

LANDLORD:

City of Nome

PO Box 281

NOME, AK 99762

Landlord E-mail: gsteckman@nomealaska.org (Glenn Steckman)

Landlord Phone #: 907-443-6600

TENANT:

Atlas Tower 1, LLC

3002 Bluff Street, Suite 300

Boulder, CO 80301

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made upon the date of the last signee by and between, City of Nome (the “**Landlord**”), whose address is PO Box 281 NOME, AK 99762, United States, and Atlas Tower 1, LLC (the “**Tenant**”), whose address is 3002 Bluff Street, Suite 300, Boulder, CO 80301.

WHEREAS, the Landlord owns certain real property located at Old Center Creek Rd, NOME, AK 99762 with parcel number 198.2.095 that is more particularly described or depicted in attached **Exhibit 1** (the “**Property**”); and,

WHEREAS, the Tenant desires to lease from Landlord a certain portion of the Property, more particularly described or depicted in attached **Exhibit 2** (the “**Premises**”).

NOW THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree:

Tenant will pay a one-time signing bonus to Landlord in the amount of Two Thousand Dollars (\$2,000.00), if Landlord executes and returns this lease to Tenant on or before November 29, 2023, inclusive. Tenant will have no obligation to pay any signing bonus if Landlord executes and returns the Lease after November 30, 2023.

1. RIGHT TO LEASE.

- (a) Landlord grants to Tenant the right to lease a portion of the Property measuring approximately (50 feet x 50 feet, measuring 2500 sq. feet.) as described on attached **Exhibit 2**, together with unrestricted access for Tenant’s uses from the nearest public right-of-way along the Property to the Premises as described on the attached **Exhibit 2** (collectively, the “**Premises**”).
- (b) From and after the date of this Agreement as set forth above, and for the time period set forth below (the “**Testing Period**”), and at any time during the term of this Agreement, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, and other geological or engineering tests or studies of the Property (collectively, the “**Tests**”), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant’s sole discretion for its use of the Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the “**Government Approvals**”), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant’s sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord’s title to the Property and the feasibility or suitability of the Property for Tenant’s Permitted Use, all at Tenant’s expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant’s inspection. Tenant will restore the Property to its condition as it existed at the commencement of the Testing Period (as defined below), reasonable wear and tear and casualty not caused by Tenant excepted. In addition, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or claims arising directly out of Tenant’s Tests. The Testing Period activities and the terms and conditions related to the Testing Period, including the indemnification statements shall only apply to the area being leased to Tenant (“**Premises**”), and shall be limited to uses and activities identified in this Lease Agreement, which include the construction, operation, maintenance, of a

wireless communication site. The Initial Testing Period shall run from and after the date of this Agreement for a period of twenty-four (24) months, commencing on the date of full execution of this Lease.

- (c) During the Initial Testing Period and any mutually agreed upon extension thereof, Tenant may commence the Initial Term of this Agreement by notifying Landlord in writing. If Tenant commences the Initial Term, then Landlord leases the Premises to the Tenant subject to the terms and conditions of this Agreement. If Tenant does not commence the Agreement during the Initial Testing Period or any extension thereof, this Agreement will terminate and the parties will have no further liability to each other. Once Tenant completes testing and begins construction activities, the terms and conditions of this Lease shall apply, and Landlord shall have the right to collect Rent upon the Commencement Date.

2. TERM.

- (a) This Lease shall commence upon the earlier of (1) the election of Tenant by sending Notice of Commencement to Landlord or (2) on the first day of the month following testing completion and once construction has begun (the “**Commencement Date**”), which shall be confirmed in writing from Tenant to Landlord. Unless extended or sooner terminated as herein provided, the term shall be for a period of 360 months (30 years) following the Commencement Date (“**Initial Term**”). Upon the Commencement Date, Tenant shall provide initial Rent payment to Landlord within forty-five days and Landlord shall provide information to place or initiate automatic Rent payment delivery into Tenant’s accounting and payment system.
- (b) Tenant shall have the option to extend the term of this Lease for Four 5-year Extensions each (each a “**Renewal Term**”). Each Renewal Term shall commence automatically, unless Tenant delivers notice to Landlord of its intent not to renew, such notice to be delivered not less than thirty (30) days prior to the end of the then-current term.

