

LICENSE AGREEMENT
ATC Contract No: 244824

This LICENSE AGREEMENT ("Agreement") made this 14th day of May, 2006, ("Effective Date") by and between BELLEFONTAINE CONDOMINIUM OWNERS ASSOCIATION, a California corporation with a place of business at _____ ("Licensor") and CRICKET COMMUNICATIONS, INC., a Delaware corporation with a place of business at 10307 Pacific Center Court, San Diego, CA 92121 ("Licensee"). Licensor has designated American Towers, L.P., 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: 2400 Sixth Avenue, San Diego, CA 92101
Coordinates: Lat. 32-43-51 N Long. 117-9-32 W

NOTICE & EMERGENCY CONTACTS:

- Licensor's emergency contact (name and number): Customer Service 800-816-8026.
- Licensee's emergency contact (name and number): _____

Notices to Licensee shall be sent to: Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Notices to Licensor shall be sent to: Bellefontaine Condominium Owners Association
c/o Hilltop Community Executives
P.O. Box 34398-682
San Diego, CA 92163

With a copy to: American Towers, L.P.
400 Regency Forest Drive
Cary, NC 27511
Attn: Building Solutions Property Management

And to: American Tower Corporation
400 Regency Forest Drive
Cary, NC 27511
Attn: Senior Vice President, Legal Operations

APPROVED USE OF TOWER SITE BY LICENSEE:

Permitted frequencies: 1980.625 to 1984.375 MHz and 1900.625 to 1904.375 MHz

Antenna mount height at Tower Site: _____ (See Exhibit A for specific location description)

All other permitted use of the Tower Site including, without limitation, Licensee's Approved Equipment (as defined in Section 1 herein; references to numbered Sections refer to the numbered Sections set forth in the Terms and Conditions attached hereto and incorporated by reference 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 \$1,775.00, adjusted on September 1, 2007 and on each September 1st thereafter during the Initial Term and during any Renewal Terms by the "Annual Escalator". The Annual Escalator shall be 4% per year.

Site Manager Remittance Address ("Remittance Address"): P.O. Box 30000, Hartford, CT 06150.

The "Site Inspection Fee" shall be: \$2,500.00, 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 commencement of installation or construction of any improvements by Licensee at the Tower Site; or (ii) September 1, 2006.

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 \$ _____, adjusted annually by the Annual Escalator and subject to Sections 3 & 5 OR
- Licensor, with such being included in the Monthly License Fee and subject to Sections 3 & 5, OR
- Licensee, at its sole expense.

OTHER PROVISIONS:

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

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

BELFONTAINE CONDOMINIUM OWNERS ASSOCIATION

a California corporation

By: Al Simonelli, agent for

Its: Belmonte Condominium COA

Print Name: Al Simonelli

Date: 5-4-06

LICENSEE

CRICKET COMMUNICATIONS, INC.

a Delaware Corporation

By Anthony G Benyola

Its: Regional Network Director, Western Region

Print Name: Anthony G Benyola

Date: 4/18/06

*Approved by
Dave Green / Board President*

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"). Licensor hereby confirms that it either directly, or through its affiliate or subsidiary company, owns a real property, leasehold, or other interest in the Tower Site and Licensed Premises. Except as otherwise expressly set forth in Section 4 hereof, 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 and lawful 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. 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, and with such notice in writing in the form of the notice attached hereto as Exhibit D. 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 each of Site Manager and Licensor 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. Licensee, its employees, agents, contractors, licensees, and affiliates shall notify and coordinate with Licensor's on-site security personnel all entry onto the Licensed Premises for the purpose of accessing any of the Approved Equipment and/or the Tower Site and shall log in with Licensor's security or facilities personnel upon arrival to Licensor's property.
2. **EXHIBITS.** Within forty-five (45) days following the commencement of the installation of the Approved Equipment, Licensee shall provide Licensor and Site Manager 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 and shall be payable without notice or demand and without abatement, deduction or set-off. 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. Unless otherwise expressly stated in this Agreement or Licensee is otherwise directed by Licensor in writing, 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 within 14 business days after the expiration or earlier cancellation of this Agreement; (ii) deliver the Licensed Premises in substantially the same and in as good a condition as received (ordinary wear and tear excepted); and (iii) subject to Section 9 hereof, repair at Licensee's sole cost any damage caused by the removal of the Approved Equipment as soon as possible after such damage has occurred but in no event longer than 5 days after 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. Should Licensee remain in possession of and/or continue its operations on the Licensed Premises more than fourteen (14) business days after the termination of this Agreement without Licensor's prior approval, no tenancy or interest in the Licensed Premises shall result therefrom and such holding over shall be an unlawful detainer and Licensee shall be subject to immediate eviction and removal. Licensee shall, upon demand, pay to Licensor, per day, the then current monthly fee divided by fifteen (15) for any hold-over period. If Licensee's Approved Equipment remains on the Licensed Premises more than fourteen (14) business days after the termination of this Agreement without Licensor's prior approval, Licensor may disconnect and remove the Approved Equipment from the Licensed Premises (with or without process of law and without thereby incurring any liability to Licensee, and without such entry constituting an eviction of Licensee) and store such at a location selected by Licensor. If the Approved Equipment is not claimed within thirty (30) days after the date of termination of this Agreement, the Approved Equipment shall be deemed to be abandoned and Licensor shall have the right to dispose of it at Licensor's sole discretion. Licensee shall be responsible for all costs of the disconnection, removal and disposal of the Approved Equipment. Licensor shall have the right to apply proceeds from the sale of the Approved Equipment to amounts owed by Licensee.
5. **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. Except to the extent damaged by Licensee its employees, agents, contractors, licensees, and affiliates, 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. In no event, however, shall Licensor shall be liable for any interruption of utility service.
6. **INSTALLATION BY SITE MANAGER.** Licensee shall submit to Site Manager its scope of work requirements for the installation of its Approved Equipment within ten (10) business days following the Effective Date and within a reasonable period of time prior to any planned subsequent modification to or installation of additional Approved Equipment (but in no event less than fifteen business days). Unless Site Manager otherwise notifies Licensee, Site Manager shall install or shall cause the installation of the Approved Equipment at the standard market rate for such services (by experienced antenna system installers and excluding any discounts which may be offered or are available from time to time). Licensee and Site Manager agree to diligently and in good faith negotiate a construction contract to install the Approved Equipment. If Licensee and Site Manager fail to agree upon the terms and conditions of the construction contract, they shall select an appraiser to resolve any disputes in accordance with common industry practice. Licensee and Site Manager agree to be bound by the appraiser's decision. Licensee agrees that Licensor shall have no duty to supervise or inspect any construction or installation of the Approved Equipment and hereby releases Licensor for, from and against all liability, costs (including reasonable attorney fees), expenses, damages, suits and claims arising out of injury, disability, loss or damage to any person or property caused by, or relating in any way to the installation of the Approved Equipment.
7. **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.

