnitees under any Worker's Compensation Laws or under any plan for employees' disability and death benefits), and expenses (including reasonable attorney's fees of Indemnitees and all other costs and expenses of litigation) of every kind or character arising from the performance of this Wireless Addendum or the Agreement, including any act, omission, failure, negligence, or willful misconduct in connection with the construction, maintenance, repair, presence, use, relocation, transfer, removal, or operation by Licensee or Licensee's officers, directors, employees, agents, or contractors of Licensee's Attachments, Communications Facilities, and Wireless Installations, the Communications Facilities or Wireless Installations of any other Attaching Entity, or CPS Energy Facilities ("Additional Covered Claims").

5.2.2 Indemnity for Additional Covered Claims. Licensee's obligation to indemnify Indemnitees under the Indemnity provisions of the Agreement for Covered Claims shall also extend to and include the Additional Claims.

5.3 Procedure for Indemnification.

5.3.1 Indemnitee shall give prompt notice to Licensee of any Additional Covered Claim or threatened Additional Covered Claim wherein Indemnitee is seeking indemnification pursuant to Section 5.2, specifying the alleged factual basis for such claim and the amount of the claim. If the claim relates to an action, suit, or proceeding filed by a third-party against Indemnitee, Indemnitee shall give the written notice to Licensee no later than ten (10) calendar days after Indemnitee receives written notice of the action, suit, or proceeding.

5.3.2 Indemnitee's failure to give the required notice of an Additional Covered Claim will not relieve Licensee of its obligation to indemnify Indemnitee unless and to the extent Licensee is materially prejudiced by such failure.

5.4 Environmental Hazards. Licensee represents and warrants that its use of CPS Energy's Poles or Streetlight Poles will not generate Hazardous Substances, that it will not store or dispose of Hazardous Substances on or about CPS Energy's Poles or Streetlight Poles, that it will not transport to CPS Energy's Poles or Streetlight Poles any Hazardous Substances, and that Licensee's Communications Facilities and Wireless Installations do not constitute



or contain and will not generate any Hazardous Substances, including any such activities in violation of federal, state, or local law now or hereafter in effect, including any amendments. The term "Hazardous Substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state, or local laws, regulations, or rules now or hereafter in effect, including any amendments. Licensee further represents and warrants that in the event of breakage, leakage, incineration, or other disaster, Licensee's Communications Facilities and Wireless Installations will not release such Hazardous Substances.

- 5.5 Municipal Liability Limits. No provision of this Wireless Addendum or the Agreement is intended or shall be construed to be a waiver for any purpose by CPS Energy of any applicable State limits on municipal liability.
- 5.6 No Limitation. No indemnification provision contained in this Wireless Addendum or the Agreement under which Licensee indemnifies CPS Energy shall be construed in any way to limit any other indemnification provision contained in any Contractual Authorities..

## **6. DUTIES, RESPONSIBILITIES, AND EXCULPATION**

- 6.1 Duty to Inspect. Licensee acknowledges and agrees that CPS Energy does not warrant the condition or safety of CPS Energy's Facilities or the premises surrounding the Facilities, and Licensee further acknowledges and agrees that it has an obligation to inspect Poles and Streetlight Poles, or premises surrounding the Poles and Streetlight Poles prior to commencing any work on Poles or Streetlight Poles or entering the premises surrounding the Poles or Streetlight Poles.
- 6.2 Knowledge of Work Conditions. By executing this Wireless Addendum, Licensee warrants that it has acquainted, or will fully acquaint, itself and its employees or contractors and agents with the conditions relating to the work that Licensee will undertake under the Pole Attachment Standards and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.
- 6.3 Duty to Inform and Protect. Licensee further warrants that it understands the imminent dangers, INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION, inherent in the work necessary to mount Wireless Installations onto or supported by Poles or Streetlight Poles by Licensee's employees, servants, agents, contractors or subcontractors, and Licensee accepts as its duty and sole responsibility to notify, inform, and keep informed Licensee's employees, servants, agents, contractors or subcontractors of such dangers, and to keep them informed regarding same. Licensee also warrants that it will implement all precautions, procedures, and measures in the Pole Attachment Standards to protect public safety and the safety of personnel working close to electrified lines.
- 6.4 Protection of Utility Data. During the term of this Wireless Addendum, Licensee may have access to CPS Energy's geodatabase electronic records of Pole or Streetlight Pole locations, strand and underground routes, substation locations, and other pertinent information related to CPS Energy's electric distribution system. Such electronic records

consist of proprietary and confidential CPS Energy information related to critical infrastructure and shall be treated as confidential by Licensee and protected from public disclosure. Licensee shall implement physical and cybersecurity measures to protect the geodatabase information from public disclosure, theft, and widespread internal distribution, such as the best practices outlined in the Federal Trade Commission's "Start with Security" cybersecurity guidelines.

