

# Memorandum



**Date:** March 8, 2016

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

Agenda Item No. 9(A)(2)

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a faint circular stamp.

**Subject:** Resolution Authorizing the Execution of a License Agreement between Miami-Dade County and Quasar Communications, Inc. for an initial five-year term with three five-year automatic renewal options

## **Recommendation**

It is recommended that the Board of County Commissioners (Board) retroactively authorize the County Mayor or the County Mayor's action of entering into a License Agreement (Agreement) between Miami-Dade County (County) and Quasar Communications, Inc., for the purpose of housing radio communication equipment on a tower site as part of enhancements to the Public Safety 800 MHz infrastructure. The initial term of the Agreement is five (5) years, effective July 31, 2015.

This Agreement will be extended automatically for three (3), five-year periods, unless declined by either party with 180 days written notice of termination prior to the expiration of then-current term. A new Agreement with Quasar Communications, Inc., is essential to enhance radio communication coverage in the south end of the County. This Agreement will have minimal financial impact while providing improved coverage for the Miami-Dade Police Public Safety radio infrastructure.

## **Scope**

The impact of this item is countywide in nature.

## **Fiscal Impact/Funding Source**

The monthly license fee in the first year will be \$4,250, which will be adjusted on the anniversary of the commencement date and on each anniversary thereafter during the initial term and renewal terms by an annual escalator of 3.5 percent. The total to be paid to Quasar Communications in monthly license fees during the initial five-year term is \$273,485.50 and \$1,442,263.77 if the additional three (3), five-year extension periods are renewed. The Information Technology Department will pay Quasar Communications, Inc. through the Internal Services Fund.

## **Delegated Authority**

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond those specific in the resolution which include the authority for the County Mayor or the County Mayor's designee to execute the Agreement and to exercise any cancellation and renewal provisions.

## **Track Record/Monitor**

Cindy Cast, Radio Systems Manager for the Information Technology Department, will manage this Agreement.

## **Background**

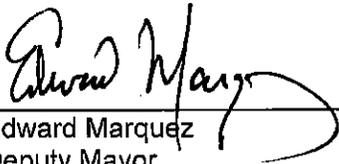
On August 6, 2004, the Federal Communications Commission (FCC) issued a report and order to modify its rules governing the 800 MHz band. The order required its users, including Miami-Dade County, to reconfigure operations by engaging in a frequency swap known as rebanding. On January 28, 2010, the Board approved Resolution No. R-83-10, which authorized a settlement agreement with Nextel South Corporation and a purchase agreement with Harris Corporation to address the FCC mandate. Phase One of this project for general County departments was successfully completed by the end of December 2012 and Phase Two, consisting of more than 50 local, state, federal, and tribal law enforcement and first

Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners  
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responder agencies, was completed by November 18, 2014. The P25 Digital Radio System is currently fully functional and the frequencies used by the legacy platform were returned to the FCC on December 21, 2014, 33 days ahead of schedule.

The FCC mandate did not address coverage and improvements, only the completion of frequency swap. Therefore, the Information Technology Department is now addressing the low coverage areas that have existed for the past 25 years. The lease of new antenna sites will increase capacity and bandwidth to better support the existing 800 MHz infrastructure. Quasar Communications, Inc. owns the tower the County wants to lease through this Agreement which will improve the first low coverage area in South Dade.

Attachment



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Edward Marquez  
Deputy Mayor

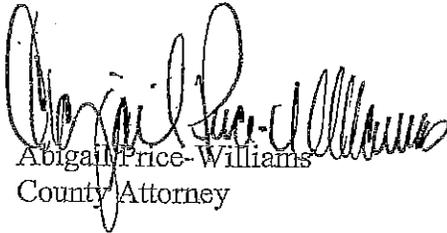


# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** March 8, 2016

**FROM:**   
Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 9(A)(2)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor

Agenda Item No. 9(A)(2)  
3-8-16

Veto \_\_\_\_\_

Override \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

RESOLUTION RETROACTIVELY APPROVING THE ACTION OF THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE IN ENTERING INTO A LICENSE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND QUASAR COMMUNICATIONS, INC. IN THE AMOUNT OF \$1,442,264.00 FOR THE INITIAL FIVE YEAR PERIOD AND THREE AUTOMATIC EXTENSIONS FOR THE PURPOSE OF HOUSING RADIO COMMUNICATION EQUIPMENT ON A TOWER SITE AS PART OF ENHANCEMENTS TO THE PUBLIC SAFETY 800 MHZ INFRASTRUCTURE; AND AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND EXERCISE ANY CANCELLATION RIGHTS CONTAINED THEREIN

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum and document, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board retroactively approves the action of the County Mayor or County Mayor's designee in entering into the attached license agreement ("Agreement") between Miami-Dade County and Quasar Communications, Inc., in the amount of \$1,442,264.00 for an initial term of five-years, commencing on July 31, 2015, and automatic extensions unless declined by either party, and authorizes the County Mayor or County Mayor's designee the right to execute the agreement and exercise any cancellation rights contained herein.

The foregoing resolution was offered by Commissioner who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 8<sup>th</sup> day of March, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

OR

Oren Rosenthal

**LICENSE AGREEMENT**  
ATC Contract No: \_\_\_\_\_

This LICENSE AGREEMENT ("Agreement") made this \_\_\_\_\_ day of \_\_\_\_\_, 2015, ("Effective Date") by and between Quasar Communications, Inc., a Florida corporation with a place of business at 9771 Wayne Ave., Palmetto Bay, FL 33157 ("Licensor") and Miami-Dade County, a political subdivision of the State of Florida with a place of business at 111 Northwest First Street, Suite 2810, Miami, FL 33128 (acting through its Information Technology Department) ("Licensee"). Licensor has designated Global Tower Assets III, LLC, a Delaware limited liability company, as Site Manager ("Site Manager") with respect to this Agreement. The attached Terms and Conditions are incorporated herein by this reference.

