

LICENSE AGREEMENT
ATC Contract No: _____

This LICENSE AGREEMENT ("Agreement") made as of the 24 day of April, 2006 ("Effective Date") by and between Tower Asset Sub, LLC, a Delaware limited liability company, its successors and assigns with a place of business at 10 Presidential Way, Woburn, MA 01801 ("Licensor") and Nassau County, a Florida government entity, with a place of business at 96160 Nassau Place, Yulee, FL 32097 ("Licensee").

I. TOWER SITE INFORMATION:

Site Name: Hilliard
Site Number: 302821
Address and/or location of Tower Site (as defined in Section 1(e) herein): 371105 Oxford Street, Hilliard, FL 32046
Tower Site Coordinates: Lat. 30-42-3.4 Long. 81-55-40.4

II. NOTICE & EMERGENCY CONTACTS:

- Licensee's local emergency contact (name and number): Sam Young / (904) 491-7525
- Licensor's local emergency contact: Network Operations Communications Center (800) 830-3365.
- Notices to Licensee shall be sent to the address above to the attention of County Administrator.
- Notices to Licensor shall be sent to the address above to the attention of Contracts Manager.
- Licensor's Remittance Address: SpectraSite Communications, Inc., P. O. Box 751760, Charlotte, NC 28275-1760, Attn: Property Management

III. PERMITTED USE OF TOWER SITE BY LICENSEE:

Transmitting frequencies: 860.4875-856.4875 MHz & 953/960 MHz
Receiving frequencies: 815.4875-811.4875 MHz & 953-960 MHz
Antenna mount height on tower: (See Exhibit A for specific location)
All other permitted uses of the Tower Site including Licensee's Approved Equipment (as defined in section 1(a) herein), and the Licensed Premises (as defined in section 1(b) herein) are further described in section 4 of this Agreement and Exhibits A and B attached hereto.

IV. FEES & TERM

Monthly License Fee: One Thousand One Hundred and No/100 Dollars (\$1,100.00), increased by the Annual Escalator on the first anniversary of the Commencement Date of this Agreement and each anniversary of the Commencement Date thereafter during the Term (as defined in section 1(d) herein). The Annual Escalator shall be five percent (5%).

Application Fee: N/A

Site Inspection Fee: \$700.00, increased annually on each anniversary of the Commencement Date of this Agreement by a percentage rate increase equal to the Annual Escalator.

Initial Maintenance Fee Percentage: N/A

Initial Term: A period of 1 year beginning on the Commencement Date. The "Commencement Date" shall be the earlier of: (i) the issuance of a NTP (as defined in section 1(c) herein), (ii) 90 days from the date upon which this Agreement is sent to Licensee for execution; or (iii) May 1, 2006.

Renewal Terms: 4 additional periods of 1 year each.

Connection Fee: N/A

Electricity for operation of Approved Equipment is to be provided by (check one):
 Licensor, with the cost of such electricity to be paid by Licensee at the initial rate of \$_____ per month ("Utility Fee") subject adjustment pursuant to Section 5(b), OR
 Licensee, at its sole expense.

V. TERMS & CONDITIONS

The attached terms and conditions are incorporated herein by this reference.

VI. OTHER PROVISIONS:

Other provisions: (check one): None As listed below

1. In no event shall Licensee's use of the Tower Site, or operation of any of its equipment thereon, be conducted in a manner that interferes with Licensor's lighting system located on any of the towers, building systems, or, in the

A CERTIFIED TRUE COPY
 EX OFFICIO, Clerk of the Board of County Comm.
 Nassau County, Florida

event that Licensee's equipment is installed on the rooftop of a building, with equipment of any kind used by building tenants who are not tenants of the Licensor. In the event that such interference does occur, Licensee shall be solely responsible to reimburse Licensor for any and all costs required to modify and/or upgrade Licensor's lighting system, to comply with all necessary FAA/FCC regulations, as a result of said interference.

2. Notwithstanding anything to the contrary in this Agreement, the offer expressed to Licensee in this Agreement shall automatically become null and void with no further obligation by either party hereto if a structural analysis of the Tower Site completed after the execution of this Agreement by Licensor but before the commencement of the installation of Licensee's Approved Equipment indicates that the Tower Site is not suitable for Licensee's Approved Equipment unless Licensor and Licensee mutually agree that structural modifications or repairs shall be made to the Tower Site on mutually agreeable terms.
3. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.
4. Licensor and Licensee agree and acknowledge that, in consideration of Licensor's acceptance that Licensee shall maintain an umbrella policy at a reduced amount of no less than One Million Dollars (\$1,000,000.00), Licensee shall not climb the tower for any reason whatsoever, and Licensee's maintenance of Licensee's Equipment shall be limited to equipment located on the ground or in Licensee's shelter, if any. Licensor and Licensee further agree and acknowledge that any and all contractor/subcontractors engaged by, or on behalf of Licensee, in accordance with Section 10 herein, shall not be permitted to perform any work, maintenance, and/or repairs to Licensee's Equipment located on the communications tower absent proof of maintaining insurance limits meeting those set forth in Exhibit E attached hereto.

[SIGNATURES ARE ON THE NEXT PAGE]

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IN WITNESS WHEREOF, each Party in consideration of the mutual covenants contained herein, and for other good and valuable consideration, intending to be legally bound, has caused this Agreement to be executed by its duly authorized representative as of the date and year written; *provided, however*, that this Agreement shall not become effective as to either Party until executed by both Parties.

Signed, sealed and delivered in the presence of:

[Signature]
Witness
[Signature]
Witness

Agreed to and accepted by:
LICENSOR:
Tower Asset Sub, LLC, a Delaware limited liability company

By: [Signature]

Name: Yannis Macheras

Title: Vice President, Colocation

Date: 05/06/06

Signed, sealed and delivered in the presence of:

[Signature]
Witness
[Signature]
Witness

Agreed to and accepted by:
LICENSEE:
Nassau County, a Florida government entity

By: [Signature]

Name: Thomas D. Branan, Jr.

Title: Chairman

Date: 4-24-06

ATTEST:

Approved as to form by the
Nassau County Attorney:

[Signature]
John A. Crawford
Ex-Officio Clerk

[Signature]
Michael S. Mullin

TERMS AND CONDITIONS

1. SELECT DEFINITIONS.

(a) **Approved Equipment.** Licensee's telecommunications system, including antennas, radio equipment and operating frequency, cabling and conduits, shelter and/or cabinets, and other personal property owned or operated by Licensee as described on Licensee's equipment schedule attached hereto as Exhibit A, which equipment Licensee anticipates shall be located by Licensee at the Tower Site (as defined in subsection 1(e) herein).

(b) **Licensed Premises.** Location of the Approved Equipment on the Tower (defined in subsection 1(e) herein) and at the Tower Site as more specifically described in Exhibits A and B attached hereto.

(c) **NTP or Notice to Proceed.** Written notice from Licensor to Licensee acknowledging that all required documentation for the construction and installation of the Approved Equipment has been received and approved by Licensor and Licensee is authorized to commence its installation of the Approved Equipment at the Licensed Premises, as more particularly set forth in section 10 of this Agreement.

(d) **Term.** Initial Term and each Renewal Term which is effected pursuant to section 6 of this Agreement.

(e) **Tower Site.** Certain real property owned, leased, subleased, licensed or managed by Licensor as identified on page 1 of this Agreement, on which a wireless tower ("Tower") owned, leased, licensed or managed by Licensor is located.

(f) **CPI.** The Consumer Price Index for All Urban Consumers, U.S. City Average (1982-1984=100), as published by the United States Department of Labor, Bureau of Labor Statistics. If such index is discontinued or revised, such other government index or computation with which it is replaced shall be used in lieu thereof.