- 6.5 Licensee's Confidential Information. To the extent that Licensee considers any document or information submitted to CPS Energy under the terms of any Contractual Authorities to be trade secret, proprietary, or otherwise confidential under law, it shall label or mark the document or information conspicuously with the words "Confidential Information." If any person requests access to Licensee's information submitted to CPS Energy under the terms of any Contractual Authorities, CPS Energy will treat such information as required under the Texas Public Information Act, Chapter 552, Texas Government Code.

## **7. INSURANCE**

- 7.1 Applicability of Insurance Coverage under Agreement. The insurance obligations, duties, coverages, and requirements set out in the Agreement and the claims coverage procedures outlined in the Pole Attachment Standards shall apply to this Wireless Addendum. Such obligations, duties, coverages, and requirements shall apply to all activities of the Parties related to the design, review, construction, maintenance, operation, upgrade, relocation, replacement, and any other related activities associated with Wireless Installations authorized by the Contractual Authorities whether such activities are conducted by the Parties or the Parties' employees, officers, agents, or contractors. Nothing in this Wireless Addendum shall be used to deny insurance coverage of any eligible claim or as a defense against covering any claim for damages related to activities arising under this Wireless Addendum.

## **8. AUTHORIZATION NOT EXCLUSIVE**

CPS Energy shall have the right to grant, renew, and extend nondiscriminatory rights and privileges to others not party to this Wireless Addendum, by contract or otherwise, to use CPS Energy Facilities. Such rights shall not interfere with the privileges granted to Licensee by the specific Permits issued pursuant to the Contractual Authorities. Licensee's privileges under a Permit issued pursuant to the Contractual Authorities shall not interfere with the privileges of any other Attaching Entity that has been issued a Permit. In the event of a conflict between the privileges of Licensee and any other Attaching Entity that cannot be resolved by reference to the Pole Attachment Standards, CPS Energy shall resolve the conflict as the Pole or Streetlight Pole owner based on non-discriminatory principles.

## **9. ASSIGNMENT**

- 9.1 Limitations on Assignment. Licensee shall not assign its privileges or obligations under this Wireless Addendum or the Agreement, nor any part of such privileges or obligations, without the prior written consent of CPS Energy, which consent shall not be unreasonably

withheld, conditioned, or delayed.

- 9.2 Obligations of Assignee/Transferee and Licensee. Notwithstanding any provision in this Wireless Addendum or the Agreement to the contrary, Licensee shall have the privilege to assign this Wireless Addendum, together with the Agreement, to any parent, subsidiary, Affiliate, or any person, firm, or corporation that shall control, be under the control of, or be under common control with Licensee, or to any entity into which Licensee may be merged or consolidated or which purchases all or substantially all of the assets of Licensee that are subject to this Wireless Addendum and the Agreement. No assignment or transfer under this Section 9 shall be allowed, however, until the assignee or transferee becomes a signatory to this Wireless Addendum and the Agreement and assumes all obligations of Licensee arising under this Wireless Addendum and the Agreement. Licensee shall furnish CPS Energy with prior written notice of the transfer or assignment, together with the name and address of the transferee or assignee. Notwithstanding any assignment or transfer, Licensee shall remain fully liable under this Wireless Addendum and the Agreement for claims that arose during the time period Licensee operated pursuant to the Wireless Addendum and the Agreement, and Licensee shall not be released from those claims, including the obligation to indemnify CPS Energy for Additional Covered Claims
- 9.3 Sub-Licensing. Licensee shall not sub-license space on a CPS Energy Pole or Streetlight Pole to any third party, or place a Wireless Installation for the benefit of any third-party, including an Affiliate, unless such third-party is an Infrastructure Provider Sublicensee. Any such action shall constitute a material breach of this Wireless Addendum and the Agreement.