- 3. **RENT.** Tenant shall pay rent to Landlord beginning at Commencement Date a monthly rental payment of **Seven Hundred Fifty Dollars (\$750.00)** (“**Rent**”) for the initial national broadband mobile network carrier to install equipment on the Communications Facility (“**Anchor Tenant**”), at the address set forth above on or before the fifth (5th) day of each calendar month in advance. Tenant shall also pay to Landlord **Two Hundred Fifty Dollars (\$250.00)** (“**Additional Rent**”) for each additional national broadband mobile network carrier to install equipment on the Communications Facility (“**Additional Tenants**”), as shown by the payment schedule below. Rent will be prorated for any partial month. The initial Rent payment will be forwarded by Tenant to Landlord within thirty (30) days from Commencement Date. On every anniversary from Commencement Date the Rent shall increase by Two percent (2%) over the previous years’ Rent amount.

Anchor Tenant: \$750.00 per month Rent

Anchor Tenant plus one Additional Tenant: \$750.00 plus \$250.00 /month

Anchor Tenant plus two Additional Tenants: \$750.00 plus \$500.00 /month

Anchor Tenant plus three Additional Tenants: \$750.00 plus \$750.00 /month

4. TAXES.

- (a) Tenant shall pay any personal property taxes assessed on, or any portion of such taxes attributable to the communications tower, lease area compound, and all equipment within the leased premises, including all improvements and tangible personal property of Tenant and/or its sublessees (“**Communications Facility**”). Landlord shall pay when due all real property taxes and all other fees and assessments attributable to the Property and Premises. Tenant shall pay as additional Rent any increase in real property taxes levied against Premises, which are directly attributable to Tenant's use of the Premises (but not, however, taxes attributable to periods prior to the Commencement Date such as roll-back or greenbelt assessments) if Landlord furnishes proof of such increase to Tenant. In no event shall Tenant be required to pay any income taxes or other special assessments of tax due as a result of the rental income from Tenant to Landlord. In the event that Landlord fails to pay when due any taxes affecting the Premises or the Easement, Tenant shall have the right but not the obligation to pay such taxes and deduct the full amount of the taxes paid by Tenant on Landlord’s behalf

from future installments of Rent. Tenant shall have the right to protest the amount of any taxes with any applicable taxing authority and Landlord shall reimburse to Tenant that amount of any reduction in taxes resulting from such protest.

- (b) Landlord shall provide Tenant with a copy of any and all tax assessment documents or notices relating to the Communications Facility within 10 days of receipt by Landlord. If Landlord fails to provide Tenant with such notices within the required timeframe, Tenant shall be relieved of any responsibility to pay such taxes and Landlord waives any claims or rights to seek payment from Tenant relating to such assessments.

5. USE.

- (a) Tenant may use the Premises for the purpose of erecting, installing, operating and maintaining a radio and communications tower, using any site-specific design including self-supporting tower, monopole stealth tower (e.g. monopine, bell tower, silo, etc.), or guy wire tower (with necessary cable anchor easements), to transmit and receive with equipment, antennas, dishes, mounting structures, buildings, and related equipment and for any other lawful purpose. Tenant may make any improvement, alteration or modification to the Premises as are deemed appropriate by Tenant. Tenant shall have the right to clear the Premises of any trees, vegetation, or undergrowth which, in Tenant's sole opinion, interferes with Tenant's use of the Premises for the intended purposes. Tenant shall have the exclusive right to install upon the Premises communications towers, buildings, equipment, backhaul equipment and cable for all wireless communication equipment to be installed on the Property, antennas, dishes, fencing, and other accessories related thereto, and to alter, supplement, and/or modify same as may be necessary.
- (b) Landlord grants Tenant the right to clear all trees, undergrowth, or other obstructions and to trim, cut and keep trimmed and cut all tree limbs, which may interfere with or fall upon the Communications Facility or Premises. Landlord grants Tenant a non-exclusive easement in, over, across and through other real property owned by Landlord as reasonably required for construction, installation, maintenance, and operation of the Communication Facilities. Tenant shall be entitled to sublease and/or sublicense the Premises, including any communications tower located thereon. At all times during the term of this Lease, Tenant, and its guests, agents, customers, lessees, and assigns shall have the unrestricted, exclusive right to use, and shall have free access to the Premises seven (7) days a week, twenty-four (24) hours a day. Tenant shall have the exclusive right to sublease or grant licenses to use the radio tower or any structure or equipment on the Premises, but no such sublease or license shall relieve or release Tenant from its obligations under this Lease. If at any time during the term of this Lease, the Federal Aviation Administration, Federal Communications Commission, or other governmental agency changes its regulations and requirements, or otherwise takes any action, the result of which inhibits Tenant's use of the Premises, or any communications tower located thereon, for the purposes originally intended by Tenant, or if technological changes render Tenant's intended use of the Premises obsolete or impractical, or if Tenant otherwise determines, in its sole and absolute discretion, with or without cause, that the Premises is no longer suitable or desirable for Tenant's intended use and/or purposes, Tenant shall have the right to terminate this Lease Agreement upon written notice to Landlord.