2. **GRANT OF LICENSE.** Subject to the other terms of this Agreement, Licensor hereby grants Licensee a non-exclusive license to install, maintain and operate the Approved Equipment at the Licensed Premises. All Approved Equipment shall be and remain Licensee's personal property throughout the Term of this Agreement. Licensor shall maintain the communication facility located on the Tower Site in good order and repair, wear and tear, damage by fire, the elements or other casualty excepted. In no event shall Licensee's license as granted herein include rights to use in any fashion the air space above the Approved Equipment, and Licensor reserves the right to install, construct and/or operate additional improvements or equipment of Licensor or others above Licensee's Approved Equipment or shelter (commonly referred to as "stacking"), provided that such additional improvements or equipment do not materially and adversely interfere with the access to and operation of the Approved Equipment or Licensee's shelter. Licensee is not required to utilize a stackable shelter, provided that, if Licensee opts to install a shelter that is not stackable and if Licensor receives an offer to license the air space above the Licensee's non-stackable shelter by a proposed subsequent user, Licensor may, at its election, upon 30 days prior written notice require the Licensee to replace such non-stackable shelter with a stackable shelter of a comparable size, provided that the proposed subsequent user agrees in writing to be wholly responsible for the cost of the Licensee's shelter replacement. Subject to limitations contained in the Ground Lease (defined in section 20 herein), Licensor grants Licensee a right of access to the Tower Site 24 hours per day, 7 days per week during the Term and a designated location for the installation of Licensee's utilities over, under or across the Tower Site (collectively, "Easement"). Licensee shall be responsible for any and all damage or loss that results from the installation of any cables or utility wires by Licensee or any company or person retained by Licensee (including a public utility company), including, without limitation, any damage or loss that results from the accidental cutting of utility wires or cables of any other party operating at the Tower Site. Licensor shall provide Licensee with one set of keys and/or codes to access the Tower Site. Licensee shall be responsible for ensuring that Licensor has, at all times, a complete and accurate written list of all employees and agents of Licensee who have been provided the keys or access codes to the Tower Site. Licensor shall have the right to continue to occupy the Tower Site and to grant rights to others for the Tower Site in its sole discretion. Licensee shall have no property rights or interest in the Tower Site or the Easement by virtue of this Agreement. If Licensor's right to license space on the Tower Space to Licensee is subject to a right of first refusal for the benefit of a third party and if such third party exercises its right of first refusal prior to the Commencement Date, Licensor may terminate this Agreement upon written notice to Licensee.
3. **EXHIBITS.** Within 45 days following the commencement of the installation of the Approved Equipment, Licensee shall provide Licensor with as-built or construction drawings showing the Approved Equipment as installed [in both hard copy and electronic form] ("Construction Drawings"), such Construction Drawings shall include the location of any shelters, cabinets, grounding rings, cables, and utility lines associated with Licensee's use of the Tower Site. Upon receipt, Licensor shall insert hereto the Construction Drawings as Exhibit C hereto. In the event that Licensee fails to deliver the Construction Drawings as required by this section, Licensor may cause such Construction Drawings to be prepared on behalf of Licensee and Licensor shall assess a fee for such Construction Drawings in an amount equal to 120% of the actual cost of obtaining the Construction Drawings including in-house labor, which upon invoice shall become immediately due and payable by Licensee. Licensee shall not infer nor shall acceptance of the Construction Drawings by Licensor be deemed to be a representation by Licensor that such Construction Drawings or the plans and

specifications described therein are in compliance with federal, state or local laws, ordinances, rules or regulations or that such installation shall not cause impermissible or unlawful interference. In the event of inconsistency or discrepancy between (a) Exhibit A and Exhibit B hereto, Exhibit A shall govern, and (b) between Exhibit A (with respect to Approved Equipment and antenna locations) together with Exhibit B (with respect to ground space installation locations) and Exhibit C hereto, Exhibits A and B shall govern, notwithstanding any approval or signature by Licensor or its agents. Licensee hereby acknowledges and agrees that installation of the Approved Equipment must be in strict accordance with the approved Construction Drawings and Exhibit A and B.

4. **USE.** Licensee may use the Licensed Premises only for the receipt and transmission of wireless communications signals in the transmitting signals shown on page 1 of this Agreement and, if such licensure is required, licensed to Licensee by the Federal Communications Commission ("FCC"). The Parties acknowledge and agree that the Approved Equipment at this Tower Site shall be solely for Licensee's own use and under no circumstances shall such use be shared with, or such Approved Equipment otherwise be used by or for the benefit of (whether directly or indirectly) any other person or entity, including, any other person or entity with which Licensee or any other person or entity referred to herein has a marketing, management, joint venture infrastructure-sharing or other contractual arrangement, except for a direct or indirect owner of all of the equity or other interests in Licensee or an entity wholly owned by Licensee. The Approved Equipment shall be utilized by Licensee solely for services to be provided to Licensee's End Users. For the purposes of this section 4, "End Users" means any person or entity that subscribes to Licensee's services and does not resell such services to, or otherwise make such service available to, others and persons or entities that subscribe to services provided by other telecommunications carriers in accordance with industry standard roaming agreements and that do not market their telecommunications products or services in the MTA or BTA in which the Tower Site is located. In no event may Licensee diplex or combine signals or grant any shared use rights for itself or others.

5. **LICENSE FEES; TAXES; ASSESSMENTS.**

- (a) **Monthly License Fee.** The Monthly License Fee as defined on page 1 of this Agreement as adjusted by the Annual Escalator, shall be payable in advance on the first day of each calendar month during the Term beginning upon the Commencement Date. If the Commencement Date is not the first day of a calendar month, the Monthly License Fee for any partial month shall be prorated on a daily basis.

(b) **Utilities.**

All utility services installed on the Tower Site for the use or benefit of Licensee shall be made at the sole cost and expense of Licensee and shall be separately metered from Licensor's utilities. Licensee shall be solely responsible for extending utilities to the Tower Site as necessary for the operation of the Approved Equipment and for the payment of utility charges including connection charges and security deposits incurred by Licensee. Licensee shall obtain and pay the cost of telephone connections, the installation of which shall be in compliance with the procedures for installation and maintenance of Approved Equipment set forth herein. Licensee shall obtain and pay the cost of telephone connections, the installation of which shall be in compliance with the procedures for installation and maintenance of Approved Equipment set forth herein.

- (c) **Taxes.** Licensee shall be responsible for the payment of any applicable taxes, fees or governmental assessments against any equipment, personal property and/or improvements owned, leased or operated by Licensee or directly associated with Licensee's use of the Licensed Premises. Except as provided immediately hereinafter, Licensor shall pay all real property taxes Licensor is obligated to pay under the Ground Lease. Licensee shall reimburse Licensor for any increases in real property taxes which are assessed as a direct result of Licensee's improvements to or Approved Equipment located on the Tower Site within 30 days of Licensor's request for such reimbursement. Upon Licensee's request, Licensor shall provide to Licensee copies of the documentation from the taxing authority, reasonably acceptable to Licensee, indicating the increase is due to Licensee's improvements or Approved Equipment.
- (d) **Federal Use Fees & Assessments.** Licensee agrees to pay or reimburse Licensor for any and all taxes, fees, or other costs and expenses assessed upon or paid by Licensor to the United States Forest Service or Bureau of Land Management attributable to Licensee's Approved Equipment, Licensee's use of or Licensee's presence at the Tower Site.
- (e) **Payment Address.** All payments due under this Agreement shall be made to Licensor at Licensor's Remittance Address as more particularly shown on page 1 of this Agreement or such other address as Licensor may notify Licensee of in writing.
- (f) **No Set-Off/All Payments Rounded Up.** All payments due under this Agreement shall be due without set-off, notice, counterclaim or demand from Licensor to Licensee and shall be rounded up to the nearest whole dollar amount.

6. **TERM.**

- (a) **Initial Term.** The Initial Term of this Agreement shall be as specified on page 1.
- (b) **Renewal Term.** The term of this Agreement may be extended for each of the Renewal Terms as specified on page 1 of this Agreement, provided that at the time of each such renewal, (i) the Ground Lease remains in effect and has not expired or been terminated, (ii) Licensee is not in default hereunder and no condition exists which if left uncured would with the passage of time or the giving of notice result in a default by Licensee hereunder and (iii) the original Licensee identified on page 1 of this Agreement has not assigned, sublicensed, subleased or otherwise transferred any of its rights hereunder except to, if at all, a Permitted Affiliate (as defined in section 19 herein). Provided that the foregoing conditions are satisfied, this Agreement shall automatically renew for each successive Renewal Term unless either Party notifies the other in writing of its intention not to renew this Agreement at least 180 days prior to the end of the then existing Term.
- (c) **Confirmation of Commencement Date.** Licensee shall notify Licensor no less than 5 days prior to the date upon which Licensee intends to commence any construction or installation at the Tower Site, together with a construction schedule, so Licensor has the opportunity to be present during any such installation or construction. In addition to the foregoing, Licensee shall notify Licensor of the actual date of Licensee's commencement of any installation or construction at the Tower Site no more than 5 days following such commencement, TIME BEING OF THE ESSENCE, utilizing the form attached hereto as Exhibit D. In the event that Licensee fails to provide such notice, then the Commencement Date shall be deemed to be the Effective Date. Licensee's right to cure under Section 21 of this Agreement shall not be applicable to a failure to deliver timely written notice of such commencement notice.
- (d) **Holdover Term.** If Licensee fails to remove the Approved Equipment at the expiration of the Term without a written agreement, such failure shall be deemed to extend the terms of this Agreement on a month-to-month basis under the same terms and conditions herein except that (i) a Monthly License Fee shall be due on or before the first day of every calendar month during such month-to-month term in an amount equal to 150% of the Monthly License Fee in effect for the last month of the Term ("Holdover Fee"), such Holdover Fee shall escalate annually on the anniversary of the Commencement Date by an amount equal to 6% of the Holdover Fee in effect for the month immediately prior to the month in which escalation takes place, and (ii) the month-to-month extension shall be terminable upon 15 days' prior written notice from either Licensor or Licensee to the other; provided, however, nothing contained herein shall grant Licensee the unilateral right to extend the Term of this Agreement after the expiration of the Term. In addition to the Monthly License Fee payable to Licensor in the event of an extension under this subsection 6(d), Licensee agrees to indemnify and hold Licensor harmless from all losses, costs, damages and expenses (including reasonable attorneys' fees) arising out of or in connection with the extension, the operation of the Approved Equipment at the Tower Site and Licensee's failure to perform all of its obligations under this Agreement at the termination or earlier expiration of this Agreement.

