

**LEASE AGREEMENT BETWEEN  
NORTH FULTON REGIONAL RADIO SYSTEM AUTHORITY  
AND  
CITY OF ROSWELL, GEORGIA  
FOR COMMUNICATIONS NETWORK FACILITIES  
LOCATED ON CITY-OWNED PROPERTY  
("HEMBREE ROAD" SITE)**

THIS LEASE AGREEMENT (this "Agreement"), made this \_\_\_\_day of \_\_\_\_\_, 2013, ("Effective Date"), between CITY OF ROSWELL, GEORGIA, a political subdivision of the State of Georgia ("Landlord"), and NORTH FULTON REGIONAL RADIO SYSTEM AUTHORITY, a political subdivision of the State of Georgia and a public corporation ("Tenant").

WHEREAS, the Landlord has received a request from the Tenant requesting the Landlord to lease certain public property for the purpose of locating and constructing certain radio communications network facilities owned and to be operated by Tenant; and

WHEREAS, the Landlord desires to encourage the location of Radio Communications facilities and towers on publicly-owned property to serve the citizens of Roswell and North Fulton County, and desires to encourage the co-location of antenna facilities thereon, so as to minimize, to the degree reasonably possible, the proliferation of communication towers in The City of Roswell; and

WHEREAS, the Landlord desires to lease the Premises to the Tenant; and

WHEREAS, the Landlord has authority to lease the Premises to Tenant and is entitled to reasonable rent for the use of the Premises; and

WHEREAS, the Landlord deems the leasing of the premises to the Tenant pursuant to this Agreement to be an exercise of a governmental function.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. Leased Premises. Landlord leases to Tenant and Tenant leases from Landlord the real property legally described on the attached Exhibit A (the "Land") together with a non-exclusive easement for ingress, egress and utilities over the adjacent real property legally described on the attached Exhibit B (the "Access Easement"). The Land and the Access Easement are collectively referred to as the "Premises."

This Lease is not a franchise nor is it a permit to use the rights-of-way. Any such franchise or permit must be obtained separately from Landlord.

2. Term. The term of this Agreement begins on the date this Agreement is executed by both Tenant and the Landlord (the "Commencement Date"), and terminates on the date which is five (5) years from the Commencement Date, unless terminated earlier pursuant to the provisions hereof.

At its option (but subject to the Landlord's right to review Tenant's renewal application pursuant to Sections 21-2-22 and 21-2-23 of the City of Roswell's Ordinance To Regulate Location and Siting Of Wireless Communications Facilities, the Tenant may renew the Agreement for four (4) five (5) year periods provided all terms of this Agreement are met. The Tenant shall notify the Landlord in writing of its desire to renew the Agreement one hundred eighty (180) days prior to the expiration date of the then-current term of the Agreement.

3. Rent.

a. Tenant shall pay Landlord, as annual rent for the Premises, the sum of Thirty Thousand Dollars and no cents (\$30,000.00) ("Base Rent"). Tenant shall pay Landlord Base Rent in equal monthly installments of Two Thousand Five Hundred Dollars and no cents (\$2,500.00) on the first day of the month, in advance. Tenant shall pay Landlord Base Rent for the first year on the date which is the earlier of (a) sixty (60) days after issuance of a building permit to Tenant, or (b) the first day of the month following installation of Tenant's equipment on the Premises (the "Rent Commencement Date"), Base Rent shall be increased annually as described hereafter.

b. Tenant shall pay Landlord a late payment charge equal to five percent (5%) of the late payment for any payment not paid within ten (10) days after written notice to Tenant of such nonpayment. Any amounts not paid when due shall bear interest until paid at the lesser of the rate of twelve percent (12%) per year or the highest rate permitted by law.

c. In the event of the co-location on the Tower of antenna facilities owned by a non-"Affiliate" (sublessee of the Tenant), rent shall be charged in the following manner:

Tenant to pay Landlord an additional payment of Five Hundred Dollars and no cents (\$500.00) per month for each sublease, which amount shall be due on the first day of the month following sublessee's installation of its equipment on the site.