**TOWER SITE INFORMATION:**

Address and/or location of Tower Site:

Coordinates: Lat. Deg: 25 Min: 35 Sec: 48.399972 N  
Long. Deg: 80 Min: 21 Sec: 20.199996 W

**NOTICE & EMERGENCY CONTACTS:**

- Licensee's local emergency contact (name and number): Cindy M. Cast/305-596-8607
- Licensor's local emergency contact (name and number): Robert Glazebrook/305-238-3061
- Notices to Licensee shall be sent to the address above to the attention of: Oren Rosenthal
- Notices to Licensor shall be sent to the address above with a copy to Site Manager c/o American Tower Corporation, 10 Presidential Way, Woburn, MA 01801.

**APPROVED USE OF TOWER SITE BY LICENSEE:**

Transmitting and Receiving frequencies: See Exhibit A for specific frequencies

Antenna mount height on tower: See Exhibit A for specific location

All other permitted use of the Tower Site including, without limitation, Licensee's Approved Equipment (as defined in Section 1 herein), frequencies, channels and the identification and location of the Licensed Premises (as defined in Section 1 herein) at the Tower Site are described in Exhibits A and B, are incorporated herein by reference and made a part hereof.

**FEES & TERM**

The "Monthly License Fee" shall be Four Thousand Two Hundred Fifty Dollars and 0/100 (\$4,250.00), adjusted on the anniversary of the Commencement Date of this Agreement and on each anniversary thereafter during the Initial Term and during any Renewal Terms by the "Annual Escalator". The Annual Escalator shall be 3.5%.

Site Manager Remittance Address ("Remittance Address"): Lockbox 7501, PO Box 7247, Philadelphia, PA 19170-7501.

The "Application Fee" shall be: One Thousand Dollars (\$1,000.00). The Application Fee shall be due and payable thirty (30) days following the Effective Date and shall be nonrefundable and retained in full by the Licensor.

The "Site Inspection Fee" shall be: One Thousand Five Hundred Dollars (\$1,500.00), as adjusted annually by a percentage rate increase equal to the Annual Escalator.

Initial Term: The "Initial Term" of this Agreement shall be for a period of five (5) years beginning on the Commencement Date. Subject to Section 1, the "Commencement Date" shall be defined as the earlier of: (i) the issuance of a Notice to Proceed (NTP), in accordance with the provisions of Section 10 herein; (ii) ninety (90) days from the date upon which this Agreement is sent to Licensee for execution; or (iii) July 5, 2015

Renewal Terms: The "Renewal Terms" of this Agreement shall be three (3) additional periods of five (5) years each.

Electricity for operation of Approved Equipment is to be provided by (check one):

- Licensor at the monthly rate of \$300, subject to Sections 3 & 6 OR  
 Licensor, with such being included in the Monthly License Fee and subject to Sections 3 & 6, OR  
 Licensee, at its sole expense.

**OTHER PROVISIONS:**

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

- 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.
- Licensor and Licensee agree and acknowledge that this Agreement is contingent upon the ground lessor's consent.

- Subject to section 6 of this Agreement and in addition to the Monthly License Fee, Licensee shall pay Licensor \$300.00 per month towards Licensor's HVAC expenses for the common areas of the Tower Site ("**Monthly HVAC Expense**"). The Monthly HVAC Expense shall be due on or before the Commencement Date and then on or before the first of every month thereafter. The Monthly HVAC Expense shall be adjusted on the anniversary of the Commencement Date of this Agreement and on each anniversary thereafter during the Initial Term and during any Renewal Terms by the Annual Escalator. Licensee is responsible for the electricity for the operation of the Approved equipment as set forth in this Agreement.

[SIGNATURES APPEAR ON NEXT PAGE]

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IN WITNESS WHEREOF, the Parties, each in consideration of the mutual covenants contained herein, and for other good and valuable consideration, intending to be legally bound, have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date first above-written; *provided, however*, that this Agreement shall not become effective as to either Party until executed by both Parties.

LICENSOR:

Quasar Communications, Inc., a  
Florida corporation

By: Robert E. Gratzbrook  
NAME: ROBERT E. GRATZBROOK  
Title: Sec. / Mgr.  
Date: 7/24/15

LICENSEE:

Miami-Dade County ITD

By: \_\_\_\_\_  
NAME: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Witnesses:

M. Mercado  
Name: Maggie Mercado  
Dana Davis  
Name: Dana Davis

Witnesses:

\_\_\_\_\_  
Name: \_\_\_\_\_  
\_\_\_\_\_  
Name: \_\_\_\_\_

## TERMS AND CONDITIONS

1. **GRANT OF LICENSE.** Licensor hereby agrees to license to Licensee space for the housing, installation and operation of the communications equipment specifically described in Exhibit A attached hereto ("Approved Equipment") with the location of such Approved Equipment being more specifically described in Exhibits A and B ("Licensed Premises") at the communications tower, antenna structure or rooftop facility described in the Tower Site Information section on page 1 ("Tower Site"). All Approved Equipment shall be and remain Licensee's personal property. Licensor shall maintain the communication facility located on the Tower Site in good condition and in a manner which will not disturb Licensee's reasonable use of the Licensed Premises. Licensee shall also have a right to: (i) install and maintain wires, cables, conduits and pipes either within, over, under or along the Tower Site; and (ii) to use any specific right of way for access to the Tower Site, each at locations mutually agreed upon by Licensor and Licensee. In the event any public utility is unable to use the existing right-of-way, Licensor agrees to grant an additional right-of-way at the Tower Site either to Licensee or to the public utility at no cost to Licensee to the extent permitted under the Ground Lease at a location acceptable to the Licensor. Licensee shall be solely and directly 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. Licensee shall notify Site Manager no less than five (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 as to provide Licensor and/or Site Manager with an opportunity to be present during any such installation or construction. In addition to the foregoing, Licensee shall notify Site Manager of the actual date of Licensee's commencement of any installation or construction at the Tower Site no more than five (5) days following such commencement. In the event that Licensee fails to provide such written notice the date of such commencement for the purposes of the determination of the Commencement Date of this Agreement, then the Commencement Date shall be deemed to be the date that this Agreement was executed by Licensor. Licensee's right to cure under this Agreement shall not be applicable to a failure to deliver timely written notice of such commencement notice. Site Manager shall provide Licensee with one set of keys and/or codes to access the Tower Site so that Licensee shall have the right of access to the Licensed Premises 24 hours per day, 7 days per week. Licensee shall be responsible for ensuring that Site Manager has, at all times, a complete and accurate written list of all employees and agents of Licensee who have been provided the access codes to the Tower Site.
2. **EXHIBITS.** Within forty-five (45) days following the commencement of the installation of the Approved Equipment, Licensee shall provide Licensor with as-built drawings or construction drawings of 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. 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 of cost, including in-house labor, plus twenty percent (20%), which upon invoice shall become immediately due and payable. 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 employees. Any such inconsistency or discrepancy between Exhibits A, B and C as set forth in the foregoing sentence shall be deemed a material default hereunder.
3. **LICENSE FEES; TAXES; ASSESSMENTS.** The Monthly License Fee, as adjusted by the applicable Annual Escalator, shall be payable in advance on the first day of each calendar month beginning upon the Commencement Date. If the Commencement Date is not the first day of a calendar month, the Monthly License Fee for the first partial month shall be prorated on a daily basis. The Monthly License Fee for any last partial month in the term of this Agreement shall also be prorated on a daily basis. Licensee shall be solely responsible for all utility charges directly attributable to the Approved Equipment, except as otherwise provided on page 1 of this Agreement. Licensor shall be responsible for the payment of any applicable taxes or governmental assessments against the Tower Site or personal property and improvements thereon owned and maintained by Licensor. 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. 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. All payments due under this Agreement shall be made to Licensor at the address listed on page 1 or such other address as Licensor may notify Licensee of in writing and/or upon such invoice. All payments due under this Agreement shall be rounded up to the nearest whole dollar amount. The CPI means 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 the Index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as if the Index had not been discontinued or revised. All payments under this Agreement shall be made to Site Manager at the Remittance Address listed on page 1.

4. **TERM.** The Initial Term of this Agreement shall be as specified on page 1. This Agreement shall automatically be renewed for the Renewal Terms, if any, also stated on page 1 unless either Party gives to the other one hundred eighty (180) days written notice of termination prior to the expiration of the then-current term. Upon expiration, cancellation or termination of this Agreement for any reason, Licensee shall: (i) remove the Approved Equipment and any other property 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. In the event that Licensor's right to license space to Licensee at the Tower Site is subject to a right of first refusal for the benefit of a third party or consent from the underlying lessor of the Ground Lease, Licensor shall reserve the right to terminate this Agreement in the event that such third party fails to refuse, consent or waive (or is deemed to have refused or waived) such right or consent.
5. **HOLDOVER.** If Licensee fails to remove the Approved Equipment from the Tower Site at the expiration of the Term or earlier termination of the Agreement, without a further written agreement to extend the use of the Tower Site beyond such expiration or termination, such failure or continued use 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 of 150% of the monthly portion of the License Fee in effect for the last month of the License Term ("Holdover Fee"), which amount shall be subject to increases at the Annual Escalator, compounded annually on each anniversary of the License Commencement Date, as well as monthly payments of any and all other recurring charges or reimbursements due under the Agreement applicable during such extended term 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 the Agreement after its expiration or termination. In addition to the payments payable to Licensor in the event of a holdover under this paragraph, Licensee agrees to indemnify and hold Licensor [and Site Manager] harmless from all losses, costs, damages and expenses, including, reasonable attorney's fees, lost license fees, rents and profits arising out of or in connection with the holdover, the presence of the Approved Equipment at the Tower Site, and Licensee's failure to perform all of its obligations under this Agreement at the expiration or termination of this Agreement.
6. **COMMON EXPENSES; UTILITIES.** 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. 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. 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.
7. **INSTALLATION.** Intentionally omitted.
8. **SITE INSPECTION.** Not less than ten (10) days prior to the initial installation by Licensee of the Approved Equipment or before the date of any subsequent modifications to or installation of additional Approved Equipment, Licensee shall pay Site Manager the Site Inspection Fee. In the event that Site Manager installs Licensee's Approved Equipment Site Manager shall waive the Site Inspection Fee with respect to such installation.
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 and stating 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 structure. **Should Licensee fail to so identify its equipment, Licensor may, in its sole discretion, interrupt Licensee's operations at the Tower Site and shall constitute a default of this Agreement.** In addition, should Licensee fail to label its equipment as required by this section, Licensor may label Licensee's equipment and assess against Licensee a fee of one thousand five hundred dollars (\$1,500.00), as adjusted annually by a percentage rate increase equal to the Annual Escalator, which upon invoice shall become immediately due and payable.
10. **WORK; ALTERATIONS; STRUCTURAL ANALYSIS & MODIFICATIONS.** Licensee agrees that all of Licensee's property to be installed upon the Tower Site and all frequencies utilized by Licensee pursuant to this Agreement will be