7. **LIMITED COMMON EXPENSES.** Licensee shall reimburse Licensor for Licensee's pro-rata share of costs and expenses incurred by Licensor for the maintenance, repair and replacement of common facilities at the Tower Site including, without limitation, damage to fences, gates, access roads, and the tower structure, subject to a maximum annual reimbursement by Licensee to Licensor equivalent to one/twelfthths of the Annual License Fee in any given calendar year. Notwithstanding the foregoing, the cost and expenses associated with any damage which is directly attributable to the acts or omissions of Licensee or Licensee's contractors shall be borne solely by Licensee. Licensee shall not be required to pay any share of costs or expenses incurred to replace the tower structure. In the event that Licensee also licenses space within a building or shelter owned by the Licensor on the Tower Site, Licensee shall also reimburse Licensor for its pro-rata share of all common expenses incurred for the operation, maintenance, repair and replacement associated with such building or shelter, including, without limitation, the physical structure of the building, HVAC system, and common utility expenses. In the event that Licensee is connected to a generator or back-up power supply owned by the Licensor, Licensee shall also reimburse Licensor for its pro-rata share of all expenses incurred for the operation, maintenance, repair and replacement associated with such generator, including, without limitation, fuel expenses and replacement. For the purposes of this section, a "pro-rata share" of costs and expenses shall be determined based on the number of licensees using the Tower Site on the first day of the month in which an invoice is mailed to Licensee. Licensee shall reimburse Licensor for common expenses within thirty (30) days following receipt of an invoice from Licensor. Licensor and/or Licensee shall be responsible for the utility costs associated with the operation of Licensee's Approved equipment as set forth on page 1; provided, however, that (a) in no event shall Licensor provide Licensee with telephone service; and (b) in the event that Licensor provides access to electricity or utilities to Licensee for a fixed fee or inclusive in the Monthly License Fee, Licensor reserves the right to reasonably increase such fees based on any change in equipment or increased power requirements by Licensee.

8. **SITE INSPECTION.** Concurrent with Licensee's delivery of a fully executed License to Licensor, or before the date of any subsequent modifications to or installation of additional Approved Equipment, Licensee shall pay Licensor the Site Inspection Fee as defined on page 1 of this Agreement. In the event that Licensor installs Licensee's Approved Equipment, Licensor shall waive the Site Inspection Fee with respect to such installation. Licensee acknowledges that any Site Inspection performed by Licensor of Licensee's installation is for the sole purpose and benefit of the Licensor and its affiliates, and Licensee shall not infer from or rely on any inspection by Licensor as assuring Licensee's installation complies with any applicable federal, state or local laws, ordinances, rules and regulations, that the

installation was performed in a good, workmanlike manner or that such installation will not cause impermissible or unlawful interference.

9. **LABELING.** Licensee shall identify its equipment and equipment cabinets (unless such cabinet is located in a building owned by Licensee) with labels permanently affixed thereto, indicating Licensee's name, contact phone number, and installation date. Licensee's coaxial cables shall be labeled at both the top and bottom of the Tower. If Licensee fails to so identify its equipment, Licensor may, in its sole discretion, declare Licensee to be in default of its obligations under this Agreement, terminate electric power to the Approved Equipment and remove the Approved Equipment from the Tower, or Licensor may label Licensee's equipment and assess against Licensee a fee of \$1,500.00, as increased annually on each anniversary of the Commencement Date by a percentage rate increase equal to the Annual Escalator, which upon invoice shall become immediately due and payable. Licensee's right to cure under Section 21 of this Agreement shall not be applicable to Licensee's failure to properly label its Approved Equipment.

10. **IMPROVEMENTS BY LICENSEE.**

- (a) **Installation and Approved Vendors.** Prior to the commencement of any construction or installation work (the "Work") on the Tower Site, Licensee shall submit to Licensor for review and approval, which approval shall not be unreasonably withheld, detailed plans and specifications accurately describing all aspects of the proposed Work. Licensee shall not commence Work on the Tower Site until Licensor issues to Licensee a NTP. Licensor shall issue a NTP only upon request from the Licensee and receipt of the following complete and accurate documentation: (1) evidence that any contingencies set forth in the approval of Licensee's application have been satisfied; (2) evidence that Licensee has obtained all required governmental approvals including, but not limited to, zoning approvals, building permits, and any applicable environmental approvals including copies of the same; (3) a copy of the plans and specifications that have been approved by Licensor for the proposed equipment installation; (4) evidence that any contractors other than Licensor that will be performing work on the Tower Site are on Licensor's approved vendor list, with valid and current worker's compensation and general liability insurance certificates on file with Licensor naming Licensor as an additional insured and which otherwise satisfy the insurance coverage requirements set forth in section 15 of this Agreement; and (5) a construction schedule. In no event will a NTP be issued prior to the payment by Licensee of the Application Fee provided for on Page 1 of this Agreement. Notwithstanding anything to the contrary in this Agreement, Licensor reserves the right, in its sole discretion, to refuse to permit any person or company to climb the Tower.
- (b) **Structural Analysis/Interference Analysis.** Prior to the commencement of any Work on the Tower Site by or for the benefit of the Licensee, Licensor may, in its reasonable discretion, perform or cause to be performed a structural analysis to determine the availability of capacity at the Tower Site for the installation or modification of any Approved Equipment and/or additional equipment at the Licensed Premises by Licensee. Licensee agrees to reimburse Licensor for all reasonable costs and expenses incurred by Licensor or Licensor's vendor in the performance of such structural analysis within 30 days following receipt of an invoice from Licensor. In the event a structural analysis is performed after the execution of this Agreement by Licensor but prior to the initial installation of Licensee's Approved Equipment, and such analysis indicates that the existing Tower cannot accommodate the proposed installation of Licensee's Approved Equipment thereon, Licensor or Licensee may terminate this Agreement upon written notice at any time prior to the commencement of Licensee's installation. Prior to the commencement of any initial or subsequent construction or installation on the Tower Site by or for the benefit of the Licensee and/or the modification of the Licensee's radio frequencies propagated from the Licensed Premises, Licensor may elect to perform a shared site interference study ("SSIS") and Licensee shall pay Licensor a fee of \$1,600.00 per study, as adjusted annually on the anniversary of the Commencement Date by a percentage rate equal to the Annual Escalator. This fee shall be payable at the time of Licensee's application or immediately upon a determination by Licensor that a SSIS is required. In the event a SSIS is performed after the execution of this Agreement by Licensor but prior to the installation of Licensee's Approved Equipment, and such SSIS indicates that the proposed installation of Licensee's Approved Equipment on the Tower is acceptable, such an indication in no way relieves the Licensee of its obligations under section 11 herein.
- (c) **Equipment; Relocation, Modification.** Licensor hereby grants Licensee reasonable access to the Licensed Premises for the purpose of installing and maintaining the Approved Equipment and its appurtenances. Except as otherwise provided, Licensee shall be responsible for all site Work to be done on the Leased Premises or the Easement pursuant to this Agreement. Licensee shall provide all materials and shall pay for all labor for the construction, installation, operation, maintenance and repair of the Approved Equipment. Licensee shall not construct, install or operate any equipment or improvements on the Tower Site other than those which are described on Exhibit A, alter the radio frequency described on page 1 of this Agreement, or alter the operation of the Approved Equipment without first obtaining the prior consent of Licensor, which consent may be withheld by Licensor in Licensor's sole discretion. Licensee acknowledges that any such relocation or modification of the Approved Equipment may result in an increase in the Monthly License Fee. Licensee shall have the right to remove all Equipment at Licensee's sole expense on or before the expiration or earlier termination of the License provided Licensee repairs any damage to the Tower Site or the Tower caused by such removal. Within 30 days of the expiration or termination of this Agreement for any reason, Licensee shall: (i) remove the Approved Equipment and any other property at the Tower Site of Licensee from the Licensed Premises at Licensee's sole risk, cost, and

expense; (ii) deliver the Licensed Premises in substantially the same and in as good a condition as received (ordinary wear and tear excepted); and (iii) repair any damage caused by the removal of the Approved Equipment within 10 days of the occurrence of such damage. If Licensee fails to timely pay the Holdover Fee and/or does not remove its Approved Equipment within 30 days after the expiration or termination of this Agreement, (i) the Approved Equipment shall be deemed conclusively and absolutely abandoned by Licensee and anyone claiming by, through, or under Licensee except for Hazardous Materials (defined in section 26 herein) and waste and Approved Equipment containing Hazardous Materials and waste, which must be removed by Licensee from the Licensed Premises and Easement prior to the expiration or earlier termination of this Agreement; and (ii) Licensor shall have the right to remove the Approved Equipment at Licensee's sole expense and dispose of such Approved Equipment in any manner Licensor so elects, and Licensee shall reimburse Licensor for its expenses upon demand without off-set.

