

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARIEL QUIROS,
WILLIAM STENGER,
JAY PEAK, INC.,
Q RESORTS, INC.,
JAY PEAK HOTEL SUITES L.P.,
JAY PEAK HOTEL SUITES PHASE II. L.P.,
JAY PEAK MANAGEMENT, INC.,
JAY PEAK PENTHOUSE SUITES, L.P.,
JAY PEAK GP SERVICES, INC.,
JAY PEAK GOLF AND MOUNTAIN SUITES L.P.,
JAY PEAK GP SERVICES GOLF, INC.,
JAY PEAK LODGE AND TOWNHOUSES L.P.,
JAY PEAK GP SERVICES LODGE, INC.,
JAY PEAK HOTEL SUITES STATESIDE L.P.,
JAY PEAK GP SERVICES STATESIDE, INC.,
JAY PEAK BIOMEDICAL RESEARCH PARK L.P.,
AnC BIO VERMONT GP SERVICES, LLC,

Defendants, and

JAY CONSTRUCTION MANAGEMENT, INC.,
GSI OF DADE COUNTY, INC.,
NORTH EAST CONTRACT SERVICES, INC.,
Q BURKE MOUNTAIN RESORT, LLC,

Relief Defendants.

Q BURKE MOUNTAIN RESORT, HOTEL AND
CONFERENCE CENTER, L.P.,
Q BURKE MOUNTAIN RESORT GP SERVICES, LLC¹,
AnC BIO VT, LLC,²

Additional Receivership Defendants.

_____ /

¹See Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [ECF No. 60].

²See Order Granting Receiver's Motion for Entry of an Order Clarifying that AnC Bio VT, LLC is included in the Receivership or in the Alternative to Expand the Receivership to include AnC Bio VT, LLC, *Nunc Pro Tunc* dated September 7, 2018 [ECF No. 493].

**RECEIVER'S MOTION TO APPROVE BUILDING
AND ROOFTOP LEASE AGREEMENT WITH
BELL ATLANTIC MOBILE SYSTEMS LLC
AND SUPPORTING MEMORANDUM OF LAW**

Michael I. Goldberg (the "Receiver"), the Court-appointed Receiver pursuant to the Order Granting Plaintiff Securities and Exchange Commission's Motion for Appointment of Receiver (the "Receivership Order") [ECF No. 13], dated April 13, 2016, through undersigned counsel, hereby files this Motion to Approve Building and Rooftop Lease Agreement with Bell Atlantic Mobile Systems LLC ("Bell Atlantic"). In support of this motion, the Receiver states as follows:

Preliminary Statement

The elevation of Burke Mountain and Jay Peak make these properties viable locations for cellular equipment and provide better cellular service for these otherwise remote locations. The Court previously authorized the Receiver to enter into a similar agreement with New Cingular Wireless PCS, LLC, a subsidiary of AT&T, Inc., to amend a License Agreement for use of a portion of Jay Peak's Sky Haus for placement of a cellular tower and ancillary transmission equipment. *See* ECF No. 454. The Receiver now seeks authorization from this Court to enter into a similar agreement on Burke Mountain.

The Receiver seeks authorization to enter into Building and Rooftop Lease Agreement with Bell Atlantic which authorizes Bell Atlantic to install and operate communications equipment on a portion of the Burke Mountain Hotel for a period of five years, with three automatic extensions. The Lease Agreement will provide the receivership estate with rental payments at an annual rate of \$26,400, which will increase annually. As additional

consideration, Bell Atlantic agrees to pay a one-time, non-refundable, lump-sum signing bonus of \$7,000. The Lease Agreement provides a financial benefit to the receivership estate.

I. BACKGROUND

1. On April 12, 2016, the Securities and Exchange Commission (“SEC”) filed a Complaint [ECF No. 1] in the United States District Court for the Southern District of Florida (the “Court”) against the Receivership Defendants,³ the Relief Defendants,⁴ William Stenger and Ariel Quiros, the principal of the Receivership Defendants, alleging that the Defendants violated the Securities Act of 1933 and the Securities Exchange Act of 1934 by making false or materially misleading representations to investors in connection with securities offerings.

2. The first six offerings were associated with construction and renovation at the Jay Peak Resort and its accompanying facilities. The seventh offering, by Jay Peak Biomedical Research Park L.P., raised funds to construct a biomedical research facility near Newport, Vermont. A final offering raised funds for the construction of a hotel and other facilities on Burke Mountain (the “Burke Mountain Hotel”).

3. The Burke Mountain Hotel is owned by the Q Burke Mountain Resort Hotel and Conference Center, L.P. (“Burke LP”). The general partner of Burke LP is Q Burke Mountain Resort GP Services, LLC (“Burke GP”). On April 19, 2016, the Receiver filed an Emergency Motion to Expand the Receivership [ECF No. 44] to include Burke LP and Burke GP as

³ The “Receivership Defendants” are Jay Peak, Inc., Q Resorts, Inc., Jay Peak Hotel Suites L.P., Jay Peak Hotel Suites Phase II L.P., Jay Peak Management, Inc., Jay Peak Penthouse Suites L.P., Jay Peak GP Services, Inc., Jay Peak Golf and Mountain Suites L.P., Jay Peak GP Services Golf, Inc., Jay Peak Lodge and Townhouse L.P., Jay Peak GP Services Lodge, Inc., Jay Peak Hotel Suites Stateside L.P., Jay Peak Services Stateside, Inc., Jay Peak Biomedical Research Park L.P., and AnC Bio Vermont GP Services, LLC.

⁴ The “Relief Defendants” are Jay Construction Management, Inc., GSI of Dade County, Inc., North East Contract Services, Inc., and Q Burke Mountain Resort, LLC. Later, Q Burke Mountain Resort, Hotel and Conference Center, L.P. and Q Burke Mountain Resort GP Services, LLC were added as Additional Receivership Defendants”). The Receivership Defendants, Relief Defendants, and Additional Receivership Defendants are collectively referred to as the “Receivership Entities.”

“Additional Receivership Entities.” On April 22, 2016, the Court entered an Order [ECF No. 60] granting the motion and expanding the receivership to include Burke LP, Burke GP, their subsidiaries, successors and assigns. The Order further authorized, empowered and directed the Receiver to take all actions set forth in or contemplated by the Receivership Order with respect to Burke LP and Burke GP as if the Additional Receivership Entities were originally included in the Receivership Order.

4. The Burke Mountain Hotel was built on land owned by Burke 2000 LLC. Relief Defendant Q Burke Mountain Resort, LLC is the 100% owner of Burke 2000 LLC. The Order appointing the Receiver vests title to all property of the Receivership Entities in the Receiver. As a result, the Receiver has the authority (subject to Court approval) to sell the land owned by Burke 2000 LLC.

5. The high elevations of the Jay Peak Resort and the Burke Mountain Hotel make them optimal sites for placement of cellular antennas. Akerman attorneys worked with New Cingular Wireless PCS, LLC, a subsidiary of AT&T, Inc., (“Cingular”) to amend a License Agreement which leased a portion of the Sky Haus to Cingular for placement of a cellular tower and ancillary transmission equipment. On February 23, 2018, the Court entered an endorsed Order [ECF No. 454] Granting the Receiver’s Motion to Approve Second Amendment to License Agreement with New Cingular Wireless PCS, LLC [ECF No. 453].