d. The Base Rent shall be increased annually effective as of each anniversary of the Commencement Date by an amount equal to the greater of two and one-half percent (2 1/2%) or the percentage increase in the CPI over the CPI for the month which is 12 months prior to the adjustment date. "CPI" means the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, issued by the Bureau of Labor Statistics for the United States Department of Labor (1982-84 = 100). If the CPI is converted to a different standard reference base or otherwise revised, the adjustment set forth in this paragraph shall be made with the use of the conversion formula published by the Bureau of Labor Statistics. However, in no event, shall the

annual increase provided for in this section exceed four percent (4%).

e. If this Lease is terminated at a time other than the end of a lease year, the Rent shall be prorated as of the date of termination and, in the event of termination for any reason other than nonpayment of Rent, all prepaid Rents shall be refunded to the Tenant.

f. Base Rent and all other consideration to be paid or provided by Tenant to Landlord shall constitute Rent and shall be paid or provided without offset.

4. Use of Premises. Tenant shall use the Premises for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, a radio communications service system facility, including, without limitation, an equipment building, antenna equipment, microwave transmission equipment, cable wiring, backup power sources, related fixtures and a communications tower. The premises shall be used as the prime site for the Tenant's communications system. All buildings shall be screened and landscaped and plans for same shall be approved by the Landlord. All generators shall be enclosed and shall not be diesel powered. Tenant 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, safety, radio frequency emissions, and radiation) in connection with the use, operation, maintenance, construction and/or installation of the Premises.

5. Tenant Improvements Plans, Bonds.

a. (1) Tenant may improve the Premises by constructing a communications tower up to 400 feet in height and ancillary support facilities and structures (collectively, "Tower") on the Premises. Prior to commencing construction, Tenant shall submit plans and specifications for all improvements to Landlord for Landlord's written approval, such approval not to be unreasonably withheld, delayed or conditioned. Any objections that the Landlord has to the plans shall be set forth in writing with specificity, detailing all changes and modifications necessary to the plans in order to obtain the Landlord's approval. No improvement, construction, installation or alteration shall be commenced until plans for such work have been approved by the Landlord and all necessary permits have been properly issued.

(2) Such plans shall include: Fully dimensioned site plans that are drawn to scale and show (i) the proposed location of the antennas, equipment shelter, driveway and parking areas, (ii) the proposed changes in the landscape, (iii) the proposed type and height of fencing, (iv) the proposed color of all structures, including fencing, (v) the proposed type of construction material for all structures, including fencing, and any other details that the Landlord may reasonably request.

(3) Prior to commencing construction, Tenant shall also provide Landlord with the name of the contractor that will be constructing the improvements. The

contractor is subject to the prior written approval of Landlord, such approval not to be unreasonably withheld, conditioned or delayed. If no response is received from the Landlord within ten (10) days from the date the plans have been submitted to the Landlord for the Landlord's review, then the Landlord's approval shall be deemed to have been given. All improvements shall be constructed in a workmanlike manner without the attachment of any liens to the Premises and shall be completed in compliance with all applicable laws, rules, ordinances and regulations.

(4) No material improvements or modifications to the Tower shall be made without the Landlord's consent, such consent not to be unreasonably withheld, conditioned or delayed. If no response is received from the Landlord within ten (10) days from the date the plans have been submitted to the Landlord for the Landlord's review, then the Landlord's approval shall be deemed to have been given, unless such change requires the approval of the City of Roswell's Design Review Board. Moreover, any such improvements or modifications are subject to the conditions set forth in section a. (1), (2) and (3) above.