11. RF INTERFERENCE/ USER PRIORITY.

- (a) **Definitions.** For purposes of this section 11, the following capitalized terms shall have the meanings set forth herein:
- (i) **Interference** includes any performance degradation, misinterpretation, or loss of information to a radio communications system caused by unwanted energy emissions, radiations, or inductions, but shall not include permissible interference as defined by the FCC, and in addition, with regard to Unlicensed Frequencies, congestion.
 - (ii) **Licensed Frequencies** are those certain channels or frequencies of the radio frequency spectrum that are licensed by the FCC in the geographic area where the Tower Site is located.
 - (iii) A **Licensed User** is any user of the Tower Site, including Licensee, that transmits and/or receives Licensed Frequencies at the Tower Site, but only with respect to such Licensed Frequencies.
 - (iv) A **Priority User** is any Licensed User of the Tower Site that holds a priority position in relationship to Licensee for protection from Interference, as determined in this section 11, which status is subject to change as set forth herein.
 - (v) A **Subsequent User** is any user of the Tower Site that holds a subordinate position in relationship to Licensee for protection from Interference, as determined in this section 11, which status is subject to change as set forth herein.
 - (vi) **Unlicensed Frequencies** are those certain channels or frequencies of the radio frequency spectrum that are not licensed by the FCC and are available for use by the general public in the geographic area where the Tower Site is located.
 - (vii) An **Unlicensed User** is any user of the Tower Site, including Licensee, that transmits and/or receives Unlicensed Frequencies at the Tower Site, but only with respect to such Unlicensed Frequencies.
- (b) **Information.** Licensee shall cooperate with Licensor and with other lessees, licensees or occupants of the Tower Site for purposes of avoiding Interference and/or investigating claims of Interference. Upon request, Licensee, within 10 days of Licensor's request, shall provide Licensor with a list of Licensee's transmit and receive frequencies and Approved Equipment specifications necessary to resolve or investigate claims of Interference.
- (c) **Unlicensed Frequencies.** Notwithstanding any other provision contained herein, as among Licensor, Licensee and other users of the Tower or Tower Site, (i) an Unlicensed User shall have no priority with respect to any other FCC Unlicensed Users with respect to Interference; and (ii) an Unlicensed User's rights and obligations with respect to such Interference shall be determined and governed by FCC Rules and Regulations and any other applicable law. Licensor expressly disclaims any and all warranties and accepts no responsibility for management, mediation, mitigation or resolution of Interference among FCC Unlicensed Users operating at the Tower Site and shall have no liability therefor.
- (d) **Licensed Frequencies.** Subject to FCC Rules and Regulations and other applicable law, the Parties acknowledge and agree that the accepted industry standard for priority protection from Interference between multiple Licensed Users has been based on the priority of occupancy of each user to another user of the Tower or Tower Site, which priority within Licensor has been based on submittal of its collocation application by any user, including Licensee. Should application of FCC Rules and Regulations and other applicable law not resolve any claims of Interference consistent with subsections 11(e), 11(f) and 11(g) below, as among Licensor, Licensee and other users of the Tower Site, (i) each Licensed User's priority shall be maintained so long as the Licensed User does not change the equipment and/or frequency that it is entitled to use at the Tower Site at the time of its initial occupancy; and (ii) Licensee acknowledges and agrees that if Licensee replaces its Approved Equipment or alters the radio frequency of the Approved Equipment to a frequency range other than as described on page 1 of this Agreement, Licensee

will lose its priority position for protection from Interference with regard to Approved Equipment operating at the new frequency in its relationship to other Licensed Users which are in place as of the date Licensee replaces its Approved Equipment or alters its radio frequency, consistent with this section 11.

(e) **Correction.**

(i) Licensee. Licensee agrees not to cause Interference with the operations of any other user of the Tower or Tower Site and to comply with all other terms and provisions of this section 11 imposed upon Licensee. If Licensor determines, in its reasonable discretion based on standard and accepted engineering practices, that Licensee's Approved Equipment is causing Interference to the installations of Licensor or a Priority User, Licensee shall, within 48 hours of notification from Licensor, commence such actions as are necessary to mitigate or eliminate the Interference, with the exception of ceasing Licensee's operations. If Licensee cannot mitigate or eliminate such Interference within the 48 hour period, Licensor may file a complaint with the FCC (currently the FCC's Enforcement Bureau, Spectrum Enforcement Division) or if such other user of the Tower Site which is subject to Interference from the Licensee's Approved Equipment is a Priority User, then upon the request of such Priority User consistent with Licensor's contractual obligations owed to the Priority User, Licensor may require that Licensee turn off or power down its interfering Approved Equipment and only power up or use such Approved Equipment during off-peak hours specified by Licensor in order to test whether such Interference continues or has been satisfactorily eliminated. If Licensee is unable to resolve or eliminate, to the satisfaction of Licensor, such Interference within 30 days from Licensee's initial notification thereof, Licensee will immediately remove or cease operations of the interfering Approved Equipment.

(ii) Licensor. Upon the request of Licensee, Licensor hereby covenants to take commercially reasonable efforts to prohibit a Subsequent User from causing Interference with the operations of Licensee to the extent Licensee is a Priority User pursuant this section 11. If Licensor determines, in its reasonable discretion based on standard and accepted engineering practices, that a Subsequent User's equipment is causing Interference to the installations of Licensee, upon Licensee's request, Licensor shall, within 48 hours of request, commence such actions as are necessary to mitigate or eliminate the Interference, with the exception of ceasing Subsequent User's operations.

(iii) Government Users. Notwithstanding the foregoing, if another user of the Tower or Tower Site is a governmental entity, Licensor shall give such governmental entity written notice of the Interference within 5 business days of Licensor's determination that such action is reasonably necessary. Licensor shall have the right to give the governmental entity 5 business days, or more as specified in the governmental site or occupancy agreement or as required by applicable law, from the receipt of such notice prior to Licensor being required to take any actions required by this subsection 11 (e) to cure such Interference.

(f) **FCC Requirements Regarding Interference.** Nothing herein shall prejudice, limit or impair Licensee's rights under applicable law, including, but not limited to, FCC Rules and Regulations to redress any Interference independently of the terms of this section 11. Notwithstanding anything herein to the contrary, the provisions set forth in this section 11 shall be interpreted in a manner so as not to be inconsistent with applicable law, including, but not limited to, FCC Rules and Regulations and nothing herein relieves Licensee from complying with all applicable laws governing the propagation of radio frequencies and/or radio frequency interference. The Parties acknowledge that currently FCC Rules and Regulations govern the obligations of wireless telecommunication service providers with respect to the operation of equipment and use of frequencies. Consequently, the provisions set forth in this section 11 are expressly subject to CFR, Title 47, including but not limited to Part 15, et seq, governing Radio Frequency Devices; Part 20, et seq, governing commercial mobile radio services; Part 24, et seq, governing personal communications services; and Part 90, et seq, governing private land mobile radio services. In addition, in accordance with good engineering practice and standard industry protocols, licensees employ a wide range of techniques and practices, including those involving the use of proper types of equipment as well those related to the adjustment of operating parameters, in a mutually cooperative effort to identify and mitigate sources of Interference. The obligation of Part 20 licensees, including, but not limited to, private paging, specialized mobile radio services, cellular radiotelephone service and personal communications services, to avoid Interference is set forth in 47 CFR Part 90, Subpart N – Operating Requirements, §90.403(e). Claims of Interference are ultimately cognizable before the FCC's Enforcement Bureau, Spectrum Enforcement Division. Licensee shall observe good engineering practice and standard industry protocols, applying such commercially reasonable techniques as constitute best practices among licensees, in the deployment of their frequencies and the operation of the Approved Equipment. If Licensee deploys its frequencies or operates the Approved Equipment in a manner which prevents any other user of the Tower or Tower Site from decoding signal imbedded in their licensed frequencies such that the Spectrum Enforcement Division makes a determination that the Licensee is the cause of the Interference and Licensee fails or refuses to mitigate or eliminate the Interference within the time and manner proscribed by the Spectrum Enforcement Division, Licensee shall be default of this Agreement and the remedies set forth in section 22 shall apply.

(g) **Public Safety Interference.** As of the Commencement Date, Licensor and Licensee are aware of the publication of FCC Final Rule, Private Land Mobile Services; 800 MHz Public Safety Interference Proceeding, *Federal Register*.

November 22, 2004 (Volume 69, Number 224), Rules and Regulations, Page 67823-67853 ("Final Rule"). Claims of Interference made by or against users which are public safety entities shall be in compliance with the Final Rule as and when effective, or otherwise in accordance with FCC Rules and Regulations.

12. SITE RULES AND REGULATIONS. Licensee agrees to comply with the reasonable rules and regulations established from time to time at the Tower Site by Licensor, which may be modified by Licensor from time to time upon receipt by Licensee of such revised rules and regulations. Such rules and regulations will not unreasonably interfere with Licensee's use of the Leased Premises under this Agreement.

13. CASUALTY; CONDEMNATION.

(a) **Casualty.** In the event the Tower or other portions of the Tower Site are destroyed or so damaged so as to materially interfere with Licensee's use and occupancy thereof, Licensor or Licensee shall be entitled to elect to cancel and terminate this Agreement on the date of destruction of that portion of the Tower Site and any unearned Monthly License Fee paid in advance of such date shall be refunded by Licensor to Licensee within thirty (30) days of the termination date of this Agreement. Notwithstanding the foregoing, Licensor may elect to restore the Tower Site, in which case Licensee and Licensor shall remain bound hereby but Licensee shall be entitled to an abatement of the Monthly License Fee during the loss of use. If Licensor elects to restore the Tower Site the decision to restore must be made, and Licensee notified of the decision, within 30 days from the date of destruction. The restoration of the Tower Site must be sufficiently completed to allow Licensee to utilize the Tower Site for its designated purposes within 180 days from the date of destruction. If the Tower Site is not so restored within such 180 day time period, then Licensee's sole remedy shall be to terminate this Agreement upon written notice to Licensor.