8. **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 such failure 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.
9. **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 access or climb any tower structure at the Tower Site. Prior to any access being granted onto the Tower Site, such contractors shall have valid and current worker's compensation and general liability insurance certificates on file with Licensor, naming Licensor as an additional insured and which otherwise satisfy the insurance coverage requirements described in Section 14 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.
10. **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 Licensor's operations or 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 (except in an emergency, where no notice shall be

required and Licensor or Site Manager may immediately disconnect Licensee's Approved Equipment). 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 Licensee 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 and Site Manager 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) *Future Cooperation.* In the event that future installations and/or modifications proposed by third parties would put any user of the Tower Site into non-compliance with the FCC's exposure limits for radio frequency radiation and cannot be cured by limiting access to the Tower Site, Licensee shall not unreasonably withhold its consent, when requested by Licensor or Site Manager, to modify its equipment so long as all costs associated with making such modifications to Licensee's equipment are borne by the party proposing such installation and/or modification. Licensee further agrees that in the event that there is any change to applicable rules, regulations and procedures governing radio frequency radiation which put the Tower Site into non-compliance with the FCC's or any other governmental agency's exposure limits for radio frequency radiation, Licensee will cooperate with Licensor and Site Manager and other users of the Tower Site to bring the Tower Site into compliance, which cooperation shall include but not limited to sharing pro rata among all similarly situated users of the Tower Site the costs associated with bringing the Tower Site into compliance.

(d) *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. 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 (except in an emergency, where no notice shall be required and Licensor or Site Manager may immediately disconnect Licensee's Approved Equipment).

(e) *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 10 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.

(f) *Licensee's Certifications.* Licensee certifies to Licensor that (i) it has adopted (or is in the process of adopting) a safety plan for its employees and subcontractors working in the vicinity of the Licensed Premises to ensure that no such person is exposed to radio frequency ("RF") radiation emissions in excess of the limits specified by the FCC; (ii) it has distributed (or will distribute) the safety plans to its employees and subcontractors who have the potential to be exposed to RF emissions in excess of FCC prescribed limits; and, (iii) its employees and subcontractors have been directed to comply with the safety plan.

11. **SITE RULES AND REGULATIONS.** Licensee agrees to comply with the 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.
12. **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, in its sole discretion may either terminate this Agreement or repair such damage. If Licensor elects to repair such damage, Licensor shall, within one hundred and twenty (120) days after Licensor's receipt of permits and insurance proceeds (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, as its only remedy, 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. Notwithstanding the foregoing provisions, in the event the Licensed Premises or Tower Site, or any portion thereof, shall be damaged by fire or other casualty due to the fault or negligence of Licensee, its employees, agents, contractors, or licensees, then, without prejudice to any other rights and remedies of Licensor, this Agreement shall not terminate, the damage shall be repaired at the sole cost and expense of Licensee, and there shall be no abatement of any Monthly License Fee.

13. **COMPLIANCE WITH LAWS.** Licensor is responsible for ensuring that the property owned by Licensor (including the building or other structure upon which the Licensed Premises is located) is operated in compliance with all governmental lighting and marking requirements. Licensee, as the owner of the Approved Equipment, is responsible for compliance with all tower or building marking and lighting requirements which may be required with respect to such Approved Equipment. Should Licensee be cited by any regulatory or governing agency including, without limitation, either the FCC or FAA because the Approved Equipment is not in compliance, and if Licensee does not cure the conditions of noncompliance within the time frame allowed by the citing agency, Licensor may terminate this Agreement. Licensee shall at all times comply with all applicable laws and ordinances and all rules and regulations of municipal, state and federal governmental authorities relating to the installation, maintenance, location, use, operation, and removal of the Approved Equipment and other alterations or improvements authorized pursuant to the provisions of this Agreement.

14. **INDEMNIFICATION; INSURANCE; PERSONAL PROPERTY; ENVIRONMENTAL.**

(a) **Indemnity.** Licensee shall, to the fullest extent permitted by law, indemnify, defend and hold harmless Licensor, its subsidiaries, affiliated, allied and/or proprietary companies, corporations, trusts, joint ventures and/or partnerships as are now or may hereafter be constituted or acquired and their respective directors, employees, officers, shareholders, successors and assigns against all claims, losses, costs, expenses, damages, and liabilities (except as otherwise provided in Section 15 of this Agreement) arising from: (i) the negligence, willful misconduct or strict liability of Licensee, or its agents, employees, representatives, contractors; or (ii) any breach by Licensee of any provision of this Agreement. In addition to the foregoing, Licensee shall indemnify Licensor for all costs and expenses associated with actions taken by Licensor to resolve any interference caused by Licensee or Licensee's Approved Equipment pursuant to Section 10(a), (d), and (e). Neither Party shall be responsible or liable to the other for any damage arising from any claim to the extent attributable to any acts or omissions of other licensees at the Tower Site. Licensee shall have no obligation to indemnify and hold either Licensor or Site Manager (or any of their respective employees, agents and representatives) harmless from claims and liabilities attributable to such person's gross negligence or willful misconduct or such person's breach of its obligations hereunder.