- b. (1) The Tower shall remain the property of Tenant and Tenant shall, at Landlord's request, remove the Tower upon termination of the Lease. Such removal shall be done in a workmanlike and careful manner and without interference or damage to any other equipment, structures or operations on the Premises, including use of the Premises by Landlord or any of Landlord's assignees or Tenants. If, however, Tenant requests permission not to remove all or a portion of the improvements, and Landlord consents to such non-removal, title to the affected improvements shall thereupon transfer to Landlord and the same thereafter shall be the sole and entire property of Landlord, and Tenant shall be relieved of its duty to otherwise remove same. All other alterations, improvements and structures located or constructed on the Premises (except for movable equipment and trade fixtures), shall become the property of Landlord upon termination of the Lease, except that Landlord may, by written notice to Tenant, require Tenant to remove all such improvements upon termination of the Lease. Any personal property, equipment or other improvements which are not removed within ninety (90) days after the termination of this Lease, shall become the property of Landlord, at Landlord's option.

(2) Upon removal of the improvements (or portions thereof) as provided above in subpart (1), Tenant shall restore the affected area of the Premises to substantially the condition existing on the Commencement Date, except for ordinary wear and tear, casualty loss and landscaping installed by Tenant on or about the Premises.

(3) All costs and expenses for the removal and restoration to be performed by Tenant pursuant to subparts (1) and (2) above shall be borne by Tenant, and

Tenant shall hold Landlord harmless from any portion thereof.

6. Use by Other Providers.

a. Tenant may allow a party which is not an Affiliate (as hereinafter defined) to use the Tower (such as for antennas or for any other purpose; whether by assignment, sublease or otherwise -- see paragraph 21). Tenant shall design and construct the Tower to accommodate no less than three (3) other telecommunications providers ("Other Providers"). Toward this end, Tenant shall design and construct the tower so that the Other Providers' antennae may be placed on it. Furthermore, Tenant shall design the telecommunications site so that it will accommodate the ground equipment of Other Providers; provided, however, that each of the Other Providers shall be responsible for the costs of constructing its own equipment pad or shelter, as the case may be.

b. Tenant shall cooperate with each new Other Provider in connection with their locating and placing their antennas and other facilities on the Tower and in the ancillary support facilities.

c. Each new Other Provider shall be solely responsible for the cost of locating and placing their equipment onto the tower and into the ancillary support facilities, including any support buildings. The Other Providers shall also be responsible for any liabilities that arise from the Other Provider's use of the Tower.

d. Within ten days after receipt, Tenant shall notify Landlord in writing of all sublease or assignment requests or proposals which Tenant receives for use of the Tower. Tenant shall also immediately provide Landlord with any information relating to an actual or proposed lease to an Other Provider that Landlord requests.

7. Acknowledgment and acceptance of risks. In choosing to locate Equipment on City Premises, the Tenant acknowledges and accepts all risks, including but not limited to:

- a. Possibility of fires that may damage the Tower or related Equipment,
- b. Risks associated with co-location of other telecommunications providers,
- c. Ground movement,
- d. Loss of line of sight path, including where caused by City action, and
- e. City change in the use of the Premises.

The Tenant explicitly acknowledges that these risks include bearing all costs associated with such risks, except such costs caused by the negligence or willful misconduct of the Landlord, including but not limited to, provision of alternate communication paths, loss of

Tenant business and restoration of its Equipment and/or systems if they are damaged.

8. Net Lease. Landlord shall not be required to make any expenditures of any kind in connection with this Lease or to make any repairs or improvements to the Premises. The parties agree that this is a net Lease intended to assure Landlord the rent reserved on an absolute net basis. In addition to the Rent reserved above, Tenant shall pay to the parties entitled thereto any personal property taxes, assessments, to the extent same may be applicable to a public corporation, insurance premiums, maintenance charges, and any other charges, costs and expenses against the Premises which may be contemplated under any provisions of this Lease.

9. Maintenance

a. Tenant shall, at its own expense, maintain the Premises including landscaping and any equipment on the Premises in a safe condition and in good repair in accordance with the plans previously approved by Landlord.

b. Tenant shall have sole responsibility for the maintenance, repair, and security of its equipment, personal property, Tower Facilities, and leasehold improvements, and shall keep the same in good repair and condition during the Lease term. Prior to installation of its equipment on the Premises, Tenant shall submit a maintenance plan to the City which outlines the maintenance procedures and policies to which Tenant and its contractors will adhere during the term of the Lease.

c. Tenant shall keep the Premises 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.