(b) **Condemnation.** If the whole or a substantial part of the Tower Site shall be taken by any public authority under the power of eminent domain or in deed or conveyance in lieu of condemnation so as to materially interfere with Licensee's use thereof and benefits therefrom, then this Agreement shall terminate as of the date of possession by such authority of that part, and Licensor or Licensee shall have the right to terminate this Agreement and any unearned Monthly License Fee paid in advance of such termination shall be refunded by Licensor to Licensee within 30 days following the termination of this Agreement. Notwithstanding the foregoing, Licensor may elect to rebuild the Tower on an alternate location or property owned, leased or managed by Licensor, in which case Licensee and Licensor shall remain bound hereby but Licensee shall be entitled to an abatement of Monthly License Fee during the loss of use. Upon such relocation of the Tower, the Tower Site shall be modified to include the new Tower and the property on which the new Tower is located and this Agreement shall be amended accordingly to clarify the rights of Licensor and Licensee with respect to the new Tower Site. Licensee agrees not to make a claim to the condemning authority for any condemnation award to the extent such claim shall diminish or affect the award made to Licensor with regard to such condemnation.

14. COMPLIANCE WITH LAWS. Licensor shall be responsible for compliance with any marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC applicable to the Tower Site, provided that if the requirement for compliance results from the presence of the Approved Equipment on the Tower, Licensee shall pay the costs and expenses therefor (including any lighting automated alarm system so required). Licensee has the responsibility of carrying out the terms of Licensee's FCC license with respect to tower light observation and notification to the FAA if those requirements imposed on Licensee are in excess of those required of Licensor. Notwithstanding anything to the contrary in this Agreement, Licensee shall at all times comply with all applicable laws and ordinances and all rules and regulations of municipal, state and federal governmental authorities relating to the installation, maintenance, location, use, operation, and removal of the Approved Equipment and other alterations or improvements authorized pursuant to the provisions of this Agreement.

15. INDEMNIFICATION; INSURANCE. Licensor and Licensee each indemnifies the other against and holds the other harmless from any and all costs, demands, damages, suits, expenses, or causes of action (including reasonable attorneys' fees and court costs) which arise out of the use and/or occupancy of the Tower Site by the indemnifying Party. This indemnity does not apply to any claims arising from the gross negligence or intentional misconduct of the indemnified Party. Notwithstanding the foregoing indemnity, except for its own acts of gross negligence or intentional misconduct, Licensor will have no liability for (i) personal injury or death, (ii) loss of revenue sustained by Licensee, (iii) imperfect communications operations experienced by Licensee for any reason, or (iv) acts of third parties, including but not limited to other licensees, subtenants, contractors or subcontractors of Licensor. Licensor and Licensee shall keep in full force and effect, during the Term of this Agreement, insurance coverage in accordance with Exhibit E attached hereto.

16. LIMITATION OF PARTIES' LIABILITY. NEITHER LICENSOR NOR LICENSEE SHALL BE RESPONSIBLE FOR, AND HEREBY WAIVES ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCURRED RESULTING FROM (i) LICENSEE'S USE OR LICENSEE'S INABILITY TO USE THE TOWER SITE, OR (ii) DAMAGE TO THE OTHER'S EQUIPMENT. If Licensor shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Agreement or is charged with an indemnity obligation hereunder, and if Licensee shall, as a consequence thereof, recover a money judgment against Licensor (whether compensatory or punitive in

nature), Licensee agrees that it shall look solely to Licensor's right, title and interest in and to the Tower Site and the Tower for the collection of such judgment, and Licensee further agrees that no other assets of Licensor shall be subject to levy, execution or other process for the satisfaction of Licensee's judgment, and that Licensor shall not be personally liable for any deficiency.

17. **DISCLAIMER OF WARRANTY.** LICENSOR HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ASSOCIATED WITH THE TOWER SITE OR THE TOWER. LICENSEE HEREBY ACCEPTS THE TOWER SITE "AS IS, WHERE IS, WITH ALL FAULTS."
18. **NOTICES.** Any required or permitted notice or demand shall be made by certified mail, postage prepaid or via nationally recognized overnight courier service addressed to the other Party at the address set forth on page 1. Either Party may modify, add, or delete notice addresses from time to time by notice given in accordance with this section. Any notice or demand shall be deemed to have been given or made the next business day after being deposited in a United States Post Office or with a private overnight courier service.
19. **ASSIGNMENT; SUBLEASING.** Licensee may not assign this Agreement as a whole, or any portion of Licensee's rights, title and interests hereunder without Licensor's prior written consent; *provided, however*, that Licensor's consent will not be required for an assignment to (i) any person or entity which is directly or indirectly (through one or more subsidiaries) controlled by, controlling or under common control with Licensee, (ii) is the successor or surviving entity by a merger or consolidation of such entity pursuant to applicable law, or (iii) purchases substantially all the assets of Licensee (collectively, "Permitted Affiliate"). For the purpose of this section 19, "control" means ownership, directly or indirectly, of 50% or more of the voting stock, equity or beneficial interest or a general partner of any partnership, and the ability to effectively control or direct the business of Licensee. In no event may Licensee sublet, sublease, or permit any other similar use of the Tower Site or Licensed Premises by any other party. Any permitted assignee shall expressly assume, and become bound by, all of Licensee's obligations under this Agreement. Licensor may freely assign, transfer, or sublease this Agreement and, in such event, Licensor shall be relieved of all of its obligations under this Agreement from and after the date of such assignment, transfer, or sublease. Licensee shall pay Licensor a fee of \$500.00 (which fee shall increase annually on each anniversary of the Commencement Date by a percentage rate increase equal to the Annual Escalator) in each instance in which Licensee requests Licensor to consent to an assignment of this Agreement or in which Licensee seeks an estoppel certificate, nondisturbance agreement, subordination agreement or other similar agreement to defray the administrative cost incurred by Licensor to process such requests, prepare and process any necessary documentation, and modify its database and other information systems to reflect any such agreement. Such fee is due upon submission of Licensor's request and is hereby deemed fully earned by Licensor upon receipt. Notwithstanding anything to the contrary, Licensor may condition its consent to any assignment, on among other things, (i) requiring that the assignee execute a new form of license agreement so long as the Monthly License Fee and Initial and Renewal Terms of such agreement are consistent with those set forth in this Agreement, and (ii) requiring the assignee to demonstrate that it maintains at the time of such assignment, as evidenced by current financial statements provided to Licensor, a financial position reasonably demonstrating the ability of such assignee to meet and perform the obligations of Licensee hereunder through the unexpired balance of the then current Initial Term or Renewal Term. Any purported assignment by Licensee in violation of the terms of this Agreement shall be void. This Agreement shall be binding upon the successors and permitted assigns of both Parties.
20. **SUBORDINATION TO GROUND LEASE.** The Parties acknowledge and agree that in the event Licensor's rights in the Licensed Premises and/or any part of the Tower Site is derived in whole or part pursuant to an underlying lease, sublease, permit, easement or other right of use agreement ("Ground Lease"), all terms, conditions and covenants contained in this Agreement shall be specifically subject to and subordinate to the terms and conditions of an applicable Ground Lease. In the event that any of the provisions of the Ground Lease are in conflict with any of the provisions of this Agreement (other than those provisions relating to the length of term, termination rights or financial consideration), the terms of the Ground Lease shall control. Further, Licensee agrees to comply with the terms of such Ground Lease as applicable to the access and occupancy of the Licensed Premises. Notwithstanding anything contained in this Agreement to the contrary, if the Ground Lease expires or is terminated for any reason, this Agreement shall terminate on the effective date of such termination and Licensor shall have no liability to Licensee as a result of the termination of this Agreement. Licensor is under no obligation to extend the term of or renew the Ground Lease. Licensor shall give Licensee written notice of such termination or expiration of this Agreement as a result of the termination or expiration of the Ground Lease as soon as practicable. Unless prohibited by the terms of such Ground Lease, upon Licensee's written request, Licensor shall provide a copy of any applicable Ground Lease with the economic terms and other terms that Licensor deems reasonably confidential redacted.
21. **DEFAULT.** The occurrence of any of the following instances shall be considered to be a default or a breach of this Agreement by Licensee: (i) any failure of Licensee to pay the Monthly License Fee, or any other charge for which Licensee has the responsibility of payment under this Agreement, within 10 business days of the date following written notice to Licensee from Licensor, or its designee, of such delinquency, it being understood, however, that Licensor is obligated to provide such notice only two times in each calendar year, and the third instance of the failure to pay the Monthly License Fee or any other charge shall be an immediate default without notice to Licensee if not paid within 10 business days of the date when due; (ii) any failure of Licensee to perform or observe any term, covenant, provision or

condition of this Agreement which failure is not corrected or cured by Licensee within 30 days of receipt by Licensee of written notice from Licensor, or its designee, of the existence of such a default; except such 30 day cure period shall be extended as reasonably necessary to permit Licensee to complete a cure so long as Licensee commences the cure within such 30 day cure period and thereafter continuously and diligently pursues and completes such cure; (iii) failure of Licensee to abide by the interference provisions as set forth in section 11; (iv) Licensee shall become bankrupt, insolvent or file a voluntary petition in bankruptcy, have an involuntary petition in bankruptcy filed against Licensee which cannot be or is not dismissed by Licensee within 60 days of the date of the filing of the involuntary petition, file for reorganization or arrange for the appointment of a receiver or trustee in bankruptcy or reorganization of all or a substantial portion of Licensee's assets, or Licensee makes an assignment for such purposes for the benefit of creditors; (v) this Agreement or Licensee's interest herein or Licensee's interest in the Tower Site are executed upon or attached; (vi) Licensee commits or fails to perform an act which results in a default under or nonconformance with the Ground Lease by Licensor and the same shall not be cured within 5 business days (or such shorter time as permitted under the Ground Lease to cure) of the date following written notice to Licensee from Licensor, or its designee, of such default; or (vii) the imposition of any lien on the Approved Equipment except as may be expressly authorized by this License, or an attempt by Licensee or anyone claiming through Licensee to encumber Licensor's interest in the Tower Site, and the same shall not be dismissed or otherwise removed within 10 business days of written notice from Licensor to Licensee.