6. The Receiver and his attorneys have also negotiated and drafted a Building and Rooftop Lease Agreement with Bell Atlantic which authorizes Bell Atlantic to install communications equipment on a portion of the Burke Mountain Hotel, as more fully described in Exhibit B to the Building and Rooftop Lease Agreement (the “Lease Agreement”). A copy of the Lease Agreement is attached hereto as Exhibit “1”.

7. The Lease Agreement grants Bell Atlantic the right to install, maintain and operate communications equipment at the Burke Mountain Hotel for a period of five years, with three automatic extensions of five years for each extension. Rental payments commence at an annual rate of \$26,400 and increase annually. As additional consideration for the Lease Agreement, Bell Atlantic agrees to pay a one-time, non-refundable, lump-sum signing bonus of \$7,000 within 90 days of the date of execution of the Lease Agreement by both parties, which payment will be considered additional rent.

8. The Lease Agreement provides a benefit to the receivership estate through the rental payments, which commence at \$26,400 per year and increase for each year of the term the Lease Agreement, for a total recovery of at least \$140,000.

Memorandum of Law

The Order Appointing Receiver authorizes, empowers and directs the Receiver to make agreements as may be reasonable, necessary and advisable in discharging the Receiver's duties. *See Order Appointing Receiver* at ¶ 8. In consultation with his professionals operating the Jay Peak Resort, the Receiver believes that entering into the Lease Agreement is advisable and will undoubtedly benefit the receivership estate. The Lease Agreement will provide a source of continued revenue for the next five years or longer. Entering into the Lease Agreement makes complete sense. Accordingly, the Receiver strongly believes that the Court should approve this motion.

WHEREFORE, the Receiver respectfully requests the Court to enter an Order in the form attached hereto as Exhibit "B", authorizing the Receiver to enter into the agreement described herein and to grant such further relief as is just and proper.

LOCAL RULE 7.1 CERTIFICATION OF COUNSEL

Pursuant to Local Rule 7.1, undersigned counsel hereby certifies that he has conferred with counsel for the Securities and Exchange Commission, who has no objection to this Motion or the relief requested in this Motion.

Respectfully submitted,

By: /s/ Joan M. Levit
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Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this July 8, 2020 via the Court's notice of electronic filing on all CM/ECF registered users entitled to notice in this case as indicated on the attached Service List.

By: /s/ Joan M. Levit
Joan M. Levit, Esq.

SERVICE LIST

1:16-cv-21301-DPG Notice will be electronically mailed via CM/ECF to the following:

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EXHIBIT “A”

Burke Base Lodge, Vermont.
Project #20171645492. Location #469649.

BUILDING AND ROOFTOP LEASE AGREEMENT

This Building and Rooftop Lease Agreement (the “Agreement”) made this ___ day of _____, 2020, between **Michael Goldberg as Receiver for Q Burke Mountain Resort, LLC, being the Sole Member of Burke 2000 LLC, a Vermont limited liability company**, with an address c/o Akerman LLP, 350 E. Las Olas Blvd., Suite 1600, Ft. Lauderdale, FL 33301 hereinafter designated “Lessor” and **Bell Atlantic Mobile Systems LLC** with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter designated “Lessee”. Lessor and Lessee are at times collectively referred to hereinafter as the “Parties” or individually as the “Party”.

WITNESSETH

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. **GRANT**. Subject to and conditioned on Lessee’s compliance with the terms and conditions of this Agreement, Lessor hereby grants to Lessee the right to install, maintain and operate communications equipment (“Use”) in, and/or upon that certain building (the “Building”) owned, leased or controlled by Lessor at 2559 Mountain Rd, East Burke, Vermont known as the “Burke Mountain Hotel & Conference Center” (the “Property”). The Property is legally described on **Exhibit “A”** attached hereto and made a part hereof. Lessee’s communications equipment (the “Telecom Equipment”) will be installed on a portion of the Property consisting of approximately 100 square feet of floor space in the attic of the Building, approximately 20 square feet of space on the interior walls of the attic of the Building, and approximately 500 square feet of space on the façade of the building (the “Premises”). The Premises are shown in detail on **Exhibit “B”** attached hereto and made a part hereof.

2. **INITIAL TERM**. This Agreement shall be effective as of the date of execution by both Parties (“Effective Date”). The initial term of the Agreement shall be for five (5) years beginning on the first day of the month following the Commencement Date (as hereinafter defined). The “Commencement Date” shall be the first day of the month following the date a Certificate of Public Good has been issued to Lessee for the Use by the Vermont Public Utility Commission (f/k/a the Vermont Public Service Board).

3. **EXTENSIONS**. This Agreement shall automatically be extended for three (3) additional five (5) year terms unless Lessee terminates it at the end of the then current term by giving Lessor written notice of the intent to terminate at least six (6) months prior to the end of the then current term. If Lessee fails to notify Lessor at least six (6) months prior to the end of the then current term, then the right of termination under this Paragraph 3 shall be deemed to be waived and of no further force or effect with respect to that particular extension term. The initial term and all extensions shall be collectively referred to herein as the “Term”.

4. **RENTAL**.

(a) Rental payments shall begin on the Commencement Date and be due at a total annual rental of \$26,400.00, to be paid in equal monthly installments on the first day of each month, in advance, to Lessor at c/o Akerman LLP, 350 E. Las Olas Blvd., Suite 1600, Ft.

Lauderdale, FL 33301 or to such other person, firm, or place as Lessor may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 22 below. Lessor acknowledges that Lessee's internal administrative processes may delay delivery of the initial rental payment for up to ninety (90) days after the Commencement Date. Upon agreement of the Parties, Lessee may pay rent by electronic funds transfer and in such event, Lessor agrees to provide to Lessee bank routing information for such purpose upon request of Lessee. Annual rental for each year of the Term shall be equal to one hundred two percent (102%) of the annual rental payable with respect to the immediately preceding year of the Term. If Lessee fails to pay rent within ten (10) days after written notice from Lessor that payment has not been received, on the 5th day of the following month Lessee shall pay a late fee of two percent (2%) of the rent then due as an additional fee.

(b) For any party to whom rental payments are to be made, Lessor or any successor in interest of Lessor hereby agrees to provide to Lessee (i) a completed, current version of Internal Revenue Service Form W-9, or equivalent; (ii) complete and fully executed state and local withholding forms if required; and (iii) other documentation to verify Lessor's or such other party's right to receive rental as is reasonably requested by Lessee. Rental shall accrue in accordance with this Agreement, but Lessee shall have no obligation to deliver rental payments until the requested documentation has been received by Lessee. Upon receipt of the requested documentation, Lessee shall deliver the accrued rental payments as directed by Lessor.

(c) As additional consideration for this Agreement, Lessee shall pay Lessor a one-time, non-refundable, lump-sum signing bonus of \$7,000.00, which shall be considered additional rent for the Premises for the period from the Effective Date until the Commencement Date. The signing bonus shall be paid by Lessee to Lessor within ninety (90) days of the Effective Date. Lessor agrees the payment to be made by Lessee under this Paragraph 4(c) is fair and adequate payment in exchange for Lessee intentionally delaying installation of the Telecom Equipment, and Lessor recognizes that Paragraph 2 of this Agreement governs the Commencement Date. This Paragraph 4(c) does not impact whether or not Lessee chooses to install the Telecom Equipment and commence the Term.