(b) **Insurance.** Licensee shall maintain in full force and effect during the term of this Agreement, at its own cost and expense, the following insurance coverages and provide Licensor with copies of same prior to accessing the premises for any reason: statutory workers compensation and employer's liability, with limits of \$1,000,000 for each accident and a policy limit of \$1,000,000 covering all employees of Licensee in the event claim is made by an employee injured in the course and scope of his employment and comprehensive general liability (including personal injury, property damage, independent contractor and products/completed operations) with limits not less than \$2,000,000 per occurrence and \$5,000,000 general liability umbrella policy. Licensee shall also maintain a policy of automobile insurance (including without limitation, hired and non-ownership liability), in an amount of \$2,000,000 per person per occurrence for personal injury (including without limitation, death) and \$2,000,000 per occurrence for property damage. Such insurance policies shall contain a provision that such policy shall not be canceled or amended without thirty (30) days notice to the Licensor. Upon the execution of this Agreement, Licensee shall deliver to Licensor a certificate evidencing such insurance coverage, on which Licensor, its subsidiaries, affiliated, allied and/or proprietary companies, corporations, trusts, joint ventures and/or partnerships as are now or may hereafter be constituted or acquired and Site Manager shall be named as additional insureds with respect to the Tower Site. Further, Licensee shall deliver to Licensor a certificate evidencing such insurance coverage within thirty (30) days of each renewal of such policy. Licensor reserves the right, from time to time, to increase the required liability limits described above in accordance with then-current customary insurance requirements in the tower industry nationally. All policies of insurance required to be maintained by Licensee shall be written as primary and non-contributory.

(c) **Personal Property.** All property of any kind that Licensee may be placed on the Licensed Premises during the term of this Agreement shall be done so at the sole risk of Licensee, and Licensor shall not be liable to Licensee, or any other person, for any injury, loss or damage to property or to any person on the Licensed Premises, unless such injury, loss or damage is caused by the gross negligence or willful misconduct of Licensor, or its employees or agents.

(d) *Environmental.* As used in this paragraph, the term "Environmental Laws" means any and all applicable state, federal and local statutes, regulations, rules and ordinances relating to the protection of human health and/or the environment. Licensee shall, at all times during the term of this Agreement, fully comply with all Environmental Laws. Licensee shall indemnify, defend and hold harmless Licensor and its successors and assigns for, from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the violation of any Environmental Laws by Licensee or any of Licensee's agents, employees, contractors, invitees, or licensees. Such indemnification obligation shall include, without limitation: (a) the costs of any required or necessary repairs, cleanup or detoxification of the Premises and the preparation and implementation of any closure, remedial or other required plans; and (b) all reasonable costs and expenses incurred by Licensor in connection with clause (a), including but not limited to reasonable attorneys' fees and costs.

The indemnities contained in this Section shall survive the termination or expiration of this Agreement.

15. **WAIVER OF CERTAIN DAMAGES.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT AND EXCEPT FOR A PARTY'S GROSS NEGLIGENCE OR WILFULL MISCONDUCT, EACH PARTY HEREBY WAIVES THE RIGHT TO RECOVER INCIDENTAL, SPECIAL, CONSEQUENTIAL (INCLUDING LOST PROFITS), PUNITIVE, EXEMPLARY AND SIMILAR DAMAGES AND THE MULTIPLIED PORTION OF ANY DAMAGES.
16. **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.
17. **ASSIGNMENT; SUBLEASING.** Licensee may assign this Agreement as a whole with Licensor's prior written consent, which consent may be granted or withheld in Licensor's sole discretion; *provided, however,* that Licensor's consent will not be required for, but Licensee shall provide Licensor with notice of, an assignment to any person or entity which is controlled by, controlling or under common control with Licensee ("Affiliates"). For these purposes, "control" means ownership, directly or indirectly, of 50% or more of the voting stock, equity or beneficial interest or a general partner of any partnership. In no event may Licensee sublet, sublease, or permit any other similar use of the Tower Site or Licensed Premises by any other party. In no event may Licensee duplex or combine signals or grant any shared use rights for itself or others. In the event of an assignment or transfer of this Agreement, Licensee shall continue to be, throughout the term of this Agreement (and any renewals or extensions thereof), obligated to Licensor for the covenants and conditions of this Agreement and shall not be relieved of any responsibility to Licensor as a result of such assignment. 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 or sell its interest (or that of its subsidiary, if applicable) in and to the real property on which the Tower Site is located and, in such event, Licensor shall be relieved of all of its obligations under this Agreement from and after the date of such assignment, transfer, sublease or sale. This Agreement shall be binding upon the successors and permitted assigns of both parties; *provided, however,* Licensor may elect to terminate this Agreement upon Licensor's sale of the Tower Site and Licensed Premises to a party wholly unaffiliated with Licensor. Licensee shall pay Licensor a fee of \$500.00 (which fee shall increase annually by a percentage rate increase equal to the Annual Escalator) in each instance in which Licensee requests an assignment of this Agreement or in which Licensee seeks an estoppel certificate, nondisturbance agreement, subordination agreement or other similar agreement. Notwithstanding anything to the contrary, Licensor may condition its consent to any assignment, on among other things, requiring that the assignee execute a new form of license agreement so long as the Monthly License Fee and Initial and Renewal Terms of such agreement are consistent with those set forth in this Agreement.
18. **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.
19. **DEFAULT.**
 - (a) *Licensee's Default.* Licensee shall have (i) ten (10) days after receipt (or refusal to accept delivery, which refusal shall be deemed receipt for the purposes hereof) of written notice from Licensor or Site Manager to cure any monetary default; *provided,* that Licensee is entitled to written notice only one (1) time in any calendar year and, thereafter, for the balance of such calendar year, Licensee's failure to make required payments, as and when due, where such failure continues for ten (10) days thereafter shall constitute a default hereunder, and (ii) except as otherwise provided in this Agreement with respect to RF interference, labeling and Construction Drawings, thirty (30) days after receipt of written notice from Licensor to cure any non-monetary default. Except with respect to RF interference, so long as Licensee diligently pursues a cure during the prescribed time period, Licensee shall be given additional time reasonably necessary to cure a non-monetary default. In the event of a default, Licensor may, without notice and without limiting Licensor in its rights by reason of default, pursue all remedies now or hereafter available to Licensor at law or in equity and have the right to (a) maintain this Agreement and Licensee's right to possession and be entitled to enforce all of Licensor's rights and remedies, including the right to recover the Monthly License Fee as it becomes due or (b) terminate this