22. **REMEDIES.** In the event of a default or a breach of this Agreement by Licensee and after the Licensee's failure to cure the same within the time allowed Licensee to cure such default, if applicable, then Licensor may, in addition to all other rights or remedies Licensor may have hereunder at law or in equity, (i) terminate this Agreement by giving written notice to the Licensee, stating the date upon which such termination shall be effective, accelerating and declaring to be immediately due and payable the then present value of all Monthly License Fees and other charges or fees which would have otherwise been due Licensor absent a breach of the Agreement by Licensee, discounted by an annual percentage rate equal to 5%, (ii) terminate electrical power to the Approved Equipment, and/or (iii) remove the Approved Equipment without being deemed liable for trespass or conversion and store the same at Licensee's sole cost and expense for a period of 30 days after which the Approved Equipment, other than Hazardous Materials, will be deemed conclusively abandoned if not claimed by Licensee. Licensee shall pay all reasonable attorney's fees, court costs, removal and storage fees (including any damage caused thereby), and other items of cost reasonably incurred by Licensor in recovering the Monthly License Fee or other fee or charge. Licensee shall not be permitted to claim the Approved Equipment until Licensor has been reimbursed for removal and storage fees. No endorsement or statement on any check or letter accompanying a check for payment of any monies due and payable under the terms of this Agreement shall be deemed an accord and satisfaction, and Licensor may accept such check or payment without prejudice to its right to recover the balance of such monies or to pursue any other remedy provided by law or in this Agreement. Licensor shall accept any such partial payment for the account of Licensee. Past due amounts under this Agreement will bear interest from the date upon which the past due amount was due until the date paid at a rate equal to 18% per annum, or at a lower rate if required by law in the state in which this Agreement is to be performed. In addition, Licensee shall be assessed a late payment fee equal to 25% of the then-current Monthly License Fee for any payment or reimbursement due to Licensor under this Agreement which is overdue by ten (10) days or more and such fee shall be assessed for each 30 day period thereafter that any such amount (or portion thereof) remains unpaid.

23. **GOVERNMENTAL APPROVALS; PERMITS.** In the event that any governmental permit, approval or authorization required for Licensor's use of, operation of, or right to license space to Licensee at the Tower Site is terminated or withdrawn by any governmental authority or third party as part of any governmental, regulatory, or legal proceeding, Licensor may terminate this Agreement. Licensee hereby agrees that in the event of a governmental or legal order requiring the removal of Licensee's Approved Equipment from the Tower, the modification of the Tower, or the removal of the Tower, Licensee shall remove its Approved Equipment promptly, but in no event later than the date required by such order, at Licensee's sole cost and expense. Licensor shall cooperate with Licensee in Licensee's efforts to obtain any permits or other approvals that may be necessary for Licensee's installation and operation of the Approved Equipment, provided that Licensor shall not be required to expend any funds or undertake any liability or obligation in connection with such cooperation. Licensor may elect to obtain such required approvals or permits on Licensee's behalf, at Licensee's sole cost and expense. In no event may Licensee encourage, suggest, participate in or permit the imposition of any restrictions or additional obligations whatsoever on the Tower Site or Licensor's current or future use or ability to license space at the Tower Site as part of or in exchange for obtaining any such approval or permit. In the event that Licensee's shelter or cabinets are installed above a third-party or Licensor-owned shelter or building, Licensee shall be solely responsible for obtaining any required approvals, or permits in connection with such shelter or cabinet installation, excepting the consent of other users at the Tower Site and/or the Ground Landlord which shall remain the sole responsibility of Licensor where required.

24. **REPLACEMENT OF TOWER/RELOCATION OF APPROVED EQUIPMENT.**

- (a) **Replacement of Tower.** Licensor may, at its election, replace or rebuild the Tower or a portion thereof. Such replacement will (i) be at Licensor's sole cost and (ii) not result in an interruption of Licensee's communications services beyond that which is necessary to replace the new Tower. Licensee may establish a temporary facility on the Tower Site to provide such services as Licensee deems necessary during any such construction by Licensor so long as adequate space is then available. The location of such temporary facilities shall be subject to Licensor's approval. At

the request of either Party, Licensor and Licensee shall enter into an amendment to this Agreement to clarify the rights of Licensor and Licensee to the new Tower Site.

(b) **Relocation of Approved Equipment.** In the event another Paying Carrier (as hereinafter defined) desires to occupy the space on the Tower (which includes any necessary vertical separation as determined by Licensor) where Licensee's Approved Equipment is then located (the "Trigger Condition"), Licensor reserves the right to require Licensee to decide whether to (i) terminate this Agreement, (ii) relocate Licensee's Approved Equipment located at the Tower Site, at Licensee's sole cost and expense, to another RAD center on the Tower, or (iii) increase the Monthly License Fee to that which would initially be paid by the Paying Carrier ("Paying Carrier Rate"), all in accordance with the terms and provisions provided of this paragraph 24(b). Upon the Trigger Condition occurring, Licensor may notify Licensee in writing ("Relocation Notice") that the Trigger Condition has occurred and if other spaces or RAD centers are available to accommodate Licensee's Approved Equipment on the Tower (without the requirement of any improvements to the Tower by Licensor), indicate which other spaces or RAD centers are so available and, also, indicate the Paying Carrier Rate. Within 10 business days of Licensee's receipt of the Relocation Notice, Licensee will be required to inform Licensor in writing of its election either to (A) increase the Monthly License Fee to the Paying Carrier Rate (which would thereafter be subject to escalation of the Monthly License Fee generally as otherwise provided in this Agreement) and continue to occupy the same space or RAD center on the Tower; (B) provided other spaces or RAD centers are available on the Tower, relocate Licensee's Approved Equipment to one of the other such spaces or RAD centers as specified in the Relocation Notice; or (C) remove Licensee's Approved Equipment from Tower and terminate this Agreement. If Licensee elects option (A), then such election shall be effective and the Monthly License Fee shall increase effective upon the eleventh business day after Licensee's receipt of the Relocation Notice without further act or deed. If Licensee elects option (B), if such option is available, and notifies Licensor that it elects to relocate its Approved Equipment to a particular RAD center or space specified in the Relocation Notice, Licensee shall have 45 days of Licensee's receipt of the Relocation Notice to relocate its Approved Equipment on the Tower to such elected space or RAD center at Licensee's sole cost and expense, such relocation to be subject to all terms and conditions of this Agreement otherwise imposed. If Licensee elects or is deemed to elect option (C), Licensee will remove its Approved Equipment from the Tower Site within 45 days of Licensee's receipt of the Relocation Notice, such removal to be subject to all terms and conditions of this Agreement otherwise imposed. If Licensor fails to receive notice from Licensee within such 10 business day period as to whether Licensee elects option (A), (B) or (C), then Licensee shall be deemed conclusively to have elected option (C). If Licensee elects option (B) or elects or is deemed to elect option (C), if Licensee fails to relocate or remove the Approved Equipment within such time period as required above, TIME BEING OF THE ESSENCE, then the Approved Equipment shall be deemed conclusively and absolutely abandoned by Licensee and anyone claiming by, through, or under Licensee except for Hazardous Materials and waste and equipment containing Hazardous Materials and waste, which shall be removed by Licensee from the Tower Site immediately; and Licensor shall have the right to remove the Approved Equipment at Licensee's sole expense and dispose of such Approved Equipment in any manner Licensor so elects, and Licensee shall reimburse Licensor for its expenses upon demand without off-set. For purposes of this paragraph, a "Paying Carrier" is a paying carrier or potential licensee of Licensor which, through a written application or offer, offers to monetarily compensate Licensor for the right to occupy the space on the Tower currently occupied by Licensee's Approved Equipment.