in exact accordance with that specified in Exhibit A attached hereto. Licensee shall submit to Licensor detailed plans and specifications accurately describing all aspects of the proposed work to be performed including, without limitation, weight and wind load requirements and power supply requirements and evidence that Licensee has obtained all approvals, permits and consents required by, and has otherwise complied with, all legal requirements applicable to the performance of the Work. Licensee agrees that it will not make any alterations or additions to the Approved Equipment without the prior written consent of Licensor in each case obtained. An amendment to Exhibit A to this Agreement shall be prepared to reflect each addition or modification to Licensee's equipment from time to time to which Licensor has given its written consent. Any and all work at the Tower Site shall be performed in accordance with the foregoing standards and by qualified contractors approved of in advance by Licensor (which approval of contractors shall not be unreasonably withheld, except as otherwise provided in the following sentence). Licensor reserves the right, in its sole discretion, to refuse to permit any person or company to climb any tower structure at the Tower Site. Such contractors shall have valid and current worker's compensation and general liability insurance certificates on file with Licensor, naming Licensor and Site Manager as additional insureds and which otherwise satisfy the insurance coverage requirements described in Section 15 of this Agreement. Licensee shall indemnify, defend and hold harmless Licensor and Site Manager from and against any and all costs, claims, causes of action and liabilities of every nature and kind arising out of the acts and omissions of Licensee, its employees and agents or Licensee's contractors or subcontractors. At its sole election, Licensor or Site Manager may, in their sole but reasonable judgment, 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. Nothing herein shall prevent Licensee from performing such analysis for its own account; *provided, however*, that Licensor shall approve such vendor in Licensor's sole discretion and Licensee shall provide a complete copy of any structural analysis that it performs to Licensor and Site Manager at no cost to Licensor and Site Manager no more than thirty (30) days following the completion of that analysis. If Licensor or Site Manager performs such an analysis or causes one to be performed, Licensee agrees promptly to reimburse Licensor or Site Manager for all reasonable costs and expenses incurred by Licensor, Licensor's vendor, Site Manager or Site Manager's vendor in the performance of such structural analysis within thirty (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 or Site Manager but prior to the installation of Licensee's Approved Equipment, and such analysis indicates that the existing tower structure can not structurally 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. With respect to any permitted structural modifications to the Tower or upgrade of utilities by Licensee that are approved by Licensor, Licensor reserves the right to simultaneously upgrade the tower structure or utilities in excess of the modification required to accommodate Licensee's Approved Equipment in order to increase capacity ("Excess Upgrade"); *provided, however*, that Licensor shall be solely responsible for the costs associated with such Excess Upgrade. Prior to the Commencement Date and prior to any Licensee-requested installation or modification Licensor may elect to perform a shared site interference study ("SSIS") and Licensee shall pay Licensor or Site Manager a fee of one thousand six hundred dollars (\$1,600) per study, as adjusted annually 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. Licensor's performance of the SSIS shall in no way constitute a warranty or representation from Licensor or Site Manager that Licensee's proposed operations from the Tower Site will not suffer or cause interference with other users, but shall merely be a customary report intended to assist in the prevention of potential interference.

#### 11. RF INTERFERENCE.

(a) *Interference with a Pre-Existing Use.* Licensee's use of the Tower Site and its operation of all of its Approved Equipment thereon (including any subsequent modification or alteration thereto) shall be conducted in a manner that does not interfere electrically, or in any other manner whatsoever with any then pre-existing use of the Tower Site by Licensor or other users of the Tower Site ("Pre-Existing Use"). In the event that any Pre-Existing Use experiences interference caused by Licensee or Licensee's Approved Equipment (including any subsequent modification or alteration thereto), Licensee shall be notified in writing of such interference and Licensee shall power down its equipment and/or cease operations in order to correct and eliminate such interference within seventy-two (72) hours after Licensee's receipt of such notice. If Licensee does not cease all interfering operation within such seventy-two (72) hour period, Licensor shall have the right to disconnect Licensee's Equipment until such time as Licensee can affect repairs to the interfering Approved Equipment. If Licensee is unable to eliminate the interference, or reduce it to a level acceptable to the affected user of the Pre-Existing Use, within a period of thirty (30) days following such initial notice (provided that during such 30 day period, Licensee may operate its equipment intermittently during off-peak hours for testing purposes only), then Licensor may, in addition to any other rights it may have for Licensee's breach hereof, terminate this Agreement. In the event that Licensee is notified of any interference experienced by a Pre-Existing Use on the Tower Site alleged to be caused by Licensee's operations thereon, Licensee shall be obligated to perform whatever actions are necessary, at Licensee's sole cost and expense, to eliminate such interference and shall not be released from its obligation to continue to pay the Monthly Licensee Fee during any period that Licensee can not operate from the Tower Site pursuant to this Section.