## **10. FAILURE TO ENFORCE, NON-WAIVER**

Failure on the part of CPS Energy or Licensee to take action to enforce compliance with any of the terms or conditions of the Contractual Authorities or to give notice or declare this Wireless Addendum or the Agreement or any authorization granted thereunder in default or terminated shall not constitute a waiver or relinquishment of any term or condition of the Contractual Authorities, but the same shall be and remain at all times in full force and effect until terminated in accordance with their terms.

## **11. TERMINATION OF WIRELESS ADDENDUM**

- 11.1 CPS Energy shall have the right, pursuant to the procedure set out in Section 11.2, to terminate this Wireless Addendum, or any Permit issued pursuant to the Pole Attachment Standards, and to pursue any and all remedies provided in this Wireless Addendum or the Agreement, whenever Licensee is in default of any term or condition of this Wireless Addendum, including, but not limited to:
- 11.1.1 Construction, operation, maintenance, use, lease, or licensure of Licensee's Wireless Installations or any Communications Facilities supporting the Wireless Installation in violation of law or in aid of any unlawful act or undertaking;
- 11.1.2 Construction, operation, maintenance, use, lease, or licensure of Licensee's

Wireless Installations or any Communications Facilities supporting the Wireless Installations after any authorization required of Licensee has lawfully been denied or revoked by final action of any governmental or private authority;

- 11.1.3 Construction, operation, maintenance, use, lease, or licensure of Licensee's Wireless Installations or any Communications Facilities supporting the Wireless Installations without the insurance and/or performance bond coverage required under Sections 7 and 15;
  - 11.1.4 Failing to pay in full an invoice for any charge, fee, penalty, or interest as provided in the Contractual Authorities related to Wireless Installations;
  - 11.1.5 Failing to promptly and fully perform any other covenant, condition, provision, or agreement contained in the Contractual Authorities related to Wireless Installations; or
  - 11.1.6 Sublicensing space or access to CPS Energy Facilities, Poles, or Streetlight Poles to any third-party, except as provided in Section 9.3.
- 11.2 CPS Energy will notify Licensee in writing within fifteen (15) calendar days, or as soon as reasonably practicable, of any condition of default under Section 11.1, above. Licensee shall take immediate corrective action to cure such default within fifteen (15) calendar days, or such longer time period mutually agreed to by the Parties not to exceed sixty (60) calendar days, unless such cure cannot be accomplished in such time period, provided Licensee has commenced and is diligently pursuing such cure. Such agreement to extend the period to cure shall not be unreasonably withheld by CPS Energy. Upon correcting such condition, but no later than the expiration of the applicable cure period, Licensee shall confirm in writing to CPS Energy that the cited condition has ceased or been corrected. If Licensee fails to cure such condition, CPS Energy may immediately terminate this Wireless Addendum, or any Permit related to a Wireless Installation at its option and provide written notice to Licensee. In the event of termination of this Wireless Addendum or the Agreement or any of Licensee's privileges or authorizations thereunder, Licensee shall remove its Wireless Installations and Attachments at Licensee's expense pursuant to the Pole Attachment Standards. If Licensee fails to remove its Wireless Installations or Attachments as provided in the Pole Attachment Standards, the Wireless Installations or Attachments shall be deemed abandoned, and CPS Energy may remove them at Licensee's expense redeemable from Licensee's performance bond.
- 11.3 Termination upon Termination of Agreement. If at any time, for any reason, the underlying Agreement is terminated this Wireless Addendum shall immediately terminate.

## **12. TERM OF WIRELESS ADDENDUM**

- 12.1 Term Coextensive With Agreement. This Wireless Addendum shall become effective on the Effective Date and expire or terminate on the date that the Agreement expires or terminates, whether under the Initial Term or any renewal. The initial term for the Wireless Addendum shall be coextensive with the Initial Term of the Agreement regardless of when the Wireless Addendum is executed by Licensee. Any renewal of the Agreement will serve to renew the Wireless Addendum.