10. Premises Access.

a. Tenant shall have access to the Premises by means reasonably designated by Landlord, subject to notice requirements to Landlord in 10b. below.

b. Tenant shall have reasonable access to the Premises in order to install, operate, and maintain its Tower Facilities. Tenant shall have access to such facilities at all times. Tenant shall notify the Roswell Police Department when it intends to access the site.

c. Landlord shall be allowed and granted access to the Premises at reasonable times to examine and inspect the Premises for safety reasons or to ensure that the Tenant's covenants are being met.

d. Landlord shall provide a mechanism for emergency access to the Premises on a 24-hour, 7-day a week basis. In such cases, Tenant will follow up with prompt written documentation of the request.

e. Landlord shall make every effort to provide access to Facilities during the times requested by the Tenant. However, Landlord may not be able to accommodate all requests, and will not be liable for any damages or loss the Tenant may sustain due to the Company's inability to access the Facilities. The Tenant is responsible to plan accordingly.

f. All access to City Facilities by the Tenant or its contractors must be coordinated with the appropriate staff designated by the Landlord's Facility Manager(s). The Tenant and its contractors must comply with whatever reasonable conditions for access to City Facilities that are specified by designated Facility Managers.

11. Utilities. Tenant shall, at its expense, separately meter charges for the consumption of electricity and other utilities associated with its use of the Premises and shall timely pay all costs associated therewith.

12. License Fees. Tenant shall pay, as they become due and payable, all fees, charges, taxes and expenses required for licenses and/or permits required for or occasioned by Tenant's use of the Premises.

13. Approvals; Compliance with Laws. Tenant's use of the Premises is contingent upon its obtaining all certificates, permits, zoning, and other approvals that may be required by any federal, state or local authority. Tenant shall erect, maintain and operate its Antennae Facilities in accordance with site standards, statutes, ordinances, rules and regulations now in effect or that may be issued thereafter by the Federal Communications Commission or any other governing bodies. Tenant shall be bound by the requirements and standards contained in any Telecommunications Ordinance enacted by The City of Roswell which complies with, or is not preempted by the federal Telecommunications Act of 1996, except those requirements and standards which are not applicable to Tenant.

14. Default and Landlord's Remedies. It shall be a default if Tenant defaults in the payment or provision of Rent or any other sums to Landlord when due, and does not cure such default within fifteen (15) days from receipt of written notice of such default; or if Tenant defaults in the performance of any other covenant or condition of this Lease and does not cure such other default within thirty (30) days after written notice from Landlord specifying the default complained of; or if Tenant abandons or vacates the Premises; or if Tenant is adjudicated as bankrupt or makes any assignment for the benefit of creditors (other than a collateral assignment to secure financing); or if Tenant becomes insolvent or Landlord reasonably believes itself to be insecure.

In the event of a default, Landlord shall have the right, at its option, in addition to and not exclusive of any other remedy Landlord may have by operation of law, without any further demand or notice, to re-enter the Premises and eject all persons therefrom, and declare this Lease at an end, in which event Tenant shall immediately remove the Tower (and proceed as set forth in paragraph 5b) and pay Landlord a sum of money equal to the total of (a) the amount of the unpaid rent accrued through the date of termination; and (b) any other amount necessary to

compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under the Lease.

If suit shall be brought by Landlord for recovery of possession of the Premises, for the recovery of any rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant, the Tenant shall pay to the Landlord all expenses incurred therefor, including reasonable attorney fees.

15. Cure by Landlord. In the event of any default of this Lease by Tenant, the Landlord may at any time, after notice, cure the default for the account of and at the expense of the Tenant. If Landlord is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money or is compelled to incur any expense, including reasonable attorney fees in instituting, prosecuting or defending any action to enforce the Landlord's rights under this Lease, the sums so paid by Landlord, with all interest, costs and damages shall be deemed to be Additional Rental and shall be due from the Tenant to Landlord within thirty (30) days following notice of Landlord's incurring of the respective expenses.