(b) *Interference by a Subsequent Use.* Licensor agrees that Licensor and Licensor's customers' use of the Tower Site whose equipment is installed or modified subsequent to the Licensee's then-current operation of Licensee's Approved Equipment thereon ("Subsequent Use") shall not, interfere with Licensee's then-current permitted operations. In the event that Licensee experiences interference caused by any Subsequent Use, Licensee shall notify Licensor in writing of such interference and Licensor shall, or shall cause the operator of the interfering Subsequent Use, to power down its equipment and/or cease operations in order to correct and eliminate such interference within seventy-two (72)

hours after Licensor's receipt of such notice. If such Subsequent Use is unable to operate without causing such interference, or if such interference is not reduced to a level acceptable to Licensee, within a period of thirty (30) days (provided that during such 30 day period the Subsequent Use may be operated intermittently during off-peak hours for testing purposes only), then Licensee may, in addition to any other rights it may have for Licensor's breach hereof, terminate this Agreement. In the event that Licensor is notified of any interference experienced by Licensee alleged to be caused by a Subsequent Use on the Tower Site, Licensor shall be obligated to perform (or cause to be performed) whatever actions are commercially reasonable and necessary, at no cost or expense to Licensee, to eliminate such interference.

(c) *Interference with Lighting and Building Systems and Building Tenants.* 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 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.

(d) *No Illegal, Unpermitted Use or Unlicensed Frequency Protection.* Notwithstanding anything to the contrary herein, Licensee shall not illegally transmit on any frequency, transmit on a channel or frequency not specified in Exhibit A attached hereto, operate at variance from the specifications in its FCC license or the FCC's rules governing Licensee's operation of its Approved Equipment, and Licensor shall not provide any protection to Licensee from interference from parties who are not Licensor's tenants at the Tower Site. Nothing in this Section 11 shall be deemed or interpreted to provide any protection to Licensee from any form of interference from any person in the event that Licensee is operating on any unlicensed frequency spectrum or pursuant to FCC Part 15.

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 and/or Site Manager in its discretion, which may be modified by Licensor and/or Site Manager 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 normal business operations.
13. **CASUALTY; CONDEMNATION.** For purposes of this Agreement it shall be deemed a Casualty Event, if the Licensed Premises or the Tower Site is destroyed or condemned, in whole or part, whether by eminent domain or otherwise. In the event that the Licensed Premises or the Tower Site is wholly destroyed or condemned, whether by eminent domain or otherwise, this Agreement shall terminate without further liability to either Party except for payment of the Monthly License Fees due up to the time of such destruction or condemnation. If the Licensed Premises are partially destroyed or condemned and are usable by Licensee for its purposes, then Licensor shall, within one hundred and twenty (120) days (which shall be extended for any delays directly caused by governmental action or inaction), repair the Licensed Premises or the Tower Site with a reasonable reduction of the Monthly License Fee to Licensee during the period of repair. In the event that the site repair or reconstruction has not commenced within one hundred eighty (180) days following such Casualty Event, Licensee may terminate this Agreement upon written notice to Licensor prior to the commencement of any such repair or reconstruction of the Tower Site. If, however, any such partial destruction or condemnation occurs within six (6) months prior to termination of this Agreement, either Party may terminate this Agreement without further liability except for payment of the Monthly License Fees up to the time of such destruction or condemnation. Any Monthly License Fees prepaid by Licensee shall be returned to it as part of the operation of this section.
14. **COMPLIANCE WITH LAWS.** Licensor is responsible for ensuring that the tower structure at the Tower Site is operated in compliance with all governmental lighting and marking requirements. Licensor shall indemnify and defend Licensee from and against any loss, cost, or expense sustained or incurred by Licensee as a result of Licensor's failure to comply with duly issued governmental regulations relating to tower lighting and marking. Notwithstanding anything to the contrary in the 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.**
  - (a) **Mutual Indemnity.** Licensee and Licensor 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 attorney's fees and court costs) which arise out of the use and/or occupancy of the Licensed Space by the Indemnifying Party, subject to limits set forth in Florida Statute Section 768.28. This indemnity does not apply to any demands, claims, suits, actions, proceedings or investigations brought against a person by an unrelated or unaffiliated or unrelated person or entity arising from the gross negligence or intentional misconduct of the Indemnified Party. For purposes of this Agreement Licensee's Space is the location of the Approved Equipment on the tower and at the ground space as more specifically described in Exhibits A and B attached hereto.
  - (b) **Limits on Indemnification.** Neither Party shall be responsible or liable to any of the foregoing Indemnified Parties for any debts, liabilities, obligations, losses, damages, excluding consequential or punitive damages, costs and expenses, interest (including, without limitation, prejudgment interest), penalties, reasonable legal fees, court costs, disbursements and costs of investigations, deficiencies, levies, duties and imposts, arising from any claim to the extent attributable to any acts or omissions of other licensees or users occupying the Tower Site or for any

structural or power failures or destruction or damage to the Tower Site except to the extent caused by the sole, joint, or concurrent gross negligence or willful misconduct of such Party.

