OFFICE OF CORPORATION COUNSEL

Date:

February 25, 2013

To

Mayor Leclerc

From:

Richard Gentile

Re

Metro PCS Upgrade at VMC

Metro PCS, successor in interest to Youghiongheny Communications, has asked to amend its August 2009 lease with the Town of East Hartford for the use of the Town's cell tower at the Veterans Memorial Clubhouse. Metro PCS proposes leasing an additional 9' X 10' area to allow for additional equipment cabinet space. The proposed lease area is shown on the attached plans. The proposed rent is \$100 per month. This \$100 rent will escalate consistent with the rent escalation clauses currently set forth in the lease.

I would ask that this proposed lease amendment be sent to the Council for referral to the Fees Committee.

Site No: HFC0610

Site Name: 100 Sunset Ridge

DRAFT AMENDMENT NO. 1

This First Amendment to the Lease Agreement (the "Amendment) is made this ______ day of ______, 2013, by and between the Town of East Hartford ("Licensor") and MetroPCS Massachusetts, LLC, a Delaware limited liability company, as successor in interest to Youghiogheny Communications Northeast, LLC ("Lessee").

WITNESSETH

WHEREAS, Owner and Lessee's predecessor entered into a Lease Agreement on August 7, 2009 (the "Agreement") for the placement ground equipment for a wireless communications facility within Lessor's Real Property located at: 100 Sunset Ridge Drive, East Hartford, CT

WHEREAS, Lessor and Lessee desire and intend to amend and supplement the Agreement as provided for herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant, agree and bind themselves to the following modifications to the Agreement:

- 1) Whereas, Lessee will be increasing the dimensions of the Premises in order to accommodate additional cabinet(s) and related equipment within a 9' x 10' area, as noted in the site plan attached hereto as Schedule I (the "Cabinet Expansion"). Any reference in the Agreement to Lessee's Premises shall be amended and revised to include the Cabinet Expansion area.
- 2) In consideration of the Cabinet Expansion, effective on the date that Lessee commences construction or placement of its cabinet(s) and related equipment within the Premises and payable with the next Rent payment due under the Agreement, current Rent will increase by One Hundred and 00/100 Dollars (\$100) per month ("Revised Rent"). The Revised Rent shall escalate in accordance with the terms of the Agreement and shall be considered as "Rent". Lessee shall promptly deliver written notice to the Lessor of the date that Lessee commences construction or placement of its cabinet(s) and related equipment within the Cabinet Expansion area.
- 3) This Amendment may be executed in counterparts, each of which shall be deemed an original document, but all of which will constitute a single document.
- 4) This Amendment shall not be binding on or constitute evidence of a contract between the parties hereto until such time as a counterpart of this document has been executed by each party and a copy thereof delivered to each other party of this Amendment.
- 5) Except as specifically amended herein, the remaining terms of the Agreement shall remain unmodified, binding upon Lessor and Lessee and remain in full force and effect.
- 6) No future amendment or modification to the Agreement shall be valid unless made in writing and agreed to and signed by the appropriate parties who have attested and executed the amendment or modification.

IN	WITNESS	WHEREOF, the	parties have caused th	his Amendment to	be executed on this
day of		, 2013.			

Site No: HFC0610 Site Name: 100 Sunset Ridge

DRAFT

LICENSOR: Town of East Hartford	LESSEE: MetroPCS Massachusetts, LLC, a Delaware limited liability company
Ву:	By: Bruce Martin
Title:	Title: VP and General Manager
Date	Date:

Site No: HFC0610 Site Name: 100 Sunset Ridge

DRAFT

Schedule I

Cabinet Expansion

(orrent Laure

SITE LICENSE AGREEMENT

THIS SITE LICENSE AGREEMENT (hereinafter "this License") is made binding this day of Acq, 2009 (hereinafter "Effective Date"), by and between The Town of East Hartford, 740 Main St., East Hartford, CT 06108, (hereinafter "Licensor") and YOUGHIOGENY COMMUNICATIONS -NORTHEAST, LLC d/b/a Pocket Communications, a Delaware limited liability company (hereinafter "Tenant"). Licensor and Tenant shall be collectively referred to herein as the "the Parties".

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

TERMS AND CONDITIONS

Description of Licensed Premises; Grant of License. Licensor is the owner or authorized licensor of real property, with said real property being described in Exhibit A, attached hereto and incorporated herein (hereinafter "Property"), and the tower located thereon (the "Tower") and hereby grants to Tenant a nonexclusive license to use certain ground space and such other space for the mounting of antennas on the Tower as is more specifically described in Exhibit B, attached hereto and incorporated herein (hereinafter "Premises"), together with non-exclusive rights of ingress, egress (over the Property, as may exist from time to time, which rights of ingress and egress lead to a public road,) and access to, in Tenant's reasonable discretion and subject o the terms of paragraph 16 (b) hereof., the existing source of electrical and telephone facilities. Nothing herein shall be deemed to require Licensor to: relocate, upgrade or otherwise improve existing utilities; or to provide Tenant with access to utilities other than those currently serving the Property. The Premises will be used by Tenant for the purpose of installing, removing, replacing, maintaining, modifying and operating, at its expense, a communications facility, related antennas, equipment, cable, wiring and fixtures as is more specifically described in Exhibit C, attached hereto and incorporated herein. Approval for changes to the communication facility as described in Exhibit C shall be obtained in accordance with the requirements of Section 4(B) of this License. Tenant shall be responsible at its sole cost and expense for obtaining any and all license, permits and approvals necessary for the operation of its equipment as specified on Exhibit C, including any approvals required by the Connecticut Siting Council.