Agreement and Licensee's right to possession of the Licensed Premises, in which event Licensee shall immediately surrender possession of the Licensed Premises to Licensor.

(b) *Licensor's Default.* This Agreement may be terminated by Licensee on thirty (30) days prior written upon a default by Licensor of any covenant or term hereof, which default is not cured within thirty (30) days of Licensor's receipt of written notice of default; provided, that so long as Licensor diligently pursues a cure during the prescribed time period, Licensor shall be given additional time reasonably necessary to cure a non-monetary default.

20. **COLLECTIONS.** Subject to the provisions of Section 19 above, Licensor or Site Manager may take any collections actions it deems necessary without further notice to Licensee, including, without limitation, the disconnection or removal and storage of any and all of Licensee's equipment, including the Approved Equipment or all other Licensee property located on the Tower Site. Licensee shall pay all reasonable attorney's fees, court costs, removal and storage fees (including any damage caused thereby), and other items of cost or expense reasonably incurred by Licensor or Site Manager in recovering the Monthly License Fee or other fee or charge. No endorsement or statement on any check or letter accompanying a check for payment of any monies due and payable under the terms of this Agreement shall be deemed an accord and satisfaction, and Licensor or Site Manager may accept such check or payment without prejudice to its right to recover the balance of such monies or to pursue any other remedy provided by law or in this Agreement. Licensor or Site Manager shall accept any such partial payment for the account of Licensee. Past due amounts under this Agreement will bear interest from the date upon which the past due amount was due until the date paid at a rate equal to: (i) eighteen percent (18%) per annum; or (ii) 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 twenty-five percent (25%) of the then-current Monthly License Fee for any payment or reimbursement due to Licensor or Site Manager under this Agreement which is overdue by ten (10) days or more and such fee shall be assessed for each thirty (30) day period thereafter that any such amount (or portion thereof) remains unpaid.

21. **GOVERNMENTAL APPROVALS; PERMITS.** In the event that any governmental permit, approval or authorization required for Licensor's use of, operation of, or right to license space to Licensee at the Tower Site is challenged, terminated or withdrawn by any governmental authority or third party as part of any governmental, regulatory, or legal proceeding, Licensor may terminate this Agreement. In the event that Licensor 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. Licensor shall cooperate with Licensee in Licensee's efforts to obtain any permits or other approvals that may be necessary for Licensee's installation and operation of the Approved Equipment; provided, however such cooperation shall be subject to the foregoing: (a) Licensor shall not be required to expend any funds or undertake any liability or obligation in connection with such cooperation; (b) Licensor 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 Licensor's current or future use or ability to license space at the Tower Site as part of or in exchange for obtaining any such approval or permit. In the event that Licensee's shelter or cabinets are installed above a third-party or Licensor-owned shelter or building, Licensee shall be solely responsible for obtaining any required consents or permits in connection with such shelter or cabinet installation. Licensee hereby consents to the stacking of a third-party or Licensor owned platform, shelter or cabinets above or below Licensee's shelter or cabinets provided Licensor 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 Licensor 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.

22. **LICENSOR REGULATORY MATTERS.**

(a) *Prohibited Contracts.* Licensee acknowledges that Licensor, together with its parent and affiliated corporations, partnerships and companies (collectively, "Boyd"), is subject to the provisions of the following acts and any rules, regulations or orders promulgated thereunder: (i) the Nevada Gaming Control Act, (ii) the Mississippi Gaming Control Act, (iii) the Louisiana Riverboat Economic Development and Gaming Control Act, (iv) the Illinois Riverboat Gambling Act, (v) the New Jersey Casino Control Act, (vi) the Indiana Riverboat Gambling Act, or (vii) any other act, laws, statutes, ordinances, rules, regulations or tribal compact governing any casino operation (collectively, the "Acts"), which prohibit a gaming licensee from entering into any contract or agreement with (a) a person who is found unsuitable, who is denied a license, or whose license was revoked by the gaming authorities of (1) Nevada, (2) Mississippi, (3) Louisiana, (4) Illinois, (5) New Jersey, (6) Indiana, or (7) any other gaming regulatory board, agency or commission (each a "Commission"), or (b) any business enterprise under control of such person without the prior approval of the appropriate Commission.

