

WIFI NETWORK LEASE

THIS WIFI NETWORK LEASE (“*Agreement*”) is made as of the last date of signature below (“*Effective Date*”) between the Town of Chilmark, Massachusetts, by and through its Board of Selectmen and Executive Secretary, as landlord (“*Owner*”) and ATC Outdoor DAS LLC, a Delaware limited liability company as tenant (“*ATC*”).

RECITAL

- A. Owner owns the parcel(s) of land comprising the public beach and harbor areas in the Town of Chilmark, Massachusetts, as more fully described on Exhibit A to this Agreement (“*Property*”);
- B. ATC owns and operates a nearby distributed antenna system or “*DAS*,” a portion of which is in the vicinity of the Property;
- C. Owner desires ATC to provide commercial WIFI network services (the “*WIFI Network*”) at the Property by means of four (4) combination waste and recycling stations with embedded WIFI receiver/transmitters (as more fully described on Exhibit B to this Agreement, each a “*WIFI Station*” and collectively, the “*WIFI Stations*”), on the terms and conditions described in this Agreement.

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. LEASE OF PREMISES.

(a) **Location.** Owner and ATC will reasonably select four specific locations for the WIFI Stations (each a “*Site*” and collectively, the “*Sites*”), which shall generally be in the locations shown on Exhibit C to this Agreement. The parties may approve the Sites at any time, and drawings showing the approved locations will be added to/substituted for Exhibit C. Owner recognizes that ATC will face certain technical realities relating to radio frequency engineering which may make any specific location unfeasible and agrees to work in good faith to ensure that the Sites are technically suitable for the WIFI Network.

(b) **Lease of Premises.** Subject to Owner’s approval of the Plans (as defined in and pursuant to Section 6(a)), Owner leases to ATC the Sites and grants ATC a non-exclusive easement for the use of the following (collectively, the Sites and easements are the “*Premises*”): all public roadways, paths, and walkways across the Property which are reasonably necessary to access the Sites; (ii) existing utility corridors (and such new corridors as Owner may approve) across, over, under and through the Property to service the Sites. Owner additionally grants ATC a temporary, non-exclusive license to utilize certain portions of the Property approved by Owner as construction staging areas without charge. The parties recognize that the Sites are located in areas freely accessible to the general public and agree that ATC will not restrict access to the WIFI Stations for use of the waste and recycling bins by the general public, except as reasonably necessary for any maintenance, repair or replacement of the WIFI Stations. Notwithstanding the foregoing, Owner shall not authorize or permit any third party to utilize the Sites in any manner that interferes with the operation of the WIFI Network or as otherwise permitted under this Agreement.

2. **PERMITTED USES.** Owner grants ATC the following rights (“*Permitted Uses*”): the non-exclusive right to install, modify, and operate the WIFI Stations and the WIFI Network operating on

frequencies that do not require a license from the Federal Communications Commission (“*FCC*”), including but not limited to WIFI.

3. **TERM.**

(a) **Initial Term.** The initial term of this Agreement will be two (2) years (the “*Initial Term*”). The Initial Term will commence on the date that ATC confirms to Owner that the WIFI Network is operational (“*Term Commencement Date*”).

(b) **Renewal Term.** The Initial Term shall automatically be extended for an additional one (1) year period (the “*Renewal Term*”) unless ATC has given written notice to Owner at least sixty (60) days prior to the expiration of the Initial Term of ATC’s determination not to extend this the Agreement. The Initial Term and the Renewal Term, if invoked, are collectively called the “*Term.*”

(c) **Holdover.** If ATC remains in possession of the Premises beyond the termination or expiration of this Agreement, its occupancy will be deemed a month-to-month tenancy under the same terms of this Agreement.