- 6. ACCESS AND UTILITIES.** Landlord for itself, its successors and assigns, hereby grants and conveys unto Tenant, its' customers, employees, agents, invitees, successors and assigns a nonexclusive easement for ingress and egress, as well as for the construction, installation, operation and maintenance of overhead and underground electric and other utility facilities (including wires, poles, conduits and appurtenant equipment), with the right to reconstruct, improve, add to, enlarge, change and remove such facilities, over, across and through any easement for the benefit of and access to the Premises, subject to the terms and conditions herein set forth. The rights granted to Tenant herein shall also include the right to partially assign its rights hereunder to any public or private utility company or authority, along with the right to modify, adjust, or redesign any such access and utility easement in order to comply with local or state fire access requirements and enjoy all other rights and privileges reasonably necessary for Tenant's safe and efficient use and enjoyment of the easement for the purposes described above.

- 7. EQUIPMENT, FIXTURES AND SIGNS.** All improvements, equipment or other property attached to or otherwise brought onto the Premises shall at all times be the personal property of Tenant and/or its subtenants and licensees. Tenant or its customers shall have the right to erect, install, maintain, and operate on the Premises

such equipment, structures, fixtures, signs, and personal property as Tenant may deem necessary or appropriate, and such property, including the equipment, structures, fixtures, signs, and personal property currently on the Premises, shall not be deemed to be part of the Premises, but shall remain the property of Tenant or its customers. At any time during the term of this Lease Agreement, Tenant or its customers shall have the right to remove their equipment, structures, fixtures, signs, and personal property from the Premises. Within a reasonable time after termination hereof, Tenant or its customers shall have the obligation to remove all above ground equipment, structures, fixtures, signs, and personal property from the Premises.

8. ASSIGNMENT. Tenant may assign this Lease to any person or entity at any time without the prior written consent of Landlord. In the event of any such assignment of this Lease, Tenant shall provide written notification to Landlord of such assignment. After delivery by Tenant to Landlord of an instrument of assumption by an assignee that assumes all the obligations of Tenant under this Lease, Tenant will be relieved of all liability hereunder. Landlord may assign this Lease, in whole or in part, to any person or entity (a) who or which acquires fee title to the Premises and/or (b) who or which agrees to be subject to and bound by all provisions of this Lease. Except for the foregoing, assignment of this Lease by Landlord must be approved by Tenant, in Tenant's sole discretion. Notwithstanding any prohibition on assignment set forth herein, Tenant may collaterally assign its rights hereunder to a lender ("Lender") as security for a loan. In event of default by Tenant of Tenant's obligations to any Lender, Tenant's Lender shall have the express right to assume the Tenant's obligations under the Lease and acquire and/or sell all of the Tenant's rights under the Lease and improvements without consent from the Landlord.