16. Damage or Destruction. If the tower or any portion of the tower is destroyed or damaged so as to materially hinder effective use of the tower through no fault or negligence of Tenant, Tenant may elect to terminate this Lease upon thirty (30) days' written notice to Landlord. In such event, Tenant shall promptly remove the Tower from the Premises and the parties shall proceed as set forth in 5b above. This Lease (and Tenant's obligation to pay rent) shall terminate upon Tenant's fulfillment of the obligations set forth in the preceding sentence, at which termination Tenant shall be entitled to the reimbursement of any Rent prepaid by Tenant. Landlord shall have no obligation to repair any damage to any portion of the Premises.

17. Condemnation. In the event the Premises are taken by eminent domain, this Lease shall terminate as of the date title to the Premises vests in the condemning authority. In the event a portion of the Premises is taken by eminent domain so as to materially hinder effective use of the Premises by Tenant, 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, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant on account of any and all damage to Tenants business and any costs or expenses incurred by Tenant in moving/removing its equipment, personal, property, and leasehold improvements.

18. Indemnity and Insurance.

a. Disclaimer of Liability: Landlord shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of Tenant's construction, maintenance, repair, use, operation, condition or dismantling of the Premises, unless such injury or damage results from Landlord's negligence or willful misconduct and to the extent such liability is permitted by law.



b. Indemnification by Tenant: Tenant shall, at its sole cost and expense, to the extent authorized by law, indemnify and hold harmless Landlord and all associated, affiliated, allied and subsidiary entities of Landlord, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as the "Landlord's Indemnitees"), from and against:

(1) Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of Tenant, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, or invasion of privacy which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Premises or the Tenant's failure to comply with any federal, state or local statute, ordinance or regulation.

(2) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or asserted against the Indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to Tenant, its contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Premises and, upon the written request of Landlord, Tenant shall cause such claim or lien covering Landlord's property to be discharged or bonded within thirty (30) days following such request.

c. Indemnification by Landlord: Tenant acknowledges that Landlord may not have the legal authority to indemnify Tenant. To the extent provided by law, Landlord shall, at its sole cost and expense, indemnify and hold harmless Tenant and all associated, affiliated, allied and subsidiary entities of Tenant, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as the "Tenant's Indemnitees"), from and against:

Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Tenant's Indemnitees by reason of any negligent act or omission of Landlord, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property.

d. Assumption of Risk: Tenant undertakes and assumes for its officers, agents, affiliates, contractors and subcontractors and employees (collectively "Tenant" for the purpose of this section), all risk of dangerous conditions, if any, on or about the Premises, and Tenant hereby agrees to indemnify and hold harmless the Landlord's Indemnitees against and from any claim asserted or liability imposed upon the Landlord's Indemnitees for personal injury or property damage to any person (other than from Indemnatee's negligence) arising out of the Tenant's installation, operation, maintenance, condition or use of the Premises or Tenant's failure to comply with any federal, state or local statute, ordinance or regulation.

e. Defense of Indemnitees. In the event any action or proceeding shall be brought against the Landlord's Indemnitees or the Tenant's Indemnitees (such indemnified parties being referred to as the "Indemnitees") by reason of any matter for which they are indemnified hereunder, Tenant or the Landlord, as the case may be (the "Indemnitor"), shall, upon notice from any of the Indemnitees, at Indemnitor's sole cost and expense, resist and defend the same with legal counsel mutually selected by Indemnitor and Indemnitees; provided however, that Indemnitor shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of Indemnitees and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of Indemnitor.

f. Notice, Cooperation and Expenses: Indemnitees shall give Indemnitor prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this paragraph. Nothing herein shall be deemed to prevent Indemnitees from cooperating with Indemnitor and participating in the defense of any litigation by Indemnitees' own counsel. Indemnitor shall pay all expenses incurred by Indemnitees in response to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by the Indemnitees' attorney, and the actual expenses of Indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed by Indemnitees in connection with such suits, actions or proceedings but shall not include attorneys' fees for services that are unnecessarily duplicative of services provided Indemnitees by Indemnitor.

