

TELECOMMUNICATIONS MARKETING MASTER AGREEMENT

THIS TELECOMMUNICATIONS MARKETING MASTER AGREEMENT (this “Agreement”) is dated this ___ day of _____, 2022, by and between **BUNCOMBE COUNTY**, a political subdivision of the State of North Carolina, hereinafter, (“Owner”) and **MILESTONE DEVELOPMENT, INC.**, a Delaware corporation (“Milestone”), with reference to the following:

A. Owner owns certain real property located in Buncombe County, North Carolina.

B. Owner and Milestone wish to enter into an Agreement by which Owner shall provide Milestone with the exclusive right to market the Owner-owned properties listed on **Exhibit A**, attached hereto and made a part hereof, (each such property a “Site” and collectively, the “Sites”) for the purposes of (i) Milestone’s construction and ownership of one or more telecommunications monopoles and related infrastructure thereon, and leasing space on the monopole(s) and ground to telecommunication service providers; and (ii) Milestone marketing selected Owner-owned structures (each, a “Structure”) including, but not limited to buildings, water tanks, water towers, towers, poles, electrical or power poles or other improvements also listed on **Exhibit A** to telecommunication service providers and entering into agreements with such parties for the use of such Structures. Any such construction and leasing are contingent, however, on Owner and Milestone (or one of its affiliates) entering into a Site Lease or a Structure Lease (as defined herein) to occupy the Site and Milestone (or one of its affiliates) obtaining all necessary zoning and other approvals.

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

1. Agreement to Market and Manage.

1.1 Subject to the terms and conditions of this Agreement, Milestone may market the Sites, including the Sites with and without Structures, listed on **Exhibit A** to Approved Carriers (as defined herein) for attachment of such Approved Carriers’ equipment. Such marketing may occur before or after Owner enters into a Site Lease or a Structure Lease, but any marketing of a Site before Final Approval of that Site’s Site Lease or Structure Lease shall be expressly contingent upon Final Approval of such Site Lease or Structure Lease. Owner and Milestone agree that Milestone shall render its services, including but not limited to, identifying, contacting and screening wireless communication companies or business entities whose operations would benefit from utilizing one or more Sites for the installation, utilization, operation and/or maintenance of radio, wireless, and/or satellite communications transmission and receiving antennas, towers and/or equipment in order to use said Site or Sites for radio, wireless and/or satellite communications transmitting and/or receiving location. Owner hereby grants Milestone the exclusive right and authority to act for the purpose of marketing each Site to procure Approved Carriers to enter into leasing agreements for Sites covered or to be covered by Site Leases or Structure Leases. The parties agree that any Monopoles and other structures constructed by Milestone pursuant to this Agreement and any applicable Site Lease may be

owned by an affiliate of Milestone, including but not limited to Milestone Tower Limited Partnership – IV or Milestone Tower Limited Partnership - V. The parties also agree that Milestone may designate an affiliate of Milestone (including but not limited to Milestone Tower Limited Partnership – IV, Milestone Tower Limited Partnership - V or Milestone Tower Management, LLC) to enter into a Site Lease or Structure Lease with Owner and to exercise all of the rights of Milestone with respect to such agreements as described herein and therein.

1.2 If Owner is currently a party to any pre-existing agreements with Approved Carriers for a Site (“Pre Existing Carrier Leases”), Owner may assign the Pre-Existing Carrier Leases to Milestone or its affiliate and concurrently therewith enter into a Site Lease or Structure Lease, as applicable, with Milestone or its affiliate with respect to such Site(s). Following any such assignment, Milestone shall manage the assigned Pre Existing Carrier Leases and be the direct contact for the Carrier at such Site and shall remit to Owner all amounts required to be paid to Owner as set forth in Article 6 this Agreement.

2. Term of Agreement.

2.1. The term of this Agreement shall be five (5) years (the “Initial Term”), with three (3) five (5) year extension terms (each an “Extension Term” and together with the Initial Term, the “Term”) The Extension Terms hereof shall automatically commence as of the expiration of the then current term unless Milestone provides thirty (30) days’ advance written notice of its intent not to so renew the term hereof. If either party wishes to so extend the Agreement past the third Extension Term, it shall provide written notice to the other party thereof in the final year of the third Extension Term and no later than ninety (90) days before the expiration thereof, and each other party shall respond in writing within fourteen (14) days whether it elects to so extend the Term or allow the Agreement to terminate. Failure to respond shall be an election to allow the Agreement to expire. In the event that the parties agree to extend the term of this Agreement, an amendment to this Agreement confirming the extension of the Term shall be executed and delivered.