9. WARRANTIES AND REPRESENTATIONS.

- (a) Landlord warrants and represents that it is the owner in fee simple of the Premises, free and clear of all liens and encumbrances except as to those which may have been disclosed to Tenant, in writing prior to the execution hereof, and that it alone has full right to Lease the Premises for the term set out herein. Landlord further represents and warrants that Tenant, on paying the Rent and performing its obligations hereunder, shall peaceably and quietly hold and enjoy the Premises for the term of this Lease.
- (b) Landlord shall promptly pay all real estate taxes and assessments against the Premises when due and shall avoid any delinquencies with respect thereto. Landlord shall also pay promptly, when due, any other amounts or sums due and owing with respect to its ownership and operation of the Premises, including, without limitation, judgments, liens, mortgage payments and other similar encumbrances. If Landlord fails to make any payments required under this Lease, such as the payment of real estate taxes and assessments, or breaches any other obligation or covenant under this Lease, Tenant may (without obligation), after providing ten (10) days written notice to Landlord, make such payment or perform such obligation on behalf of Landlord. The full amount of any costs so incurred by Tenant (including any attorneys' fees incurred in connection with Tenant performing such obligation) shall be paid by Landlord to Tenant with interest at the statutory rate thereon.
- (c) Landlord does hereby authorize Tenant and its employees, representatives, agents and consultants to prepare, execute, submit, file and present on behalf of Landlord building, permitting, zoning or land-use applications with the appropriate local, state and/or federal agencies necessary to obtain land use changes, special exceptions, zoning variances, conditional use permits, special use permits, administrative permits, construction permits, operation permits and/or building permits. Landlord understands that any such applications and/or the satisfaction of any requirements thereof may require Landlord's cooperation, which Landlord hereby agrees to provide. Landlord's authorization to Tenant under this paragraph shall be limited to uses and activities identified in this Lease Agreement, which include the construction, operation, and maintenance, of a wireless communication site.
- (d) Landlord shall not do or permit anything that will interfere with or negate any special use permit or approval pertaining to the Premises or cause any tower on the Premises to be in nonconformance with applicable local, state, or federal laws. Landlord shall cooperate with Tenant in any effort by Tenant to obtain certificates, permits, licenses and other approvals that may be required by any governmental authorities. Landlord agrees to execute any necessary applications, consents or other documents as may be reasonably necessary for

Tenant to apply for and obtain the proper zoning approvals required to use and maintain the Premises and the tower site.

- (e) Landlord has complied with all, and will continue to comply with environmental, health, and safety laws with respect to the Premises, and no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand, or notice has been filed or commenced against Landlord or regarding the Premises alleging any failure to so comply. Without limiting the generality of the preceding sentence, Landlord and the Premises are in compliance with all environmental, health, and safety laws. No asbestos-containing thermal insulation or products containing PCB, formaldehyde, chlordane, or heptachlor or other hazardous materials have been placed on or in the Premises by Landlord or, to the knowledge of Landlord, by any prior owner or user of the Premises. To the knowledge of Landlord, there has been no release of or contamination by hazardous materials on the Premises. Landlord hereby agrees to indemnify, defend and hold harmless the other party, its parent company or other affiliates, successors, assigns, officers, directors, shareholders, agents and employees (collectively, "Indemnified Persons"), from and against all claims and liabilities (including reasonable attorneys' and fees court costs) caused by or arising out of the presence of any asbestos or hazardous material present at the Property except to the extent such presence was caused by Tenant.
- (f) All utilities required for the operation of the Tenant's improvements enter the Premises through adjoining public streets or, if they pass through an adjoining private tract, do so in accordance with valid public easements. All utilities are installed and operating, and all installation and connection charges have been paid in full or will, if not paid, be paid by Tenant.
- (g) Landlord has no knowledge of any fact or condition that could result in the termination or reduction of the current access from the Premises to existing highways and roads, or to sewer or other utility services serving the Premises. The Premises abuts on and has direct vehicular access to a public road or has access to a public road via a permanent, irrevocable, appurtenant easement benefiting the parcel of real property, and access to the property is provided by, and will continue to be provided by, paved public right-of-way with adequate curb cuts available.
- (h) With respect to the Premises, except as disclosed in writing to Tenant prior to the execution hereof: there currently exist no licenses, sublicenses, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the of Premises; there are no outstanding options or rights of first refusal to purchase the Premises or any portion thereof or interest therein; and there are no parties (other than Landlord) in possession of the Premises.
- (i) It is intended that the legal description of the Premises accurately reflect an "as-built" survey of any existing communications tower and accordingly the parties agree that, if any part of such tower, buildings, roadways, utilities, or anchors related to the communications tower located on the Premises is located beyond the legal description of the Premises or any easements specified in the Lease, the Lease is hereby amended to provide that the Premises includes the existing location of any such improvements as part of the Premises demised in the Lease, to the extent that such improvements are located on real property owned by Landlord. To the extent that such improvements are not located on real property owned by Landlord, Landlord shall cooperate with Tenant and shall use reasonable efforts to secure approval and/or permission from the owner of the real property on which such improvements are located.
- (j) Landlord agrees to utilize reasonable efforts to obtain a Subordination and Non-Disturbance Agreement from Landlord's lender upon request by Tenant.

10. HOLD OVER TENANCY. Should Tenant or any assignee, sublessee or licensee of Tenant hold over the Premises or any part thereof after the expiration of the term set forth herein, such holdover shall constitute and be construed as a tenancy from month-to-month only, but otherwise upon the same terms and conditions.

