

LICENSE AGREEMENT
FOR
COMMUNICATIONS EQUIPMENT SPACE

THIS LICENSE for Communications Equipment Space (the "License") is made and entered into this ____ day of _____, 200_____, by and between _____ a political subdivision of the State of _____, hereinafter referred to as the "**LICENSOR**" and _____, a _____ corporation, **d/b/a** _____, hereinafter referred to as the "**LICENSEE**."

WHEREAS, LICENSOR is the owner in fee simple of a parcel of land located at _____ (the "Site), on which a water tower (the "Tower") is located. The Site is located at Section ___, Township ___, Range __t, near _____, and is more particularly described as indicated on Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, LICENSEE desires to License a portion of the Site as well as space on the Tower from LICENSOR for the installation and operation of certain antennae facilities, which include directional antennae, connecting cables and appurtenances (collectively "Antennae Facilities") for use in connection with the provision of communications services; and

WHEREAS, LICENSOR desires to License space on the Tower to LICENSEE for the installation and operation of certain antennae facilities; and

NOW, THEREFORE, in consideration of the foregoing and the covenants hereinafter set forth, it is agreed between the parties as follows:

1. **LICENSED SITE; USE.** LICENSOR hereby leases to LICENSEE and LICENSEE leases from LICENSOR approximately six hundred (600) square feet of the Site and a designated horizontal plane on the Tower for location of its directional antennae (collectively, the "Premises") for the transmission, routing and reception of communication services, as that term is defined in Chapter, Statutes, and for no other uses. The Premises is more fully described on Exhibit B, attached hereto and

incorporated herein. LICENSEE shall have the non-exclusive right, license and privilege to install and maintain underground utility lines necessary for the operation of the Antenna Facilities and to access the Site in the area designated on Exhibit B. Said license shall be in effect for the term of this Lease and any renewals thereof. The total number of initial antennae shall be (twelve) (12). Within thirty (30) days of the Commencement Date, the LICENSEE shall provide LICENSOR a complete and detailed inventory (the "Inventory List") of the equipment, personal property and Antennae Facilities located on the Premises. LICENSEE may not add additional equipment and/or antennae from that shown on the Inventory List without the prior written consent of LICENSOR, not to be unreasonably withheld. LICENSOR agrees to cooperate with LICENSEE, at LICENSEE'S expense, in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for LICENSEE'S intended use of the Premises. This Lease is not a franchise or a permit. Any relevant permits or franchises must be obtained separately from LICENSOR, at LICENSEE'S expense.

2. **TERM.** This Lease shall commence on the date LICENSEE begins construction of the Antennae Facilities, or 180 days after the complete execution of this Lease, whichever occurs first (the "Commencement Date"), unless otherwise agreed by the parties, in writing, as an amendment to this Lease. This Lease shall terminate on the tenth (10th) anniversary of the Commencement Date (the "Term"), unless either otherwise terminated as provided in Section 14 or automatically renewed as provided in Section 4. Within fifteen (15) days of the Commencement Date and on the first day of each year thereafter, starting with the third (3rd) year of the Term (the Rental Date"), LICENSEE shall pay, in advance, the annual rent amount as shown in Section 3. Rent for the first (1st) two (2) years shall be paid in advance, within fifteen (15) days of the Commencement Date. If the Commencement Date is not the first day of the month, the rent for that first month shall be prorated accordingly.

3. **RENT.**

A. For use of the Premises, LICENSEE shall pay LICENSOR a rental amount of \$_____ per month, payable annually, with the rent for the first (1st) two (2) years of the Term being paid in advance, pursuant to Section 2.

B. Beginning with the third year of the lease and continuing thereafter, including any Renewal Terms, the annual rent shall be increased by _____ percent (____%).

C. If the LICENSEE fails to pay the full amount of the rent due within () days of the Rental Date, LICENSEE shall pay LICENSOR a late payment charge equal to percent (%) of the amount past due. In addition, any amounts not paid within () days of the Rental Date, shall bear interest until paid at the lesser of the rate of percent (%) per month or the highest rate permitted by law.

D. If this Lease is terminated at a time other than on the last day of the month, rent shall be prorated as of the date of termination, and, in the event of termination for any reason other than LICENSEE'S default pursuant to Section 15 herein, all prepaid rent shall be refunded to LICENSEE.