(b) *Licensing and Regulatory Requirements.* Licensee hereby covenants and agrees to use its best efforts to comply and to cause each of its directors, officers, partners, members and employees (each an "Affiliate") to comply with the requirements of all Acts to the extent the Acts apply. If any Commission requests that Licensee or any Affiliate (i) provide information to, (ii) file an application with, (iii) respond to written or oral questions, (iv) cooperate in a

background investigation, (v) appear before such Commission, or (vi) comply with any other request, Licensee agrees to use its best efforts to comply fully, and to cause each Affiliate to comply fully, with such request. Licensee hereby agrees to promptly provide Boyd Gaming Corporation with written notice of any Commission request and to keep Boyd Gaming Corporation informed of the status of all such requests and actions taken in response thereto. By entering into this Agreement, Licensee hereby represents and warrants that neither Licensee nor any Affiliate has been found unsuitable or denied any license or approval by any Commission. In the event that Licensee has been found unsuitable or has been denied any license or approval, prior approval of each Commission is required before this Agreement can be effective. If there has been a finding of unsuitability or a denial of any license or approval, immediately contact the General Counsel at Boyd Gaming Corporation, either via telephone at 702-792-7200 or via letter to Boyd Gaming Corporation, Legal Department, 2950 Industrial Road, Las Vegas, Nevada 89109-1150 Attention: General Counsel.

(c) *Termination of Agreement.* In the event (i) Licensee or any Affiliate fails to abide by the requirements of this Section 22, or (ii) Licensee or any Affiliate is found unsuitable or unqualified for any license, registration, approval or finding of suitability, or otherwise to be associated with a gaming licensee by any Commission, or (iii) Boyd determines in the exercise of its sole and absolute discretion that Licensee's or any Affiliate's continued association with Boyd may result in (a) the disapproval, modification or non-renewal of any contract under which Boyd has sole or shared authority to manage any gaming operations, or (b) the loss, non-renewal or non-reinstatement of any license, registration, approval, finding of suitability or franchise held by Boyd to conduct any portion of Boyd's business, or (c) the imposition of any fine or the taking of any disciplinary action by any Commission, Boyd shall be entitled immediately to terminate this Agreement and Boyd shall thereafter have no liability to Licensee or any Affiliate for any loss, costs, expense, loss of anticipated profits, direct damages, indirect damages, consequential damages, punitive damages, or other damages or liability of any nature whatsoever whether based on contract, tort or any other theories of liability. Notwithstanding such termination, the indemnity obligations of the parties shall survive.

23. SUBORDINATION AND ESTOPPEL CERTIFICATE.

(a) *Subordination.* This Agreement and all rights of Licensee hereunder are subordinate (i) to any mortgage or deed of trust, which does now or may hereafter affect the Licensed Premises, (ii) to all increases, renewals, modifications, consolidations, replacements, and extensions of any such mortgage or deed of trust, and (iii) all ground or underlying leases covering the land and/or building or any part thereof. This provision is hereby declared by Licensor and Licensee to be self-operative and no further instrument shall be required to effect such subordination. Licensee shall, however, upon demand at any time execute, acknowledge, and deliver to Licensor any and all instruments and certificates necessary or proper to more effectively subordinate this Agreement and all rights of Licensee hereunder.

(b) *Estoppel Certificate.* Within ten (10) days after notice from Licensor, Licensee shall execute and deliver to Licensor a certificate confirming essential factual matters pertaining to this Agreement, which estoppel certificate shall be in a form provided by Licensor. If Licensee fails to deliver the certificate within such ten (10) day period, then any representations of Licensor respecting the matters covered by the certificate shall be conclusively presumed to be accurate.

24. REPRESENTATIONS AND WARRANTIES.

(a) *Licensee's Representations and Warranties.* Licensee hereby represents, covenants and warrants to Licensor as a material part of the consideration for Licensor entering into this Agreement, as follows: (i) Licensee is duly organized and validly existing; (ii) the execution of this Agreement has been duly authorized on behalf of Licensee; (iii) Licensee has obtained and currently holds all licenses, permits and approvals of all governmental authorities necessary or appropriate to perform Licensee's obligations under this Agreement; and (iv) neither Licensee (including without limitation (A) Licensee, (B) its officers and directors and (C) any employees, representatives, sub-contractors, sub-suppliers and agents of Licensee involved with the performance by Licensee under this Agreement) nor the persons and/or entities comprising and/or owning Licensee, through and including the beneficial ownership of Licensee (1) has ever been convicted of, been placed under indictment for, or charged with, any felony or any other crime involving moral turpitude (a "Crime"), or (2) is currently charged with, or under investigation for, any Crime.

(b) *Licensor's Representations and Warranties.* Licensor hereby represents and warrants to Licensee as follows: (i) Licensor is a corporation duly organized and validly existing; and (ii) the execution of this Agreement has been duly authorized by all necessary corporate action on behalf of Licensor.

(c) *Continuing Nature of Representations and Warranties.* The representations and warranties contained in this Section 24 are continuing in nature and shall remain true, complete and accurate during the entire term of this Agreement. In the event that one or more of either parties' representations or warranties ceases to be true, complete and accurate at any time during the term of this Agreement, that party shall promptly notify the other party in writing of the failure of such representation or warranty and shall promptly take such action as is necessary to cure such failure. Notwithstanding any other provisions of this Agreement to the contrary, the representations, warranties and covenants set forth in this Section 24 shall survive the termination or expiration of this Agreement.

25. REPLACEMENT OF TOWER; LICENSOR REMODEL RIGHTS.

(a) *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, to the extent reasonably feasible, 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.