5. ACCESS; GENERATOR.

(a) Access. Lessee shall have the non-exclusive right of ingress and egress from a public right-of-way over the Property to and from the Premises solely for the purpose of installation, operation and maintenance of the Telecom Equipment and related lawful uses. Lessee and its employees, agents and subcontractors (each an "Authorized Person") shall have access to the Premises during normal business hours (Monday - Friday, 8 a.m. to 4 p.m.) for construction and routine maintenance and repair. Without limiting the foregoing, Lessor shall provide Lessee with a working fob to facilitate and provide Lessee with access to the Premises. In addition, Lessee shall have the right to access the hatch at the gable end of the Building when necessary to modify, add, or remove equipment from the attic space, provided that in doing so Lessee shall, at its option, either temporarily move Lessor's trash dumpster/compactor to facilitate access to the hatch using a man-lift or scissor lift, or use a crane set on the adjacent driveway to access the hatch. In the case of an emergency which poses an immediate threat of substantial harm or damage to persons and/or property which requires entry on the Premises or which requires entry on the Premises for the purpose of averting a material interruption in

Lessee's ability to serve its customers using the Telecom Equipment or for the purpose of restoring the operability of the Telecom Equipment, Lessee may enter the Premises and take actions that are required to protect individuals or personal property from the immediate threat of substantial harm or damage, or that are required to restore operability of the Telecom Equipment, or that are required to avert a material service interruption; provided, however, that promptly after the emergency entry and in no event later than twenty-four (24) hours, Lessee gives telephonic and written notice to Lessor of Lessee's entry onto the Premises. Lessee shall reimburse Lessor for all actual costs and expenses incurred by Lessor as a result of access outside of the normal business hours of the Building. All access to the Premises or other areas of the Building shall be subject to the continuing control of, and reasonable security and safety procedures established by, Lessor. Without limitation, the Premises shall include an easement of the space reasonably necessary for the installation, operation and maintenance of wires, cables, conduits and pipes running between and among the various portion of the Premises and to all necessary electrical, telephone, fiber and other similar support services located within the Building or the nearest public right of way. The Premises shall also include space sufficient for Lessee's radio frequency signage and/or barricades as are necessary to ensure Lessee's compliance with Laws (as defined in Paragraph 28). In the event it is necessary, Lessor agrees to grant Lessee or the provider the right to install such services on, through, over and/or under the Property, provided the location of such services shall be approved in advance by Lessor.

(b) Generator.

(i) Lessor grants to Lessee the right to tie into Lessor's emergency generator ("Lessor's Generator") and to use a 60 amp circuit to be provided by Lessor for Lessee's use, with such tie-in or connection to be made at Lessee's sole cost and expense. Lessor additionally grants to Lessee the right to run wires, cables, conduits and pipes between the Premises and Lessor's Generator. Lessor shall not knowingly overload Lessor's Generator in a manner that adversely affects the provision of emergency back-up power to Lessee's communications facility located within the Premises, and agrees to perform load calculations that include Lessee's 60 amp circuit prior to adding any new loads to Lessor's Generator. Lessor covenants that (x) it will maintain Lessor's Generator in good working order and repair and in compliance with all applicable federal, state, county and local laws, rules and regulations, and (y) it shall be responsible for providing adequate fuel for the full and proper operation of Lessor's Generator at all times. Lessee understands and acknowledges that Lessor from time to time may need to repair or replace Lessor's Generator and such repair and replacement may include temporary interruptions.

(ii) If Lessee at any time becomes aware that Lessor is not in compliance with Lessor's obligations hereunder, Lessee may, but without obligation, notify Lessor of such non-compliance. Following expiration of a period of ten (10) days after such notice, unless Lessor is then diligently and in good faith working to cure such non-compliance, Lessee, at its option, but without obligation, may perform such acts and pay such amounts as are reasonably necessary to cure such non-compliance. Notwithstanding the foregoing, in the event of an emergency that threatens the continued operation of Lessor's Generator, Lessee can elect to immediately commence to cure any non-compliance by Lessor provided Lessee has no reasonable alternative and has notified or attempted in good faith to notify Lessor or Lessor's representative of such emergency by telephone (with subsequent written notice as soon as practicable). Lessor shall

reimburse the reasonable costs and expenses incurred by Lessee in connection with its cure of Lessor's non-compliance within thirty (30) days following Lessee's delivery to Lessor of an invoice together with verifiable paid receipts evidencing Lessee's costs and expenses.

(iii) If Lessor's Generator is not working properly, then until such time as Lessor's Generator is again working properly, Lessee, in addition to any other rights granted to Lessee hereunder, shall have the right to deliver and operate a temporary generator on the Property to service Lessee's communications facility, together with the right to install and maintain such wires and conduits as are necessary to connect the temporary generator to Lessee's communications facility; provided, however, that any such temporary generator shall not unreasonably interfere with Lessor's use of the Property or the systems serving the Property. Lessee shall be responsible for obtaining all governmental permits and approvals necessary for the operation of said temporary generator.

6. CONDITION OF PROPERTY; NO DAMAGE.

(a) Lessor shall deliver the Premises to Lessee strictly in its as-is condition.

(b) The use and operation of the Telecom Equipment shall not cause physical damage to any part of the Building, void any warranty or guaranty applicable to the roof or the Building, or cause the violation of any condition or provision of this Agreement or any governmental or quasi-governmental law, rule or regulation applicable to the Building (now or hereafter in effect).

7. ELECTRICAL.

(a) Lessee, at Lessee's sole cost and expense, shall furnish and install an individual electrical meter at the Premises for the measurement of electrical power used by Lessee at the Premises and Lessee shall pay the utility company directly for all its own power consumption used by the Telecom Equipment.

(b) Lessee shall be permitted to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by Lessor. Lessee shall have the right to install conduits connecting the temporary power source and related appurtenances to the Premises.

(c) In the event a sub-meter is installed and the utility company will not permit Lessee to pay the utility company directly, then the Lessee shall pay Lessor for such electric service in the following manner:

- On or before the first day of each month, Lessee shall pay Lessor the sum of \$650.00 in same manner as rent.
- Every twelve (12) months, Lessor shall read the meter and shall deliver a reconciliation statement to Lessee to reconcile the amount paid by Lessee for the prior twelve (12) month period with the actual cost of electric service.

- The reconciliation statement shall be addressed to: Verizon Wireless, M/S 3846, P.O. Box 2375, Spokane, WA 99210-2375, or such other addresses as Lessee shall provide by written notice from time to time.
- The reconciliation statement shall clearly show the address to which payment should be remitted.
- The reconciliation statement shall include a contact name and phone number in case Lessee has any questions.
- The reconciliation statement shall state that it pertains to electricity usage.
- The reconciliation statement shall clearly reflect the payment period covered by the invoice.
- The reconciliation statement shall reference Burke Base Lodge, Vermont. Location #469649.
- The reconciliation statement shall indicate the results of Lessor's reading of the meter, and shall indicate the average cost of electricity per kilowatt-hour as charged to Lessor by the utility service provider, substantiated by evidence of how such rate was calculated using invoices provided by the utility service provider so that one can divide the cost of electricity by usage.