25. **EMMISSIONS.** If antenna power output ("RF Emissions") is presently or hereafter becomes subject to any restrictions imposed by the FCC or other governmental agency for RF Emissions standards on Maximum Permissible Exposure ("MPE") limits, or if the Tower Site otherwise becomes subject to federal, state or local rules, regulations, restrictions or ordinances, Licensee shall comply with Licensor's reasonable requests for modifications to the Approved Equipment which are reasonably necessary for Licensor to comply with such limits, rules, regulations, restrictions or ordinances and Licensor shall use commercially reasonable efforts to cause all other licensees of the Tower Site to promptly comply. If Licensor requires an engineering evaluation or other power density study be performed to evaluate RF Emissions compliance with MPE limits, then all reasonable costs of such an evaluation or study shall be paid proportionately by Licensee and all other licensees of the Tower within 30 days of Licensor's request therefor. If said study or a study sponsored by any governmental agency indicates that RF Emissions at the Tower Site do not comply with MPE limits, then Licensee and Licensor, each for itself, shall immediately take any and all steps necessary to ensure that it is individually in compliance with such limits, up to and including cessation of operation, until a maintenance program or other mitigating measures can be implemented to comply with MPE and in addition, Licensor shall use commercially reasonable efforts to cause all other licensees of the Tower to take similar steps necessary to ensure that they are individually in compliance with such limits.

26. **ENVIRONMENTAL INDEMNIFICATION.**

(a) **Licensee.** Licensee, its heirs, grantees, successors, and assigns shall indemnify, defend, reimburse and hold harmless Licensor from and against any and all environmental damages, caused by activities conducted on the Tower Site by Licensee, and (i) arising from the presence of any substance, chemical or waste identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation including petroleum or hydrocarbon based fuels such as diesel, propane or natural gas (collectively, "Hazardous Materials") upon, about or beneath the Tower Site or migrating to or from the Tower Site, or (ii) arising in any manner whatsoever out of its

or its contractors, subcontractors, employees and agents violation of any environmental requirements pertaining to the Tower Site and any of their activities thereon. Licensee covenants that it shall not nor shall Licensee allow its employees, agents or independent contractors to use, treat, store or dispose of any Hazardous Materials on the Licensed Premises or the Tower Site.

- (b) **Licensor.** Licensor, its grantees, successors, and assigns shall indemnify, defend, reimburse and hold harmless Licensee from and against any and all environmental damages arising from (i) the presence of Hazardous Materials upon, about or beneath the Tower Site or migrating to or from the Tower Site, or (ii) arising in any manner whatsoever out of the violation of any environmental requirement pertaining to the Tower Site and any activities thereon, either of which conditions came into existence prior to the execution of this Agreement and are solely attributable to activities conducted on the Tower Site by Licensor.
- (c) **Survivorship.** The provisions of this section 26 shall expressly survive any termination or expiration of this Agreement.

27. SUBROGATION.

- (a) **Waiver.** Licensor and Licensee waive all rights against each other and any of their respective consultants and contractors, agents and employees, for damages caused by perils to the extent covered by the proceeds of the insurance provided herein, except such rights as they may have to the insurance proceeds. All insurance policies required under this Agreement shall contain a waiver of subrogation provision under the terms of which the insurance carrier of a Party waives all of such carrier's rights to proceed against the other Party. Licensee's insurance policies shall provide such waivers of subrogation by endorsement. The Licensee shall require by appropriate agreements, written where legally required for validity, similar waivers from its contractors and subcontractors. 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.
- (b) **Mutual Release.** Notwithstanding anything in this Agreement to the contrary, Licensor and Licensee each release the other and its respective affiliates, employees and representatives from any claims by them or any one claiming through or under them by way of subrogation or otherwise for damage to any person or to the Tower Site and to the fixtures, personal property, improvements and alterations in or on the Tower Site that are caused by or result from risks insured against under any insurance policy carried by each and required by this Agreement, provided that such releases shall be effective only if and to the extent that the same do not diminish or adversely affect the coverage under such insurance policies and only to the extent of the proceeds received from such policy.

28. **GOVERNING LAW.** This Agreement shall be governed by the laws of the state in which the Tower Site is located, with the exception of its choice of laws provisions. If any provision of this Agreement is found invalid or unenforceable under judicial decree or decision, the remaining provisions of this Agreement shall remain in full force and effect. Any approval, consent, decision, or election to be made or given by a Party may be made or given in such Party's sole judgment and discretion, unless a different standard (such as reasonableness or good faith) is provided for explicitly.

29. **FINANCING AGREEMENT.** Licensee may, upon written notice to Licensor, mortgage or grant a security interest in the Approved Equipment to any such mortgagees or holders of security interests including their successors and assigns. No such security interest shall extend to, affect or encumber in any way the interests or property of Licensor.

30. **MISCELLANEOUS.** Upon Licensor's written request, Licensee shall promptly furnish Licensor with complete and accurate information in response to any reasonable request by Licensor for information about any of the Approved Equipment or utilities utilized by Licensee at the Tower Site or any of the channels and frequencies utilized by Licensee thereon. In the event that this Agreement is executed by Licensor, its Affiliates or any trade name utilized by the Licensor or its Affiliates and such signatory does not hold the real Tower Site or leasehold interest in the affected Tower Site, the execution of this Agreement shall be deemed to have been properly executed by the Licensor or Licensor's Affiliate which properly holds such interest in the affected Tower Site. Either Licensor or Licensee may be referred to herein as a "Party" and both Licensor and Licensee together may be referred to herein as the "Parties". Upon the termination or expiration of this Agreement, Licensee shall immediately upon the request of Licensor deliver a release of any instruments of record evidencing such Agreement. Notwithstanding the expiration or earlier termination of the Agreement, and sections 15, 16, 17, and 26 shall survive the expiration or earlier termination of the Agreement. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision herein (whether or not similar), nor shall such waiver constitute a continuing waiver unless expressly agreed to in writing by the affected Party. This Agreement constitutes the entire agreement of the Parties hereto concerning the subject matter herein and shall supersede all prior offers, negotiations and agreements, whether written or oral. No revision of the Agreement shall be valid unless made in writing and signed by authorized representatives of both Parties.

31. **CONFIDENTIALITY.** Neither Party shall use the other's name, service mark or trademark in any public announcement or advertisement without the prior written consent of the other Party, which may be withheld in such Party's sole and absolute discretion.

The offer of license expressed in this Agreement shall automatically expire and become void if two unaltered counterparts of this Agreement, executed by Licensee, are not delivered to Licensor within 30 days of the Effective Date.

ATTACHED EXHIBITS:

Exhibit A: List of Approved Equipment and location of the Licensed Premises

Exhibit B: Site Drawing indicating the location of ground space for Licensee's equipment shelter or space in Licensor's building (as applicable)

Exhibit C: As-Built Drawings or Construction Drawings to be attached within 45 days after Commencement Date in accordance with Section 3.

Exhibit D: Form of Commencement Date Notice.

Exhibit E: Insurance.

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Exhibit A
List of Approved Equipment and location of the Licensed Premises

Initials: _____/_____

EXHIBIT A

Nassau County, FL

Hilliard

GROUND SPACE REQUIREMENTS

| | | | |
|--|---|---|--|
| LOCATION OF CUSTOMER EQUIPMENT | INDOOR CABINETS (ATC Building) <input type="checkbox"/> | OUTDOOR SHELTER (Customer Building) <input checked="" type="checkbox"/> | BTS <input type="checkbox"/> |
| # of RACKS/CABINETS/BTS | 0 | | EQUIPMENT SHELTER/CABINET/BTS DIMENSIONS (HxLxW) (ft) |
| LEASED GROUND SPACE DIMENSIONS (HxLxW) (ft) | | 12' x 18' x 15' (includes 3 x 3 foot door entrance pad) | |
| CONCRETE PAD DIMENSIONS (LxW) (ft) | | 18' x 12' | |
| ADDITIONAL GROUND SPACE REQUIREMENTS (H x L x W) | p/o shelter dimensions | | POWER PROVIDED BY: ATC PROVIDED <input type="checkbox"/> |
| TELCO/INTERCONNECT REQUIREMENTS | | UTILITY COMPANY DIRECT <input checked="" type="checkbox"/> | |
| POTS <input type="checkbox"/> | | T1 <input type="checkbox"/> | |
| MICROWAVE <input checked="" type="checkbox"/> | | FIBER OPTICS <input type="checkbox"/> | |
| GENERATOR INFORMATION | APPLICANT PROVIDED <input checked="" type="checkbox"/> | NONE <input type="checkbox"/> | |
| | MANUFACTURER | Generac | MAKE/ MODEL |
| | FUEL TYPE | Diesel | TANK SIZE |
| CAPACITY (KW) | | 35 | BODY TYPE |
| Belly Tank | | 132 gallons | |