11. INDEMNITIES. The parties agree to indemnify, defend and hold harmless the other party, its parent company or other affiliates, successors, assigns, officers, directors, shareholders, agents and employees (collectively, "Indemnified Persons"), from and against all claims and liabilities (including reasonable attorneys' and fees court costs) caused by or arising out of (i) such party's breach of any of its obligations, covenants, or

warranties contained herein, or (ii) such party's acts or omissions with regard to the Lease. However, in the event of an Indemnified Person's contributory negligence or other fault, the Indemnified Person shall not be indemnified hereunder to the extent that the Indemnified Person's negligence or other fault caused such claim or liability.

- 12. WAIVERS.** EACH PARTY HERETO WAIVES ANY AND ALL CLAIMS AGAINST THE OTHER FOR ANY LOSS, COST, DAMAGE, EXPENSE, INJURY OR OTHER LIABILITY WHICH IS IN THE NATURE OF INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH ARE SUFFERED OR INCURRED AS THE RESULT OF, ARISE OUT OF, OR ARE IN ANY WAY CONNECTED TO THE PERFORMANCE OF THE OBLIGATIONS UNDER THIS LEASE.
- 13. INSURANCE.** Tenant shall insure against property damage and bodily injury arising by reason of occurrences on or about the Premises in the amount of not less than \$1,000,000. The insurance coverage provided for herein may be maintained pursuant to master policies of insurance covering other tower locations of Tenant and its corporate affiliates. All insurance policies required to be maintained by Tenant hereunder shall be with responsible insurance companies, authorized to do business in the state where the Premises are located if required by law, and shall provide for cancellation only upon 10 days' prior written notice to Landlord. Tenant shall evidence such insurance coverage by delivering to Landlord, if requested, a copy of all such policies or, at Tenant's option, certificates in lieu thereof issued by the insurance companies underwriting such risks.
- 14. INTERFERENCE.** During the term of this Lease, Landlord, its successors and assigns, will not grant any ground lease, license, or easement with respect to any property adjacent to the Premises: (a) for any of the uses contemplated in paragraph 5 herein; or (b) if such lease, license, or easement would detrimentally impact Tenant's Communications Facility, or the use thereof. Landlord shall not cause or permit the construction of radio or communications towers on the Premises or on any other property of Landlord adjacent or contiguous to or in the immediate vicinity of the Premises, except for towers constructed by Tenant.
- 15. ASSIGNMENT OF RENTAL PROCEEDS.** Tenant shall have the right to match any bonafide offer to purchase the rental proceeds in this Lease Agreement and or any other legal entitlements. This Tenant right to match a bonafide offer is not applicable to a sale of Landlord's property, but rather a sale of rights conferred to Landlord under this Lease Agreement for the Premises. If during the term of this Lease, as might be renewed or extended the Landlord shall have received a bona fide arm's length offer to purchase the Premises or an assignment of the rental stream associated with this Lease, or both, from any third party (the "Transferee"), the Landlord shall serve a notice (the "Transfer Notice") upon the Tenant. The Transfer Notice shall set forth the exact terms of the offer so received, together with a copy of such offer, and shall state the desire of the Landlord to sell the Premises on such terms and conditions. Thereafter, the Tenant shall have the right and option to purchase the Premises at the price and upon the terms and conditions specified in the offer (the "Offer"). If the Tenant desires to exercise its option, it shall give notice (the "Counternotice") to that effect to the Landlord within thirty (30) days after receipt of the Transfer Notice. The closing of the purchase and sale of the Premises pursuant to this option shall occur at the time set forth in the Offer, provided that Tenant shall not be required to close before the 15th day following the date of the Counternotice. The Tenant's failure to give a timely Counternotice (or its notice of refusal to purchase) shall be deemed a waiver of its rights under this paragraph with respect to any modification to the Offer or any future Offers. Landlord agrees not to sell, lease or use any of the subject Property or Surrounding Property to a purchaser other than the Tenant for the installation, operation, or maintenance of other wireless communication facilities without the express written permission of Tenant and subject to a study to determine if such other facility might interfere with the then existing equipment and structures. Tenant shall retain the right to refuse such use for any reason. Landlord shall not be prohibited from the selling, leasing or use of the Property or Surrounding Property for non-wireless communication use. In the event the Property is transferred, the new Landlord shall have a duty at the time of transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, or other paperwork required to affect a transfer of Rent to the new Landlord. The provisions of this paragraph shall in no way limit Tenant's rights or Landlord's obligations under the terms of this Lease.
- 16. SECURITY.** The parties recognize and agree that Tenant shall have the right to safeguard and protect its improvements located upon or within the Premises. Consequently, Tenant may elect, at its expense, to construct such enclosures and/or fences as Tenant reasonably determines to be necessary to secure its improvements,

including the tower(s), building(s), and related improvements situated upon the Premises. Tenant may also undertake any other appropriate means to restrict access to its communications towers, buildings, and related improvements. The security activities under this paragraph shall only apply to the area being leased to Tenant (“Premises”) and shall be limited to uses and activities identified in this Lease Agreement, which include the construction, operation, maintenance, of a wireless communication site.

