

## NON-DISCLOSURE & CONFIDENTIALITY AGREEMENT

This Non-Disclosure & Confidentiality Agreement (“Agreement”) is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ by and between \_\_\_\_\_, having an address of \_\_\_\_\_, hereinafter referred to as “\_\_\_\_\_,” and NexTower, LLC, a Florida Limited Liability Company, having an address of 3020 Hartley Road, Suite 210, Jacksonville, Florida 32257, hereinafter referred to as “NexTower.”

WHEREAS, the parties desire to enter into this Agreement for the purpose of supplying specific information regarding the co-location on existing tower sites and/or development of new tower sites (the “Business Purpose”); and

WHEREAS, the parties may find it necessary to disclose to each other certain and proprietary information and intellectual property relating to its existing or proposed operations, which shall be used by the parties only for its work on the Business Purpose, and

WHEREAS, the parties are willing to deliver and/or accept such information from each other on a confidential basis and the parties are willing to enter into this Agreement;

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained, NexTower and \_\_\_\_\_ agree as follows:

### **NON-DISCLOSURE & CONFIDENTIALITY**

1. NexTower and \_\_\_\_\_ desire to assure the confidential status of the information which may be disclosed to each other, subject to the limitations set forth in Paragraph 2 below. All information that the parties disclose to each other and that has been identified as being proprietary and/or confidential, or that by the nature of the circumstances surrounding the disclosure ought to be treated as proprietary or confidential, shall be deemed to be Proprietary Information and shall be deemed to include any information, process, technique, algorithm, program, design, drawing, formula or test data relating to any research project, work in process, future development, engineering, manufacturing, marketing, servicing, financing, or personnel matter relating to the parties, their present or future products, sales suppliers, customers, employees, investors, or business, whether in oral, written, graphic or electronic form. Proprietary Information also includes all information concerning the existence and progress of the parties’ dealings, including the terms, conditions or any tower site lease/license/easement or proposed therefore.
2. The term “Proprietary Information” shall not be deemed to include information which (i) is now, or hereafter becomes, through no act or failure to act on the part of the parties, generally known or available; (ii) is known by the parties at the time of receiving such information; (iii) is independently developed by either party without any breach of this agreement; or (iv) is required to be disclosed by the parties by judicial action after all reasonable legal remedies to maintain such information in secret have been exhausted.
3. The parties shall maintain in trust and confidence and not disclose to any third party or use for any unauthorized purpose any Proprietary Information received or provided to the parties. The parties may use such Proprietary Information only to the extent required to accomplish the intent of this Agreement. Proprietary Information shall not be used for any purpose or in any manner that would constitute a violation of any laws or regulations.

4. Proprietary Information supplied shall not be reproduced in any form except as required to accomplish the intent of this Agreement.
5. The responsibilities of the parties are limited to using their reasonable and best efforts to protect Proprietary Information received with the same degree or care used to protect their own Proprietary Information from unauthorized use or disclosure. No Proprietary Information shall be disclosed to an officer, employee, consultant or agent of either party who does not have a need for such information. \_\_\_\_\_ and NexTower shall each be responsible for ensuring that each party's officers, employees, agents, and/or consultants abide by the terms of this Agreement. Under no circumstances shall NexTower's tower site information, whether existing, under development or contemplated, be shared with another tower developer, tower owner or tower investor without the express written consent of NexTower, which such written consent may be denied by NexTower.
6. All Proprietary Information (including all copies thereof) shall remain the property of NexTower and \_\_\_\_\_, and shall be returned to NexTower or destroyed after the parties' need for it has expired or upon request of NexTower, and in any event upon completion or termination of this Agreement.
7. Since either party may choose not to do business with the other in the future, each acknowledges that the other is not responsible or liable for any business decisions made by either in reliance upon the disclosures made during any meetings between the parties or in reliance on any results of the discussions. Further, each party acknowledges that nothing contained in this or in any discussions undertaken or any disclosures made hereto shall be deemed a commitment by either party to engage in any business relationship, contract, or future dealing with the other party.
8. The parties acknowledge that the breach or threatened breach of this Agreement may result in irreparable injury and in addition to the injured party's other remedies, the injured party shall be entitled to injunctive relief to restrain any threatened or continued breach of this Agreement. The parties hereby waive any requirement for posting of a bond or other security in connection with confidential information and the granting to the injured party of such injunctive relief.
9. The termination of this Agreement shall not relieve the parties of the obligations imposed by this Agreement with respect to Proprietary Information disclosed prior to the effective date of such termination and the provisions of this agreement shall survive the termination of this Agreement for a period of two (2) years from the date of such termination.

#### **OTHER**

1. This Agreement may be terminated at any time upon thirty (30) days written notice to the other party.
2. This Agreement shall be governed by the laws of the State of Florida.
3. This Agreement contains the entire Agreement of the parties and may not be changed, modified, amended or supplemented except by a written instrument signed by both parties.
4. Each party hereby acknowledges and agrees that in the event of any breach of this Agreement by the other party, the non-breaching party will suffer an irreparable injury, such that no remedy at law will afford it adequate protection against, or appropriate compensation for such injury. Accordingly, each party agrees that the other party shall be entitled to specific performance of a receiving party's obligation under this Agreement, as well as such further injunctive relief as may be granted by a court of competent jurisdiction.
5. No failure or delay by either party in exercising any right, power, or privilege shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further

exercise of any right, power, or privilege. No waiver by any party of any provision of this Agreement shall be effective unless in writing, and such waiver shall not imply a subsequent or prior waiver of that or any other provision.

- 6. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect. Any unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the parties as expressed herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

“ \_\_\_\_\_ ”

**NexTower**

\_\_\_\_\_

NexTower, LLC

\_\_\_\_\_

a Florida Limited Liability Company

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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

David H. Boeff

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

President / CEO

**WITNESS:**

**WITNESS:**

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\_\_\_\_\_

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

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

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

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

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

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