If the reconciliation statement indicates that Lessee has underpaid for its electricity usage during the period covered thereby, then Lessee shall make a reconciliation payment within sixty (60) days of its receipt of the reconciliation statement. If the reconciliation statement indicates that Lessee has overpaid for its electricity usage during the period covered thereby, then Lessor shall refund such overpayment to Lessee together with its delivery of the reconciliation statement. The parties agree that the amount of the monthly estimated payment shall be adjusted from time to time by amendment to this Agreement to reflect rate changes and to reflect the actual cost of electric service to the Premises as measured by the meter.

8. IMPROVEMENTS. Lessee shall submit copies of the site plan and specifications for the initial installation of the Telecom Equipment to Lessor for prior approval, which approval shall not be unreasonably withheld. The Telecom Equipment including, without limitation, antennas, conduits, and other improvements shall be at Lessee's sole expense and installation shall be at the sole expense, discretion and option of Lessee. Lessee shall have the right to replace, repair, add or otherwise modify the Telecom Equipment including antennas, conduits or other improvements or any portion thereof and the frequencies over which the Telecom Equipment operates, whether or not any of same are listed on any exhibit so long as they are situated within the Premises. Lessee shall not suffer or permit any mechanics', materialman's or other liens to be filed against the Premises, the Building or Property by reason of work, labor, services or materials performed or furnished to Lessee or any of its Authorized Persons. In the event that any notice of lien will be filed or given, Lessee will, within thirty (30) days after the date of filing cause the same to be released or discharged by either payment, deposit, or bond. Lessee hereby indemnifies and holds harmless Lessor from and against any losses, damages, costs, expenses, fees or penalties suffered or incurred by Lessor on account of the filing of the claim or lien. All work by Lessee shall be performed so as not to unreasonably disturb Lessor, its licensees or lessees, guests and all occupants of the hotel operated from the Building.

9. GOVERNMENT APPROVALS. Lessee's Use is contingent upon Lessee obtaining all of the certificates, permits and other approvals (collectively, the "Government Approvals") that may be required by any federal, state or local authorities (collectively, the "Government Entities") as well as a satisfactory structural analysis of the building or other structure that will permit Lessee's Use. Lessee shall obtain, at its sole cost and expense, all Government Approvals required for the installation and the construction of the Telecom Equipment and shall maintain all such Government Approvals as necessary to operate the Telecom Equipment at all times. Lessor shall, at no out of pocket cost or expense to Lessor, reasonably cooperate with Lessee in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to Lessee's Use.

10. TERMINATION. Lessee may, unless otherwise stated, terminate this Agreement upon thirty (30) days prior written notice to Lessor in the event that (i) any applications for such Government Approvals should be finally rejected; (ii) any Government Approval issued to Lessee is canceled, expires, lapses or is otherwise withdrawn or terminated by any Government Entity; (iii) Lessee determines that such Government Approvals may not be obtained in a timely manner; and (iv) Lessee determines any structural analysis is unsatisfactory; (v) Lessee, in its sole discretion, determines the Use of the Premises is obsolete or unnecessary; (vi) with six (6) months prior notice to Lessor, upon the annual anniversary of the Commencement Date provided that Lessee pays a termination penalty equal to six (6) months' rent at the then current rate; (vii) at any time before the Commencement Date for any reason or no reason in Lessee's sole discretion; or (viii) in accordance with Paragraph 11 below; provided, that Lessee shall not exercise its termination rights under subsections (v) or (vi) during the initial term.

11. MAINTENANCE. Lessee will operate and maintain the Telecom Equipment within the Premises in compliance with all applicable law and industry standards and will maintain the Telecom Equipment in good condition, reasonable wear and tear and casualty damage excepted. In addition, Lessee shall access the Premises and conduct its maintenance activities in compliance with Lessor's rules and regulations for the Building, provided that that they do not unreasonably restrict or limit Lessee's access to the Telecom Equipment, that they are of general application to all tenants and users of the Building and that Lessor provides Lessee with prior written notice of such rules and regulations. Lessee shall maintain the Premises in good condition and keep the Premises free from all trash and debris arising from Lessee's operations and shall repair all damage to the Premises or Building arising from Lessee's operations. In the event that Lessor shall not maintain, in good operating condition and repair sufficient for Lessee's Use, as determined in Lessee's reasonable determination, (a) the structural elements of the Building and the Premises, including the foundations, exterior walls and roof of the Building, (b) the fire sprinkler and/or standpipe and hose or other automatic fire extinguishing systems and fire hydrants serving the Building, and (c) the parking lots, walkways, parkways, driveways and utility systems serving the Building, Lessee may provide written notice to Lessor, and in the event that Lessor does not commence, and diligently pursue such maintenance in a reasonable period of time after delivery of such notice by Lessee, Lessee may, at its option, either perform the necessary maintenance at its expense (without obligation to do so) or terminate this Agreement upon thirty (30) days prior written notice to Lessor; provided that although Lessor has no obligation to perform the maintenance described in subsections (a), (b) and (c) of this Paragraph, if Lessor notifies Lessee within five (5) days of Lessor's receipt of Lessee's notice of termination that Lessor intends to complete such maintenance, then Lessor shall have thirty (30)

days to cure such failure to maintain, provided that if such maintenance reasonably requires more than thirty (30) days to cure then Lessor shall have such longer time as may be reasonably necessary, not to exceed a total of ninety (90) days, so long as Lessor shall have materially commenced such cure within thirty (30) days and thereafter diligently prosecutes such cure to completion, and Lessee shall forbear from terminating this Agreement while Lessor is diligently prosecuting such cure.

12. INDEMNIFICATION.

(a) Subject to Paragraph 13, Lessee shall indemnify and hold Lessor harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the use and occupancy of the Property by Lessee, its employees, contractors, servants or agents, except to the extent such claims or damages may be due to or caused by the gross negligence or willful misconduct of Lessor, its employees, contractors, or agents. Lessor will provide Lessee with prompt, written notice of any claim covered by this indemnification; provided that any failure of Lessor to provide any such notice, or to provide it promptly, shall not relieve Lessee from its indemnification obligation in respect of such claim. Lessor will cooperate appropriately with Lessee in connection with Lessee's defense of such claim. Lessee shall defend Lessor, at Lessor's request, against any claim with counsel reasonably satisfactory to Lessor. Lessee shall not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of Lessor and without an unconditional release of all claims by each claimant or plaintiff in favor of Lessor.

(b) Subject to Section 13, Lessor shall indemnify and hold Lessee harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the use and occupancy of the Property by Lessor, its employees, contractors, servants or agents, except to the extent such claims or damages may be due to or caused by the gross negligence or willful misconduct of Lessee, its employees, contractors, or agents. Lessee will provide Lessor with prompt, written notice of any claim covered by this indemnification; provided that any failure of Lessee to provide any such notice, or to provide it promptly, shall not relieve Lessor from its indemnification obligation in respect of such claim. Lessee will cooperate appropriately with Lessor in connection with Lessor's defense of such claim. Lessor shall defend Lessee, at Lessee's request, against any claim with counsel reasonably satisfactory to Lessee. Lessor shall not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of Lessee and without an unconditional release of all claims by each claimant or plaintiff in favor of Lessee.