17. **FORCE MAJEURE.** The time for performance by Landlord or Tenant of any term, provision, or covenant of this Agreement shall be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, material or labor restrictions by governmental authority, and any other cause not within the control of Landlord or Tenant, as the case may be.
18. **CONDEMNATION.** Notwithstanding any provision of the Lease to the contrary, in the event of condemnation of the Premises, the Landlord and Tenant shall be entitled to separate awards with respect to the Premises, in the amount determined by the court conducting such condemnation proceedings based upon the Landlord’s and Tenant’s respective interests in the Premises. If a separate condemnation award is not determined by such court, Landlord shall permit Tenant to participate in the allocation and distribution of the award. In no event shall the condemnation award to Landlord exceed the unimproved value of the Premises, without taking into account the improvements located thereon, and in no event shall the Lease be terminated or modified (other than an abatement of Rent) due to a casualty or condemnation without the prior written consent of Tenant.
19. **DEFAULT.** The failure of Tenant or Landlord to perform any of the covenants of this Agreement shall constitute a default. The non-defaulting party shall give the other written notice of such default, and the defaulting party shall cure such default within thirty (30) days after receipt of such notice. In the event any such default cannot reasonably be cured within such thirty (30) day period, if the defaulting party shall proceed promptly after the receipt of such notice to cure such default, and shall pursue curing such default with due diligence, the time for curing shall be extended for such period of time as may be necessary to complete such curing, however, in no event shall this extension of time be in excess of sixty (60) days, unless agreed upon by the non-defaulting party.
20. **ATTORNEY’S FEES.** If there is any legal proceeding between Landlord or Tenant arising from or based on this Agreement, the unsuccessful party to such action or proceeding shall pay to the prevailing party all costs and expenses, including reasonable attorney’s fees and disbursements, incurred by such prevailing party in such action or proceeding and in any appeal in connection therewith. If such prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorney’s fees and disbursements shall be included in and as a part of such judgment.
21. **PRIOR AGREEMENTS.** The parties hereby covenant, recognize and agree that the terms and provisions of this Lease shall constitute the sole embodiment of the arrangement between the parties with regard to the Premises, and that all other written or unwritten agreements, contracts, or leases by and between the parties with regard to the Premises are hereby terminated, superseded and replaced by the terms hereof.
22. **NOTICES.** All notices, requests, claims, demands, and other communications hereunder shall be in writing and may be hand delivered (provided the deliverer provides proof of delivery) or sent by nationally-established overnight courier that provides proof of delivery, or certified or registered mail (postage prepaid, return receipt requested). Notice shall be deemed received on the date of delivery as demonstrated by the receipt of delivery. Notices shall be delivered to parties at the address below, or to such other address that a party below may provide from time to time:

LANDLORD:

City of Nome
PO Box 281
NOME, AK 99762
gsteckman@nomealaska.org
907-443-6600

TENANT:

Atlas Tower 1, LLC
3002 Bluff Street, Suite 300
Boulder, CO 80301

23. **MISCELLANEOUS.**

- (a) Each party hereto warrants and represents that it has the necessary power and authority to enter into and perform its respective obligations under this Lease.
- (b) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.
- (c) All attached exhibits are hereby incorporated by this reference as if fully set forth herein.
- (d) Failure of either party to insist on strict performance of any of the conditions or provisions of this Lease, or failure to exercise any of a party's rights hereunder, shall not waive such rights.
- (e) This Lease shall be governed by and construed in accordance with the laws of the state in which the Leased Premises are located.
- (f) This Lease constitutes the entire Lease and understanding of the parties and supersedes all offers, negotiations and other lease agreements with regard to the Leased Premises. There are no representations or understandings of any kind not set forth herein. Any amendment to this Lease must be in writing and executed by both parties.
- (g) This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
- (h) A short-form memorandum of this Lease may be recorded at Landlord or Tenant's option in the form as depicted in **Exhibit 3** attached hereto and each party hereby agrees to execute such form promptly following request by the other.
- (i) Landlord agrees to provide Tenant with a completed W-9 form upon Lease execution for Tenant's bookkeeping and tax accounting purposes.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK,
SIGNATURES BEGIN ON NEXT PAGE]**

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date last signed by a party hereto.