Rent shall be payable to _____ 4. **RENEWAL OF LEASE.**

A. LICENSEE shall have the right to extend the Term for () successive () year periods ("the Renewal Terms"). This Lease shall automatically renew for each Renewal Term unless at least () days prior to the termination of the then-existing Term, LICENSEE notifies LICENSOR of its intention not to renew the Lease. All Renewal Terms then remaining shall be rendered null and void, and this Lease shall terminate at the end of the then-current Term or Renewal Term, as the case may be.

5. **INSTALLATION, MAINTENANCE AND OPERATION OF ANTENNAE FACILITIES.**

A. Subject to obtaining the necessary permits, licenses, certificates and other approvals, LICENSEE has the right to erect, maintain and operate its Antennae Facilities on the Premises. In connection therewith, LICENSEE has the right to do all work necessary to prepare, maintain and alter the Premises for LICENSEE'S business operations and to install transmission lines connecting the antennas to the transmitters and receivers. All of LICENSEE'S construction and installation work shall be performed at LICENSEE'S sole cost and expense and in a good and workmanlike manner. Prior to commencing construction of the Antennae Facilities, LICENSEE shall obtain LICENSOR'S approval of LICENSEE'S plans, which approval shall not be unreasonably withheld. LICENSOR shall give such approval or provide LICENSEE with its requests for changes within ten (10) days of LICENSOR'S receipt of LICENSEE'S plans. If LICENSOR does not provide such approval or request for changes within such ten (10) day period, LICENSOR shall be deemed to have approved LICENSEE'S plans. LICENSOR shall

not be entitled to receive any additional consideration in exchange for giving its approval of LICENSEE'S plans. All of the Antennae Facilities shall remain LICENSEE'S personal property and not fixtures. LICENSEE has the right to remove all Antennae Facilities at its sole expense on or before the expiration or earlier termination of the Lease; provided, however, LICENSEE shall repair any damage to the premises caused by such removal at its sole expense. LICENSEE acknowledges and agrees that (i) LICENSEE'S rights under this Lease to the use of the Premises for its permitted use herein is nonexclusive; and (ii) LICENSOR may from time to time lease or license other portions of the Site and Tower to other tenants for purposes similar to LICENSEE'S permitted use, provided however, any such LICENSEE'S or licensee's use of the Site and Tower must be licensed by the Federal Communications Commission (the "FCC"), to the extent required by law, and shall not interfere with the operations of LICENSEE.

B. LICENSEE may increase the total number of antennae on the Licensed horizontal plane of the Tower, provided that LICENSOR has given its prior written consent, not to be unreasonably withheld, and only after LICENSEE has obtained, at LICENSEE'S expense, a certified evaluation indicating that each additional antenna will not interfere with existing antennae or proposed antennae and that the Tower can structurally support the additional antennae.

C. The installation, maintenance and operation of the Antennae Facilities shall in no way damage the Site or the Tower, nor interfere with users already using the Site or Tower, or their rights to add additional antennas under existing agreements with LICENSOR, nor interfere with LICENSOR'S use and maintenance of the Site and the Tower. LICENSEE shall, at LICENSEE'S expense, keep and maintain the Premises in a commercially reasonable condition. Any damage done to the Site or to the Tower during installation and/or during operations by LICENSEE or its employees, agents, contractors or subcontractors, shall be repaired or replaced immediately at LICENSEE'S expense and to LICENSOR'S satisfaction. LICENSEE shall keep the Site and Tower free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference.

D. LICENSEE, at its expense, shall connect to the Site's existing electric panel, install a dedicated 200 amp 220 volt receptacle for LICENSEE'S use in operating its Antennae Facilities, and shall install an electrical 1 sub-meter for LICENSOR to monitor LICENSEE's usage of electricity. The cost of the electricity used by LICENSEE is included in the Rent,

except, however, LICENSEE shall reimburse LICENSOR for any monthly usage exceeding \$75.00, upon receipt of a statement from LICENSOR documenting such excess usage. All other utility service, including but not limited to telephone service, shall be at LICENSEE'S sole expense. LICENSEE acknowledges that LICENSOR shall not be responsible for power outages occurring as the direct result of acts of nature or blackouts or other acts beyond LICENSOR'S control and not caused by LICENSOR'S intentional misconduct. LICENSOR reserves the right to require LICENSEE to paint the Antennae Facilities in a manner consistent with the color of the Tower or to otherwise shield the Antennae Facilities, or a portion thereof, from view.