4. **OPERATION.**

(a) **No Rent; Costs.** Recognizing that this Agreement does not call for the exchange of any payments, the parties acknowledge and agree that the mutual promises, covenants and obligations hereunder assumed by the parties shall be deemed to constitute good and sufficient consideration for this Agreement. At its own cost, ATC shall: (i) prepare the Plans (as defined below), (ii) install/deploy the WIFI Stations, (iii) operate the WIFI Network during the Term, (iv) create and maintain a User Captive Portal Splash Page (as defined in Section 21(a)) to allow members of the general public to access the WIFI Network during the Term, and (v) create and maintain a dedicated VLAN with an SSID (each as defined in Section 21(a)) for use by Owner and its employees during the Term. ATC shall be entitled to charge members of the general public accessing the WIFI Network such fees as it shall, in its sole discretion, deem appropriate and shall be entitled to retain all such fees without payment to Owner, provided, however, that during the first year of the Term, such access by the members of the general public shall be free of any charge. For the avoidance of doubt, Owner shall impose no rent or fees upon ATC for the use of the Sites or operation of the WIFI Network during the Term.

(b) **Performance.** During the Term, ATC shall use commercially reasonable best efforts to ensure the WIFI Network remains active and available in accordance with its design parameters for use by Owner and the general public as described above, provided, however, that ATC shall bear no liability to Owner, its elected officials, employees, agents, representatives, or residents, any third party, or the general public at large for any poor performance or unavailability of service of the WIFI Network for any period of time for any reason. Owner acknowledges that ATC’s execution and delivery of this Agreement is not, and shall not be interpreted to be, a guarantee of any particular level of performance by the WIFI Network.

5. **ACCESS.** All access is subject to the reasonable regulations in effect at the Property, which Owner will provide to ATC in writing. The authorized personnel of ATC and its contractors will have twenty-four (24) hour per day, seven (7) day per week access to the Property to conduct any activities consistent with the Permitted Uses. ATC will notify Owner’s Access Contact (as defined in Exhibit D) by phone or email prior to access. ATC and its contractors will not be required to pay any fee to access the Property, including, without limitation, any parking fees.

6. **PLAN APPROVAL AND INSTALLATION.**

(a) **Owner Plan Approval.** Prior to the installation or modification of the WIFI Network and the designation or expansion of the Sites, ATC will submit plans for Owner's written approval ("**Plans**"). Owner will approve or deny the Plans within fifteen (15) days after receipt, and will notify ATC in writing of any special conditions for the proposed installation. Owner's failure to timely deny the Plans will be deemed an approval. Plan approval is not required for maintenance, repairs, modification, reconfiguration, addition or replacement of all or any component of the WIFI Network.

(b) **Required Approvals.** ATC will maintain in effect any applicable licenses, permits, or approvals required by any government agency for the Permitted Uses ("**Required Approvals**"). Owner will provide any of the Required Approvals subject to its authority, including, without limitation, approval for the Sites and for any modifications to Node 5B of the DAS necessary to allow the WIFI Network to connect to the DAS, without requiring ATC to pay a fee and will cooperate with ATC to obtain any Required Approvals not subject to Owner's authority.

(c) **Installation of WIFI Network.** Following approval of the Plans and receipt of the Required Approvals, ATC shall cause the WIFI Network will be installed in a good and workmanlike manner in accordance with (i) the Plans; (ii) any Required Approvals; and (iii) any applicable laws, regulations, and directives of any government agency having jurisdiction over the Property (collectively, "**Applicable Law**"). Within ten (10) days of ATC's completion of any installation or modification of the WIFI Network, Owner will notify ATC in writing of any inconsistencies with the Plans or Owner's other written requirements. Owner's failure to timely notify ATC of any inconsistencies will be deemed an acceptance of the installation as built.

7. MAINTENANCE AND RELOCATION.

(a) **ATC Maintenance.** ATC will repair and maintain the WIFI Network in reasonable condition. Subject to the terms of Section 14(c) (regarding release and waiver of subrogation) and Section 15 (regarding indemnification and consequential damages), ATC will be responsible for the costs of any damage to the Property attributable to the actions of ATC and its agents and contractors. Upon notice from Owner, ATC shall coordinate with Bigbelly Solar Inc., the supplier of the WIFI Stations ("**Bigbelly**"), for any non-regular maintenance or repairs necessary for the continued effective operation of the waste/recycling functions of the WIFI Stations.