The Premises are located at the following geographic coordinates:

19.1" (NAD 83) N. Latitude 35° 25.2" W. Longitude -72° (NAD 83)

This geographic description describes the following street address of the structure, a portion of which is the Premises:

Street:

100 Sunset Ridge Dr.

City:

East Hartford

State:

Connecticut

County:

Hartford

Licensor's Site ID:

Tenant's Site ID:

- Effective Date / Due Diligence Period. This Agreement shall be effective on the date of full 2. execution hereof ("Effective Date"). Beginning on the Effective Date and continuing until the Term Commencement Date as defined in Paragraph 3 below ("Due Diligence Period"), Tenant shall only be permitted to enter the Property for the limited purpose of making appropriate engineering and boundary surveys, inspections, and other reasonably necessary investigations and signal, topographical, geotechnical, structural and environmental tests (collectively, "Investigations and Tests") that Tenant may deem necessary or desirable to determine the physical condition, feasibility and suitability of the Premises. In the event that Tenant determines, during the Due Diligence Period, that the Premises are not appropriate for Tenant's intended use, or if for any other reason, or no reason, Tenant decides not to commence its tenancy of the Premises, then Tenant shall have the right to terminate this Agreement without penalty upon written notice to Landlord at any time during the Due Diligence Period and prior to the Term Commencement Date. Landlord and Tenant expressly acknowledge and agree that Tenant's access to the Property during this Due Diligence Period shall be solely for the limited purpose of performing the Investigations and Tests, and that Tenant shall not be considered an owner or operator of any portion of the Property, and shall have no ownership or control of any portion of the Property (except as expressly provided in this Paragraph 2), prior to the Term Commencement Date.
- 3. Term. This Agreement is deemed binding upon the date of execution by both Parties, provided however, this License shall become effective on the date Tenant obtains a permit for the construction of telecommunications equipment upon the Premises or one hundred eighty days (180) whichever is sooner (hereinafter "Commencement Date"), and this License shall continue in effect for a term (hereinafter "Initial Term") of five (5) years subject to early termination or extension as provided herein. This License shall be automatically renewed upon the same terms and conditions as set forth herein for two (2)) successive terms of five (5) years each (each, referred to hereinafter as a "Renewal Term"), unless written notification of Tenant's intent not to renew this License is received by Licensor at least ninety (90) days but not more than one hundred eighty (180) days prior to the date of expiration of the Initial Term or any Renewal Term.

4. Maintenance of Equipment by Tenant.

- (A) Tenant shall, at its own expense, maintain its equipment on or attached to the Premises in a safe condition, in good repair, and in a manner reasonably acceptable to Licensor so as not to conflict with the use of the Premises by Licensor or by any other tenant lawfully using the Premises as of the Commencement Date. All repair and maintenance of Tenant's equipment shall be performed by qualified technicians, authorized to enter the Premises as Tenant's agents, contractors or employees. Tenant shall make reasonable attempts to notify Licensor (to Licensor's designee responsible for the management of the Premises) prior to making entry to the Premises (each occurrence).
- (B) Any and all machinery, equipment and trade fixtures, except the electrical service installed by Tenant, shall remain Tenant's property notwithstanding the fact that it may be affixed or attached to the Property or the Premises, and shall, during the Initial Term or any Renewal Term, and upon termination or expiration thereof, belong to and be removable by Tenant. Tenant agrees that the Property and the Premises shall not be damaged by Tenant's occupancy. Tenant shall have the right to replace the equipment specified in Exhibit C with other "similar equipment", in which case, Tenant shall submit to Licensor a replacement Exhibit C for Licensor's written approval. "Similar equipment" shall include only equipment which operates on the same frequency(ies), is of substantially equal size, does not increase the number of antennas upon the Tower, does not materially increase windload upon the Tower, and does not occupy additional space within the equipment building.

- (C) All transmitters operated by Tenant upon the Premises shall include the use of, for example, a single stage isolator or a single bandpass cavity or such other devices which may reasonably prevent or deter the creation of harmful electrical interference. Licensor may determine, from time to time and as is reasonable and necessary, other similar requirements for safe, interference free operation of Tenant's equipment upon the Premises and Tenant shall comply with all such additional requirements provided Tenant has prior written notice thereof and such compliance is reasonably feasible and not cost prohibitive, in Licensor's reasonable discretion.
- (D) Tenant's equipment shall be installed and maintained in accord with the requirements specified in Exhibit D, attached hereto and incorporated herein.
- 5. Access. Tenant shall have non-exclusive access (ingress and egress 24 hours per day, 7 days per week) to the Premises during the Initial Term or any Renewal Term of this License for its purposes hereunder. Licensor warrants that it has the right to grant such access to Tenant under this License; however, the access granted hereunder will not be interpreted as a guarantee of Tenant's ability to enter or exit the Premises when weather conditions, road conditions and other elements outside of Licensor's control adversely affect Tenant's ability to enter the Premises. Tenant, including its agents, contractors and employees, shall be liable for all damages resulting from their use of the driveway and/or roadway extension as a result of damages stemming from Tenant's use, and Tenant agrees to pay to Licensor the cost of such repairs within ten (10) business days following written notification from Licensor of the cost.