Notwithstanding anything to the contrary contained in this Section 12 or elsewhere in this Lease, Lessee (on behalf of itself and, to the extent permitted by law, on behalf of its representatives, officers, employees, agents, contractors, subcontractors, invitees and licensees) hereby releases and waives all claims of any kind against Lessor, its representatives, officers, employees, agents, contractors, subcontractors, invitees and licensees arising from or relating to (directly or indirectly) (i) Lessee's use of Lessor's Generator; (ii) Lessee's exercise of its cure rights hereunder; and/or (iii) the installation, maintenance (or lack thereof), repair, removal, ownership, operation or malfunction of Lessor's Generator, except in each case to the extent such claims or damages may be due to or caused by the gross negligence or willful misconduct of Lessor, its employees, contractors, or agents.

13. INSURANCE.

(a) At Lessee's sole cost, Lessee shall maintain during the Term the following: (i) commercial general liability insurance for bodily injury and property damage with a combined single limit of \$5,000,000 per occurrence; (ii) an all-risk property insurance policy covering the full replacement value of the Telecom Equipment against loss or damage by fire, theft, and other risks as are insurable under all-risk insurance policies; and (iii) all requisite worker's compensation and other insurance required by law and covering Lessee's employees. The limits required herein may be satisfied under any umbrella/excess liability insurance with a \$5,000,000 per occurrence limit. Lessee shall cause any agent or subcontractor that performs construction work at the Premises to maintain during the Term the following: (i) commercial general liability insurance for bodily injury and property damage with a combined single limit of \$2,000,000 per occurrence; and (ii) all requisite worker's compensation and other insurance required by law and covering their employees. In each case, any and all defense costs should be outside the limits and coverage should apply in excess of the required insurances. Lessee agrees to include Lessor as an additional insured under such policies as its interest may appear under this Agreement. Lessee shall provide Lessor with a certificate of insurance evidencing the coverage required hereunder within thirty (30) days of the Commencement Date and renewal certificates will be provided annually.

(b) At Lessor's sole cost, Lessor shall maintain, and cause any agent or subcontractor that performs construction work at the Property, to maintain during the Term the following: (i) commercial general liability insurance for bodily injury and property damage with a combined single limit of \$5,000,000 per occurrence; (ii) an all-risk property insurance policy covering the full replacement value of the Building against loss or damage by fire, theft, and other risks as are insurable under all-risk insurance policies; and (iii) all requisite worker's compensation and other insurance required by law and covering Lessor's employees. The limits required herein may be satisfied under any umbrella/excess liability insurance with a \$5,000,000 per occurrence limit. In each case, any and all defense costs should be outside the limits and coverage should apply in excess of the required insurances. Lessor agrees to include Lessee as an additional insured under such policies as its interest may appear under this Agreement. Lessor shall provide Lessee with a certificate of insurance evidencing the coverage required hereunder within thirty (30) days of the Commencement Date and renewal certificates will be provided annually.

(c) Notwithstanding anything in this Lease to the contrary, Lessee waives and releases, and shall cause its insurance carrier(s) and any other party claiming through or under such carrier(s), by way of subrogation or otherwise, to waive, any and all rights of recovery, any claims against Lessor for any loss or damage to Lessee's property, any loss of use of the Premises, and any loss, theft or damage to Lessee's Alterations, including all rights (by way of subrogation or otherwise) of recovery, claims, actions or causes of action arising out of the negligence of Lessor, which loss or damage is (or would have been, had the insurance required by this Lease been maintained) covered by insurance. In addition, Lessor waives and releases, and shall cause its insurance carrier(s) and any other party claiming through or under such carrier(s), by way of subrogation or otherwise, to waive, any and all rights of recovery, any claims against Lessee for any loss of or damage to or loss of use of the Building, any additions or improvements to the Building, or any contents thereof, including all rights (by way of

subrogation or otherwise) of recovery, claims, actions or causes of action arising out of the negligence of Lessee.

14. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 12 and 25, or a violation of law, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

15. INTERFERENCE.

(a) Lessee's operations on the Premises shall comply at all times with Federal Communications Commission ("FCC") requirements and with all marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC imposed as a result of the installation and operation of the Telecom Equipment. Lessee agrees that Lessee will not cause radio frequency interference that is measurable in accordance with industry standards to any equipment of Lessor or of any other licensees or lessees of the Building provided that such equipment was installed prior to the installation of Lessee's Telecom Equipment, as it may be modified from time to time. Lessor agrees that Lessor and other occupants of the Property will not cause radio frequency interference that is measurable in accordance with industry standards to the then existing Telecom Equipment.

(b) Without limiting any other rights or remedies, if interference occurs and continues for a period in excess of 48 hours following notice to the interfering party via telephone to Lessee's Network Operations Center at (800) 224-6620/(800) 621-2622, or to Lessor at (954) 463-2700, the interfering party shall or shall require any other user to take all steps necessary to correct and eliminate the interference. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph 15 and therefore the Parties shall have the right to equitable remedies such as, without limitation, injunctive relief and specific performance.

16. REMOVAL AT END OF TERM. Upon expiration or earlier termination of this Agreement, Lessee shall, within ninety (90) days of same, remove the Telecom Equipment, personal property and all fixtures and restore the Premises to its condition as of the Commencement Date, reasonable wear and tear and casualty damage excepted. Lessor agrees and acknowledges that the Telecom Equipment shall remain the personal property of Lessee and Lessee shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. Any removal shall be performed by a contractor previously approved in writing by Lessor (in its reasonable discretion), in a good and workmanlike manner, in accordance with a removal plan previously approved by Lessor (in its sole discretion) and without causing any interference with or damage to the structures, equipment, or operations of Lessor or any of its licensees or tenants at the Building. All costs associated with the removal and restoration as provided herein shall be paid by Lessee. If such time for removal causes Lessee to remain on the Premises after expiration or earlier termination of the Agreement, Lessee shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until

the removal of the Telecom Equipment, personal property and all fixtures is completed. If Lessee fails to promptly remove the Telecom Equipment, personal property and all fixtures and restore the affected area, as provided above or as otherwise provided in this Agreement, Lessee hereby authorizes Lessor to remove and dispose of the same and charge Lessee for all costs and expenses incurred by Lessor and such amount shall be paid by Lessee as additional rent within thirty (30) days of its receipt of an invoice therefor. Lessee agrees that Lessor shall not be liable for any property disposed of or removed by Lessor in such instance. Lessee's obligation to perform and observe this covenant shall survive the expiration or earlier termination of the Term.

17. HOLDOVER. If upon expiration of the Term the Parties are negotiating a new lease or a lease extension, then this Agreement shall continue during such negotiations on a month to month basis at the rental in effect as of the date of the expiration of the Term. In the event that the Parties are not in the process of negotiating a new lease or lease extension and Lessee holds over after the expiration or earlier termination of the Term, then Lessee shall pay rent at a rate equal to one hundred fifty percent (150%) of the then existing monthly rate, until the removal of the Telecom Equipment, personal property and all fixtures is completed.