(b) **Owner Maintenance.** Owner will repair and maintain in reasonable condition all portions of the Property necessary for the Permitted Uses other than those that are the responsibility of ATC as provided in Section 7(a). Subject to the terms of Section 14(c) (regarding release and waiver of subrogation) and Section 15 (regarding indemnification and consequential damages), Owner will be responsible for the costs of any damage to the WIFI Stations and/or the Premises attributable to the actions of Owner and its agents and contractors.

(c) **Relocation.** Upon ninety (90) days' written notice by Owner, ATC will relocate any portion of the WIFI Network to alternative areas of the Property to accommodate changes to Owner's use of the Property, provided, however, that no WIFI Station shall be relocated more than once during the Term. Any relocation is subject to the following conditions: (i) Owner will issue a purchase order for the approximate cost of the relocation (including reinstallation costs); (ii) the relocation will not negatively impact the WIFI Network's coverage except on a temporary basis; (iii) the relocation will not materially increase the cost of operating the WIFI Network; and (iv) within thirty (30) days of receipt of an invoice from ATC, Owner will pay ATC's costs and expenses.

8. UTILITIES.

(a) **Utilities Required.** During the Term, Owner shall provide, at no cost to ATC, electrical service to each of the three (3) WIFI Stations designated on Exhibit C sufficient for each WIFI Station to operate as designed at full power (the fourth WIFI Station will run on solar power only).

(b) **Waste and Recycling.** ATC shall coordinate with Bigbelly to provide Owner's designated employees with no less than six (6) hours of training on the removal of waste and recycled materials from the WIFI Stations, such training to occur at such Site and time(s) reasonably agreeable to Owner and Bigbelly. During the Term, Owner will assume responsibility for periodic emptying and cleaning of the waste and recycling collection bins associated with each WIFI Station, which will be addressed as part of the training provided by BigBelly. Owner shall ensure that the collection and removal of waste or recycled materials shall not interfere with the operation of the WIFI Network. *[NOTE – As the specific terms of ATC's agreement with Bigbelly are being negotiated simultaneously with this Agreement, this section 8(b) remains subject to change.]*

9. **LIENS.** ATC will promptly discharge any mechanic's or materialman's liens filed against the Property as a result of the Permitted Uses. Owner waives any statutory liens on all equipment located on the Property owned by ATC.

10. **CASUALTY.** If there is a casualty involving the Property at large, Owner will restore the Property to its previous condition unless the damage renders the Property unusable for its intended purposes. Within thirty (30) days from the casualty, Owner will notify ATC of its estimated restoration date. ATC may terminate this Agreement in its sole discretion at any time until the date that is thirty (30) days after the actual restoration date. Any termination will be effective as of the casualty date.

11. INTERFERENCE.

(a) **ATC Interference.** ATC will not permit the WIFI Network to interfere with any existing FCC-licensed wireless systems at the Property (including, but not limited to, electromagnetic interference as well as any physical obstructions of antennas), provided that the systems function within normal operating parameters and comply with Applicable Law.

(b) **Owner and Occupant Interference.** Owner will not—and will not permit any user or occupant of the Property within its control to—interfere with the WIFI Network (including, but not limited to, electromagnetic interference as well as any physical obstructions of antennas), provided that the WIFI Network functions within normal operating parameters and complies with Applicable Law.

(c) **Resolution of Interference.** If either party suspects that the other party is causing interference pursuant to this section, it will notify the other party's information technology contact ("**IT Contact**") (as defined in Exhibit D) by phone or email followed by written notice to that party's Notice Address pursuant to Section 20 and Exhibit D. The receiving party will use its reasonable best efforts to respond to the notice as soon as practicable and will take all reasonable actions as soon as practicable to eliminate the interference to the reasonable satisfaction of the other party.

12. ASSIGNMENT AND SUBLETTING.

(a) **ATC Assignment.** ATC may assign this Agreement upon the prior written consent of Owner. Notwithstanding the foregoing, ATC may assign this Agreement to a lender or an Affiliate (as defined below) without the consent of Owner. An "**Affiliate**" is any party that: (i) directly or indirectly (such as through one or more subsidiaries) controls ATC; (ii) is controlled directly or indirectly by ATC; (iii) is under the common control directly or indirectly with ATC by the same parent corporation or other entity; (iv) is the successor or surviving entity by a merger or consolidation; or (v) purchases all or

substantially all of the assets of ATC. The issuance or utilization of debt, equity, or derivative securities by ATC or an Affiliate will not be deemed an assignment of this Agreement.