6. Maintenance and Operation of Premises.

- (A) Licensor shall maintain the Premises and operate the telecommunications facilities thereon in such a manner as will best enable each tenant or operator thereon to fulfill its own requirements, but in accord with the covenants contained herein, including Licensor's agreement to maintain the Premises in a safe condition. Licensor shall not be liable to Tenant for any interruption of Tenant's service or for interference, including but not limited to electrical interference and interference created by intermodulation, with the operation of Tenant's equipment arising from Tenant's use of the Premises. Under no circumstances shall Licensor be liable for consequential damages to any party, including, but not limited to third parties, arising out of interruption of Tenant's service.
- (B) Licensor shall be solely responsible for compliance with all painting and lighting requirements arising out of operation of the Tower, in accord with the existing rules and regulations adopted or which might be adopted by the Federal Aviation Administration ("FAA") or the Federal Communications Commission ("FCC"). Licensor shall indemnify Tenant for all fines levied against Tenant for Licensor's failure to comply with such FAA and FCC rules and regulations. Notwithstanding any provision in this License to the contrary, Tenant shall be responsible for any painting, lighting, or maintenance requirements which arise out of or in connection with Tenant's particular use of the Premises. Any material alterations to Tenant's improvements must have Licensor's prior written approval; provided however, that Tenant's site plans are approved to the extent contained in Exhibit B.
- (C) Tenant agrees to cooperate fully in Licensor's efforts to maintain the peaceful occupation of the structure of which the Premises are a portion. Tenant's duty of cooperation shall include, without limitation: (i) maintaining the cleanliness of the Premises; (ii) constructing its equipment in a safe, reasonably quiet, and non-disruptive manner; (iii) assisting in maintaining the security of the Premises by reasonably limiting the number of persons with access to the Premises; and (iv) directing its employees to treat all other tenants with civility and courtesy.

- (D) Tenant shall perform or cause to have performed an intermodulation study to determine the potential for any harmful interference, and Tenant shall present to Licensor such study prior to commencing any installation at the Premises.
- (E) To the best of Licensor's knowledge the Tower has been constructed in accordance with all laws, rules, statutes, and regulations of all applicable governmental bodies. Licensor will operate and maintain the Tower (excluding any equipment from third parties located thereon) in accordance with all laws, rules, statutes, and regulations adopted or to be adopted by all applicable governmental bodies.
- As stated in Paragraph 17 hereof, Tenant shall have full and complete responsibility to correct within twenty-four (24) hours any electrical interference caused to other communications equipment operated on or at the Premises, which interference is caused by operation of Tenant's equipment and which cause is a result of a defect in Tenant's equipment. The term "defect" shall include any operation of Tenant's equipment which is not in accord with the technical parameters of any license issued by the FCC for operation of Tenant's facilities; any operation in variance with any equipment authorization granted by the FCC; any circumstance or condition which causes Tenant's equipment to operate in variance with the equipment manufacturer's guidelines or any Exhibit attached to this License; any operation of Tenant's equipment which does not conform with generally accepted practices of telecommunications engineering, including but not limited to, applicable ANSI standards which exist or come to exist; and any operation of Tenant's equipment which causes interference with the equipment of Licensor or any of Licensors tenants. If Tenant fails to employ reasonable industry standards to investigate and terminate the cause of the electrical interference within twenty-four hours,, Licensor may disconnect electrical power to Tenant's equipment without liability for damages. Notwithstanding the foregoing, Licensor will use its commercially reasonable efforts under the circumstances to contact Pocket's Representative by telephone prior to any actions involving Tenant's telecommunications equipment.

7. Rent.

- (A) Tenant shall pay to Licensor in equal installments of Two Thousand One Hundred and no/100's Dollars (\$2,100.00) (until increased as set forth in this License) per month, commencing on the Commencement Date of the License as provided in Paragraph 3, partial months to be prorated, with each subsequent payment due on the first calendar day of each month during the term of this License. The rent due hereunder will be increased on each anniversary of the Commencement Date to an amount equal to the amount of the monthly installment of rent payable during the preceding year increased by three percent (3%). All rental payments will be made to Licensor or its designee at its address provided herein. Tenant agrees to pay a late fee for all rent payments not timely made (more than ten (10) days past due) in an amount equal to ten and no/100's Dollars (\$10.00) per day or the greatest amount allowed under law, whichever is greater. Rental payments shall be due and owed in accord with this Paragraph 6 regardless of whether Licensor tenders an invoice to Tenant for same.
- (B) If Tenant fails to pay its rent following ten (10) days written notification from Licensor, and, and if Tenant's failure continues for an additional fifteen (15) days after Tenant's receipt of a second written notice from Licensor (which second notice may be given at any time after the expiration of the original 10-day period), Tenant shall be deemed to have materially breached this License. Notwithstanding all other remedies available at law or equity or contained herein, Licensor shall have the right to accelerate all rents and charges due to Licensor from Tenant for the remainder of the then-current Term of this License, discounted to present value using the Prime Rate, and Tenant shall pay same upon HFCT0610E

demand. The term "Prime Rate" shall mean the rate published as such in The Wall Street Journal (or any comparable publication selected by Licensor in its reasonable discretion if The Wall Street Journal ceases to publish such index). In the event that Tenant fails to perform such that Licensor accelerates charges under this Paragraph 6(B), Tenant shall be deemed to have waived its right to renew this License.

(C) All rental payments made to Licensor shall be deemed the sole and exclusive property of Licensor and shall not be subject to delay, offset, refund or placement in escrow for any reason or purpose, except such refunds or abatements as are specifically expressed herein.

8. <u>Indemnification and Insurance</u>.

- (A) Tenant shall indemnify Licensor against any and all claims and demands for damages to property and injury or death to persons, to the extent arising out of Tenant's activities under, or a breach of, this License or caused by the installation, maintenance, presence, use or removal of Tenant's equipment on the Premises, except to the proportional extent caused by the negligence or willful misconduct of Licensor, its employees, agents, and contractors. The indemnity obligations under this Paragraph 7 shall survive the expiration or earlier termination of this License.
- (B) Tenant shall obtain and maintain commercial general liability insurance in an amount equal to One Million Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury and property damage liability during the Initial Term of this License and any Renewal Term, covering Tenant's use of the Premises. Such insurance policy shall name Licensor as an additionally insured person. Tenant shall also maintain workers' compensation insurance covering all of Tenant's employees, and automobile insurance covering all of Tenant's vehicles in such amounts as are required by law. Upon request by Licensor, Tenant shall furnish Licensor certificates evidencing such insurance which shall provide that such insurance cannot be cancelled or altered without thirty (30) days prior written notice to Licensor.
- (C) Tenant and Licensor shall each be responsible for maintaining any insurance covering: (i) their own improvements, structures, property and equipment on the Premises; (ii) the lives and health of their respective agents, employees and invitees; (iii) damage or injury to other persons or other persons' property caused by the acts or omissions of their own agents, employees, or invitees; and (iv) any other business or liability insurance which each may deem necessary to protect their own interests.