If Indemnitor requests Indemnitees to assist it in such defense then Indemnitor shall pay all expenses incurred by Indemnitees in response thereto, including defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the costs of any services rendered by the Indemnitees' attorney, and the actual expenses of Indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed by Indemnitees in connection with such suits, actions or proceedings

g. Insurance. During the term of the Lease, Tenant 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, both for itself and for all sublessees:

(1) Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of One Hundred Thousand Dollars (\$100,000) for each accident.

(2) Comprehensive general liability insurance with minimum limits of Two Million Dollars (\$2,000,000) as the combined single limit for each occurrence of bodily injury, personal injury and property damage.

(3) Automobile liability insurance covering all owned, hired, and nonowned vehicles in use by Tenant, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law with minimum limits of Two Million Dollars (\$2,000,000) as the combined single limit for each occurrence for bodily injury and property damage.

(4) All policies other than those for Worker's Compensation shall be written on an occurrence and not on a claims made basis.

(5) 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.

h. Additional Insureds: All policies, except for business interruption and worker's compensation policies, shall name Landlord and all associated, affiliated, allied and subsidiary entities of Landlord, now existing or hereafter created, and their respective officers, boards, commissions, employees, agents and contractors, as their respective interests may appear as additional insureds (herein referred to as the "Additional Insureds").

i. Evidence of Insurance: Certificates of insurance for each insurance policy required to be obtained by Tenant in compliance with this paragraph, along with written evidence of payment of required premiums shall be filed and maintained with Landlord annually during the term of the Lease. Tenant shall immediately advise Landlord of any claim or litigation that may result in liability to Landlord.

j. Insurance Companies: All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Georgia or surplus line carriers on the State of Georgia Insurance Commissioner's approved list of companies qualified to do business in the State of Georgia. All insurance carriers and surplus line carriers shall be rated by A.M. Best Company.

19. Hazardous Substance Indemnification. Landlord represents and warrants that it has no knowledge of any substance, chemical or waste (collectively, "Hazardous Substance") on the Premises that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Neither Landlord nor Tenant shall Introduce or use any Hazardous

Substance on the Premises in violation of any applicable law. Landlord (if allowed by law) and Tenant each indemnifies the other against and holds the other harmless from any and all liability, damage, loss, expense, cost, penalty and fee, including consultant's fees and attorney's fees, resulting from any breach of any representation, warranty or agreement contained in this paragraph. "Hazardous Substance" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time.

20. Holding Over. Any holding over after the expiration of the term hereof, with the consent of the Landlord, shall be construed to be a tenancy from month to month with rent payable at 120% of the rent herein specified (prorated on a monthly basis) and shall otherwise be for the term and on the conditions herein specified, so far as applicable.

21. Assignment.

a. Tenant may assign this Agreement and any rights hereunder or sublease all or part of the Premises, at any time to Tenant's "Affiliates." As used herein, "Affiliate" shall mean a successor in interest or subsidiary of Tenant. As to other parties, this Agreement may not be sold, assigned, or transferred without the written consent of the Landlord, such consent not to be unreasonably withheld. Tenant may sublease space on the Tower and ground space in the Premises to other telecommunications users without Landlord's consent; provided, however, that wireless providers which participated in the City of Roswell's Master Siting Plan will be given a preference for space on the Premises.

b. In the event of a sublease, transfer or assignment permitted under this Section, Tenant's subtenant, transferee or assignee shall not be authorized to construct its improvements on the Premises until Landlord has approved appropriate construction drawings or plans pertaining thereto in accordance with this Agreement, such approval not to be unreasonably withheld.

22. Acceptance of Premises; Quiet Enjoyment. By taking possession of the Premises, Tenant accepts the Premises in the condition existing as of the Commencement Date. Landlord makes no representation or warranty with respect to the condition of the Premises and Landlord shall not be liable for any latent or patent defect in the Premises. Landlord represents and agrees that Tenant is entitled to the quiet possession of the Premises throughout the term of this Agreement so long as Tenant is not in default beyond the expiration of any applicable cure period.