2.2. If at the end of the Term, Milestone has received Final Approval and filed a Zoning and Permitting Application with respect to an Approved Site, then Milestone shall have up to an additional twelve (12) months to obtain all Governmental Approvals for the Approved Site; provided, however, that Milestone at all times shall diligently pursue such Governmental Approvals. If Milestone obtains the Governmental Approvals within such twelve (12) month period, Owner shall grant a Site Lease or Structure Lease with regard to such Approved Site notwithstanding that the Term hereof has expired. Not later than thirty (30) days after the end of the Term, Milestone shall present to Owner a list of Sites subject to potential granting of Site Leases or Structure Leases under this Section 2.2, and shall keep Owner apprised at least monthly in writing of the status of such Governmental Approvals.

2.3. Owner and Milestone acknowledge and agree that the expiration of the Term hereof shall in no way affect, reduce or terminate the term of any Site Lease or Structure Lease then (or thereafter in accordance with Section 2.2 above) in existence or Milestone’s rights thereunder.

3. Duration of Leases; Terms.

3.1. The term of each Site Lease or Structure Lease shall be set by Owner in each Site Lease or Structure Lease, commencing on that date such Site Lease or Structure Lease is executed; provided that the term of each such Site Lease shall be a minimum of a ten (10) year initial term, with up to four (4) 5-year extension terms, which extension terms shall automatically commence as of the expiration of the then current term unless Milestone provides thirty (30) days' advance written notice of its intent not to so renew the term thereof. Each Site Lease shall be substantially in the form attached hereto as **Exhibit B** (the "Site Lease") and each such Site Lease shall control over any contrary provision of this Agreement. Each Structure Lease shall be substantially in the form attached hereto as **Exhibit C** (the "Structure Lease") and each such Structure Lease shall control over any contrary provision of this Agreement.

3.2. Owner may terminate any Site Lease or Structure Lease on the terms and conditions described in the Site Lease or Structure Lease, including in the case of a default by Milestone under such Site Lease or Structure Lease, following the expiration of any applicable cure periods.

3.3. Milestone may terminate any Site Lease or Structure Lease on the terms and conditions described in the Site Lease or Structure Lease, including in the case of a default by Owner under such Site Lease or Structure Lease, following the expiration of any applicable cure periods.

4. Duration of Carrier Subleases; Terms.

4.1. Each Carrier Sublease shall be for a term no longer than the remaining term of the Site Lease or Structure Lease for the applicable Site.

4.2. Milestone shall be entitled to sublease space on a Monopole or in an Equipment Facility (as defined herein), or on a Structure, without Owner's prior approval provided that (a) the sublessee is an Approved Carrier as defined in Section 20.2 of this Agreement, (b) no Event of Default exists hereunder, (c) the term of the Carrier Sublease does not exceed the remaining term of the applicable Site Lease or Structure Lease, and (d) Milestone furnishes Owner with a copy of such sublease. Otherwise, any lease, sublease, license or other occupancy agreement with respect to any Site shall be in form and substance approved in advance by Owner in its discretion, which may be withheld but shall not be unreasonably delayed.

5. Site Assessments; Approved Sites; Development.

5.1. Within a commercially reasonable period after the date hereof, Milestone may, at its sole cost and expense, prepare and deliver to Owner a Site Assessment with regard to one or more Sites with potential for Development. Owner hereby grants a non-transferable non-exclusive license, revocable at will, to Milestone to enter each Site to conduct a Site Assessment under the terms provided in this Section 5.1, the insurance requirements of Section 13 of this Agreement, and the indemnification provided in Section 14.1 of this Agreement. Milestone may

wish, but shall not be required, to conduct on-site tests or studies as part of a Site Assessment. Should Milestone wish to perform any on-site tests or studies with respect to any Site, Milestone shall first contact Owner to arrange a mutually acceptable time for such tests and studies to be conducted. Owner may elect to have Owner personnel accompany the person or persons performing such tests and studies. Following any such tests and studies, Milestone shall immediately restore the Site to its previous condition. Milestone shall perform any such tests and studies in a manner so as to minimize any impact on any Owner uses on the Site. Owner shall have the right to withhold its consent to any tests or studies which, in the sole and absolute determination of Owner, may materially alter any Site or interfere with Owner's use of the Site. At Owner's request, Milestone shall also furnish proof that Milestone and its contractors have the insurance coverage required under Section 13 hereof.