(b) **Licensor Remodel Rights.** Notwithstanding anything in this Agreement to the contrary, Licensor shall have the right to refurbish, remodel, and/or reconfigure its property (including, without limitation, the razing of a building) at any time during the term of this Agreement. If Licensor intends to refurbish, remodel, and/or reconfigure its property to such an extent that the operation of telecommunication uses on the Licensed Premises or Tower Site would be rendered substantially impracticable, Licensor shall have the right to suspend performance of this Agreement for so long as such refurbishment, remodeling, and/or reconfiguring is underway and telecommunication uses on the Licensed Premises or Tower Site remains substantially impracticable. Prior to exercising its right to suspend performance of this Agreement with respect to the affected Licensed Premises or Tower Site, however, Licensor shall work in good faith with Licensee to find an alternate site at Licensor's property or at another property owned or leased by Licensor that is mutually acceptable to the Parties and, to the extent reasonably possible, technically equivalent to the Licensed Premises or Tower Site whereupon this Agreement shall be suspended only during the period of relocation and the alternate site shall constitute the Licensed Premises as defined herein during such period of relocation. Licensor shall bear the reasonable costs of relocating the Approved Equipment to the alternate site. If Licensor elects to so refurbish, remodel, and/or reconfigure its property to such an extent that the operation of telecommunication uses on the Licensed Premises or Tower Site would be rendered substantially impracticable this Agreement may be terminated by Licensee or, if such period is reasonably expected to exceed six (6) months, by Licensor.

26. **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.
27. **EXCUSABLE DELAYS.** If either Party is unable due to causes beyond its reasonable control to carry out its non-monetary 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. This Section shall not apply to a Party's monetary obligations under this Agreement.
28. **LIABILITY OF LICENSOR.** If Licensor shall fail to perform any covenant, term or condition of this Agreement upon Licensor's part to be performed, and if as a consequence of such default Licensee shall recover a money judgment against Licensor, such judgment shall be satisfied only out of the proceeds of sale received upon execution of such judgment levied thereon against the right, title and interest of Licensor in the property where the Licensed Premises is located, and neither Licensor nor any of the individuals or entities comprising Licensor shall be liable for any deficiency.
29. **MISCELLANEOUS.** Time is of the essence in this Agreement. The submission of this Agreement to Licensee shall be for examination purposes only and does not and shall not constitute an offer to Licensee, or otherwise create any interest of Licensee in, the Licensed Premises or any other premises situated on Licensor's property. Execution of this Agreement by Licensee and return to Licensor shall not be binding upon Licensor, notwithstanding any preparation or anticipatory reliance or expenditures by Licensee or any time interval, until Licensor has, in fact executed and delivered this Agreement to Licensee. 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. 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".

ATTACHED EXHIBITS:

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

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

Exhibit C: As-Built Drawings or Construction Drawings to be attached within 45 days after Commencement Date in accordance with Section 1.

Exhibit D: Form of Commencement Date Notice.

Exhibit A Approved Equipment



RETURN THIS APPLICATION TO THE FOLLOWING EMAIL ADDRESS: <i>To be filled in by American Tower representatives</i>	Date Received by American Tower (AMT): _____ Revision Dates: _____ AMT Site Name: <u>Sixth Avenue Building</u> AMT Site Number: <u>8036</u>
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APPLICANT INFORMATION Applicant (Carrier): <u>Cricbat Communications</u> Applicant Site Name: <u>Bankers Hill</u> Applicant Site Number: <u>SAN-612A</u>	Primary Contact Name: <u>Mark Cullen</u> Company Name: <u>Meridian Telecom</u> Primary Contact Number: <u>(619) 719.6324</u> Primary Contact Fax: <u>(253) 559.6297</u> Primary Contact Address: _____ Primary Contact Email: <u>mcullen@commsites.com</u>
Applicant Entity Name on SA: <u>Cricbat Communications, Inc., a Delaware corporation ("Lessee").</u>	
Notice Address for License: <u>Cricbat Communications, Inc. 10307 Pacific Center Court San Diego, CA 92121 Attn: Property Manager</u>	
Billing Address: _____	

Leasing Contact Name/Number: <u>Mark Cullen (619) 719.6324</u> KP Contact Name/Number: <u>Jonathon Sablan (619) 846.8837</u> Legal Review Contact Name/Number: _____ Zoning Contact Name/Number: <u>Tim Kolset (760) 525-1263</u> Construction Contact Name/Number: <u>Dave Putnam (925) 324-5360</u> Emergency Contact Name/Number: _____	
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PROPERTY INFORMATION Property Owner: _____ Site Address: <u>2400 Sixth Avenue, SD, CA 92101</u>	County: <u>San Diego</u>	State: <u>CA</u>	
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Equipment Information: Use one column unless antenna models are different.	Sector 1	Sector 2	Sector 3	Sector 4	AUX
Antenna Quantity	1	1	1		
Antenna Manufacturer	EMS	EMS	EMS		
Antenna Model (Attach Spec Sheet)	RR65-15-00DP	RR65-15-00DP	RR65-15-00DP		
Weight (lbs per antenna)	13.5 Lbs	13.5 Lbs	13.5 Lbs		
Antenna Dimensions (HxWxD) (in)	56" x 8" x 2.57"	56" x 8" x 2.57"	56" x 8" x 2.57"		
ERP (watts)					
Antenna Gain (dBi)	17.2 dBi	17.2 dBi	17.2 dBi		
Orientation/Azimuth (Degrees)					
Mechanical Tilt Channels					