E. Within forty-five (45) days of the Commencement Date, LICENSEE shall provide LICENSOR with as-built drawings of the Antennae Facilities and the improvements installed on the Premises, which show the actual location of all equipment and improvements. Said drawings shall be accompanied by the Inventory List described in Section 1 herein.

F. Subject to acts of God and other health and safety emergencies, upon 24 hours' notice to LICENSOR'S Water Production Superintendent, LICENSEE shall have the right of access, ingress and egress to the Premises during regular business hours in order to build, install, maintain and operate its Antennae Facilities at no charge, and in the event of an emergency, access at any time to LICENSEE'S ground space and the equipment located on LICENSEE'S ground space (not including access to the Tower). However, in the event LICENSEE requires access to the Antennae Facilities on the Tower on an emergency basis or after business hours, LICENSEE shall page LICENSOR'S personnel to arrange access and shall be charged \$_____.00 per hour for a representative of LICENSOR to be present during such Tower access. LICENSEE agrees to comply with the LICENSOR'S sign-in procedures, if any, prior to entering the Site. At its sole expense, LICENSEE shall be responsible for repairing any damage to the access roadway to the Site caused by LICENSEE'S use.

G. At any time following the full execution of this Lease, LICENSEE shall have the right to enter upon the Site for the purpose of making appropriate engineering and boundary surveys, inspections, soil test borings, other reasonably necessary tests and constructing the Antennae Facilities. Upon LICENSEE'S request, LICENSOR agrees to provide promptly to LICENSEE copies of all plans, specifications, surveys and tower maps for the Site and the Tower. The tower map shall include the elevation of all antennas on the Tower and the frequencies upon which each operates.

H. Any agent or employee of LICENSEE at any time on the Site shall comport him/herself in a businesslike manner, shall have readily visible identification, and shall be attired in a manner reasonably acceptable for such employee.

I. LICENSEE shall, at its expense, comply with all present and future federal, state and local laws, ordinances, rules and regulations (including laws and ordinances relating to health, radio frequency emissions, other radiation and safety) in connection with the use, operation, maintenance, construction and/or installation of the Antennae Facilities.

6. **TOWER MARKING AND LIGHTING REQUIREMENTS.** LICENSORLICENSOR acknowledges that it, and not LICENSEE, shall be responsible for compliance with all tower marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC. Should LICENSEE be cited by either the FCC or FAA because the Tower is not in compliance and, should LICENSOR fail to cure the conditions of noncompliance within the time frame allowed by the citing agency, LICENSEE may terminate this Lease upon notice to LICENSOR.

7. **LICENSORLICENSOR'S REPRESENTATIONS.** LICENSORLICENSOR hereby covenants and warrants that: (I) it has full right, power and authority to execute this Lease and has the power to grant all rights hereunder and that the person executing this Lease on behalf of LICENSOR has full authority to do so; and (ii) its execution and performance of this Lease will not violate any law, ordinances, covenants, or provisions of any mortgage, lease or other agreement binding on LICENSOR.

8. **ALTERATION, DAMAGE OR DESTRUCTION.** If the Tower or any portion thereof is altered, destroyed or damaged so as to materially hinder effective use of the Antennae Facilities through no fault or negligence of LICENSEE, LICENSEE may elect to terminate this Lease upon thirty (30) days' written notice to LICENSOR. In such event, LICENSEE shall promptly remove the Antennae Facilities from the Premises and shall restore the Premises to the same condition as existed prior to this Lease, reasonable wear and tear, and loss by casualty or other causes beyond LICENSEE'S control excepted. This Lease (and LICENSEE'S obligation to pay rent) shall terminate upon LICENSEE'S fulfillment of the

obligations set forth in the preceding sentence, at which time LICENSEE shall be entitled to the reimbursement of any prepaid rent.

9. **CONDEMNATION.** In the event the Site is taken by eminent domain, this Lease shall terminate as of the date title to the Site vests in the condemning authority. In the event a portion of the Site is taken by eminent domain, either party shall have the right to terminate this Lease as of said date of title transfer, by giving thirty (30) days' written notice to the other party. In the event of any taking under the power of eminent domain, LICENSEE shall not be entitled to any portion of the reward paid for the taking and the LICENSOR shall receive full amount of such award. LICENSEE shall hereby expressly waive any right or claim to any portion thereof although all damages, whether awarded as compensation for diminution in value of the leasehold or to the fee of the Premises, shall belong to LICENSOR. LICENSEE shall have the right to claim and recover from the condemning authority, but not from LICENSOR, such compensation as may be separately awarded or recoverable by LICENSEE on account of any and all damage to LICENSEE'S business and any costs or expenses incurred by LICENSEE in moving/removing its equipment, personal property, Antennae Facilities, and leasehold improvements. In no event shall LICENSOR be responsible for any such costs or expenses.