(b) ATC Subletting. ATC may sublease any of its rights under this Agreement to such third parties as it shall deem necessary, in its sole discretion, without prior notice to, or the consent of, Owner, provided, however that ATC shall remain liable for performance of this Agreement regardless of any such sublease.

(c) Owner Assignment. Owner may convey any interest in the Property or assign this Agreement to any party other than a Competitor (as defined below) upon written notice to ATC. Owner may not, without the prior written consent of ATC, which may be withheld in ATC's sole discretion, convey any interest (including but not limited to options, leases, licenses, or easements) in the Property or this Agreement to a Competitor (as defined below). A "**Competitor**" is any third party engaged in: (i) owning, operating, or managing wireless networks or (ii) acquiring interests in or purchasing the rental stream from wireless network agreements.

(d) Evidence of Ownership Change. If Owner transfers its interest in the Property, the transferee will provide to ATC within fifteen (15) days of the transfer the following: (i) sufficient evidence of transfer including but not limited to an assignment and assumption agreement, deed, and/or certificate of merger; (ii) IRS Form W-9 of the transferee; and (iii) the Notice and Payment Address, Access Contact, and IT Contact of the transferee pursuant to Section 20 and Exhibit D. ATC will have no liability to the transferee for any payments made to the transferor prior to the timely receipt of the information required by this paragraph, and may withhold any amounts due under this Agreement until all required information is received.

13. TAXES. ATC will pay any taxes directly attributable to the WIFI Network and the use of the Premises by ATC levied under any Applicable Law. If ATC is not billed directly by the taxing authority, Owner will send an invoice for the amount due along with a copy of the tax bill and ATC will pay the invoice within thirty (30) days of receipt. ATC will have the right to file an appeal for any taxes for which it is responsible. ATC will have no liability for any excess profit taxes, real property taxes, sales or use taxes associated with any payments made to Owner, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, or other taxes applicable to Owner's general or net income or chargeable to Owner as a result of Owner's business.

14. INSURANCE.

(a) ATC Insurance. ATC shall at all times during the Term and at ATC's sole cost and expense, maintain in effect Workmen's Compensation/Employer's Liability insurance with statutory limits and General Liability insurance to cover bodily injury and property damage, adequate to protect Owner against liability for bodily injury or death of any person arising in whole or in part from the negligence of ATC in connection with the use, operation and condition of the Sites, as it relates to operation of the WIFI Network, in an amount not less than One Million and 00/100 Dollars (\$1,000,000) of combined single limit bodily and property damage coverage with not less than Two Million and 00/100 Dollars (\$2,000,000) in the aggregate. These limits can be met using the general liability policy limits and umbrella/excess limits. Such general liability policy shall cover the losses suffered by Owner at or in connection with ATC's use of the Premises and include Owner as an additional insured.

(b) Release and Waiver of Subrogation. Each party releases the other party and their respective shareholders, directors, members, managers, partners, officers, elected officials, employees, and agents (collectively "**Associates**") from any claims arising in its favor against the other party relating to bodily injury or property damage at the Property from any cause except to the extent the injury or damage is the result of (i) the willful misconduct of the other party or its Associates or (ii) the negligence

of the other party or its Associates, provided that the party and its Associates will be released from negligent acts or omissions to the extent that the injury or damage is recovered or recoverable under an insurance policy of the party suffering the injury or damage. All insurance policies shall provide waivers of subrogation rights on all policies, in favor of the parties, by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

15. INDEMNITY AND WAIVER OF CONSEQUENTIAL DAMAGES.

(a) **Indemnity.** Subject to the release in Section 14(c), each party (“*Indemnitor*”) hereby defends, indemnifies, and saves harmless the other party (“*Indemnitee*”) and its Associates against and from all third party claims for damages, liabilities, obligations, penalties, costs, charges, and expenses, including reasonable attorneys’ fees arising directly from the performance of this Agreement and relating to bodily injury or property damage to said third parties that is alleged to have resulted from the Indemnitor’s negligence or willful misconduct.