9. Default.

(A) If either party is in default under this License: (i) with respect to Tenant for a period of ten (10) days following receipt of notice from Licensor with respect to a monetary default, or (ii) with respect to either party within thirty (30) days following receipt of notice from the non-defaulting party with respect to a default which may not be cured solely by the payment of money, then, in either event, the non-defaulting party may pursue any remedies available to it against the defaulting party under applicable law, including, but not limited to, the right to terminate this License. If the non-monetary default may not reasonably be cured within a thirty (30) day period, this License may not be terminated if the defaulting party commences action to cure the default within such thirty (30) day period and proceeds with due diligence to fully cure the default, which cure is effective within an additional twenty (20) days beyond the period for cure. Tenant's right to cure a default provided in this Paragraph 8 shall not apply to the timely payment of rents, as to which the cure periods of Paragraph 6, above, shall apply. In no event shall Licensor be responsible for consequential damages hereunder.

- (B) Tenant shall be deemed to be in default if Tenant causes to be placed upon the Premises any un-bonded lien or encumbrance, which lien has not been discharged or bonded over within thirty (30) days after receipt of notice for payment thereof and which placement delays, prevents or impedes Licensor's or third parties' use of the Property. Notwithstanding the foregoing, Licensor acknowledges that Tenant may have entered into a financing arrangement, including promissory notes and financial and security agreements, for the financing of Tenant's telecommunications facilities and the operation thereof. Accordingly, Licensor hereby consents to Tenant's installation and operation of Tenant's equipment, which is deemed collateral under the aforementioned financing agreement(s), and Licensor agrees that: (i) it disclaims any interest in the collateral, as fixtures or otherwise; and (ii) it shall hold as exempt such collateral from execution, foreclosure, sale, levy, attachment, or distress for any rent due or to become due and that such collateral may be removed by Tenant or pursuant to the terms of such financial arrangement(s) at any time without recourse to legal proceedings. Licensor's consent provided under this Paragraph 8(B) shall not be employed for the purpose of reducing any obligation of Tenant's created hereunder for the timely payment of rents.
- (C) Licensor will not, except in an emergency as shall be interpreted in Licensor's sole but reasonable discretion, cure any alleged default by Tenant until after the expiration of thirty (30) days following Tenant's receipt of notice provided for herein (or such longer time as may be necessary to cure the default as provided in this Paragraph 8) and then, only if Tenant has failed, during such period, to cure such default. Any and all reasonable costs that Licensor incurs as a result of curing such default (including reasonable attorney's fees) shall be due and payable by Tenant as additional rent to Licensor within thirty (30) days of Licensor's invoicing therefore.

10. Assignment of License.

(A) Tenant shall not assign this License without the prior written consent of Licensor, which consent will not be unreasonably withheld, conditioned or delayed; provided, however, Tenant may, without Licensor's consent, assign its interest in this License to any of its subsidiaries or affiliates ("Related Entities") or successor legal entities or to any entity acquiring substantially all of the assets of Tenant, which entity is deemed to be credit worthy in Licensor's reasonable discretion. Under no circumstances shall this License be assigned by Tenant to any party who does not agree to be bound by all terms and conditions contained herein and any such assignment shall be deemed void. Licensor reserves the right to demand and receive written confirmation from any assignee of Tenant's interest created herein that such assignee agrees to be bound to the terms and conditions of this License.

(B) Intentionally omitted...

- (C) Tenant covenants that it shall notify Licensor in writing of its assignment of this License within ten (10) days following such assignment. Following Licensor's receipt of notification of assignment and written confirmation of assignee's agreement to be bound hereunder, unless the assignment has been made to a Related Entity, Licensor shall look exclusively to assignee for all further performance hereunder and shall waive all claims against Tenant arising out of assignee's performance or non-performance hereunder.
- 12. Manner of Giving Notice. All notices and other communications hereunder shall be in writing and shall be deemed given (i) the same day if delivered personally; (ii) the next business day if sent by overnight delivery via a reliable express delivery service; or (iii) after five (5) business days if sent by certified mail, return receipt requested, postage prepaid; or (iv) the day receipt of notice is refused. All notices shall be delivered to the Parties at the following addresses (or at such other address for a party as HFCT0610E

shall be specified by like notice, provided that notice of address change shall be effective only upon receipt thereof);

Licensor:

Town of East Hartford

740 Main St.

East Hartford, CT 06108 Attention: Mayor

Phone:

860-291-7200

Facsimile:

860-282-2978

Tenant:

Youghiogheny Communications - Northeast, LLC

1 Federal Street

Bldg 111-1

Springfield, MA 01105

Attention:

Site Development

With a copy (not to constitute notice) to:

Youghiogheny Communications - Northeast, LLC

2819 NW Loop 410

San Antonio, TX 78230-5105

Attention:

General Counsel

Phone:

210-878-0527

East Hartford Police Department Manager- Sunset Ridge Tower Site 31 School St. East Hartford, CT 06108

Attn: Jeffrey Vannais 860-291-7568

- 13. Quiet Enjoyment. Licensor represents and agrees that Tenant is entitled to access to the Premises at all times and to the quiet non exclusive possession of the Premises throughout the Initial Term and each Renewal Term so long as Tenant is not in default beyond the expiration of any cure period. Licensor covenants and agrees that upon Tenant's paying the rent and other applicable charges and performing in accordance with the terms and conditions stated herein, Tenant may peacefully and quietly enjoy the Premises, subject to the terms and conditions of this License and subject to the rights of Omnipoint Communication, and other tenants, in and to the Tower and the Premises.
- 14. <u>Compliance with Statutes and Regulations</u>. Antennas, wires, equipment, and appliances of Tenant shall be erected, operated, and maintained in substantial accord with the requirements and specifications of the safety codes of the State where the Premises are located or any applicable jurisdiction or any amendments or revisions thereof, and in substantial compliance with any rules or orders now in effect, or that hereafter may be issued by the FCC or the Occupational Safety and Health Administration ("OSHA"). Tenant shall supply a copy to the Licensor of the Tenant's FCC license to operate at the Premises of the Licensor prior to commencing operation at the Premises.