10. **LIABILITY AND INDEMNITY.**

A. LICENSEE shall indemnify and hold harmless LICENSOR, its commissioners, officers, employees, agents and volunteers from and against any and all claims, actions, damages, fees, fines, penalties, defense costs (including attorney's fees and court costs, whether such fees and costs are incurred in negotiations, collection of attorney's fees or at the trial level or on appeal), suits or liabilities which may arise out of any act, neglect, omission or default of the LICENSEE arising out of or in any way connected with the LICENSEE'S (or LICENSEE'S officers, employees, agents, volunteers and subcontractors, if any) performance or failure to perform under this Lease.

B. LICENSEE undertakes and assumes for its officers, agents, affiliates, contractors, subcontractors and employees (collectively "LICENSEE" for the purpose of this section), all risk of dangerous conditions, if any, on or about the Site, and LICENSEE hereby agrees to indemnify and hold harmless LICENSOR against and from any claim asserted or liability imposed upon

LICENSOR for personal injury or property damage to any person (other than from LICENSOR'S gross negligence) arising out of the LICENSEE'S installation, operation, maintenance, condition or use of the Premises or LICENSEE'S Antennae Facilities or LICENSEE'S failure to comply with any federal, state or local statute, ordinance or regulation.

11. **INSURANCE.**

A. During the term of the Lease, LICENSEE shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance:

(1) **WORKERS COMPENSATION** insurance, on behalf of all employees who are to provide a service under this Lease, as required by _____ Laws, and Employer's Liability insurance with minimum limits of not less than _____ Thousand Dollars (\$_____,000) per employee, per accident; _____ Thousand Dollars (\$_____,000) disease aggregate, and _____ Thousand Dollars (\$_____,000) per employee, per disease.

(2) **COMMERCIAL GENERAL LIABILITY** insurance, including but not limited to bodily injury, property damage, contractual products and completed operations and personal injury with limits of not less than _____ Million Dollars (\$_____,000,000) per occurrence, _____ Million Dollars (\$_____,000,000) aggregate, covering all work performed under this contract.

(3) **AUTOMOBILE LIABILITY** insurance, covering all owned, hired, and non-owned vehicles in use by LICENSEE, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law with minimum limits of _____ Million Dollars (\$_____,000,000) as the combined single limit for each occurrence for bodily insurance and property damage.

(4) **UMBRELLA LIABILITY** with limits of not less than _____ Million Dollars (\$_____,000,000) per occurrence covering all work performed under this contract. At LICENSOR'S option, LICENSOR may require increased umbrella coverage for each Renewal Term, based on the average annual increase of the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, issued by the Bureau of Labor Statistics of the United States Department of Labor, for the preceding Term or Renewal Term.

(5) **BUILDERS' RISK** insurance, at the start of and during the period of any construction, together with an installation floater or equivalent property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are to be used in or incidental to the installation of the Antennae Facilities. Upon completion of the installation of the Antennae Facilities, LICENSEE shall substitute for the foregoing insurance: policies of fire, extended coverage and vandalism and malicious mischief insurance on the Antennae Facilities. The amount of insurance at all times shall be representative of the insurable values installed or constructed.

(6) **BUSINESS INTERRUPTION** insurance, coverage in an amount sufficient to cover such loss of revenues, for the period of time it would take, under normal circumstances, to repair or replace that part(s) of the Antennae Facilities which is damaged and caused the loss of revenue.

(7) The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

B. POLICY FORM

1. Unless specific approval is given by the COUNTY, LICENSEE'S commercial general liability policy and LICENSEE'S automobile liability policy are to be written on an occurrence basis, shall name _____ County, its Commissioners, officers, employees, agents and volunteers as additional insured as their interest may appear under this Contract, and the insurer(s) shall agree to waive all rights of subrogation against _____ County, its Commissioners, officers, employees, agents or volunteers.