18. [Intentionally Omitted.]

19. RIGHTS UPON SALE OF INCOME STREAM. Should Lessor, at any time during the Term, decide to grant to a third party by easement or other legal instrument an interest in and to any portion of the Premises, such grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize Lessee's rights hereunder. In the event that Lessor completes any such grant described in this Paragraph without executing an assignment of the Agreement whereby the third party agrees in writing to assume all obligations of Lessor under this Agreement, then Lessor shall not be released from its obligations to Lessee under this Agreement, and Lessee shall have the right to look to Lessor and the third party for the full performance of the Agreement.

20. LESSOR'S TITLE. Lessor covenants that Lessee, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises. Lessor covenants that Lessor has full authority to enter into and execute this Agreement and that there are no liens, judgments, covenants, easements, restrictions or other impediments of title that will adversely affect Lessee's Use.

21. ASSIGNMENT; SUBLETTING; FINANCING. Lessee shall not assign all or any portion of this Agreement or sublet all or any portion of the Premises, without Lessor's prior consent, such consent to be in Lessor's sole discretion. Notwithstanding the foregoing, Lessee may, without Lessor's consent, assign all, but not a portion of this Agreement or sublet all, but not a portion of the Premises (a) to a parent, a wholly owned subsidiary or a wholly owned affiliate of Lessee; provided, that such transferee uses the Premises only for the Use and in compliance with all FCC requirements, or (b) to any entity which acquires all or substantially all of Lessee's assets in the market defined by the FCC in which the Building is located; provided that such successor entity shall use the Premises only for the Use and in compliance with all FCC requirements, provided that such assignment shall only be effective upon Lessee's provision of written notice thereof to Lessor setting forth a reasonable description of the transaction and proposed assignee and provided proposed assignee shall provide Lessor with evidence of

insurance required under this Agreement. Lessee shall have no right to assign or sublet the Premises in the event that Lessee is in continuing material breach of any of the terms of the Lease. Lessee shall have no right to encumber this Agreement or its leasehold interest in the Property or obtain any leasehold financing. Lessee shall have no right or interest in any air rights or unutilized development rights with respect to the Premises or the Building; it being understood that all such air rights or development rights which are appurtenant to the Premises and the Building vest with and are reserved exclusively to Lessor.

22. NOTICES. Except for notices permitted via telephone in accordance with Paragraph 15, all notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

Lessor: Michael Goldberg as Receiver for Q Burke Mountain Resort, LLC
c/o Akerman LLP
350 E. Las Olas Blvd., Suite 1600
Ft. Lauderdale, FL 33301

Lessee: Bell Atlantic Mobile Systems LLC
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

23. SUBORDINATION AND NON-DISTURBANCE. Within sixty (60) days of the Effective Date, Lessor shall use commercially reasonable efforts to obtain a Non-Disturbance Agreement, as defined below, from its existing mortgagee(s), ground lessors and master lessors, if any, of the Property. This Agreement shall be subject to and subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") now existing or hereafter to be made which may encumber all or part of the Property, so long as Lessor obtains a commercially reasonable non-disturbance and attornment agreement for Lessee's benefit in the form reasonably satisfactory to Lessee and Lender, as defined below (the "Non-Disturbance Agreement"), and which shall recognize Lessee's rights under this Agreement so long as Lessee is not in material default under this Agreement. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Building and the Property, Lender or such successor-in-interest or Purchaser will honor all of the terms of the Agreement and will not disturb Lessee's tenancy if Lender enforces its rights against Lessor provided that Lessee is not in material default under this Lease. In return for such Non-Disturbance Agreement, Lessee will execute an agreement for Lender's benefit in which Lessee (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the building and (3) agrees to accept a cure by Lender

of any of Lessor's defaults, provided such cure is completed within the deadline applicable to Lessor.

24. DEFAULT; REMEDIES.

(a) It is a "Default" if either Party fails to comply with this Agreement and does not remedy the failure within thirty (30) days after written notice by the other Party or, if the failure cannot reasonably be remedied in such time, if the failing Party does not commence a remedy within the allotted thirty (30) days and diligently pursue the cure to completion within ninety (90) days after the initial written notice. Notwithstanding the foregoing, it shall be a Default hereunder if Lessor's failure to comply with a term or provision of this Agreement materially interferes with Lessee's Use (e.g., if physical access to the Premises is impeded) and Lessor does not remedy the failure within five (5) days after written notice from Lessee or, if the failure cannot reasonably be remedied in such time, if Lessor does not commence a remedy within the allotted five (5) days and diligently pursue the cure to completion within fifteen (15) days after the initial written notice. The cure periods set forth in this Paragraph 24 do not extend the period of time in which either Party has to cure interference pursuant to Paragraph 15 of this Agreement.

(b) In the event of a Default, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate this Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Property is located. Further, upon a Default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor.

25. ENVIRONMENTAL. Lessee shall conduct its business in compliance with all applicable laws governing the protection of the environment or employee health and safety ("EH&S Laws"). Lessee shall indemnify and hold harmless Lessor from claims to the extent resulting from Lessee's violation of any applicable EH&S Laws or to the extent that Lessee causes a release of any regulated substance to the environment. Lessor shall indemnify and hold harmless Lessee from all claims resulting from the violation of any applicable EH&S Laws or a release of any regulated substance to the environment except to the extent resulting from the activities of Lessee or any of its Authorized Persons. In the event that Lessee encounters any hazardous substances that do not result from its activities, Lessee may relocate its facilities to avoid such hazardous substances to a mutually agreeable location or, if Lessee desires to remove at its own cost all or some the hazardous substances or materials (such as soil) containing those hazardous substances, Lessor agrees to sign any necessary waste manifest associated with the removal, transportation and/or disposal of such substances.

26. CASUALTY. If a fire or other casualty damages the Property or the Premises and impairs Lessee's Use, rent shall abate until Lessee's Use is restored. If Lessee's Use is not restored within 45 days, Lessee may terminate this Agreement.

27. CONDEMNATION. In the event of a condemnation of any portion of the Property or Premises that impairs Lessee's Use, Lessee may terminate this Agreement upon fifteen (15) days written notice to Lessor. Lessee may on its own behalf make a claim in any condemnation proceeding involving the Premises, provided such claim will not diminish Lessor's recovery, for losses related to the Telecom Equipment, relocation costs and, specifically excluding loss of Lessee's leasehold interest, and any other damages Lessee may incur as a result of any such condemnation.

28. APPLICABLE LAWS. During the Term, Lessor shall maintain the Property in compliance with all applicable laws, EH&S Laws, rules, regulations, ordinances, directives, covenants, easements, consent decrees, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively, "Laws"). Lessee shall, in respect to the condition of the Premises and at Lessee's sole cost and expense, comply with (i) all Laws relating solely to Lessee's specific and unique nature of use of the Premises including with all FCC requirements and with all marking and lighting requirements of the FAA imposed as a result of the installation and operation of the Telecom Equipment on the Building; and (ii) all building codes requiring modifications to the Premises due to the improvements being made by Lessee in the Premises. It shall be Lessor's obligation to comply with all Laws relating to the Property, without regard to specific use (including, without limitation, modifications required to enable Lessee to obtain all necessary building permits).