15. <u>Termination</u>.

- (A) Tenant may terminate this License at any time by delivery of written notice to Licensor (the date of any such written notice of termination being hereinafter referred to as the "Termination Date") without further liability if: (i) despite Tenant's reasonable best efforts, Tenant does not obtain all permits or other approvals (collectively hereinafter, "Approval") required from any local or state governmental authority or any easements required from any third party to access or operate Tenant's equipment through no fault of Tenant; (ii) if any such Approval is canceled or terminated by and through no fault or delay by Tenant; or (iii) Licensor's authority to enter into this License and perform under this License is canceled or terminated.
- (B) Licensor may terminate this License immediately upon written notice to Tenant if any of the following occurs: (i) Tenant is declared bankrupt or files for bankruptcy protection or becomes the defendant in a suit for involuntary bankruptcy and such suit is not dismissed within sixty (60) days following filing thereof; (ii) Tenant causes any un-bonded lien to be placed on or against the Property or Premises, or the structures or appurtenances located thereon which is not satisfied and removed within thirty (30) days of written notice to Tenant thereof; (iii) Tenant is adjudged insolvent and a receiver is appointed to manage Tenant and/or its assets and such receiver is not dismissed within sixty (60) days thereafter; (iv) Tenant is found by a court of competent jurisdiction to have engaged in felonious activity in the operation of equipment at the Premises (v) Tenant remains in rental or other monetary default of this License for a period exceeding thirty (30) days from the applicable due date of such monetary obligation; or (vi) Tenant shall be in default of this Agreement as set forth in Paragraph 9 hereof. Termination by Licensor for the causes listed above shall not create a reduction, offset, or relief from liability of all charges due and owing Licensor which have accrued up to the time when termination is elected. If Licensor's authority to enter into this License and perform under this License is canceled or terminated, Licensor shall have the right to terminate this License.
- (C) Upon expiration or termination of this License, Tenant shall remove its equipment and improvements and restore the Premises to substantially the condition existing on the Commencement Date, except for ordinary wear and tear and damage from casualty or condemnation. Tenant's failure to remove its equipment within thirty (30) days following the expiration or termination of this License shall entitle Licensor to receive from Tenant storage fees in an amount equal to One Hundred Dollars (\$100.00) per day beyond such thirty (30)-day period, which amount is in addition to rents due hereunder. Any of Tenant's equipment stored at the Premises after said thirty (30) day period shall not be entitled to receive electrical power during such period of storage and Licensor shall have the right to discontinue power to all stored equipment from and after said period. Licensor shall also have the right, subject to and subordinate to the rights of all creditors, to remove Tenant's equipment and sell the same to satisfy unpaid monies due hereunder. Such disconnection by Licensor shall be without liability to Licensor.

16. Taxes and Utilities.

(A) Tenant will be responsible for payment of all personal property taxes assessed directly upon and arising solely from its use of the Premises. Tenant will pay to Licensor any increase in real property taxes attributable solely to any improvements to the Premises made by Tenant within sixty (60) days after receipt of satisfactory documentation indicating calculation of Tenant's share of such real estate taxes and payment of the real estate taxes by Licensor. Licensor shall employ reasonable best efforts to provide to Tenant prior written notification of all such taxes or assessments which are to be charged, so as to provide Tenant the opportunity to appear before the taxing authority and contest any such assessment. Licensor will pay when due all other real estate taxes and assessments attributable to the Property of which the Premises is a part.

- (B) Tenant will pay for all utilities used by it at the Premises, and will install a separate meter for such purposes. Licensor will cooperate with Tenant in Tenant's efforts to obtain utilities from any reasonable location.
- 17. <u>Compliance With Law Regarding Authority To Operate</u>. Tenant will comply with all applicable laws directly relating to Tenant's operation of and the improvements constructed by Tenant on the Premises. Except as specifically provided herein, the Parties shall be responsible for compliance with all laws, statutes and regulations for which their authority to operate radio equipment or operate the Tower or the Premises, as applicable to Tenant, is dependent.
- Interference. Tenant will resolve electrical or RF interference problems with other equipment 18. 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 upon renegotiations of rent. In the event Tenant's equipment causes such interference, Licensor, except in an emergency as shall be interpreted in Licensor's sole but reasonable discretion, shall notify Tenant in writing of such interference and Tenant will promptly take all steps necessary to correct and eliminate the interference. If such interference is determined by the Licensor to constitute a Public Safety emergency, Licensor may discontinue operation of Tenant's equipment immediately. Licensor shall make immediate notification to Tenant should this occur. If the Licensor deems that the interference does not constitute a Public Safety emergency, then Tenant shall have 24 hours following notification by Licensor to correct any problems. If such interference is not corrected within twenty-four (24) hours following notification (which notification may be by telephone) from Licensor to Tenant of the existence of such interference. Tenant agrees to cease its operations on the Premises, provided, however, Tenant shall have an additional thirty (30) days solely for the purpose of conducting intermittent tests of its equipment. Likewise, Licensor will not permit the installation of any future equipment which results in electrical interference problems with Tenant's then-existing equipment. Tenant shall promptly notify Licensor in writing if Tenant experiences any interference with its equipment. Notwithstanding anything to the contrary contained in this License, in the event additional equipment installed by Licensor or a third party creates unacceptable interference problems with Tenant's then-existing equipment and pursuant to this Paragraph 17 the interference problem cannot be resolved, Tenant may, as its sole remedy, terminate this License. If Tenant so terminates this License, Licensor shall not be entitled to any termination penalty or to retain any prepaid rent or any other, additional amounts as set forth herein.