12.1.1 The above notwithstanding, following the expiration of the Initial Term of the Agreement, either Party may terminate this Wireless Addendum upon giving the other Party six (6) months' written notice of termination or pursuant to other applicable terms of this Wireless Addendum.

12.2 Survival of Obligations. Any expiration or termination of Licensee's privileges under this Wireless Addendum or the Agreement shall not relieve Licensee of any obligation, whether indemnity or otherwise, which has accrued prior to such expiration or termination of this Wireless Addendum or the Agreement or removal of Licensee's Wireless Installations or Attachments.

### **13. DISPUTE RESOLUTION**

The dispute resolution procedures set forth in Section 14 of the Agreement with respect to Attachments shall be applicable to disputes arising under this Wireless Addendum for Wireless Installations. Use of the dispute resolution procedures provided in Section 14 of the Agreement shall not impair the right of Licensee or CPS Energy to invoke any other remedy provided in the Agreement, this Wireless Addendum, at law, or in equity. Provided, however, that should Licensee bring a legal challenge to the Wireless Rate, CPS Energy may terminate this Wireless Addendum pursuant to Section 20.2.

### **14. NOTICES**

14.1 Notices. Wherever notice is required to be given by either Party to the other, the form, content, timing, addressee, and method of delivery of such notice shall be governed by the Agreement.

14.2 Emergency Contact. An emergency contact for purposes of notice or coordination of emergencies arising out of the performance of this Wireless Addendum shall be maintained in accordance with the terms of the Agreement and the Pole Attachment Standards.

14.3 Network Operations Center. Licensee shall provide the following contract information, and maintain such information current at all times, for its Network Operations Center that monitors Wireless Installations subject to this Wireless Addendum.

- Network Operations Center for [Name of Licensee]
- Operating Hours:
- Telephone Number:
- E-mail Address:
- NOC Operator:
- Facility Address:

### **15. PERFORMANCE BOND**

Prior to making any Wireless Installations and within thirty (30) days of the Effective Date of this Wireless Addendum, Licensee shall provide to CPS Energy a performance bond in the amount one hundred thousand and 00/100 dollars (\$100,000.00) in the form corresponding with the

requirements of Appendix C to the Agreement. Such performance bond shall apply exclusively to activities related to Wireless Installations and shall be separate from the performance bond required under the Agreement. All provisions of the Agreement with respect to the posting and other attributes of a bond shall apply to the bond required for Wireless Installations.

#### **16. ENTIRE AGREEMENT; NON-WAIVER**

This Wireless Addendum, together with the Agreement and the incorporated Pole Attachment Standards, supersede all previous oral and written agreements between CPS Energy and Licensee regarding the approval, placement, transfer, maintenance, and removal of Licensee's Wireless Installations mounted on or supported by CPS Energy's Poles or Streetlight Poles within the geographical service area covered by the Agreement. All provisions, terms, and conditions to this Wireless Addendum are expressed herein. Notwithstanding any contrary provision, term, or condition herein, this Wireless Addendum shall neither waive nor be interpreted to waive any claims of any nature, any amounts or credits owed, or any obligations or duties arising under a prior agreement between the Parties or the Parties' performance thereunder. Nor shall this Wireless Addendum act as a waiver of any claims for the prior use of CPS Energy Poles or Streetlight Poles without valid authorization.

#### **17. SEVERABILITY**

The invalidity of one or more clauses, sentences, sections, or articles of this Wireless Addendum shall not affect the validity of the remaining portions of this Wireless Addendum or the Agreement, provided that the material purposes of this Wireless Addendum and the Agreement can be determined and effected.

#### **18. GOVERNING LAW**

The validity, performance and all matters relating to the effect of this Wireless Addendum and the Agreement and any amendment hereto shall be governed by the laws (without reference to choice of law) of the State of Texas.

#### **19. INCORPORATION OF RECITALS, APPENDICES, AND POLE ATTACHMENT STANDARDS**

The recitals stated above, all appendices to the Contractual Authorities, as they may be amended from time to time, are incorporated into and constitute part of this Wireless Addendum.