- (c) **Survival.** The provisions of this section 15 shall survive the expiration or earlier termination of this Agreement with respect to any events occurring on or before expiration or termination of same whether or not Claims relating thereto are asserted before or after such expiration or termination.
- (d) **Insurance.** Licensee shall keep in full force and effect, during the Term of this Agreement, insurance coverage in accordance with Appendix I attached hereto.
16. **WAIVER OF CERTAIN DAMAGES.** LICENSEE AND LICENSOR HEREBY ABSOLUTELY WAIVE AND QUITCLAIM TO THE OTHER ANY CLAIM THAT EACH MAY HAVE AGAINST THE OTHER WITH RESPECT TO THE RECOVERY OF ANY LOSS OF ANTICIPATORY PROFITS, LOST BUSINESS OPPORTUNITY, IMPERFECT COMMUNICATIONS MARKET SHARE, INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES ("CONSEQUENTIAL DAMAGES"), INCLUDING BUT NOT LIMITED TO CONSEQUENTIAL DAMAGES ARISING IN WHOLE OR IN PART FROM, EQUIPMENT MALFUNCTION, DISRUPTION OF SERVICE, VANDALISM, ACTS OF GOD (INCLUDING, WITHOUT LIMITATION, LIGHTNING, WIND, RAIN, HAIL, FIRE OR STORMS) OR ANY OTHER REASON, EVEN IF THE PARTY CLAIMING SUCH DAMAGES HAS BEEN ADVISED OF OR CONTEMPLATED THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.
17. **NOTICES.** Any required or permitted notice or demand shall be made by certified mail, postage prepaid, addressed to the Licensor with a copy to Site Manager at the addresses 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 at the time it is deposited in a United States Post Office or with a private overnight courier service.
18. **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. Notwithstanding the foregoing, Licensee may assign this License without the prior consent of Licensor, but with prior notice to Licensor, to any person or business entity which is an Affiliate of Licensee. For purposes of this section, an "Affiliate" is any corporation or other entity which (i) directly or indirectly (through one or more subsidiaries) controls Licensee, or (ii) is controlled directly or indirectly (through one or more subsidiaries) by Licensee, or (iii) is under the common control directly or indirectly (through one or more subsidiaries) with Licensee by the same parent corporation or other entity, or (iv) is the successor or surviving entity by a merger or consolidation of any such entity pursuant to applicable law, or (v) purchases substantially all of the assets of Licensee. For purposes of this article 12, "control" means the ownership of more than 50% of the outstanding voting capital stock or the beneficial interest of another entity and the ability to effectively control or direct the business decisions of that other entity. In no event may Licensee sublet, sublease, or permit any use of the Tower Site 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 or transfer. 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. Such fee is due upon submission of Licensee's request and is deemed fully earned and non-refundable by Licensor upon receipt. This Agreement shall be binding upon the successors and permitted assigns of both Parties. Any purported assignment not in accordance with the terms hereof shall at Licensor's option, to be exercised at any time after Licensor becomes aware of any such purported assignment, be void and may, at Licensor's option, be treated as a Licensee event of default.
19. **QUIET ENJOYMENT.** Licensor covenants and agrees that, upon Licensee's paying the Monthly License Fee and observing and performing all of the terms, covenants and conditions to be observed and performed by Licensee under this Agreement, Licensee shall be entitled to quiet enjoyment of the Licensed Premises during the term of this Agreement.
20. **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) Licensee shall fail to pay when due any License Fee or other sum of money specified hereunder to be paid by Licensee within 10 days after the date the same is due; provided, however, it shall not be a Licensee event of default for Licensee's first 2 failures in any consecutive 12 month period to pay when due any License Fee or other sum of money specified hereunder to be paid by Licensee until Licensor has provided written notice to Licensee of such failure, and Licensee shall not have remedied such failure within 10 days after written notice thereof from Licensor; or (ii) Licensee shall cause, suffer, permit or perform any act or fail to take any action which constitutes a breach by Licensor of the terms of any ground lease, and the same shall not be cured within 5 days (or shorter time required under the ground lease to cure) of the date following written notice to Licensee from Licensor, or its designee, of such default; or (iii) Licensee shall fail to maintain and keep in force and/or cause its contractors or subcontractors to

maintain and keep in force the insurance required under article 15; or (iv) Licensee shall cause impermissible interference in violation of article 11 and the same shall not be cured or remedied within applicable time period set forth in article 11, if any; or (v) Licensee shall fail to observe or perform any other terms and conditions of the Agreement to be observed or performed by Licensee other than those specified above, and Licensee shall not remedy such failure within 30 days after written notice of such failure or, if such failure is not reasonably susceptible to being remedied in such period, if Licensee shall not within such period commence to remedy such failure and thereafter exercise commercially reasonable efforts to prosecute such remedy to completion; or (vi) the Agreement or Licensee's interest therein is pledged, encumbered, executed upon or attached; or (vii) Licensee shall make an assignment of all or substantially all of the property of Licensee for the benefit of creditors, or it shall file a voluntary petition under any bankruptcy or insolvency law, or an involuntary petition alleging an act of bankruptcy or insolvency shall be filed against Licensee under any bankruptcy or insolvency law, or whenever a petition shall be filed against Licensee under the reorganization provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a permanent receiver of Licensee or for the property of Licensee shall be appointed, and if such foregoing event occurs without the acquiescence or consent of Licensee, continues or remains pending for 90 days after the occurrence of such event. It shall be a Licensors event of default if Licensors shall fail to observe or perform any of the terms and conditions of the Agreement to be observed or performed by Licensors, and Licensors shall not remedy such failure as soon as commercially reasonable after written notice thereof is given to Licensors, but in no event later than 30 days thereafter, or if such failure is not reasonably susceptible to being remedied within such 30 day period, if Licensors shall not within such 30 day period commence to remedy such failure and thereafter exercise commercially reasonable efforts to prosecute such remedy to completion. Upon the occurrence of a Licensors event of default under the Agreement, Licensee shall have and, subject to the terms hereof, shall be entitled to pursue any and all legal and equitable rights and remedies permitted by Applicable Law.