(b) **Procedure.** To be indemnified, the Indemnitee must: (i) give the Indemnitor timely written notice of the claim (unless the Indemnitor already has notice); (ii) give the Indemnitor full and complete authority, information, and assistance for the claim’s defense and settlement; and (iii) not materially prejudice the Indemnitor’s ability to satisfactorily defend or settle the claim. The Indemnitor’s obligation to indemnify the Indemnitee will be reduced to the extent of any increased claims or losses resulting from the Indemnitee’s failure to comply with the previous sentence. The Indemnitor may settle or defend the claim at its own expense and with its own counsel, provided that the Indemnitor may not admit any guilt or culpability of or on behalf of the Indemnitee. The Indemnitee may participate in the settlement or defense of the claim with its own counsel and at its own expense, but the Indemnitor will retain sole and absolute control of the claim’s settlement or defense.

(c) **Waiver of Consequential Damages.** NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR LOSS OF ANTICIPATORY PROFITS OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, LOST BUSINESS OPPORTUNITIES, IMPERFECT COMMUNICATIONS, MARKET SHARE OR CONSEQUENTIAL DAMAGES (“*CONSEQUENTIAL DAMAGES*”) INCURRED IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO ANY NETWORK DISRUPTION, MALFUNCTION, DISRUPTION OF SERVICE, VANDALISM, FORCE MAJEURE, OR ANY OTHER REASON, EVEN IF THE PARTIES CONTEMPLATED THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

16. DEFAULT AND TERMINATION.

(a) **Default.** It will be a “*Default*” if:

(i) any party’s representations or warranties are materially false and, if a breach of warranty can be cured, the non-complying party does not remedy the failure within thirty (30) days after receipt of written notice of default by the other party; or

(ii) either party fails to perform any other obligation and does not remedy the failure within thirty (30) days after receipt of written notice of default by the other party, or if the failure cannot reasonably be remedied in that time, if the non-complying party does not commence a remedy within thirty (30) days and exercise reasonable efforts to prosecute the remedy to completion.

(b) Remedies for Default. Upon the occurrence of a Default, the non-defaulting party may terminate this Agreement upon thirty (30) days' written notice to the defaulting party and pursue any additional legal and equitable remedies permitted by Applicable Law. The non-defaulting party must mitigate its damages resulting from a Default.

(c) Additional Termination by ATC. ATC may terminate this Agreement upon thirty (30) days' written notice if ATC is unable to: (i) use the WIFI Network in accordance with the Permitted Uses as a result of material interference; (ii) obtain or maintain any rights necessary to operate the WIFI Network; or (ii) obtain or maintain any Required Approvals despite commercially reasonable efforts to do so.

If there is no Default by either party, then upon termination, neither party will have any rights or obligations under this Agreement except for any rights or obligations that expressly survive the termination of the Agreement.

17. REMOVAL OF EQUIPMENT UPON TERMINATION OR EXPIRATION. Within ninety (90) days of the termination or expiration of this Agreement, ATC will remove the WIFI Network (other than as described below) from the Property and restore the Premises to as good a condition as it was in prior to the installation of the WIFI Network, reasonable wear and tear and casualty excepted.

18. QUIET ENJOYMENT AND TITLE. Owner warrants and represents that: (a) it has marketable fee simple title to the Property free of any encumbrances that may adversely affect the Permitted Uses; (b) there is no existing or threatened litigation relating to the Property that may adversely affect the Permitted Uses; (c) its execution and performance of this Agreement will not violate any Applicable Laws or the terms of any mortgage, deed of trust, encumbrance, lease, or other agreement; and (d) ATC will have quiet enjoyment of the Premises as long as there is no ATC Default.