19. Environmental Laws/Condition of the Premises.

- (A) As of the Commencement Date of this License: (i) Tenant hereby represents and warrants that it shall not use, generate, handle, store or dispose of any "Hazardous Material" (as defined below) in, on, under, upon or affecting the Property in violation of any "Environmental Law" (as defined below), and (ii) the Mayor hereby represents and warrants that: it has received no notice of the presence of any Hazardous Material located in, on, under, upon or affecting the Property in violation of any Environmental Law. and (iii) Licensor will not knowingly permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Material in, on, under, upon, or affecting the Property in violation of any Environmental Law. Notwithstanding the foregoing Tenant acknowledges that it has examined the Premises and the Tower hereby accepts the condition of the Premises and the Tower "as is", "where is" in all respects.
- (B) Without limitation of Paragraph 7, Tenant shall indemnify, defend and hold the Licensor harmless from and against all losses arising from (i) any breach of any representation or warranty made in this Paragraph 18; and/or (ii) environmental conditions or noncompliance with any Environmental Law HFCT0610E

that result from operations in or about the Property by Tenant or Tenant's agents, employees or contractors. The duties described in this Paragraph 18 shall apply as of the Commencement Date of this License and survive termination of this License.

- "Hazardous Material" means any solid, gaseous or liquid wastes (including hazardous wastes), regulated substances, pollutants or contaminants or terms of similar import, as such terms are defined in any Environmental Law, and shall include, without limitation, any petroleum or petroleum products or by-products, flammable explosives, radioactive materials, asbestos in any form, polychlorinated biphenyls and any other substance or material which constitutes a threat to health, safety. property or the environment or which has been or is in the future determined by any governmental entity to be prohibited, limited, or regulated by any Environmental Law.
- "Environmental Law" means any and all federal, state or local laws, rules, regulations, codes, ordinances, or by-laws, and any judicial or administrative interpretations thereof, including orders, decrees, judgments, rulings, directives or notices of violation, that create duties, obligations or liabilities with respect to: (i) human health; or (ii) environmental pollution, impairment or disruption, including, without limitation, laws governing the existence, use, storage, treatment, discharge, release, containment, transportation, generation, manufacture, refinement, handling, production, disposal, or management of any Hazardous Material, or otherwise regulating or providing for the protection of the environment.

20. Casualty and Condemnation.

- (A) If any governmental, public body or other condemning authority takes, all or part of the Property thereby making it physically or financially infeasible for the Property or the Premises to be used in the manner intended by this License, either party may elect to terminate this License as of the date of such taking by giving notice to the other within forty-five (45) days. If neither party elects to terminate this License, rent shall be abated in proportion to the actual reduction or abatement of use of the Premises,
- In the event that the Tower is damaged or destroyed by any casualty such that Tenant is unable to operate its equipment thereon, Licensor shall make an election within twenty (20) days following such event as to whether Licensor shall (i) make repairs or reconstruct the damaged portion of the Premises to enable Tenant to operate upon the Premises in substantially the same manner as Tenant enjoyed prior to the event of destruction; (ii) repair or replace the Tower only to the extent that it will accommodate Licensor's antenna and related communications equipment and terminate this Agreement with no further liability to Licensor hereunder; (iii) not make any repairs or replacement to the Tower and terminate this Agreement with no further liability to Licensor. Any election to reconstruct the Tower to enable Tenant to operate thereon, shall only be effective if Licensor is willing and able to make such repair or reconstruction within ninety (90) days following the making of the election; If Licensor elects to repair or reconstruct the Premises within the aforementioned ninety (90) day period, this License shall continue to bind the Parties, providing however, Licensor shall not be entitled to receive rents during the period commencing on the date of destruction and extending to the date of completion of the repairs or reconstruction such that Tenant can operate its equipment at the Premises. Licensor's failure to make an election during the thirty (30) day period following damage or destruction of the Premises shall be deemed an election by Licensor not to repair or reconstruct the Premises. Nothing contained herein shall be deemed a guarantee by Licensor to repair or reconstruct the Premises following destruction, Notwithstanding the foregoing, Licensor shall have no obligation to make repairs to Tenant's equipment or any portion of the Premises which is constructed for the sole use and enjoyment of Tenant (e.g. an enclosure constructed upon the Property by Tenant) and the destruction of same shall not result in any liability to Licensor or cause any abatement of rent, unless such destruction is due to the negligence or HFCT0610E 10

willful misconduct of Licensor.