#### **20. MISCELLANEOUS PROVISIONS**

20.1 Preexisting Wireless Installations. Licensee will not be required to obtain individual Permits for each Wireless Installation installed without proper authorization from CPS Energy prior to January 1, 2017. However, within forty-five (45) days of the Effective Date of this Wireless Addendum, Licensee must account for all preexisting Wireless Installations by submitting a Permit Application with an inventory of preexisting Wireless Installations identifying for each installation its physical address, identification of

supporting Pole(s), GPS coordinates, type of equipment, electricity account serving the equipment, and other relevant information requested by CPS Energy. Licensee shall also include as part of the Permit Application demonstrative engineering design drawings of the type(s) of Wireless Installations and equipment specifications consistent with the requirements of the Pole Attachment Standards. All such preexisting Wireless Installations shall be subject to inspection by CPS Energy and must be in compliance with all Applicable Engineering Standards prior to the issuance of the Permit. CPS Energy shall issue a Permit for such preexisting Wireless Installations following compliance with the Permit requirements and upon payment of any rent in arrears, penalties, and unpaid electricity associated with such preexisting Wireless Installations.

- 20.2 Termination of Pole Use for Rate Challenge. The Parties agree that the Wireless Rate is not governed by FCC rules or PURA, for a host of reasons, including restrictions on the placement of Wireless Installations set forth in this Wireless Addendum and the Pole Attachment Standards. The Parties further agree that if Licensee challenges the Wireless Rate in any court or regulatory forum, CPS Energy may terminate this Wireless Addendum. Within one hundred eighty (180) days of receiving written notice of termination from CPS Energy, Licensee shall remove all Wireless Installations mounted onto, or supported by, any Poles or Streetlight Poles at its sole expense.
- 20.3 Compliance with Contractual Authorities. All Wireless Installations installed on or after the Effective Date of this Wireless Addendum are and shall be authorized by the procedures, requirements, and limitations of this Wireless Addendum, subject to Licensee's compliance with all the terms and conditions of the Pole Attachment Standards. Licensee's failure to maintain all Wireless Installations in accordance with the Pole Attachment Standards shall be considered a default, and all Unauthorized Wireless Installations shall be subject to removal at Licensee's expense.
- 20.4 Contractors and Agents Bound. Licensee agrees to include in all its contracts and agreements with independent contractors or agents provisions that are consistent with and which will fulfill the requirements of this Wireless Addendum.
- 20.5 No Third-Party Beneficiaries. The terms and provisions of this Wireless Addendum are intended to be for the benefit of CPS Energy and Licensee. Except as otherwise provided herein, nothing in this Wireless Addendum or the Agreement, express or implied, is intended to confer upon any other person or entity, other than the Parties, any benefits, rights or remedies under or by reason of this Wireless Addendum or the Agreement.
- 20.6 Amendments Only in Writing. Notwithstanding other provisions of this Wireless Addendum, the terms and conditions of this Wireless Addendum shall not be amended, changed, or altered except in writing signed by authorized representatives of both Parties or upon CPS Energy's adoption of amendments to the Pole Attachment Standards and Licensee's acceptance thereof in accordance with the terms of this Wireless Addendum and the Agreement.
- 20.7 Reciprocity of Terms and Conditions. Unless otherwise agreed in writing, to the extent that Licensee owns poles or streetlight poles on which CPS Energy has attached or desires to attach either CPS Energy-owned wireless equipment or CPS Energy Facilities, CPS Energy shall be entitled to install such wireless equipment or Attachments on rates, terms, and conditions equivalent to the rates, terms, and conditions extended to Licensee

pursuant to the Contractual Authorities.

**21. INTEREST ON PAST-DUE AMOUNTS**

In the event Licensee fails to pay an amount due under the terms of this Wireless Addendum within the period of time set forth for payment, interest shall accrue on the unpaid balance at the rate of one and 17/100ths percent (1.17%) per month (or such lesser rate as may be required by law) for each month starting from the date the payment is due until such time as payment is received.

**22. ATTORNEY’S FEES**

If CPS Energy or Licensee brings any action at law or in equity to enforce any provision of this Wireless Addendum, including the incorporated Pole Attachment Standards, the prevailing party will be entitled to recover its reasonable costs and attorney’s fees in addition to any other relief to which it may be entitled.

IN WITNESS WHEREOF, the parties hereto have executed this Wireless Addendum in duplicate on the day and year first written above.

City Public Service of San Antonio

**[Company Name]**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_