19. HAZARDOUS SUBSTANCES.

(a) Definition of Hazardous Substances. "*Hazardous Substances*" will have the same meaning as "hazardous substance" as defined in 42 U.S.C. §9601(14), as may be amended or superseded, provided however that the exclusions for petroleum and natural gas contained in the second sentence of 42 U.S.C. §9601(14)(F) will not be applicable and said substances will be considered "Hazardous Substances" for the purpose of this Agreement.

(b) ATC's Use of Hazardous Substances. ATC will not use any Hazardous Substances at the Property except for materials that are necessary and directly related to the Permitted Uses and which are used according to Applicable Law. ATC hereby indemnifies, defends, and holds harmless Owner and its Associates from all losses, claims, suits, and damages (including remediation costs) incurred by those parties as a result of (i) the use of Hazardous Substances by ATC or (ii) the exacerbation, due to ATC's negligence or willful misconduct, of any Hazardous Substances existing at Property prior to the Effective Date of which Owner has disclosed to ATC pursuant to Section 19(c).

(c) Owner's Representations. Owner represents and warrants to ATC that as of the Effective Date and to Owner's actual knowledge, the Property is free from (i) asbestos and (ii) any other Hazardous Substances except in de minimis amounts used by Owner and occupants of the Property in accordance with Applicable Law and in connection with those parties' ordinary and regular conduct of business from the Property. Within thirty (30) days following the Effective Date and on a continuous basis thereafter, Owner will notify ATC of the presence of Hazardous Substances at the Property. Owner hereby indemnifies, defends, and holds harmless ATC and its Associates from all losses, claims, suits, and damages (including remediation costs) incurred by those parties as a result of the presence or use of

Hazardous Substances at the Property by Owner and its occupants. The provisions of this section will survive the termination or expiration of this Agreement.

(d) Remediation of Hazardous Substances. If there are Hazardous Substances at the Property and ATC determines that the Hazardous Substances must be remediated to install or operate the WIFI Network, ATC will request Owner to remediate the Hazardous Substances at Owner's expense. If Owner does not remediate the Hazardous Substances within ninety (90) days, it may have additional time provided that it diligently pursues the remedy to completion and any additional time will be added to the Due Diligence Period or term of this Agreement as applicable. If Owner declines to remediate the Hazardous Substances or does not remediate them in a timely manner, ATC may terminate this Agreement upon thirty (30) days' written notice.

20. NOTICES. Except for phone and email notices pursuant to Sections 5 and 11, all notices must be in writing and personally delivered, mailed via U.S. certified mail return receipt requested, or transmitted by courier for next business day delivery to the receiving party's Notice Address defined in Exhibit D. Either party may change any address described in this section upon thirty (30) days' written notice. Notices will be deemed to have been given upon either receipt or rejection.

21. MISCELLANEOUS.

(a) Definitions. The following terms, as used in this Agreement, shall have the following meanings:

(i) "SSID" means a unique 32 alphanumeric character identifier attached to the header of packets sent over the WLAN that acts as a password when a mobile device connects to the basic service set;

(ii) "User Captive Portal Splash Page" means a "landing" internet webpage accessible by members of the general public which will allow them to utilize the WIFI Network for conditional access to the internet once they have provided necessary information, such as authentication, acceptance of terms of use policies, payment, etc.;

(iii) "VLAN" means a logical division of a WLAN;

(iv) "WIFI" means wireless communication between wireless-enabled electronic devices utilizing unlicensed frequencies in the 2.4 gigahertz UHF and 5 gigahertz SHF ISM radio bands across a WLAN, which is used to provide internet access to such electronic devices within the signal range of the WLAN;

(v) "WLAN" means a wireless local area network utilizing a WIFI signal.

(b) Agreement Runs with Land; No Revocation. Notwithstanding the characterization of any rights granted herein as a lease, license, or easement, this Agreement (i) runs with the land, (ii) is binding upon and inures to the benefit of the parties and their respective successors and assigns, and (iii) may not be terminated or revoked unless specifically permitted by this Agreement.

(c) Equipment as Personalty. Any equipment of ATC, including the WIFI Stations, remains the personal property of ATC even though it may be attached to the Property, and is removable consistent with the provisions of this Agreement.