5.2. At any time during the Term, Milestone may submit to Owner a Request for Approval with respect to one or more Sites. Upon Milestone's Request for Approval of a Site for Development, the following shall occur:

(a) Owner shall contact the manager of the Site (if any) for the purpose of scheduling a meeting to solicit input into and concerning Development of the Site, and thereafter obtaining Preliminary Approval.

(b) At such time as Preliminary Approval has been obtained for a Site, Milestone shall cause to be prepared and deliver to Owner a Site Plan for the Site, consistent with the Preliminary Approval.

(c) Upon execution of the appropriate Site Lease or Structure Lease for the applicable Site, Milestone shall promptly file all necessary Zoning and Permitting Applications with respect to the Site, and shall thereafter diligently seek all other Governmental Approvals. Milestone shall keep Owner apprised of its progress with regards to all permits.

5.3. Owner has no liability to Milestone or any party claiming under Milestone as a result of the denial or conditioning of any Governmental Approval.

5.4. Upon securing all Governmental Approvals and upon the execution of a Site Lease or Structure Lease, Milestone shall promptly commence and diligently pursue the Development of the Approved Site.

5.5. Prior to initiation of site development, Milestone shall post the security for facility removal as may be reasonably required by Owner, consistent with Owner's past practices and in amounts customary in the industry. The security shall be in the form of cash deposited into escrow with Owner, a bond or irrevocable letter of credit from an institution meeting the requirements of the Securities Policy.

6. Duties of Milestone; Compensation to Milestone.

6.1. Milestone shall exercise commercially reasonable efforts to market and lease Sites to maximize revenue to the parties.

6.2. Milestone shall be entitled to retain Sixty Percent (60%) of the Monthly Gross Rental Revenues derived from the use, leasing or occupancy of any Monopole, Equipment Facility or Site pursuant to this Agreement and the applicable Site Lease.

6.3. Milestone shall be entitled to retain: (i) Ten Percent (10%) of the Monthly Gross Rental Revenues derived from the use, leasing or occupancy of any portion of the Structure arising from Pre Existing Carrier Leases that were assigned to Milestone; and (ii) twenty-five percent (25%) of all other Monthly Gross Rental Revenues (other than those described in the preceding clause (i)) derived from the use, leasing or occupancy of any portion of the Structure, including any additional revenue generated by Milestone on account of amendments, expansions or modifications to the Pre Existing Carrier Leases.

7. Duties of Owner and Milestone; Compensation to Owner.

7.1. Other than the consideration expressly provided in this Agreement, Owner shall receive no other consideration from Milestone for entering into or performing this Agreement.

7.2. As consideration for the leasing of any particular Site under and pursuant to a Site Lease, Milestone shall pay to Owner an amount equal to forty percent (40%) of the Monthly Gross Rental Revenues derived from the use, leasing or occupancy of any Monopole, Equipment Facility or Site pursuant to the Site Lease for the preceding calendar month. All compensation hereunder to Owner shall be accompanied by a written statement from Milestone, verifying the calculation of the compensation for the applicable month.

7.3. As consideration for the leasing of any particular Structure under and pursuant to a Structure Lease, Milestone shall pay to Owner an amount equal to (i) Ninety Percent (90%) of the Monthly Gross Rental Revenues derived from the use, leasing or occupancy of any portion of the Structure arising from Pre Existing Carrier Leases that were assigned to Milestone for the preceding calendar month; and (ii) seventy-five percent (75%) of all other Monthly Gross Rental Revenues (other than those described in the preceding clause (i)) derived from the use, leasing or occupancy of any portion of the Structure, including any additional revenue generated by Milestone on account of amendments, expansions or modifications to the Pre Existing Carrier Leases, for the preceding calendar month. All compensation hereunder to Owner shall be accompanied by a written statement from Milestone, verifying the calculation of the compensation for the applicable month.

8. Ownership of Site Improvements; Removal.

8.1 Ownership of the Facilities located on an Approved Site shall remain with Milestone during the term (including all renewals, replacements and extensions) of the Site Lease for the Approved Site.

8.2 Following the term of a Site Lease, Milestone shall remove the Facilities or transfer ownership of the Facilities to Owner on the terms and conditions of such Site Lease.