- Force Majeure Events. Neither party shall be liable to the other for any failure of performance under this License due to causes beyond its control following a party's reasonable, commercial or regulatory diligence, including but not limited to, acts of God, fire, flood or other catastrophes, any law, order, regulation, direction, action or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over such party, or of any department, agency, commission, bureau, corporation or other instrumentality of any one or more of these federal, state or local governments, or of any civil or military authority; national emergencies, unavailability of materials or rights-of-way, insurrections, riots, wars, or strikes, lock-outs, work stoppages or other labor difficulties (collectively, "force majeure events"). In no event shall force majeure events excuse delay in the payment of rent or monetary obligation hereunder unless the force majeure events cause impossibility or impracticality of performance. In the event of any delay or inability to perform resulting from such causes, upon notice to the other party promptly following the occurrence of the event giving rise to the delay or nonperformance, the time for performance hereunder shall be extended for a period of time reasonably necessary to overcome the effects of such delays. Except as otherwise specifically provided herein, this shall constitute the sole remedy in the event of such delays.
- 22. Entire Agreement, Severability. This License embodies the entire agreement between the Parties. It may not be modified or terminated except as provided herein or by other written agreements between the Parties. If any provision herein is held by a court of competent jurisdiction to be invalid, it shall be considered deleted from this License, however, the remainder of this License shall survive and be deemed enforceable.
- 23. Recordable Memorandum of License. If requested by Tenant, Licensor agrees to promptly execute and deliver to Tenant a recordable Memorandum of this License. All costs associated with the preparation and filing of a Memorandum of this License shall be borne by Tenant.
- 24. <u>Parties Bound by Agreement</u>. Subject to the provisions hereof, this License shall extend to and bind the Parties and their heirs, executors, administrators, successors and assigns.
- 25. Governing Law. This License shall be interpreted and governed in accord with the laws of the State where the Premises are located, to which the Parties agree to submit for all jurisdiction, including without limitation personal jurisdiction.
- 26. <u>Headings</u>. The headings included herein are merely a matter of convenience and shall not be employed for the purpose of interpretation of the language contained herein.
- 27. Warranty of Signatories. The persons signing below warrant that they possess all actual and apparent authority to bind legally the party which they claim to represent, for all purposes related to performance in accord with the terms contained herein. The signing persons agree that they possess all authority, both actual and implied, to cause the party they represent to enter into and perform under this License for all purposes.
- 28. <u>Counterparts</u>. This License may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. Facsimile transmission of any signed original document or retransmission of any signed facsimile transmission shall be deemed the same as delivery of an original. At the request of either party, the HFCT0610E

Parties shall confirm facsimile transmission by signing a duplicate copy.

- 29. Capacity to Perform. Licensor warrants that it is an entity in good standing, authorized to do business within the state where the Premises are located and that it knows of no reason why it would lack the capacity to enter into this License and perform hereunder, including reasons arising under any statute, law, rule, regulation, contractual obligation, decision of any applicable government agency or forum, articles of incorporation, by-law, or pending or threatened litigation. Tenant warrants that it is an entity in good standing and that it is authorized to do business within the state where the Premises are located and that it possesses all authority, both actual and implied, to enter into and perform under this License. Tenant warrants that it knows of no reason why it cannot perform hereunder, including reasons arising under any statute, law, rule, regulation, contractual obligation, decision of any applicable government agency or forum, articles of incorporation, by-law, or pending or threatened litigation. Nothing in this Paragraph 29 should be construed as a representation by Licensor as to the legality of Tenant's use hereunder, the determination of which is the sole responsibility of Tenant, its representatives and or Tenant's counsel.
- 30. <u>Financing Agreement</u>. Tenant may, upon written notice to Licensor, mortgage or grant a security interest in the equipment to any such mortgagees or holders of security interests including their successors and assigns (hereinafter collectively referred to as "Secured Parties"). No such security interest shall extend to, affect or encumber in any way the interests or property of Licensor or the Tower nor shall any such agreement allow auctioning or other sale of the Equipment on the Property.

IN WITNESS WHEREOF, the Parties have executed this License intending to be legally bound to the terms and conditions contained herein.

LICENSOR:	WITNESS:
By: Maria A. Curry Name: Maria Melody A. Curry Its: Mayor Date: 8/7/09	By: <u>Jaha</u> J Name: <u>Tatia</u> Lewis
TENANT:	WITNESS:
Youghiogheny Communications - Northeast, LLC	_
By: Peure Por	By:
Name: Paul Posner	Name: AND MOON
Its: President	
Date: 6.70.09 HFCT0610E 12	

: ss: East Hartford

2009

COUNTY OF HARTFORD

On August 7, , 2009, before me, Tatia Lewis, Notary Public, personally	appeared
Melods H. Corred, personally known to me (or proved to me on the basis of s	
evidence) to be the person whose name is subscribed to the within instrument and acknowledge	ged to me
that they executed the same in their authorized capacity as Mochor	_, and that
by his signature on the instrument, the person, or the entity upon behalf of which the person ac	eted,
executed the instrument.	

My commission expires: 3-31-20113 COMMISSION EXPIRES MAR. 31, 2013

STATE OF TEXAS

: ss: San Antonio

2009

COUNTY OF BEXAR

On TULE 30, 2009, before me, MARY LOUIS ARMANY Notary Public, personally appeared, PAUL POSNER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity as President, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.



MARY LOUISE ALMANZA MY COMMISSION EXPIRES January 27, 2013

My commission expires:

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL PROPERTY

100 SUNSET RIDGE, EAST HARTFORD, CT

Beginning at an iron pipe set at the northeasterly corner of a one acre plot of land owned by Ethel C. Molumphy, thence northerly 3°10'40" east four hundred fifteen and one one-hundredth (415.01) feet to land of Ansel Arnold, thence northerly 82°49'20" west one hundred eighty-four and forty one-hundredths 184.40 feet, thence southerly 67°10'40" west twenty five (25) feet, more or less, to a point, thence southerly in a line parallel to the easterly line of said parcel of land three hundred seventy-five (375) feet, more or less, to an iron pipe at the northwesterly corner of land of said Molumphy, thence easterly along the northerly line of said Molumphy land two hundred twenty (220) feet to the point or place of beginning. Said Parcel of land is bounded as follows:

NORTHERLY and

EASTERLY by land now or formerly of Ansel Arnold; SOUTHERLY by land now or formally of Ethel C. Molumphy; and WESTERLY by land now or formerly of Levi P. M. Hickey, Trustee

Together With a right of way easement over Sunset Ridge Drive, a private roadway, and the right to use the pumping station equipment at the foot of Sunset Ridge Drive, and connect with all public utilities.