29. TAXES.

(a) Lessor shall invoice and Lessee shall pay any applicable transaction tax (including sales, use, gross receipts, or excise tax) imposed on Lessee and required to be collected by Lessor based on any service, rental space, or equipment provided by Lessor to Lessee. Lessee shall pay all personal property taxes, fees, assessments, or other taxes and charges imposed by any Government Entity that are imposed on Lessee and required to be paid by Lessee that are attributable to the Telecom Equipment or Lessee's use and occupancy of the Premises. Lessee shall pay as additional rent any increase in real estate taxes levied against the Property and the Telecom Equipment attributable to Lessee's use and occupancy of the Property. Payment shall be made by Lessee within thirty (30) days after presentation of a receipted bill and/or assessment notice which is the basis for such taxes or charges. Lessor shall pay all ad valorem, personal property, real estate, sales and use taxes, fees, assessments or other taxes or charges that are attributable to the Property or any portion thereof imposed by any Government Entity.

(b) Lessee shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which Lessee is wholly or partly responsible for payment. Lessor shall reasonably cooperate with Lessee at Lessee's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by Lessee, there is a reduction, credit or repayment received by Lessor for any taxes previously paid by Lessee,

Lessor agrees to promptly reimburse to Lessee the amount of said reduction, credit or repayment. In the event that Lessee does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, Lessor will pursue such dispute at Lessee's sole cost and expense upon written request of Lessee.

30. NON-DISCLOSURE. The Parties agree this Agreement and any information exchanged between the Parties regarding the Agreement are confidential. The Parties agree not to provide copies of this Agreement or any other confidential information to any third party without the prior written consent of the other or as required by law. If a disclosure is required by law, prior to disclosure, the Party shall notify the other Party and cooperate to take lawful steps to resist, narrow, or eliminate the need for that disclosure.

31. RELOCATION. Lessor shall be permitted to relocate the Telecom Equipment within the roof area of the Building, provided that (i) Lessor gives Lessee three hundred sixty-five (365) days prior notice, (ii) the relocation will be performed exclusively by Lessee or its agents and Authorized Persons, and (iii) the relocation will not materially impair or materially alter the quality of Lessee's signal transmission from or reception at the Building.

32. MISCELLANEOUS. This Agreement contains all agreements, promises and understandings between Lessor and Lessee regarding this transaction, and no oral agreement, promises or understandings shall be binding upon either Lessor or Lessee in any dispute, controversy or proceeding. This Agreement may not be amended or varied except in a writing signed by all Parties. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns hereto. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights hereunder shall not waive such rights and such party shall have the right to enforce such rights at any time. The performance of this Agreement shall be governed, interpreted, construed and regulated by the laws of the state in which the Premises is located without reference to its choice of law rules. Except as expressly set forth in this Agreement, nothing in this Agreement shall grant, suggest or imply any authority for one Party to use the name, trademarks, service marks or trade names of the other for any purpose whatsoever. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Lessor agrees to execute a Memorandum of this Agreement, which Lessee may record with the appropriate recording officer.

[Signature page follows. The remainder of this page is intentionally blank.]

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR:

Burke 2000 LLC

By: Q Burke Mountain Resort, LLC, its Sole Member

Witness

By: _____
Michael Goldberg, as Receiver

Date: _____

STATE OF FLORIDA
BROWARD COUNTY, SS.

At Ft. Lauderdale, in said County and State, this ____ day of _____, 2020 personally appeared Michael Goldberg, to me known, being the Receiver for Q Burke Mountain Resort, LLC, being the Sole Member of Burke 2000 LLC, and he acknowledged this instrument, by him signed, to be his free act and deed individually and on behalf of Q Burke Mountain Resort, LLC and Burke 2000 LLC.

Before me _____
Notary Public
Commission Expires: _____

Burke Base Lodge, Vermont. Project #20171645492. Location #469649.

LESSEE:

Bell Atlantic Mobile Systems LLC

Witness

By: _____
Keith D. Murray
Director – Network Field Engineering

Date: _____

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF WORCESTER, SS.

On this ____ day of _____ 2020, before me, the undersigned, personally appeared Keith D. Murray, personally known to me to be the individual whose name is subscribed to the within instrument, and he acknowledged to me that he executed the same in his capacity, that by his signature on the instrument, the entity Bell Atlantic Mobile Systems LLC, upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of Westborough, County of Worcester, Commonwealth of Massachusetts.

Before me: _____

Notary Public

Commission Expires:

EXHIBIT "A"

DESCRIPTION OF PROPERTY

All the same lands and premises described in the Limited Warranty Deed from B&I Lending, LLC to Burke 2000 LLC, a Vermont limited liability company, dated October 31, 2000 and recorded in Volume 80 at Page 540 of the Town of Burke Land Records.

Michael Goldberg has been appointed as the receiver for Burke 2000 LLC, as indicated by Order Granting Plaintiff Securities and Exchange Commission's Motion to For Appointment of Receiver issued by the United States District Court Southern District of Florida, Case No. 16-cv-21301-Gayles, dated April 13, 2016 and recorded in Volume 141 at Page 315 of the Town of Burke Land Records

EXHIBIT "B"

SKETCH SITE PLAN AND ELEVATION DRAWINGS OF PREMISES

[to be attached]



- NOTES:**
1. THE DRAWING OF THIS DRAWING IS FOR CONCEPT ONLY. THE INFORMATION SHOWN ON THIS DRAWING IS BASED ON LIMITED FIELD RECONSTRUCTION BY DUBOIS & HALL, INC.
 2. OWNER:
 3. SITE ADDRESS: MOUNTAIN ROAD EAST BURKE, VT 05642
 4. PROJECT: BURKE BASE LODGE
 5. LOCATION: 11700000.DWG
 6. DATE: 11/11/16
 7. FINAL DESIGN AND TOLERANCE NOT TO BE RETURNED TO THE CLIENT FOR REVIEW.
 8. APPROVED AND SEALED DRAWING AT THE DATE OF THE SIGNATURE OF THE ARCHITECT.
 9. THIS DRAWING IS FOR CONCEPT AND DESIGN AND NOT FOR CONSTRUCTION. THE INFORMATION SHOWN ON THIS DRAWING IS FOR INFORMATION FROM THE TOWN OF BURKE.

DUBOIS & HALL
 ARCHITECTS
 11700000.DWG
 PROJECT: BURKE BASE LODGE
 LOCATION: 11700000.DWG
 DATE: 11/11/16

NOT FOR CONSTRUCTION PRELIMINARY PLANS

NO.	DESCRIPTION	DATE	BY	CHKD.
1	ISSUED FOR PERMITTING	11/11/16	JH	JH
2	ISSUED FOR CONSTRUCTION			
3	ISSUED FOR CONSTRUCTION			
4	ISSUED FOR CONSTRUCTION			
5	ISSUED FOR CONSTRUCTION			

BURKE BASE LODGE
 BURKE BASE LODGE
 MOUNTAIN ROAD
 EAST BURKE, VT
 05642

GENERAL SHEET PLAN

SCALE:
 1" = 100'

C-1

Burke Base Lodge, Vermont. Project #20171645492. Location #469649.