9. Assignment; Financing.

9.1. This Agreement may be assigned in whole or in part, without the prior consent of Owner, to any corporation, partnership or other entity which (i) is controlled by, controlling or under common control with Milestone; (ii) shall merge or consolidate with or into Milestone; (iii) shall succeed to all or substantially all of the assets, property and business of Milestone; (iv) in which Milestone Communications Management IV, Inc. or a wholly owned affiliate of Milestone Communications Management IV, Inc. is at all times the general partner; or (v) any telecommunications company that (together with its affiliates) has assets in excess of One Hundred Million Dollars (\$100,000,000). In connection with any such assignment, (1) the assignee shall agree to be bound by all terms and conditions of this Agreement as a condition to such assignment, and (2) thirty (30) days' prior notice of the assignment must be given to Owner, in writing. Owner shall release Milestone from liability under this Agreement following a permitted assignment by Milestone as described in this Section.

9.2. Individual Site Leases, Structure Leases and Carrier Subleases may be collaterally assigned by Milestone (or any affiliate of Milestone if entered into by such affiliate) to a Lender as security for Milestone's financing, subject to the terms and conditions set forth therein. In addition, individual Site Leases, Structure Leases and Carrier Subleases may be assigned to third parties separate and apart from this Agreement as set forth in the Site Leases, Structure Leases and Carrier Subleases.

10. Right of First Offer. During the Term (and any extension of the Term) and thereafter during the first five (5) years of the term of each Site Lease or Structure Lease, Owner shall not grant a Site Lease or Structure Lease on any Site to a person or entity competing with Milestone in the business of constructing towers or Monopoles to lease or license to third parties or leasing or licensing space on Structures to third parties for communications purposes. If Owner is contacted by any telecommunications carrier or service provider with regard to a Site, Owner shall direct such Carrier to discuss with Milestone the possibility of locating on one of Milestone's Monopoles or a Structure. If Owner breaches this Section, Milestone shall have the right to pursue specific performance of this Section 10.

11. Condition of Property. Except as specifically provided in this Agreement or in the applicable Site Lease or Structure Lease, Milestone acknowledges and agrees that each Approved Site will be leased to Milestone in an "AS IS, WHERE IS," condition, without warranty of any kind, express or implied, including without limitation warranty of merchantability or fitness for a particular purpose, subject to all defects. Notwithstanding the foregoing, Owner represents and warrants that, to the best of its knowledge and belief, but without any duty of investigation, there are no hazardous materials on, in or under each Approved Site. Owner covenants not to store, deposit, or dump on any Approved Site any hazardous materials in such a manner that would require remediation under applicable laws.

12. Subject to Owner Uses. Notwithstanding any other provision of this Agreement, Milestone's rights under this Agreement and all Site Lease(s) or Structure Lease(s) are subject and subordinate to Owner's use and operation of the Site. Accordingly, in exercising its rights

under this Agreement, Milestone shall use commercially reasonable efforts to avoid any adverse construction, operation or other impacts on the Site and Owner's use and operation thereof, whether such impacts arise from activities conducted on or off of the Site. Procedures and notices for Milestone's access to a Site shall be as set forth in the applicable Site Lease or Structure Lease. In case of emergencies threatening life or safety, Milestone may enter a Site without prior notice to Owner, provided Milestone notifies Owner of same as soon as practicable and takes all reasonable actions available at such time to minimize any adverse impact to Owner.

13. Insurance.

13.1. All property of Milestone, its employees, agents, business invitees, licensees, customers, clients, subtenants or guests in and on any Site shall be and remain at the sole risk of Milestone, its employees, agents or business invitees, and Owner shall not be liable to them for any damage to, or loss of such personal property arising from any act of God or any persons, nor from any other reason, nor shall Owner be liable for the interruption or loss to Milestone's business arising from any of the above described acts or causes. Owner shall not be liable for any personal injury to Milestone, its employees, agents, business invitees, licensees, customers, clients, subtenants, guests or trespassers arising from the use, occupancy and condition of any Site, unless caused by the gross negligence or willful misconduct of Owner.

(a) Milestone shall maintain a policy of insurance policy of commercial general liability insurance insuring Owner and Milestone against liability arising out of the use, operation or maintenance of the leased premises and the installation, repair, maintenance, operation, replacement and removal of the Facilities. The insurance will be maintained for personal injury and property damage liability, adequate to protect Owner against liability for injury or death of any person in connection with the use, operation and condition of the leased premises in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence/aggregate and such other insurance policies as set forth in each Site Lease.