2. Insurance, itemized in this Lease, and required of the LICENSEE, shall be provided by or in behalf of all subcontractors to cover their operations performed under this Lease. The LICENSEE shall be held responsible for any modifications, deviations or omissions in these insurance requirements as they apply to subcontractors.

3. Each insurance policy required by this Lease shall:
 - a. Apply separately to each insured against whom claim is made and suit is brought, except with respect to the limits of the insurer's liability.
 - b. Be endorsed to state that coverage shall not be suspended, voided, or canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the Risk Management Office.
4. The Risk Management Office retains the right at any time to review coverage form and amount of insurance. However, any change in policy limits or the requirements of this Section must be by mutual agreement of the LICENSOR and LICENSEE.
5. The procuring of required policies of insurance shall not be construed to limit the LICENSEE'S liability nor to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policy or policies of insurance, the LICENSEE shall be obligated for the full and total amount of any damages, injury or loss caused by any act, neglect, omission or default connected with this Lease.
6. The LICENSEE shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Lease and shall be solely responsible for the payment of all deductibles to which such policies are subject, whether or not the COUNTY is an insured under the policy.
7. Claims Made Policies will be accepted for professional and hazardous material and such other risks as are authorized by the Risk Management Office. All Claims Made Policies shall have an extended reporting period option or automatic coverage of not less than two (2) years. If provided an option, the LICENSEE agrees to purchase the extended reporting period on cancellation or termination unless a new policy is effected with a retroactive

date, including at least the last policy year.

8. Certificates of Insurance evidencing Claims Made or Occurrence form coverage and conditions to this Lease, as well as the County's contract number and the description of work are to be furnished to the Risk Management Office _____ prior to commencement of work AND within thirty (30) calendar days of renewal of the insurance contract when applicable. The Risk Management Office shall receive all insurance certificates before the LICENSEE will be allowed to commence or continue to work. Certificates of insurance for each insurance policy required to be obtained by LICENSEE in compliance with this paragraph shall be filed and maintained with LICENSOR annually during the term of the Lease. LICENSEE shall immediately advise LICENSOR of any claim or litigation that may result in liability to LICENSOR.

9. Notice of Accident (occurrence) and Notice of Claim associated with work being performed under this Lease, shall be provided to the LICENSEE'S insurance company and the Risk Management Office as soon as practicable after notice to the insured.

C. LICENSEE shall require that each and every one of its contractors and subcontractors who perform work on the Premises carry, in full force and effect, workers' compensation, comprehensive public liability and automobile liability insurance coverage of the type which LICENSEE is required to obtain under the terms of this Section with appropriate limits of insurance.

12. **REGULATORY COMPLIANCE.** LICENSEE shall obtain and maintain FCC authority to build and operate the Antenna Facilities.

13. **INTERFERENCE.**

A. LICENSEE shall not use the Premises in any manner that would interfere with LICENSOR'S or any Prior User's (as defined herein) operations, including without limitation, its operation of equipment, authorized frequency spectrum or signal strength. "Prior User" shall mean an existing user who has commenced a lease, license or other similar agreement with LICENSOR for use of the Tower prior to the Commencement Date hereof. In the event there is

interference, LICENSOR shall have a third party, chosen by LICENSOR in its sole discretion, evaluate such interference problems and prepare a report, to be sealed by a licensed professional engineer. In the event such third party determines that LICENSEE'S Antennae Facilities are interfering with the operation of LICENSOR'S or a Prior User's equipment, authorized frequency spectrum or signal strength, LICENSEE shall immediately take all steps recommended by such third party necessary to eliminate the interference including, if required, cutting off power to the objectionable Antennae Facilities. If LICENSEE cannot eliminate the interference after twenty-four (24) hours notice to LICENSEE'S RF Engineering Department, LICENSEE will remove or cease operation of the objectionable portion of the Antennae Facilities. LICENSEE acknowledges and agrees that with regard to the Tower, LICENSEE'S priority status is determined as of the Commencement Date hereof and in the event LICENSEE ("Changing Party") modifies, relocates, adds, or changes its Antennae Facilities in any way ("Facility Changes") after the Commencement Date hereof and the third party chosen by LICENSOR determines, in its sole discretion, that LICENSEE'S Facility Changes are interfering with the operation of LICENSOR'S or any user's equipment, authorized frequency spectrum or signal strength, LICENSEE, as Changing Party, shall immediately take all steps recommended by such third party necessary to eliminate the interference including, if required, cutting off power to the Facility Changes. If the Changing Party cannot immediately eliminate the interference, Changing Party will remove or cease operation of the Facility Changes. Additionally, LICENSEE shall not interfere with LICENSOR'S use of the Tower, the provision of services to LICENSOR'S customers, or the use of the Tower by other users. Such interference shall be deemed a material breach of this Lease.

