

Building Access Agreement Framework – Advisory Guidance for Property Owners¹

1. Grant of Access

- **What to look for:** Ensure that the license is non-exclusive and defines the specific areas of access, including access protocols for residential units.
- **What to look out for:** Overly broad access rights without clear limitations or tenant privacy protections.

Sample Text:

Licensor hereby grants Licensee a non-exclusive license to access the property located at [Property Address], including, without limitation, common areas, equipment rooms, entrance points, building risers, rooftops, and other service areas (collectively, the “Property”) for the purpose of installing, operating, maintaining, repairing, upgrading, and replacing fiber optic cables, antennas, conduits, and other equipment necessary for providing telecommunications services (the “System”).

2. Term and Renewal

- **What to look for:** Clear definition of the initial term length and conditions for automatic renewal.
- **What to look out for:** Complicated renewal clauses that may lock in unfavorable terms without clear opportunities for renegotiation.

Sample Text:

This Agreement shall be in effect for an initial term of [Insert Number] years commencing on [Insert Date]. The Agreement shall automatically renew for successive [Insert Number]-year periods (each, a “Renewal Term”) unless either party provides written notice of non-renewal at least 90 days prior to the end of the then-current term.

3. Installation, Maintenance, and Repairs

- **What to look for:** Ensure clear maintenance responsibilities and coverage for damages caused by the provider.
- **What to look out for:** Owner liabilities for system maintenance or repair responsibilities that should belong to the provider.

Sample Text:

Licensee shall install, maintain, and repair all components of the System at its sole cost and expense. Licensee shall repair any damage to the Property caused by the installation, maintenance, or operation of the System. Licensee shall ensure that all work is performed in a good and workmanlike manner and complies with applicable laws and building regulations.

Owner Obligations: Licensor shall maintain the environment around the System in a manner that ensures safe access and does not impede the System's operation.

4. Permits and Compliance

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- **What to look for:** Clear delineation of responsibilities for obtaining permits and compliance with laws.
- **What to look out for:** Vague language that shifts permit responsibilities to the owner or fails to address local regulatory requirements.

Sample Text:

Licensee shall obtain all necessary permits, approvals, and certificates required by local, state, and federal authorities for the installation and operation of the System. Licensee agrees to comply with all applicable laws, regulations, and building codes, including, but not limited to, safety standards and any historical or architectural preservation regulations.

5. Access and Notification

- **What to look for:** Clear access rights for installation, maintenance, and emergencies with defined notice protocols.
- **What to look out for:** Overly broad emergency access clauses without owner oversight or notice.

Sample Text:

Licensee shall have access to the Property during regular business hours for installation, maintenance, and repairs, as well as outside of regular hours in the event of emergencies. Licensee shall provide prior written notice to Licensor before performing non-emergency work, except in cases where immediate access is required to restore services.

Licensor agrees to provide Licensee with timely access to all necessary areas of the Property that are necessary for performing the services outlined in this Agreement. Delays caused by the failure to provide access may result in additional costs.

6. Insurance and Indemnification

- **What to look for:** Well-defined insurance coverage and indemnification obligations, including for provider negligence.
- **What to look out for:** Indemnification terms that limit provider liability for damages caused by their actions or negligence.

Sample Text:

Licensee shall maintain commercial general liability insurance in the amount of \$[Insert Amount] per occurrence and \$[Insert Amount] annual aggregate, naming Licensor as an additional insured. Licensee shall also maintain worker's compensation insurance as required by law. Licensee shall indemnify, defend, and hold harmless Licensor from any claims, liabilities, or damages arising from Licensee's installation, maintenance, or operation of the System, except where such claims are caused by the negligence or willful misconduct of Licensor.

7. Ownership of Equipment

- **What to look for:** Clear ownership rights of the equipment and obligations upon termination.
- **What to look out for:** Lack of clarity on restoration of the property after removal.

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Sample Text:

Licensee shall retain ownership of the System and all related equipment. The System shall not be deemed a fixture of the Property. Upon termination or expiration of this Agreement, the Licensee may remove its equipment within X days, provided that the property is restored to its original condition.

8. Marketing and Services to Occupants

- **What to look for:** Permission for Licensee to market services directly to occupants, with defined limits.
- **What to look out for:** Unrestricted marketing activities that may disrupt tenant satisfaction or the building's branding.

Sample Text:

Licensee may market its services to the tenants and occupants of the Property. Occupants may purchase services directly from Licensee under Licensee's standard terms and conditions. Licensee shall be responsible for all billing, collections, and customer service associated with its services.

9. Termination

- **What to look for:** Clear grounds for termination, including service standards or building disruptions.
- **What to look out for:** Ambiguous terms that make it difficult to terminate the agreement if the provider fails to meet obligations.

Sample Text:

Either party may terminate this Agreement with 90 days' written notice in the event of a material breach by the other party, provided that such breach is not cured within 30 days of receiving notice of the breach. Upon termination, Licensee shall have 60 days to remove its equipment from the Property and restore the Property to its original condition.

10. Notices

- **What to look for:** Clear and standard methods for delivering notices to each party.
- **What to look out for:** Ambiguities regarding acceptable notice methods or delays in communication.

Sample Text:

All notices required or permitted under this Agreement shall be in writing and delivered to the addresses set forth below. Notices shall be deemed given when delivered in person, by certified mail, or via email with confirmation of receipt.

11. Governing Law Clauses

- a. **What to look for:** Clear statement on the applicable law and jurisdiction.
- b. **What to look out for:** Vague references to laws without specifying a jurisdiction.

Sample Text:

This Agreement shall be governed by and construed in accordance with the laws of the state of [Insert State], without regard to its conflicts of law provisions.

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