(b) Milestone agrees, prior to the commencement date of a Site Lease or Structure Lease, to deliver to Owner a policy evidencing compliance with this Section. Such policy shall be delivered to the addresses provided in Section 18 of this Agreement.

13.2. Insurance carried by Milestone will be with companies reasonably acceptable to Owner. Milestone will deliver to Owner satisfactory evidence of the existence and amounts of the insurance.

13.3. Owner shall be covered as an "additional insured" on Milestone's liability policies and it shall be stated on all required policies that this coverage "is primary to all other coverage Owner may possess."

13.4. All insurance required by this Section 13 shall be written by insurers, in such forms, and shall contain such terms, as Owner may reasonably require.

14. Indemnity; Waiver.

14.1. Milestone shall defend, with counsel acceptable to Owner, and indemnify and hold harmless, Owner from all losses, costs, claims, causes of actions, demands and liabilities arising from (a) any action against Owner by any Carrier under or pursuant to a Carrier Sublease, or with which Milestone has had negotiations concerning any Site, based on the actions or inactions of Milestone at such Site and (b) Milestone's entry onto any of the Sites in connection with its investigations there or in connection with construction and operation of the Facilities on any Site. Milestone shall also provide Owner with those specific Site indemnifications as are set forth in the Site Lease or Structure Lease. Such indemnifications shall include the reasonable cost of investigation, all expenses of litigation, and the cost of appeals, including, without limitation, reasonable attorney's fees and court costs. Milestone's indemnification shall not be applicable to the extent of any gross negligence or willful misconduct of Owner.

14.2. Milestone hereby waives any right of recovery against Owner and its officers, directors, employees, volunteers and contractors for any claim, loss, liability, injury or damage that is covered by any policy of property insurance maintained by Milestone (or would have been insured against if Milestone had complied with its obligations under this Agreement) with respect to this Agreement or the Sites. Milestone will cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with each Site.

15. Default; Remedies.

15.1. Each of the following shall be an Event of Default:

(a) Failure to cure, within ten (10) business days after written notice by Owner to Milestone, any default in the payment when due of any amount required to be paid by Milestone under this Agreement or any Site Lease or Structure Lease;

(b) Failure to cure, within thirty (30) days after written notice by Owner to Milestone, any default by Milestone in the performance or observance of, or compliance with, any covenant, agreement, term or condition contained in any Site Lease, Structure Lease or this Agreement; or

(c) The liquidation, termination or dissolution of Milestone; or

(d) An Event of Bankruptcy; or

(e) If any final judgment or judgments in an aggregate amount (including interest and costs) of more than \$500,000.00 is entered against Milestone, and any such judgment or judgments shall not have been paid or otherwise discharged within sixty (60) days after all applicable appeal periods have terminated; or

(f) The failure of Milestone or any Carrier to maintain the insurance required by this Agreement or any Site Lease or Structure Lease.

15.2. Upon the occurrence of an Event of Default hereunder, Owner shall, in addition to any other remedy that may be available to it at law or in equity, have the following remedies:

- (a) To terminate this Agreement with written notice to Milestone; or
- (b) To seek specific performance of this Agreement.

Provided that Milestone fully complies with its post-default obligations under Section 15.3 and all applicable Site Leases and Structure Leases, Owner shall in no event have any right to obtain a judgment against Milestone in the nature of consequential or punitive damages arising out of this Agreement.

15.3. Upon the termination of this Agreement, Milestone shall promptly and in no event later than thirty (30) days following the date of termination, deliver to Owner, or such other person or persons designated by Owner, at Milestone's sole cost and expense, copies of all books and records regarding the Sites desired by Owner, and all funds in the possession of Milestone belonging to Owner. Milestone shall be entitled to retain originals or copies of all such books and records for its files. The termination of this Agreement shall not, of itself, cause the termination of any Site Lease or Structure Lease which has been executed by Milestone and Owner.

16. Representations, Obligations, and Warranties.

16.1. Milestone is a corporation duly organized under the laws of the State of Delaware, has qualified to do business in the State of North Carolina and has all corporate power and authority necessary to perform its obligations hereunder. Milestone is in the business of and has substantial expertise in locating, permitting, leasing and constructing Facilities. Owner is relying upon that expertise in entering into this Agreement.

16.2. Milestone shall exercise commercially reasonable efforts to obtain entitlements, approvals, permits and Carrier Subleases for as many of the Sites as practicable in an effort to maximize revenue and benefit to Owner and Milestone.