ANTENNA EQUIPMENT SPECIFICATIONS

| | SECTOR #1 | SECTOR #2 | SECTOR #3 | DISH | TTA/MHA | GPS |
|--|------------------------------|-----------------------|--|----------------------------|------------------|--------------------|
| ANTENNA QUANTITY | 1 | 1 | N/A | 1 | 1 | 1 |
| TRANSMIT OR RECEIVE | Transmit | Receive | N/A | Transmit & Receive | Receive TTA | Proposed |
| MANUFACTURER | Sinclair | Sinclair | N/A | Scala | TxRx | Receive |
| TYPES OF ANTENNAS | 1 | 1 | N/A | Cylindrical Grid Parabolic | N/A | Trak |
| MODEL # | SC48801 | SC48801 | N/A | MF-900B | 42486A03 | Dome |
| ANTENNA WEIGHT (Per Antenna) | 30 lbs | 30 lbs | N/A | 13 lbs | 30 lbs | N/A |
| ANTENNA DIMENSIONS (HxWxD) (Indicate feet or inches) | 183" x 2.5" | 183" x 2.5" | N/A | 18" x 47" x 16" | 24"H x 6"W x 6"D | N/A |
| ANTENNA MOUNT HEIGHT (ft) | 220' | 220' | N/A | 160' | 220' | N/A |
| RAD CENTER AGL (ft) | 227 | 227 | N/A | 160' | N/A | Mounted on shelter |
| MOUNT TYPE (Flush, Platform, Pipe, T-frame, etc.) | 6' Pipe Leg Mount | 6' Pipe Leg Mount | N/A | Pipe | leg clamps | N/A |
| TOWER LEG | Northwest | Southwest | N/A | East | Southwest | N/A |
| DIRECTION of RADIATION | Omni | Omni | N/A | 138 deg | N/A | N/A |
| TX FREQUENCY | 860.4875-856.4875 MHz | N/A | N/A | 953/960 MHz | N/A | N/A |
| RX FREQUENCY | N/A | 815.4875-811.4875 MHz | N/A | 953/960 MHz | 806-824 | N/A |
| ANTENNA GAIN | 10 dBd | 10 dBd | N/A | 14 dBd | N/A | N/A |
| # of LINES PER ANTENNA | 1 | 1 | 1 | 1 | 1 | N/A |
| LINE TYPE | Andrew LDF | Andrew LDF | Andrew LDF | Andrew LDF | Andrew LDF | N/A |
| LINE DIAMETER | 1 1/4" | 7/8" | 3/8" | 7/8" | 3/8" | N/A |
| Is equipment transmitting on unlicensed frequencies? (check box) | Yes <input type="checkbox"/> | | No <input checked="" type="checkbox"/> | | | |

BUILDING/SHELTER EQUIPMENT SPECIFICATIONS

| | TRANSMITTER #1 | TRANSMITTER #2 | TRANSMITTER #3 | TRANSMITTER #4 | TRANSMITTER #5 | TRANSMITTER #6 |
|--|-----------------------------------|----------------|----------------|----------------|----------------|----------------|
| MANUFACTURER | Motorola | Motorola | Motorola | Motorola | Motorola | N/A |
| TYPE & MODEL | GTR8000 | GTR8000 | GTR8000 | GTR8000 | GTR8000 | N/A |
| TYPE of SERVICE | Digital P25 | Digital P25 | Digital P25 | Digital P25 | Digital P25 | N/A |
| TX POWER OUTPUT | 100 Watts | 100 Watts | 100 Watts | 100 Watts | 100 Watts | N/A |
| ERP | 224 Watts | 224 Watts | 224 Watts | 224 Watts | 224 Watts | N/A |
| AVERAGE MONTHLY POWER CONSUMPTION (If Applicable) | N/A | N/A | N/A | N/A | N/A | N/A |
| ELECTRIC SERVICE REQUIRED (Amps/Volts) | 200 Amps / 240 Volts single phase | | | | | N/A |
| COMBINER/# of PORTS (Applicable only if using Master Combining System) | N/A | N/A | N/A | N/A | N/A | N/A |

Exhibit B

Site Drawing indicating the location of ground space for Licensee's equipment shelter or space in Licensor's building (as applicable)

Licensee shall not commence installation until Licensor has approved in writing said drawing and attached it hereto.

Initials: _____ / _____

Exhibit C
As Built Drawings or Construction Drawings

To be attached hereto within 45 days after the Commencement Date.

**Exhibit D
Form of Commencement Date Notice**

[Date]

Via Return Receipt Requested First Class Mail

American Tower

Attn: Contracts Manager

Re: ATC Tower Site # _____, ATC Tower Site Name: _____

Dear Contracts Manager:

In accordance with Section 1 of that License Agreement ("Agreement") dated _____ between _____ ("Licensor") and _____ ("Licensee"), this letter serves as notice that Licensee commenced its construction and/or installation at the Tower Site described above on _____, 20__.

The Agreement states that the Commencement Date for the purposes of the Monthly License Fee is the earlier of the commencement of installation or construction or _____, 2____ (but in no event later than 45 days after the Effective Date of the Agreement).

In accordance with the Agreement, the correct Commencement Date for this Agreement is _____, 2____.

If you have any questions, please contact me at _____.

Sincerely,

Exhibit E Insurance

A. LICENSOR shall maintain in full force during the term of this Agreement the following insurance:

1. Worker's Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of \$500,000.00 per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Tower Site Damage), the limits of liability of which shall not be less than \$1,000,000.00 per occurrence.
3. An umbrella policy of not less than Five Million Dollars (\$5,000,000.00).

The above insurance shall provide that LICENSEE will receive not less than 30 days written notice prior to any cancellation of, or material change in coverage. The insurance specified in this Item A shall contain a waiver of subrogation against LICENSEE and shall name LICENSEE as an additional insured, and shall be primary over any insurance coverage in favor of LICENSEE but only with respect to and to the extent of the insured liabilities assumed by LICENSOR under this Agreement and shall contain a standard cross-liability endorsement.

B. LICENSEE shall maintain in full force during the term of this Agreement and shall cause all contractors or subcontractors performing Work on any Licensed Site prior to the commencement of any such Work on behalf of Licensee to maintain the following insurance:

1. Worker's Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of \$500,000.00 per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Tower Site Damage), the limits of liability of which shall not be less than \$1,000,000.00 per occurrence.
3. An umbrella policy of not less than One Million Dollars (\$1,000,000.00).

The above insurance shall provide that LICENSOR will receive not less than 30 days written notice prior to any cancellation of, or material change in coverage. The insurance specified in this Item B shall contain a waiver of subrogation against LICENSOR and shall name LICENSOR as additional insured, and shall be primary over any insurance coverage in favor of LICENSOR but only with respect to and to the extent of the insured liabilities assumed by LICENSEE under this Agreement and shall contain a standard cross-liability endorsement.

C. Notwithstanding the foregoing insurance requirements, (a) the insolvency, bankruptcy, or failure of any insurance company carrying insurance for either Party, or failure of any such insurance company to pay claims accruing, shall not be held to waive any of the provisions of this Agreement or relieve either Party from any obligations under this Agreement, and (b) the Licensor reserves the right, from time to time, to increase the required liability limits described above in Items A and/or B in accordance with then-current customary insurance requirements in the tower industry nationally.

AMERICAN TOWER

C O R P O R A T I O N

05-20-06

Sam Young
Nassau County
96160 Nassau Place
Yulee, FL 32097

RE: ATC Site Name: Hillard FL
ATC Site Number: 302821

Dear Sam:

For your records please find enclosed herewith two (2) fully executed original copies of the agreement between American Tower and Nassau County for use of American Tower's Hillard FL tower site.

Please be advised that American Tower's payment and remittance address is
Department 5305
P.O. Box 30000
Hartford, CT 06150-5305.

Likewise, American Tower's notice address for all contract related correspondence is
American Tower –Attn: Contracts
10 Presidential Way
Woburn, MA 01801

If your systems do not reflect these addresses, please make every reasonable effort to update them.

Please note that prior to the commencement of installation or the modification of any equipment at this site American Tower requires Nassau County to request and to receive a Notice to Proceed (NTP) from American Tower. In order for a NTP to be issued American Tower must receive the following documentation:

- Copy of Building Permit (if applicable) or a letter from the local jurisdiction stating that a Building Permit is not required
- Construction Schedule
- Construction Drawings that have been approved by American Tower.
- Contractors Name with a Field and Office Contact Number. Please note that if your contractor **MUST** be an ATC approved vendor. In addition, if the contractor sub-contracts the tower climbing work, that sub-contractor must also be an ATC approved vendor.
- Purchase Order or Check for the Site Inspection Fee.

Once you have procured all the above documents, please submit them to Dave Calder at Dave.calder@americantower.com. Upon receipt of the documents, American Tower will issue a "Notice to Proceed" letter. Please contact Dave Calder at 386-316-5211 to schedule the pre-construction meeting or if you have any questions on the requirements.

CONSTRUCTION MUST NOT BEGIN WITHOUT A "NOTICE TO PROCEED" LETTER.

We look forward to having you as our tenant.

On behalf of American Tower, I thank you for your cooperation and your business.

Sincerely,

Carl Aquilina
781-926-4625
ATC-LAPM

cc. Kim Walton
Dave Calder
David Flint

**Request for Taxpayer
 Identification Number and Certification**

Give form to the requester. Do not send to the IRS.

Print or type
 See Specific Instructions on page 2.

Name (as shown on your income tax return)
TOWER Asset Sub, Inc. II

Business name, if different from above

Check appropriate box: Individual/Sole proprietor Corporation Partnership Other Exempt from backup withholding

Address (number, street, and apt. or suite no.)
100 REGENCY FOREST DRIVE

City, state, and ZIP code
CARY, NC 27511

List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
 | | | | | | | | | | | | | | | |

or

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

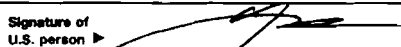
Employer identification number
54191728713

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here Signature of U.S. person  Date **12-8-05**

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding,
- Claim exemption from backup withholding if you are a U.S. exempt payee.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or

- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

- The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
- The treaty article addressing the income.
- The article number (or location) in the tax treaty that contains the saving clause and its exceptions.