AD



Rooftop Colocation Application

Transmit Frequency (MHz)	1980.625 MHz - 1984.375 MHz	1980.625 MHz - 1984.375 MHz	1980.625 MHz - 1984.375 MHz	
Receive Frequency (MHz)	1900.625 MHz - 1904.375 MHz	1900.625 MHz - 1904.375 MHz	1900.625 MHz - 1904.375 MHz	
Number of Coax Cables (PER ANTENNA)	2	2	2	
Diameter of Coax Cables (in)	7/8"	7/8"	7/8"	
Type of Service:	<input type="checkbox"/> Paging <input type="checkbox"/> Radio <input type="checkbox"/> Satellite <input checked="" type="checkbox"/> PCS <input type="checkbox"/> 802.11a <input type="checkbox"/> 802.11b <input type="checkbox"/> 802.11g <input type="checkbox"/> WISP 2.4 <input type="checkbox"/> WISP 2.6 <input type="checkbox"/> WISP 5.3 <input type="checkbox"/> WISP 5.8 <input type="checkbox"/> OTHER (please describe):			
For Broadband Customers Only:	Do you plan to solicit the tenants of this building? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Equipment Enclosure Type:	<input checked="" type="checkbox"/> BTS Cabinets AND Number of BTS Cabinets: 1 <input type="checkbox"/> Outdoor Shelter <input type="checkbox"/> Space within building requested If checked, provide square footage:			
Total Space Dimensions (HxWxD)(ft):	67"W x 42"D			
Cabinet/BTS/Shelter Dimensions (HxWxD)(ft):	52"H x 55"W x 30"D			
Platform Dimensions (HxWxD)(ft):	60"H x 67"W x 42"D <input type="checkbox"/> Steel Platform <input type="checkbox"/> Interior <input type="checkbox"/> Pad (Ground)			
Fully loaded weight of cabinet(s):				
Cabinet/Shelter Manufacturer/Model:	Nortel			
AC Power:	Required Voltage and Total Amperage:		120/240 100 AMP	
Electrical Service Provider:	Electrical Service Telephone Number:			
Is a multi-tenant meter rack present:	Yes <input type="checkbox"/> No <input type="checkbox"/>			
Direct connect to utility company or sub-meter desired (please answer in box to right):				
Generator Ground Space Requirement (HxWxD)(ft):	Fuel Type (Natural Gas, Diesel):			
Generator Owner (Applicant/Tenant, American Tower):	Fuel Tank Location:		<input type="checkbox"/> Attached <input type="checkbox"/> Separate <input type="checkbox"/> None	
Capacity (KW):	Fuel Tank Size (Gallons):			
Battery Make and Model:			Quantity:	
To confirm your onsite needs and requirements, American Tower can schedule a predesign site walk. Please indicate whether you desire to schedule an onsite meeting: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				

Please submit site installation plans with application

- This Rooftop Application is subject to American Tower approval and Building Owner approval.
- Parent Owner consent may be required as a condition to the execution of your site agreement.
- Modifications to the site may be subject to local zoning approval.
- If available, attach manufacturer's equipment specifications for antennas, mounts, cabinets, shelters, etc.

Exhibit B

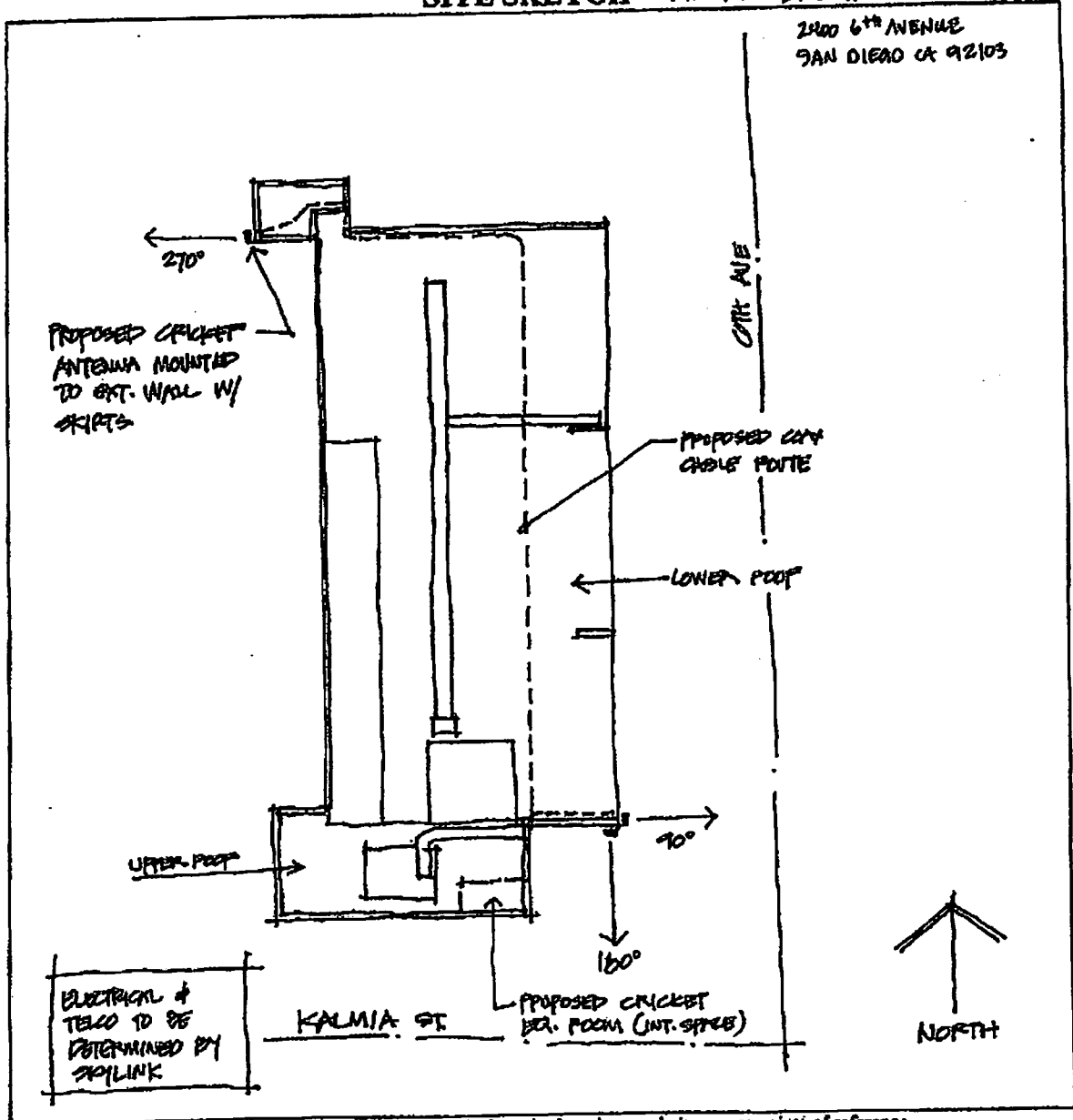
Site Drawing indicating the location of ground space for Licensee's equipment shelter or space in Licensor's building (as applicable)

[See Attached.]