16.3. Milestone shall obtain and at all times during the term of this Agreement keep in good standing any and all licenses and other permits legally required in the conduct of Milestone's business and that of its principals, employees and agents and other parties from time to time authorized to act for Milestone.

16.4. Milestone shall, upon reasonable request, attend and participate in any meetings with Owner regarding this Agreement or any Site.

16.5. Milestone shall not knowingly violate any federal, state, municipal or other governmental law, ordinance, rule or regulation in performing its services under this Agreement and Milestone shall use reasonable diligence to comply in all material respects with any and all such laws, ordinances, rules and regulations affecting the Sites.

16.6. If Milestone shall be apprised of any claim, demand, suit or other legal proceeding made or instituted or threatened against Owner on account of any matter connected with the Sites, Milestone shall promptly give Owner all information in its possession in respect thereof, and shall timely assist and cooperate with Owner in all reasonable respects in the defense of any such suit or other legal proceedings.

16.7. Milestone shall at all times comply with the terms of all Site Leases and Structure Leases, and shall cause Carriers under Carrier Subleases to comply with the terms of such Carrier Subleases.

17. Monthly Reports; Access to Records.

17.1. Within ten (10) business days after Owner's written request, Milestone shall provide Owner with a written report setting forth in reasonable detail (a) the Monthly Gross Rental Revenues for the previous month, on a Site-by-Site and Carrier Sublease-by-Carrier Sublease basis, (b) any new Carrier Subleases entered into by Milestone, (c) the status of Milestone's progress on all Sites which have received Preliminary or Final Approval, (d) any Sites which Milestone intends to submit a Request for Approval within the next ninety (90) days, and (e) any issues which have arisen or which Milestone anticipates may arise which could materially affect Owner's activities on any Site.

17.2. Milestone shall keep full and correct records and books of account in accordance with generally accepted accounting principles, consistently applied, showing in detail all income and expenses relating to the Sites and this Agreement, and shall permit Owner or their representatives to examine such books and records upon its request and to make copies or extracts thereof.

17.3. In the event that any audit of Milestone's books and records reveals a discrepancy between the amounts due to Owner hereunder and the actual amount paid by Milestone of greater than three percent (3%), in addition to the late charges and penalties due hereunder, Milestone shall pay all costs of Owner's audit.

18. Notices. All notices, payments not pursuant to a Site Lease, demands, and requests hereunder shall be in writing and shall be deemed to have been properly given three (3) days after the date when mailed by United States First Class, Registered or Certified Mail, postage prepaid, or upon receipt when delivered by reliable overnight courier or hand delivery, and addressed as follows:

If to Owner:
Bumcombe County
175 Bingham Rd., Suite 10
Asheville, NC 28806
Attn:

with a copy (which shall not constitute notice) to:

Attn:

And if to Milestone:

with a copy (which shall not constitute notice) to:

Milestone Development, Inc.
12110 Sunset Hills Road, Suite 600
Reston, Virginia 20190
Attn: Leonard Forkas, Jr.

Edinger Associates PLLC
1725 I Street, NW, Suite 300
Washington, DC 20006
Attn: J. Ladd Johnson

or to such other addresses either party may designate from time to time by giving written notice as herein required.

19. Miscellaneous.

19.1. Nothing in this Agreement shall confer on Milestone any property right or right in and to any Site until the execution of a Site Lease or Structure Lease.

19.2. In performing its duties under this Agreement, Milestone shall at all times be an independent contractor, and not an employee, agent, partner or joint venturer of Owner. Milestone shall have no right or authority, expressed or implied, to commit or otherwise obligate Owner in any manner.

19.3. Except as expressly provided in this Agreement, the rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

19.4. Waiver of any of the terms or provisions hereof may only be in writing and shall be operative only for the time and to the extent therein stated. No waiver of any default or breach of any of the terms or provisions hereof by either party hereto shall be implied from the failure by either party to take action on account of such default or breach. No waiver shall affect any default other than the default specified in the waiver. No waiver of any term or provision contained herein by either party shall be construed as a waiver of any subsequent breach of the same term or provision. The consent or approval by either party to, or of, any act by the other party requiring further consent or approval shall not be deemed to waive or render unnecessary their consent or approval to, or of, any subsequent similar acts.

19.5. Any provision of this Agreement may be amended if, but only if, such amendment is in writing and is signed by Owner and Milestone.