21. **COLLECTIONS.** Subject to the provisions of Section 20 above, Licensors or Site Manager may take any collections actions it deems necessary without further notice to Licensee, including, without limitation (i) terminate this Agreement by giving written notice to 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 Licensors or Site Manager during the Term absent a breach of the Agreement by Licensee, discounted by an annual percentage rate equal to 5%, and/or (ii) terminate electrical power to the Approved Equipment and Licensee shall have no right to an abatement of License Fees for such suspension, Licensee hereby waiving all claims for damages against Licensors or Site Manager resulting from such suspension of electrical power, 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 Licensors or Site Manager in recovering the Monthly License Fee or other fee or charge. Licensee shall not be permitted to claim the Approved Equipment until Licensors or Site Manager has been reimbursed for removal and storage fees. 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 Licensors or Site Manager 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.
22. **GOVERNMENTAL APPROVALS; PERMITS.** In the event that any governmental permit, approval or authorization required for Licensors's use of, operation of, or right to license space to Licensee at the Tower Site is challenged, terminated or withdrawn by any governmental authority or third party as part of any governmental, regulatory, or legal proceeding, Licensors may terminate this Agreement. In the event that Licensors does not terminate this Agreement, Licensee may elect to install or continue to operate its equipment at its sole cost and risk. Licensee understands and agrees that, in the event of a governmental or legal order requiring the removal of Licensee's equipment from the tower or removal of the tower structure or any structural modification required to accommodate Licensee's Approved Equipment, Licensee shall do so promptly at its sole cost and expense. Licensors 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, however such cooperation shall be subject to the foregoing: (a) Licensors shall not be required to expend any funds or undertake any liability or obligation in connection with such cooperation; (b) Licensors reserves the right to obtain such required approvals or permits on Licensee's behalf, at Licensee's sole cost and expense; and (c) 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 Licensors'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 Licensors-owned shelter or building, Licensee shall be solely responsible for obtaining any required consents or permits in connection with such shelter or cabinet installation. Licensee hereby consents to the stacking of a third-party or Licensors owned platform, shelter or cabinets above or below Licensee's shelter or cabinets provided Licensors or such third party shall be solely responsible for all costs and expenses associated with obtaining any required consents or permits in connection with such shelter or cabinet installation above Licensee's equipment. In addition to the foregoing, in the event that Licensee has not been requested to install a stackable shelter and does not utilize a stackable shelter, Licensee agrees that Licensors or Site Manager shall have the right to require Licensee to replace its shelter with a stackable shelter upon no less than sixty

(60) days prior written notice at the sole cost and expense of a subsequent licensee who installs a stacked shelter above Licensee's equipment shelter.

23. **REPLACEMENT OF TOWER.** Licensor reserves the right, in its sole discretion, to replace or rebuild the tower structure or the top of the tower. In such event, Licensor shall provide Licensee with space at the Tower Site suitable to allow Licensee to continue to operate the Approved Equipment in a substantially similar manner during the construction period. Licensor shall be solely responsible for the costs associated with removing and re-installing the Approved Equipment. Licensor also expressly reserves the right to erect one or more towers on the Tower Site, subject to Licensor's obligations to Licensee under this Agreement. Licensee shall also have the right to 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.
24. **ENVIRONMENTAL.** Licensee covenants that it will not use, store, dispose, or release any hazardous substances on the Tower Site in violation of applicable law. Licensee agrees to indemnify and save harmless Licensor and Site Manager against any and all claims, liabilities, causes of action, damages, orders, judgments, and clean-up costs arising from Licensee's breach of any the covenants contained in this section 24. The obligations of Licensee to indemnify Licensor and Site Manager pursuant to this section 24 shall survive the termination or expiration of this Agreement.
25. **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.
26. **EXCUSABLE DELAYS.** If either Party is unable due to causes beyond its reasonable control to carry out its obligations under this Agreement in whole or in part and if such Party gives written notice and full details of an excusable delay (including, without limitation, a *force majeure* event) to the other as soon as practicable after the occurrence of the event, then the obligations of the affected Party will be suspended to the extent reasonably required as a result of such event. *Excusable Delay* means an event that is not within the reasonable control of the affected Party, including, without limitation, war, riots, civil insurrection or acts of a common enemy, fire, flood, strikes or other labor difficulty, acts of civil or military authority, including governmental laws, orders, actions, inactions or regulations, embargo.
27. **MISCELLANEOUS.** Time is of the essence in this Agreement. The offer of license expressed in this Agreement shall automatically expire and become void if not accepted by Licensee and such acceptance received by Licensor within thirty (30) days from the Effective Date. The only means by which Licensee may accept this offer of license is by timely returning two unaltered copies of this Agreement, executed on behalf of Licensee, to Licensor or Site Manager. 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 any 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 property 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. This Agreement constitutes the entire agreement of the Parties hereto concerning the subject matter hereof 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. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless expressly agreed to in writing by the affected Party. 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".

The offer of license expressed in this proposed Agreement shall automatically expire and become void if not accepted and executed by Licensee and such acceptance received by Licensor within thirty (30) days of the Effective Date.