LANDLORD:

City of Nome

Signature: _____

Printed Name: _____

Title: _____

Date: _____

TENANT:

Atlas Tower 1, LLC

Signature: _____

Printed Name: Helmundt Strumper

Title: COO

Date: _____

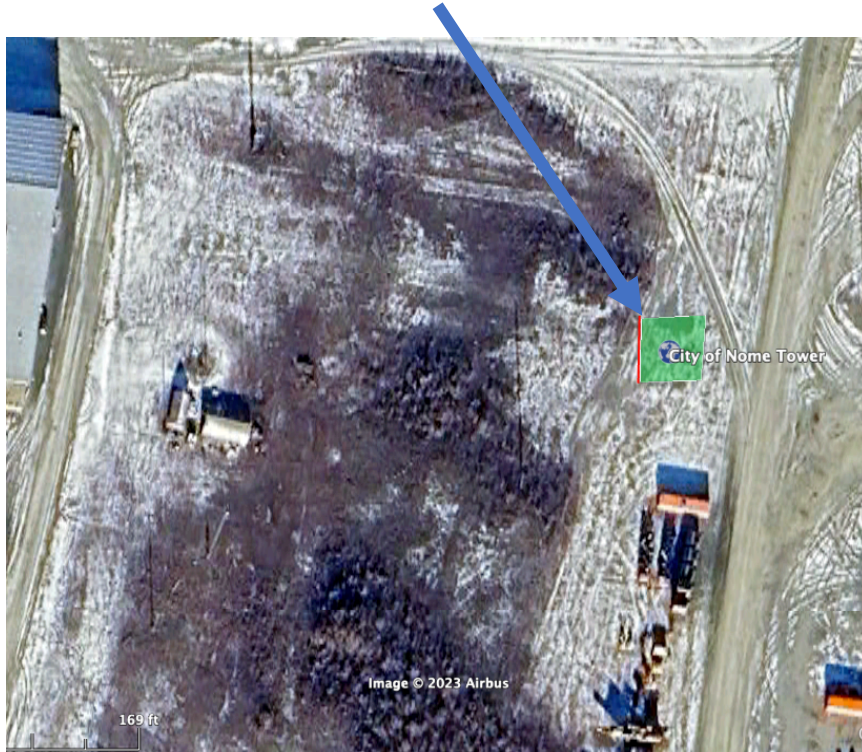
EXHIBIT 1
Description of Parent Tract

Real property with parcel number 198.2.095 and an assessor legal description of To be Determined .

EXHIBIT 2

The Premises is depicted/described as follows: (50 feet x 50 feet, measuring 2500 sq. feet.) and will be replaced by a surveyed legal description when available.

PREFERRED TOWER LOCATION:



ENTIRE PARCEL OUTLINED IN BLUE:



Tower Name: NOME AK GCI - City of Nome

EXHIBIT 3

Memorandum of Lease Agreement attached hereto on subsequent pages.

Return to:
Atlas Tower 1, LLC
3002 Bluff Street, Suite 300
Boulder, CO 80301

MEMORANDUM OF LEASE AGREEMENT

This Memorandum of Lease evidences a Lease (“Lease”) is made upon the date of the last signee, in the recording district of NOME CENSUS County, AK, by and between, City of Nome (the “Landlord”), whose address is PO Box 281 NOME, AK 99762, and Atlas Tower 1, LLC (the “Tenant”), whose address is 3002 Bluff Street, Suite 300, Boulder, CO 80301, commencing upon the earlier of (1) the election of Tenant by sending Notice of Commencement to Landlord or (2) on the first day of the month following testing completion and once construction has begun (the “Commencement Date”), which shall be confirmed in writing from Tenant to Landlord, for certain real property (the “Premises”), as described in Exhibit 1 attached hereto.