19.6. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

19.7. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, without reference to conflicts of laws principles.

19.8. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

19.9. Any legal action or proceeding with respect to this Agreement or any document related hereto or thereto shall be brought in State and Federal courts located in the State of North Carolina and in no other courts, and by execution and delivery of this Agreement, Milestone hereby accepts for itself and in respect of its property, general and unconditionally, the jurisdiction of the aforesaid courts. Milestone consents to the service of process in any such action or proceeding by the mailing of copies of such process to it by certified mail at the address indicated in Section 18. Nothing in this section shall affect Owner's right to serve process in any other manner permitted by law or to bring proceeding against Milestone in any other court having jurisdiction.

19.10. This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof and thereof and supersedes all previous understandings, written or oral, in respect thereof.

19.11. All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law which may be controlling and be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable in whole or in part. If any provision hereof is or becomes invalid and unenforceable, then, to the fullest extent permitted by law, the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be strictly construed in order to carry out the intentions of the parties hereto as nearly as may be possible.

19.12. The headings of the various sections of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed, to modify, define, limit, or expand the intent of the parties as expressed in this Agreement. Any pronoun used herein shall be deemed to refer to any gender, and singular pronouns shall be deemed to include the plural and vice versa. The use in this Agreement of the word "including" when following any general statement, term or matter, shall not be construed to limit that statement, term or matter to the specific items or matters, whether or not non-limiting language (such as "without limitation", or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of that general statement, term or matter. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if all parties had prepared the same with the assistance of counsel.

19.13. Neither Milestone nor Owner intends by any provision of this Agreement to confer any right, remedy or benefit upon any third party.

19.14. Time is strictly of the essence of each and every provision of this Agreement.

19.15. Owner represents and warrants that the person executing this Agreement on its behalf is duly authorized to so act and has the power and authority to enter into this

Agreement; and that all action required to authorize Owner and such person to enter into this Agreement has been duly taken.

19.16 Milestone represents and warrants that the person executing this Agreement on its behalf is duly authorized to so act and has the power and authority to enter into this Agreement; and that all action required to authorize Milestone and such person to enter into this Agreement has been duly taken.

20. Definitions.

20.1. Approved Carrier. A telecommunications service provider licensed by the Federal Communication Commission ("FCC") and any other governmental agencies for which approval is needed to conduct such company's business.

20.2. Approved Site. A Site that has received Final Approval for Development.

20.3. Carrier. A telecommunications or other wireless communications provider.

20.4. Carrier Sublease. A sublease, license or similar occupancy agreement with an Approved Carrier for space on a Monopole, on a Structure and/or in an Equipment Facility.

20.5. Development. The construction of up to two (2) Monopoles and an Equipment Facility on a Site, and the subleasing of space on the Monopoles and/or the Structure and within the Equipment Facility to Approved Carriers.

20.6. Equipment Facility. A building shelter, structure, or other facility, determined by Milestone on a Site by Site basis subject to the reasonable approval of Owner, in which ground-based equipment necessary for the use of the Monopole(s) shall be located.

20.7. Event of Bankruptcy. Shall mean the occurrence of any one or more of the following:

(a) If a court of competent jurisdiction shall enter a decree or order or relief in respect of Milestone in any involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Milestone or of any substantial part of its property, or ordering the winding up of its affairs or liquidation of its property, and such decree or order shall continue un-stayed and in effect for a period of ninety (90) days; or

(b) If Milestone shall commence a voluntary case under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, shall consent to the entry or an order for relief in an involuntary case under any such law, or shall consent to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of Milestone or of any substantial part of its property, or shall make any general assignment for the benefit of creditors or shall take any action in furtherance of any of the foregoing.

20.8. Facilities. (a) Up to two (2) Monopoles, (b) an Equipment Facility, (c) Milestone's antennas and those of its tenants, lessees and licensees, equipment, ancillary and related structures, cables, accessories and improvements, and (d) all other equipment on any Site, other than equipment owned by Owner, located on the Site pursuant to the Site Lease, Structure Lease or any Carrier Sublease, together with any additions approved by Owner.

20.9. Final Approval. The final approval of a Site Lease or Structure Lease granted by Owner, or equivalent, as applicable. Final Approval may be given or withheld in Owner's sole and absolute discretion.

20.10. Governmental Approvals. All permits, approvals and permissions required by any governmental or quasi-governmental agency for the construction, use, leasing and operation of the Facilities.