**ATTACHED EXHIBITS:**

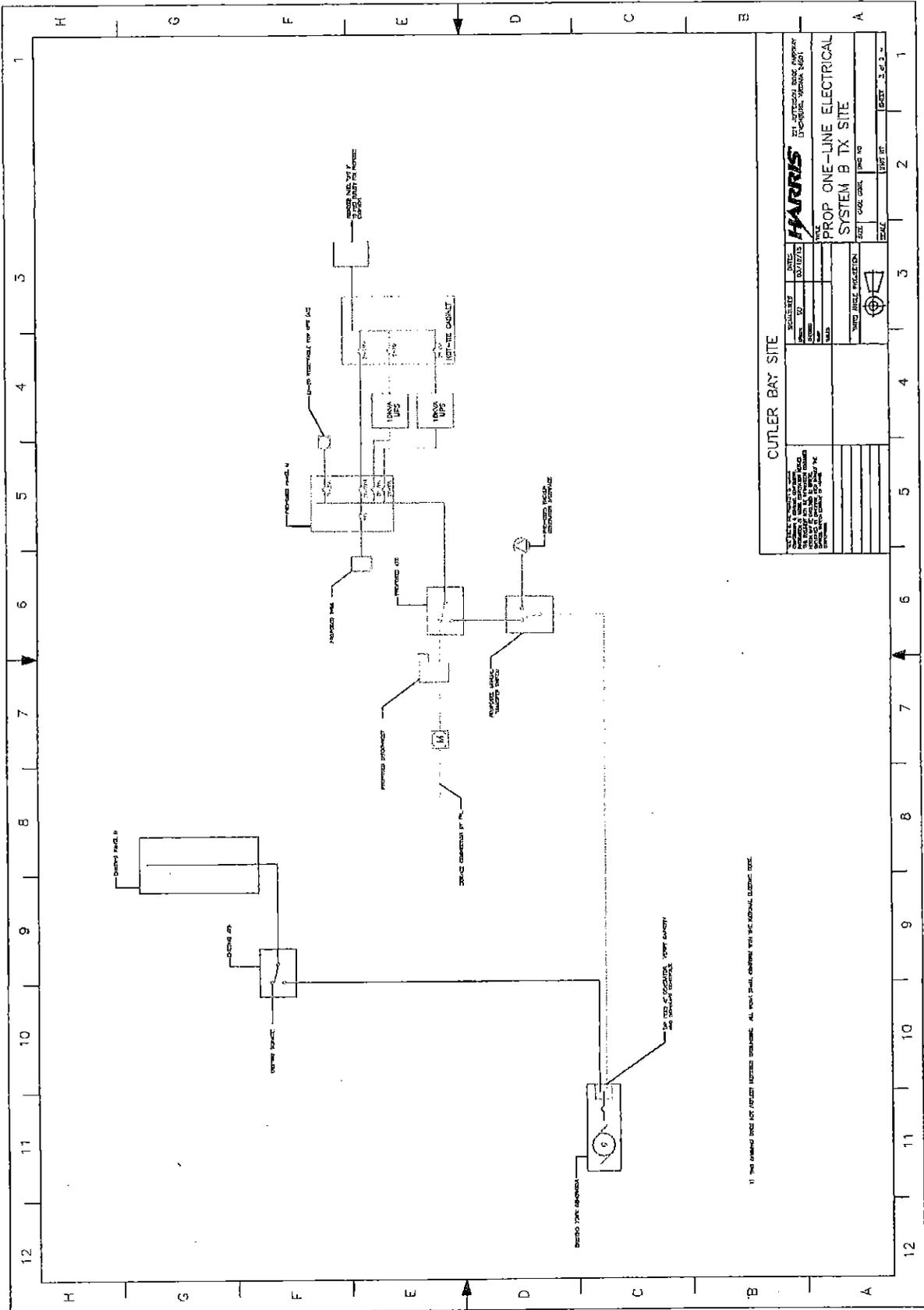
Exhibit A: List of Approved Equipment

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 1.

Site Manager Site Name/ Number:  
Licensee Site Name/ Number:

**EXHIBIT A**  
**Approved Equipment**



<b>HARRIS</b> 211 EASTERN BOULEVARD DUNELAND, TENNESSEE 37033		DATE:	10/1/78
		BY:	W. J. HARRIS
PROJECT: CUTLER BAY SITE DRAWING NO.: 10/1/78		SCALE:	AS SHOWN
TITLE: PROP ONE-LINE ELECTRICAL SYSTEM B TX SITE		DATE:	10/1/78
DRAWN BY: W. J. HARRIS CHECKED BY: W. J. HARRIS APPROVED BY: W. J. HARRIS		DATE:	10/1/78
SHEET NO.: 1 OF 1		DATE:	10/1/78

1) THE OWNER HAS NOT REVIEWED THIS DRAWING. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE.

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Site Manager Site Name/ Number:  
Licensee Site Name/ Number:

**Exhibit B**

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



Site Manager Site Name/ Number:  
Licensee Site Name/ Number:

**Exhibit C**  
**As Built Drawings or Construction Drawings**

To be attached hereto within 45 days of the date after commencement of installation or construction of Licensee's Approved Equipment at the Tower Site.

## Appendix I

### Insurance

- A. Licensee shall maintain in full force during the Term of this Agreement and shall cause all contractors or subcontractors performing work at the Tower 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 Property Damage), the limit of liability of which shall not be less than \$1,000,000.00 per occurrence.
  3. Excess Liability Insurance of not less than Five Million Dollars (\$5,000,000.00).
  4. Such additional insurance, if any, required of Licensee under the terms of the Lease.

The above insurance shall provide that Licensor will receive 30 days written notice prior to any cancellation of or adverse material change in coverage. The insurance specified in this Item A shall (i) contain a waiver of subrogation in favor of Licensor (ii) name Licensor and Site Manager as additional insureds, (iii) contain a standard cross-liability endorsement, and (iv) 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. Notwithstanding the foregoing requirement, Licensee may self-insure if it: (a) processes all claims in a timely manner; (b) maintains sufficient capital reserves; (c) complies with Applicable Law including the timely making of all necessary government filings; and (d) its commercial general liability coverage is similar to the coverage contained in ISO Form CG 0001. If Licensee assigns this License pursuant to section 18, then Licensee's ability to self-insure shall automatically terminate upon the assignment from Licensee to assignee.

B. 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 deemed to waive any of the provisions of this Agreement or relieve either party from any obligations under this Agreement, and (b) Licensor reserves the right, from time to time, to adjust the required liability limits described above in Items A and/or B in accordance with then-current customary insurance requirements in the wireless infrastructure industry nationally.