B. LICENSOR shall require a substantially similar non-interference provision in leases entered into with other LICENSEE or licensees occupying the Tower after the Commencement Date.

C. LICENSOR shall be allowed to conduct an interference study indicating whether LICENSEE'S use of the Tower will interfere with LICENSOR'S proposed use of the Tower. In the event that such a study indicates that LICENSEE'S use will potentially interfere with LICENSOR'S proposed use of the Tower, LICENSOR may require LICENSEE, at LICENSOR'S expense, to relocate LICENSEE'S Antennae Facilities so as to minimize the interference, to the extent LICENSOR deems necessary.

14. **TERMINATION**

A. LICENSEE may terminate this Lease upon sixty (60) days advance written notice to LICENSOR if:

(1) LICENSEE is unable to obtain, maintain or otherwise forfeits or cancels any license, permit or Governmental approval necessary for the construction or operation of the Antennae Facilities or LICENSEE'S actual intended use of the Site;

(2) LICENSEE determines, in its reasonable discretion, exercised in good faith, that based on (i) technology (including technological factors affecting antenna height), (ii) interference with the use of the Site resulting from the acts of any third party, an act of God or from other natural forces, (iii) changes in system design or system usage patterns, or (iv) for economic reasons, LICENSEE'S use of the Site (as the same may have been modified from time to time) is no longer consistent with the optimal operation of LICENSEE'S communication system;

(3) If LICENSEE is unable to occupy and utilize the Premises due to an action of the FCC, including without limitation, a take back of channels or change in frequencies.

B. At its option, LICENSOR may terminate this Lease if

(1) greater than fifteen percent (15%) of the Tower is substantially destroyed by any act and LICENSOR notifies LICENSEE within sixty (60) days of the date of such damage or destruction that LICENSOR elects not to rebuild the Tower;

(2) LICENSOR determines to dismantle the Tower;

(3) If the State or Federal government proposes or adopts a law, rate, regulation or decision to the effect that due (in whole or in part) to LICENSOR having entered into a lease such as this one, LICENSOR is required to allow additional antennae or towers (of any sort or description) on LICENSOR-owned property;

(4) the Tower is structurally unsound or otherwise not suitable for LICENSEE'S use, as determined by a professional structural engineer licensed in selected by LICENSOR;

(5) LICENSEE'S continued use of the Tower is a threat to the health, safety or welfare of the citizens of County or violates applicable laws or ordinances, as determined by standards set by the FCC;

(6) LICENSEE loses its license to provide communications services for any reason, including, but not limited to, non-renewal, expiration, or cancellation of its license; or

(7) LICENSEE is in default under this Lease.

C. If LICENSOR terminates this Lease for any reason except that stated in Section 14.B.(7), any unused prepaid Rent shall be refunded to LICENSEE within sixty (60) days of the effective date of termination, unless a dispute arises as to the amount due. Should any outstanding balance owed LICENSOR exceed the amount of prepaid Rent, the prepaid Rent shall be applied to the outstanding balance owed LICENSOR, then LICENSOR shall have the right to such other remedies allowed by law to recover any remaining outstanding amount owed to LICENSOR.

D. Within ninety (90) days of termination of this Lease, LICENSEE shall remove all the Antennae Facilities from the Premises, without damage to the Premises and shall leave the Premises and all improvements thereon not removed by LICENSEE in good condition, reasonable wear and tear, and loss by casualty or other causes beyond LICENSEE'S control, excepted. Should LICENSEE fail to so remove the Antennae Facilities and any other property, LICENSOR may, upon thirty (30) days' notice by LICENSOR to LICENSEE and LICENSEE'S financing entity, if any, remove and store the Antennae Facilities and/or other property at LICENSEE'S sole expense. In the event that neither LICENSEE nor LICENSEE'S financing entity shall effect such timely removal, and provided that at least sixty (60) days have elapsed since the original written notice to LICENSEE and its financing entity, the Antennae Facilities and any other property shall be deemed abandoned and LICENSOR may remove and dispose of the Antennae Facilities and any other property at LICENSEE'S expense, payable from the performance bond described in Section 17 herein. Any notice to LICENSEE'S financing entity shall be sent to the following address: _____;