20.11. Lender. A bona fide reputable banking or financial institution with net assets of at least \$100,000,000. There shall not be more than one Lender with respect to any Site.

20.12. Monthly Gross Rental Revenues. Monthly Gross Rental Revenues shall mean all rental payments actually received by Milestone from Approved Carriers with respect to a Site Lease (which shall not include any reimbursement or capital contribution being made to Milestone by an Approved Carrier in connection with construction of the Facilities (including, if necessary, the costs to install a stealth or camouflage Monopole), connection to any utilities, passthrough expenses which Milestone charges an Approved Carrier for the Approved Carrier's portion of utilities or taxes, or reimbursement for any site access fee provided that such reimbursement is not in lieu of or in substitution of any rent thereunder), less any real estate ad valorem taxes (which term specifically excludes personal property taxes and taxes on income derived from the Facilities) which are the responsibility of Owner but which were charged to Milestone and payable for such period (or the pro rata share thereof applicable to such period) by Milestone on the Leased Premises or the Facilities.

20.13. Monopole. A monopole or flagpole tower not exceeding 150 feet in height. Each Monopole shall be designed to accommodate no less than 3 and no more than 8 telecommunications providers. The height of a Monopole may exceed the height set forth herein with the prior written approval of Owner in conjunction with approval of all applicable Zoning and Permitting Applications necessary for the increased height, which may be given or withheld in its sole and absolute discretion.

20.14. Preliminary Approval. The conceptual approval by Owner of Milestone's conceptual development plan for a Site, following Owner's receipt of a Request for Approval. Preliminary Approval may be given or withheld in Owner's sole and absolute discretion.

20.15. Request for Approval. A written request by Milestone that a Site be considered for Development, in accordance with the process set forth in Section 5.2 hereof.

20.16. Securities Policy. Owner's policy and procedural requirements, as the same may be modified or changed from time to time, for security posted with Owner to assure

completion of an approved project, such as construction of a Facility, with the ability to utilize the funds provided as security in the event of default or failure to finish the work.

20.17. Site. Each parcel of real property within the limits of the Buncombe County, North Carolina which is solely owned by Owner and identified as acceptable for consideration as a site for a telecommunication facility (for construction of a Monopole); provided, however, that any such Site shall cease to be a Site available for further Development if it is sold or conveyed by Owner.

20.18. Site Lease. A right to use and occupy a Site for construction of a Monopole and/or other telecommunications equipment and as provided in the form lease attached hereto as **Exhibit B** between Milestone (or an affiliate of Milestone, including, without limitation, Milestone Tower Limited Partnership – IV, Milestone Tower Limited Partnership - V or Milestone Towers Management, LLC) and Owner.

20.19. Site Assessment. A preliminary report on the viability of a Site for telecommunications purposes based on readily available public data and visual inspection of a Site but without conducting full due diligence, studies, tests and obtaining professional reports and opinions to finally determine feasibility of a Site for telecommunications purposes.

20.20. Site Plan. A plan showing in reasonable detail the proposed Development on any Site, including, without limitation the location of the Facilities, proposed ingress-egress routes and all requested easements.

20.21. Structure Lease. A right to use and occupy a Structure for installation of telecommunications equipment and as provided in the form lease attached hereto as **Exhibit C** between Milestone (or an affiliate of Milestone, including, without limitation, Milestone Tower Limited Partnership – IV, Milestone Tower Limited Partnership - V or Milestone Towers Management, LLC) and Owner for the installation of communications equipment on the Structure and ground space beneath or adjacent to the Structure.

20.22. Third Party. A party other than Owner or Milestone.

20.23. Zoning and Permitting Application. A request or application for site plan approval, zoning certificate and/or building permit filed with the applicable county and/or city department(s) having jurisdiction over the Site.

[Remainder of page intentionally left blank.]

**SIGNATURE PAGE TO
TELECOMMUNICATIONS MARKETING MASTER AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first set forth above.

OWNER: BUNCOMBE COUNTY

By: _____ Name:
Title:

MILESTONE: MILESTONE DEVELOPMENT, INC.

By: _____ Name:
Leonard Forkas, Jr.
Title: President

EXHIBIT A
(Telecommunications Marketing Master Agreement)

List of Properties Approved for
Marketing

EXHIBIT B
(Telecommunications Marketing Master Agreement)

Form Site Lease

EXHIBIT C
(Telecommunications Marketing Master Agreement)

Form Structure Lease