Landlord ratifies, restates and confirms the Lease and hereby Leases to Tenant the Premises, subject to the terms and conditions of the Lease. The Lease provides for the Lease by the Landlord to Tenant of the Premises for [a/an initial] term of 360 months (30 years) with Four 5-year Extensions each, and further provides:

1. Landlord will attorn to any mortgagee of Tenant and will subordinate any Landlord’s lien to the liens of Tenant’s mortgagees;
2. The Lease restricts Landlord’s ability to utilize, or allow the utilization of its adjacent property for the construction, operation and/or maintenance of communications towers and related facilities;
3. The Premises may be used exclusively by Tenant for all legal purposes, including without limitation, erecting, installing, operating and maintaining radio and communications towers, buildings, and equipment;
4. Tenant is entitled to sublease and/or sublicense the Premises, including any communications tower located thereon; and,
5. Under certain circumstances, Tenant has a right of first refusal to acquire the Premises from Landlord.
6. Landlord authorizes Tenant, and any of Tenants agents or representatives, to seek, applies for, and secure any and all permits related to the installation of a wireless communications tower and facility.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK,
SIGNATURES BEGIN ON NEXT TWO PAGES]**

IN WITNESS WHEREOF, the parties hereto have executed this MEMORANDUM OF LEASE as of the date last signed by a party hereto.

LANDLORD:

City of Nome

Signature: _____

Printed Name: _____

Title: _____

Date: _____

State of _____

County of _____

On this _____ day of _____, 20____, before me personally appeared to me _____
_____ known (or proved to me on the basis of satisfactory evidence) to be the
person(s) described in and who executed the foregoing instrument and acknowledged that they executed
the same as their free act and deed.

WITNESS my hand and Official Seal at office this _____ day of _____, 20____.

Notary Public

My Commission Expires:

TENANT:

Atlas Tower 1, LLC

Signature: _____

Printed Name: Helmundt Strumpher

Title: COO

Date: _____

State of Colorado

County of Boulder

On this ____ day of _____, 20__, before me personally appeared Helmundt Strumpher, COO of Atlas Tower 1, LLC, to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and Official Seal at office this ____ day of _____, 20__.

Notary Public

My Commission Expires:

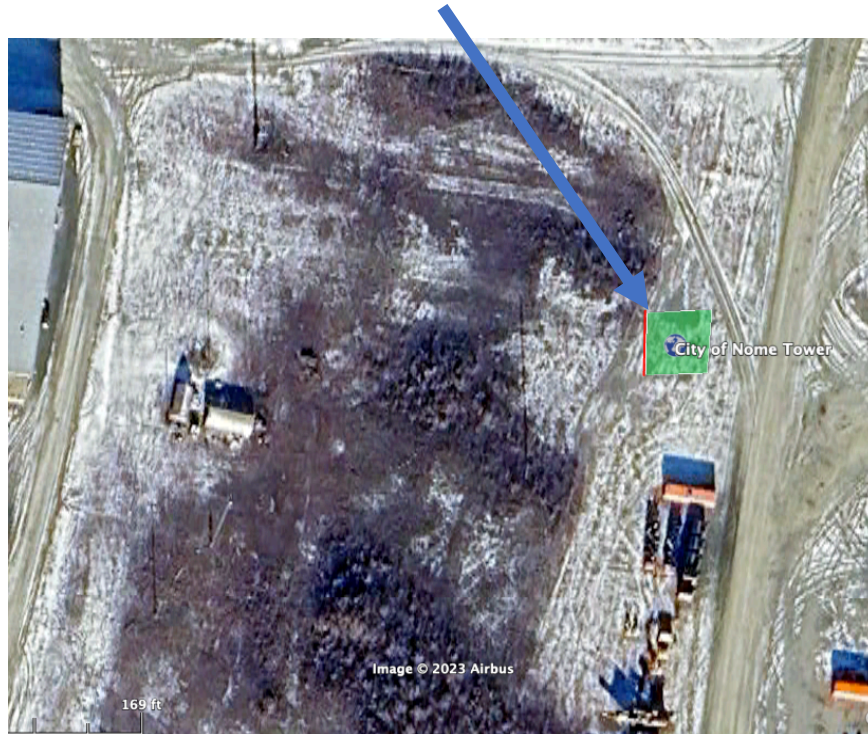
EXHIBIT 1
Description of Parent Tract

Real property with parcel number 198.2.095 and an assessor legal description of To be Determined.

EXHIBIT 2

The Premises is depicted/described as follows: (50 feet x 50 feet, measuring 2500 sq. feet.) and will be replaced by a surveyed legal description when available.

PREFERRED TOWER LOCATION:



ENTIRE PARCEL OUTLINED IN BLUE:



Tower Name: NOME AK GCI - City of Nome