23. Estoppel Certificate. Tenant shall, at any time and from time to time upon not less than ten (10) days prior request by Landlord, deliver to Landlord a statement in writing certifying that (a) the Lease is unmodified and in full force (or if there have been modifications, that the Lease is in full force as modified and identify the modifications); the dates to which rent and

other charges have been paid; (c) so far as the person making the certificate knows, Landlord is not in default under any provisions of the Lease; and (d) such other matters as Landlord may reasonably request.

24. Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested; to the following addresses:

If to Landlord, to: Kay Love  
City Administrator  
38 Hill Street, Suite 115  
Roswell, GA 30075

With a copy to: David Davidson  
City Attorney  
38 Hill Street, Suite 110  
Roswell, GA 30075

If to Tenant, to: Chairman  
North Fulton Regional Radio System Authority  
7840 Roswell Road, Suite 500  
Sandy Springs, GA 30350

With a copy to: Richard A. Carothers  
Authority Counsel  
Carothers & Mitchell, LLC  
1809 Buford Highway  
Buford, GA 30518

25. Non-exclusivity. Nothing in this Lease shall preclude Landlord from leasing other space for communications equipment to any person or entity which may be in competition with Tenant, or any other party.

26. Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

27. Non-Waiver. Failure of Landlord to insist on strict performance of any of the conditions, covenants, terms or provisions of this Agreement or to exercise any of its rights hereunder shall not waive such rights, but Landlord shall have the rights to enforce such rights at any time and take such action as might be lawful or authorized hereunder, either in law or equity. The receipt of any sum paid by Tenant to Landlord after a breach of this Agreement shall not be deemed a waiver of such breach unless expressly set forth in writing.

28. Taxes. Tenant shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Communications Facilities located on the Property.

29. Interference. Tenant will resolve technical interference problems with other equipment located at the Premises on the Commencement Date or any equipment that becomes attached to the Premises at any future date when Tenant desires to add additional equipment to the Premises. Likewise, Landlord will not permit or suffer the installation of any future equipment by third parties which (a) results in technical interference problems with Tenant's then existing equipment or (b) encroaches onto the Premises.

30. Termination. Tenant may terminate this Agreement at any time by notice to Landlord without further liability if Tenant does not obtain all permits or other approvals (collectively, "approval") required from any governmental authority or any easements required from any third party to operate the PCS system, or if any such approval is canceled, expires or is withdrawn or terminated, or if Landlord fails to have proper ownership of the Premises or authority to enter into this Agreement, or if Tenant, for any other reason, in its sole discretion, determines that it will be unable to use the Premises, Upon termination, all prepaid rent will be retained by Landlord unless such termination is due to Landlord's failure of proper ownership or authority, or such termination is a result of Landlord's default,

31. Miscellaneous.

a. Landlord and Tenant represent that each, respectively, has full right, power, and authority to execute this Lease.

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

c. This Lease shall be construed in accordance with the laws of the State of Georgia.

d. 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.

e. If requested by Tenant, Landlord agrees promptly to execute and deliver to Tenant a recordable Memorandum of this Agreement in the form of Exhibit C hereto.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

This Lease was executed as of the date first set forth above.

ATTEST:

\_\_\_\_\_  
City Clerk

LANDLORD:

CITY OF ROSWELL

By:\_\_\_\_\_  
Jere Wood, Mayor

ATTEST:

\_\_\_\_\_  
Authority Secretary

TENANT:

NORTH FULTON REGIONAL RADIO  
SYSTEM AUTHORITY

By:\_\_\_\_\_  
John McDonough, Chairman

[Affix Corporate Seal]

EXHIBIT A

LEGAL DESCRIPTION OF LAND



EXHIBIT B

LEGAL DESCRIPTION OF EASEMENT

20' Utility and Access Easement