E. All costs and expenses for the removal and restoration to be performed by LICENSEE shall be borne solely by LICENSEE.

15. DEFAULT AND REMEDIES.

Each of the following shall be considered a default by the LICENSEE:

(1) The failure to pay any rent required hereunder within ten (10) days of receipt of notice from LICENSOR;

- (2) With the exception of Section 13 and Section 15(1) herein, the failure to cure, within (30) days after receipt of LICENSOR'S written notice thereof, any breach of any other term hereof;
- (3) The failure of LICENSEE to immediately eliminate interference problems within 24 hours of receiving notice as set forth in Section 13 hereof;
- (4) Adjudication of LICENSEE as bankrupt or assignment by LICENSEE for the benefit of creditors; or
- (5) Insolvency of LICENSEE.

16. **ASSIGNMENT.**

A. LICENSEE may not assign, or otherwise transfer all or any part of its interest in this Lease or in the Premises without the prior written consent of LICENSOR; provided, however, that LICENSEE may assign its interest to its parent company, any subsidiary or affiliate of it or its parent company or to any successor-in-interest or entity acquiring fifty-one percent (51%) or more of its stock or assets, subject to any financing entity's interest, if any, in this Lease as set forth in Section 17 below. Notwithstanding the above, upon written notice to LICENSOR, LICENSEE shall have the right to assign this Lease, without LICENSOR'S further consent, to _____

B. LICENSOR may assign this Lease upon written notice to LICENSEE, subject to the assignee assuming all of LICENSOR'S obligations herein.

17. **SECURITY INTEREST; CONSENT AND ACKNOWLEDGMENT.** LICENSOR waives any lien rights it may have concerning the Antennae Facilities, which are deemed LICENSEE'S personal property and not fixtures, and, subject to Section 14.D herein, LICENSEE has the right to remove the same at any time without LICENSOR'S consent. LICENSOR acknowledges that LICENSEE has entered into a financing arrangement including promissory notes and financial and security agreements for the financing of the Antennae Facilities (the "Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities). In connection therewith, LICENSOR (i) consents to the installation of the Collateral, and (ii) disclaims any interest in the Collateral, as fixtures or otherwise, and (iii) agrees that the Collateral shall be exempt from

execution, foreclosure, sale, levy, attachment or distress for any rent due or to be become due and that, subject to Section 14.D herein, such Collateral may be removed at any time without recourse to legal proceedings. LICENSEE hereby agrees to supply LICENSOR a performance bond in the amount of _____ Thousand Dollars (\$_____) ("Performance Bond"), for the sole purpose of assuring LICENSEE'S payment of all sums that may become due to LICENSOR under this Lease, including without limitation, any and all rent. In the event that LICENSEE fails to pay LICENSOR any sum of money due under this Lease, LICENSOR shall provide LICENSEE written notice of such failure, together with sufficient documentation of the amount that is due (the "Late Notice"). If LICENSOR still has not received payment thirty (30) days after the date of the Late Notice, LICENSOR may access the bond upon ten (10) days' written notice to LICENSEE. LICENSEE shall keep the performance bond in place throughout the Term and any Renewal Term of this Lease.

18. **RISK OF LOSS; LIMITATION OF LIABILITY.** Notwithstanding anything herein to the contrary, LICENSEE shall bear the risk of loss of or damage to the Antennae Facilities during the term of this Lease and any Renewal Terms. Notwithstanding anything herein to the contrary, LICENSOR shall not be liable for any consequential or incidental damages incurred by LICENSEE due to any malfunction, third part act of vandalism, acts of God (including, without limitation, lightning, wind, rain, hail, fire or storms). In the event the Tower or other portions of the Site are destroyed or so damaged as to be unusable, the LICENSOR or LICENSEE shall be entitled to elect to cancel and terminate this Lease, or in the alternative LICENSOR may elect to restore the Site, exclusive of the Antennae Facilities, and LICENSEE may concomitantly elect to restore the Antennae Facilities. In the latter case, the LICENSEE shall remain bound hereby but shall be entitled to an abatement of rent during the loss of use, if the LICENSEE has not elected to cancel this Lease. In no event shall the leasehold or other interest created hereby be specifically enforceable.