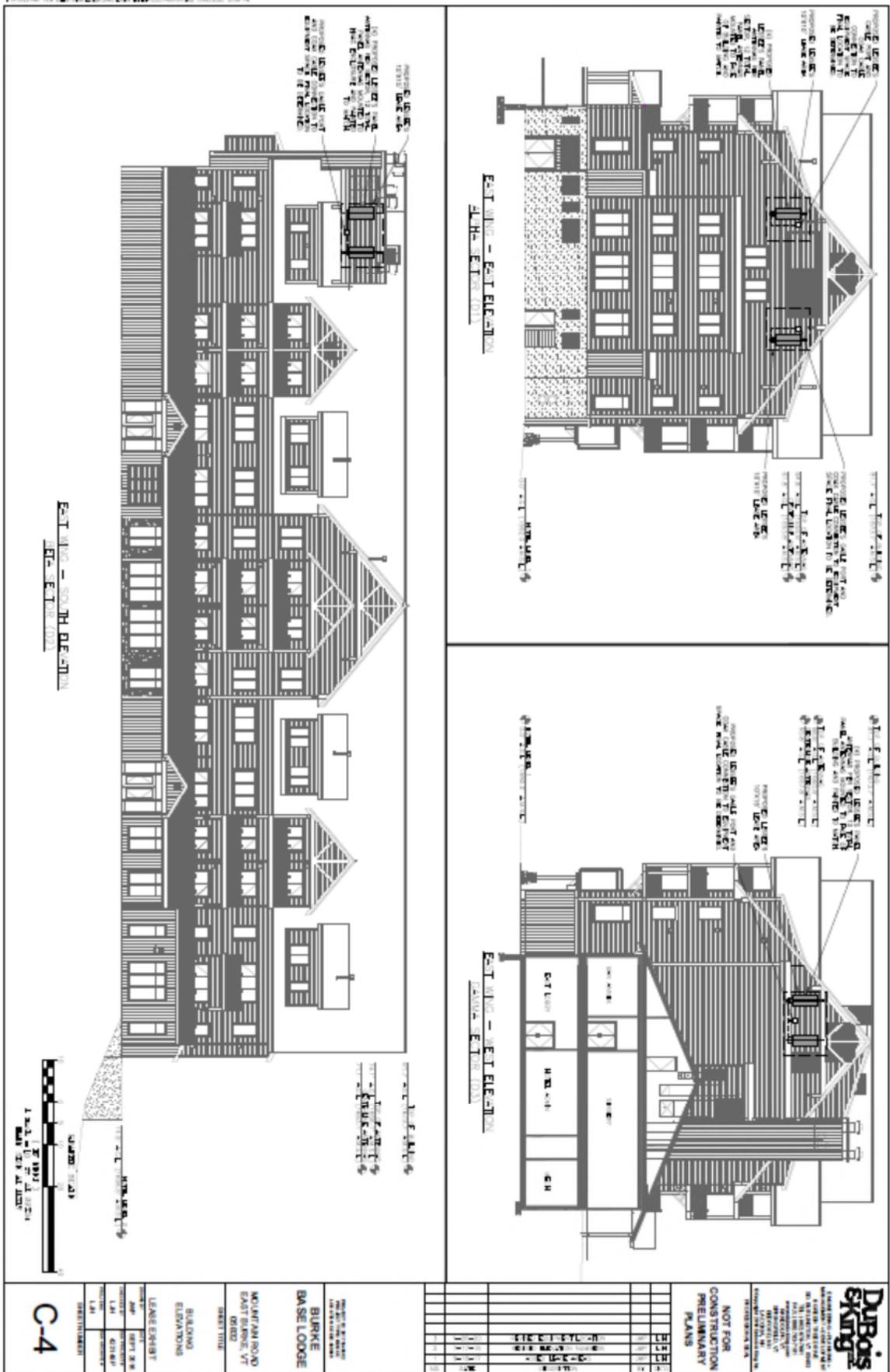


EXHIBIT “B”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARIEL QUIROS,
WILLIAM STENGER,
JAY PEAK, INC.,
Q RESORTS, INC.,
JAY PEAK HOTEL SUITES L.P.,
JAY PEAK HOTEL SUITES PHASE II. L.P.,
JAY PEAK MANAGEMENT, INC.,
JAY PEAK PENTHOUSE SUITES, L.P.,
JAY PEAK GP SERVICES, INC.,
JAY PEAK GOLF AND MOUNTAIN SUITES L.P.,
JAY PEAK GP SERVICES GOLF, INC.,
JAY PEAK LODGE AND TOWNHOUSES L.P.,
JAY PEAK GP SERVICES LODGE, INC.,
JAY PEAK HOTEL SUITES STATESIDE L.P.,
JAY PEAK GP SERVICES STATESIDE, INC.,
JAY PEAK BIOMEDICAL RESEARCH PARK L.P.,
AnC BIO VERMONT GP SERVICES, LLC,

Defendants, and

JAY CONSTRUCTION MANAGEMENT, INC.,
GSI OF DADE COUNTY, INC.,
NORTH EAST CONTRACT SERVICES, INC.,
Q BURKE MOUNTAIN RESORT, LLC,

Relief Defendants.

Q BURKE MOUNTAIN RESORT, HOTEL AND
CONFERENCE CENTER, L.P.,
Q BURKE MOUNTAIN RESORT GP SERVICES, LLC¹,
AnC BIO VT, LLC,²

Additional Receivership Defendants.

¹See Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [ECF No. 60].

²See Order Granting Receiver's Motion for Entry of an Order Clarifying that AnC Bio VT, LLC is included in the Receivership or in the Alternative to Expand the Receivership to include AnC Bio VT, LLC, *Nunc Pro Tunc* dated September 7, 2018 [ECF No. 493].

**ORDER GRANTING RECEIVER'S MOTION TO APPROVE
BUILDING AND ROOFTOP LEASE AGREEMENT
BELL ATLANTIC MOBILE SYSTEMS LLC**

THIS MATTER comes before the Court upon the Motion to Approve Building and Rooftop Lease Agreement with Bell Atlantic Mobile Systems LLC (the “Motion”) [ECF No. ___] filed by Michael I. Goldberg, as the Court-appointed receiver (the “Receiver”) over the other corporate Defendants and Relief Defendants in the above-captioned action. The Court, having reviewed the Motion, being advised that counsel for the Securities and Exchange Commission has no objection to the relief requested in the Motion, and finding that the Receiver has made a sufficient and proper showing in support of the relief requested,

IT IS ORDERED, ADJUDGED AND DECREED, as follows:

1. The Motion is **GRANTED**.
2. The Receiver is authorized to enter into the Building and Rooftop Lease Agreement with Bell Atlantic Mobile Systems LLC, a copy of which is attached to the Motion as Exhibit “A” and to execute any documents and take any actions reasonably necessary to consummate the transactions contemplated therein.

DONE AND ORDERED in Chambers at Miami, Florida this ___ day of July 2020.

DARRIN P. GAYLES
UNITED STATES DISTRICT COURT JUDGE

Copies to:
Counsel of Record