Licensor's Initials

Tenant's Initials Par

HFCT0610E

14

EXHIBIT B

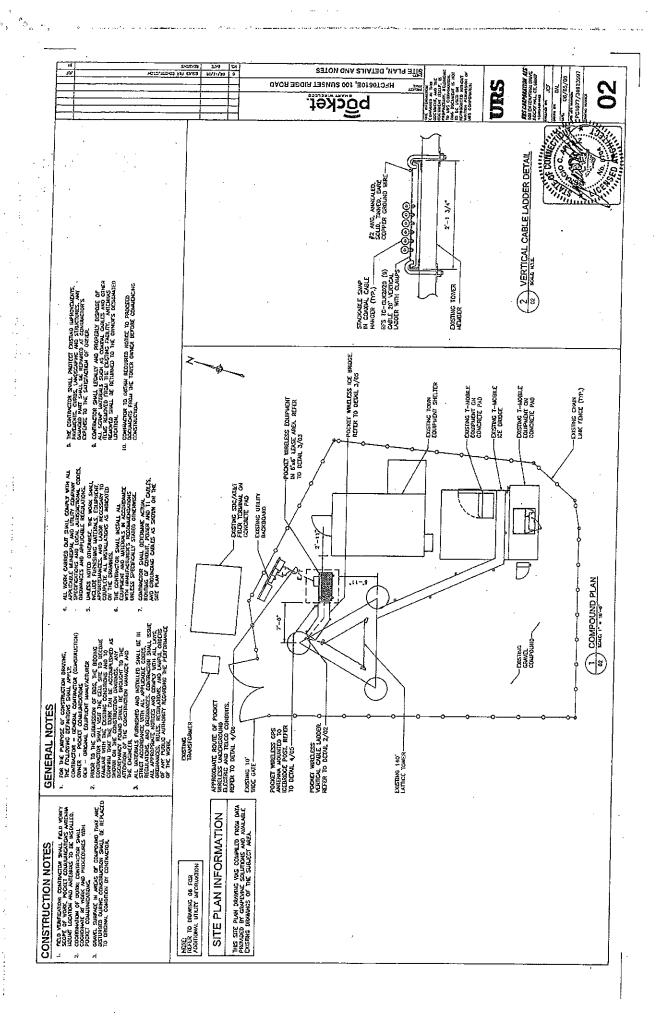
SITE PLAN AND SKETCH OF ANTENNAS LOCATED ON THE TOWER OWNED BY LICENSOR

Licensor's Initials

Tenant's Initials ferry

HFCT0610E

15



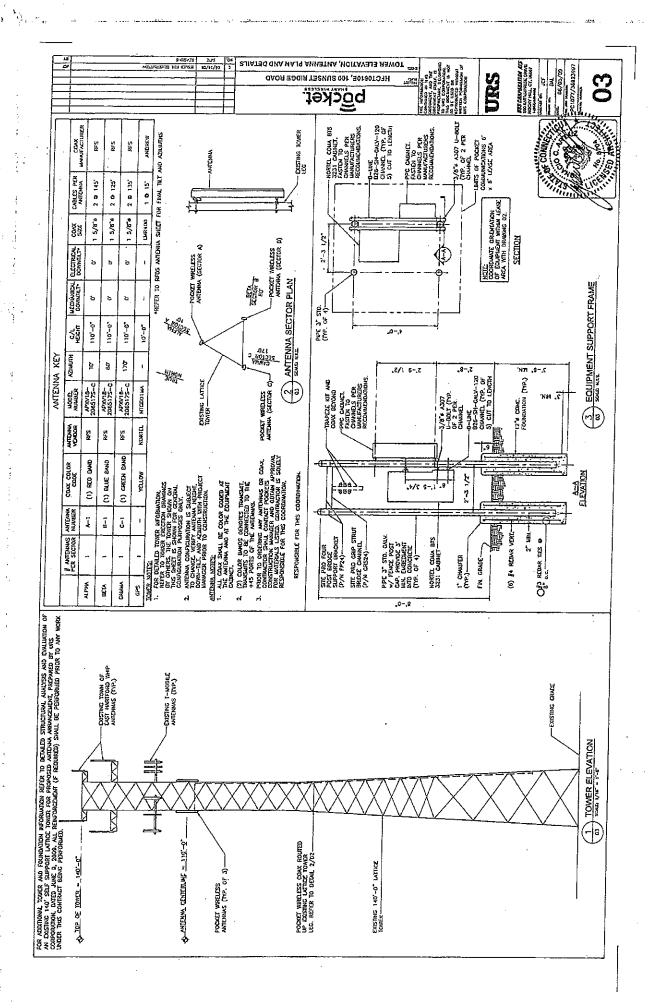


EXHIBIT C

DESCRIPTION OF TENANT'SEQUIPMENT LOCATION ON TOWER AND WITHIN COMPOUND

Tower (owned by Licensor):	140' - Lattice	
Туре:	Pirod	
Number of antennas:	Three (3) total, one (1) per secto	
Mounting:	Leg Mount	
Location of Antenna(s):	110' feet AGL	
Direction of Radiation:	10/80/170	
Operating Frequencies:		
(Rx)	1730.000 – 1739.950 MHz	
(Tx)	2130.950 - 2139.950.MHz	
Output Power per Channel:	18 watts	
ERP per Channel:	1850 watts	
Coax Cable Width:	1-5/8" (2 lines per antenna)	
Coax Cable Length:	<u>130'</u> feet	

Nortel 3231 Cabinet(s) located in a 6 foot by 6 foot lease area

Licensor's Initials Permant's Initials