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TECHNICAL SITE VISIT REVIEW FORM

SITE SKETCH *CRICKET COMMUNICATIONS*
THE BELLEFONTAINE SAN-612



Please denote north, telephone / electrical service locations and site access points of reference.

A & E Firm: ROTH & SIMPZ

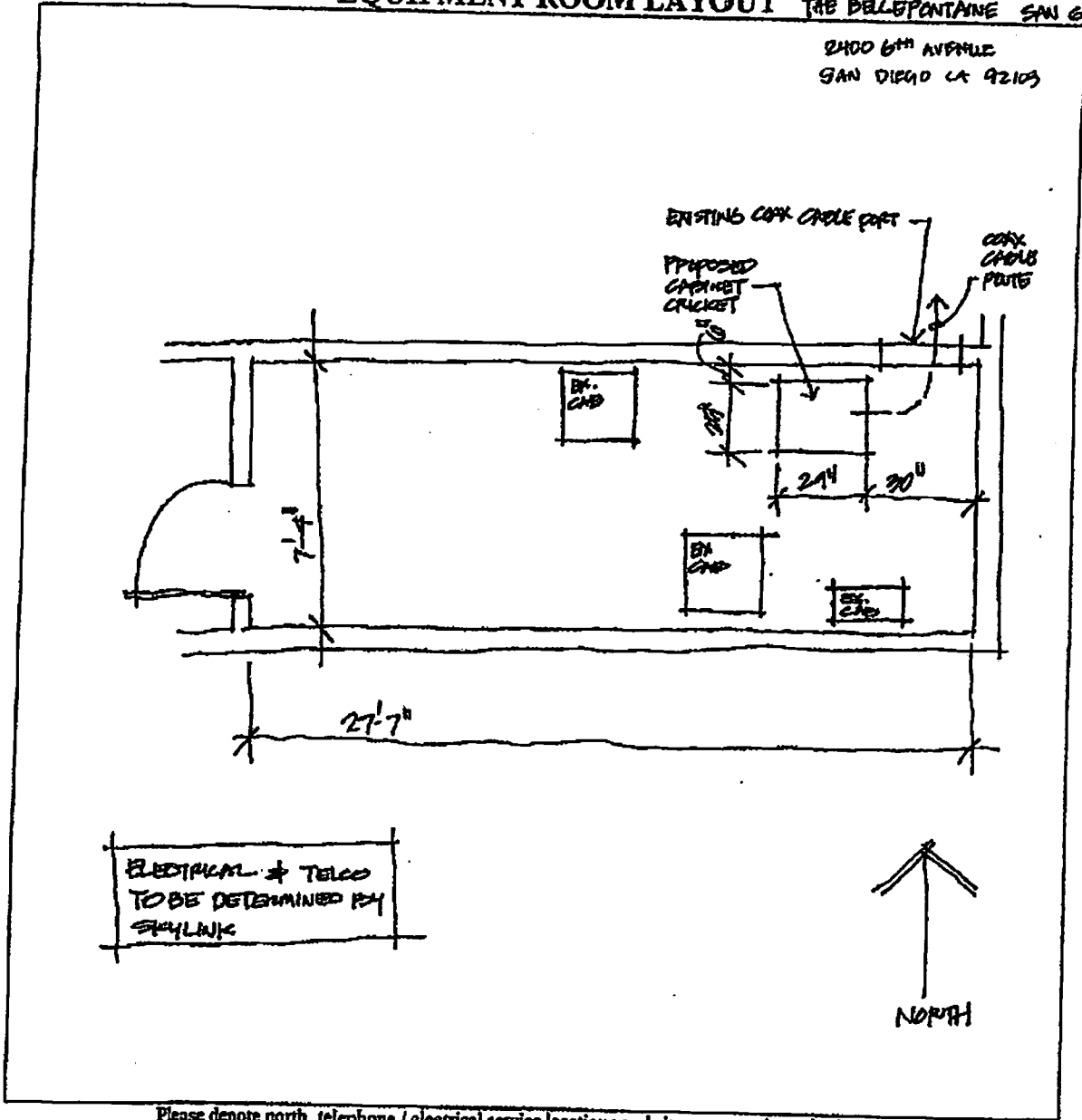
Firm Representative: POPEY SIMPZ

TECHNICAL SITE VISIT REVIEW FORM

EQUIPMENT ROOM LAYOUT

CRICKET COMMUNICATIONS
THE BELLEFONTAINE SAN 612

2400 6TH AVENUE
SAN DIEGO CA 92103



Please denote north, telephone / electrical service locations and site access points of reference.

A & E Firm: POOTH + GUMPEZ

Firm Representative: ROBERT SAPPAL

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.

QOS

**Exhibit D
Form of Commencement Date Notice**

[Date]

Via Return Receipt Requested First Class Mail

American Tower

Attn: Contracts Manager

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

Dear Contracts Manager:

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

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

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

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

Sincerely,

Handwritten signature and initials, possibly "K" and "R", with a horizontal line underneath.