(d) Calendar and Business Days. Except as specifically provided in this Agreement, references to "day" or "days" will mean "calendar" days, provided that if the last day for performance

falls on a Saturday, Sunday, or holiday for which banking institutions in the state in which the Property is located are generally closed, then the day of performance will be the next business day.

(e) **Brokers.** Each party is responsible for paying its own broker's fees in connection with this Agreement, and neither party will be responsible for any broker's fees incurred by the other party.

(f) **Force Majeure.** The period of time during which any party is delayed in performing any obligation under this Agreement due to any event or phenomenon outside of the reasonable control of that party including but not limited to fire, catastrophe, strikes, labor trouble, civil commotion, terrorism, war, or governmental prohibitions or regulations will be added to that party's time for performance, and the party will not be deemed in default as a result of the delay.

(g) **Estoppel Certificates.** Within fifteen (15) days of a request, a party will deliver an estoppel certificate certifying such facts pertaining to the term, financial obligations, and performance of this Agreement as the requesting party reasonably requests.

(h) **Entire Agreement; Amendment.** This Agreement embodies the entire agreement between the parties and it may only be amended by a writing signed by both parties. There are no representations or understandings existing prior to the Effective Date between Owner and ATC that are not stated in this Agreement.

(i) **Severability.** If any of the provisions of this Agreement are held unenforceable, the remainder of this Agreement will be enforceable to the fullest extent permitted by Applicable Law.

(j) **Non-Waiver.** A party's failure to exercise its rights after a breach of this Agreement or to insist on the strict performance of any term of this Agreement will not be a waiver of its rights.

(k) **Relationship of Parties.** The relationship between Owner and ATC is solely that of landlord and tenant, and nothing will be construed to constitute the parties as employer and employee, partners, joint venturers, co-owners, or otherwise as participants in a joint or common undertaking. Neither party may act on behalf of or legally bind the other.

(l) **Interpretation.** References in this Agreement to sections, paragraphs or clauses will refer to those sections, paragraphs or clauses set forth in this Agreement unless the context expressly requires otherwise. Headings of sections or paragraphs are for convenience only and will not be considered in construing the meaning of sections or paragraphs.

(m) **Consent.** Whenever the consent of a party is required by this Agreement, consent may not be unreasonably withheld, delayed, or conditioned unless it is specifically stated that consent is in the party's sole discretion, in which case the party has sole and absolute discretion to grant or deny consent notwithstanding any covenant of good faith and fair dealing. It will not be reasonable for any party to request additional payments, fees, or other consideration from the other party in exchange for consent.

(n) **Attorneys' Fees.** If either party institutes any legal proceedings against the other for a Default and prevails in the action, the non-prevailing party will pay the costs and expenses of the prevailing party in enforcing its rights, including reasonable attorneys' fees.

(o) **Survival.** Any provisions of this Agreement that in order to have its intended effect must survive the expiration or termination of this Agreement will be deemed to survive.

(p) **Copies.** This Agreement may be executed in multiple counterparts, each of which will, for all purposes, be deemed an original, but which together will constitute one and the same instrument.

A scanned or electronically reproduced copy or image of this Agreement will be deemed an original and may be used as an original for all purposes, including litigation and dispute resolution.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the respective dates written below.

ATC:
ATC Outdoor DAS LLC

By: _____

Name: _____

Title: _____

Date: _____

OWNER:
Town of Chilmark
By its Board of Selectmen

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A
PROPERTY

WIFI Network Lease
Menemsha Beach

EXHIBIT B
DETAILS OF WIFI STATIONS

EXHIBIT C
SITES

WIFI Network Lease
Menemsha Beach

EXHIBIT D
NOTICES AND CONTACT INFORMATION

	OWNER	ATC
Notice Address:	with a copy to:	ATC Outdoor DAS LLC 10 Presidential Way Woburn, MA 01801 Attn: Landlord Relations with a copy to: American Tower Corporation 116 Huntington Avenue, 11 th Floor Boston, MA 02116 Attn: Legal Department
Access Contact:	[name] Tel: Email:	n/a
Information Technology (“IT”) Contact:	[name] Tel: Email:	Network Operations Center Tel: (888) 773-4122 gnoctickets@americantower.com