19. **NOTICES.** Any notices required or permitted by this Lease shall be deemed validly given if sent by certified mail, by courier or by overnight delivery, addressed to each party as set out below, or a new address provided by like notice. Notice is complete upon actual delivery by any of these methods.

LICENSOR:

With an additional copy to:

LICENSEE:

With additional copies to:

20. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. LICENSEE agrees that it will not use, generate, store or dispose of any Hazardous Material (defined below) on, under, about or within the Site in violation of any law or regulation. LICENSOR represents, warrants and agrees that LICENSOR has not used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material on, under, about or within the Site in violation of any law or regulation, and that LICENSOR will not, and will not permit any third party to use, generate, store or dispose of any Hazardous Material on, under, about or within the Site in violation of any law or regulation. LICENSEE agrees to defend, indemnify and hold harmless LICENSOR, its Commissioners, officers, agents, employees and volunteers against any and all losses, liabilities, claims and/or costs (including reasonable attorney's fees and costs) arising from any breach of any representation, warranty or agreement contained in this section. As used in this section, "Hazardous Material" shall mean petroleum or any petroleum product, asbestos, any substance known by the state in which the Land is located to cause cancer and/or reproductive toxicity, and/or any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. This section shall survive the termination of this Lease.

21. TAXES. LICENSEE shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Antennae Facilities. All such payments shall be made, and evidence of all such payments shall be provided to LICENSOR, at least ten (10) days prior to the delinquency date of the payment. LICENSOR is a subdivision of the State and does not generally pay ad valorem taxes. If such taxes are assessed on the Site because it is not devoted solely to a public use, LICENSEE shall pay such taxes, or if other LICENSEE'S are on the Tower, such portion of the taxes attributable to LICENSEE'S use. LICENSEE shall reimburse

LICENSOR for any increases, which are assessed as a direct result of LICENSEE'S improvements to the Site. As a condition of LICENSEE'S obligation to pay such tax increases, to the extent available from the Property Appraiser, LICENSOR shall provide to LICENSEE the documentation from the taxing authority, reasonably acceptable to LICENSEE, indicating the increase is due to LICENSEE'S improvements. LICENSEE shall indemnify LICENSOR from any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses which may be imposed upon, incurred by or be asserted against LICENSEE in relation to the taxes owed or assessed on the Antennae Facilities. If the methods of taxation in effect on the Commencement Date are altered so that in lieu of or as a substitute for any portion of the property taxes and special assessments now imposed on property, there is imposed a tax upon or against the rentals payable by LICENSEE to LICENSOR, LICENSEE shall pay those amounts in the same manner as provided for the payment of real and personal property taxes.

23. MISCELLANEOUS; GOVERNING LAW; RECORDING.

A. This Lease constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendment to this Lease must be in writing and executed by both parties.

B. This Lease shall be construed and enforced in accordance with the laws of the State. Venue for any legal proceedings concerning this shall be solely in ____.

C. This Lease shall be binding upon and shall inure to the benefit of the successors and permitted assignees of the respective parties.

D. Each party agrees to furnish to the other, within ten (10) days after request, such truthful estoppel information as the other may reasonably request.

E. If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.

F. Failure, delay, or forbearance of LICENSOR to insist on strict performance of any of the terms and provisions of this Lease, or to exercise any right or remedy, shall not be construed as a waiver. An express waiver in one or more instances shall not waive subsequent strict performance. Remedies specified in this Lease are cumulative, and are not exclusive of any remedies available in law or in equity.

G. In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Lease, such party shall not unreasonably delay or withhold its approval or consent.

H. All riders and exhibits annexed hereto form material parts of this Lease.

I. This Lease may be executed in duplicate counterparts, each of which shall be deemed an original.

**FINAL PARAGRAPH OF COMMUNICATIONS EQUIPMENT SPACE LEASE.
SIGNATURES ARE ON THE FOLLOWING PAGE.**

IN WITNESS WHEREOF, the parties have executed the Lease as of the date first above written.

LICENSEE:

WITNESS:

Signature: _____

By: _____

Printed Name: _____

DATE: _____

WITNESS:

Signature: _____

Printed Name: _____

LICENSOR:

ATTEST:

BOARD OF COUNTY COMMISSIONERS

By: _____

By: _____
Chairman

DATE: _____

Approved as to form and correctness:

BY: _____
County Attorney

[Sarasota County, FL](#)