

TO THE BOARD OF LAND AND NATURAL RESOURCES
MEETING OF JANUARY 8, 2021 RE AGENDA ITEM D1

InSite's Testimony Regarding General Lease No. S-3795

Chairperson and Members of the Board of Land and Natural Resources:

InSite appreciates this opportunity to testify. To visualize the disputed matter, InSite includes as Exhibit 1 a recent picture of InSite's tower located at the site.

While InSite is thankful for the assistance of Staff during the course of InSite's tenancy at the Ka Pele Tower Site, InSite believes it to be important to correct for the record certain facts presented in the Staff's report to the Board dated January 8, 2021 (the "Staff Report") and respectfully requests that the Board postpone its decision on Staff's recommendation.



EXHIBIT 1

InSite's Perspective on the History of the Ka Pele Tower Site

Since 2014, InSite has worked with Staff to regularize its occupancy under General Lease No. S-3795 and pay rent for its possession of the site. The background is succinctly stated in the letter from InSite's General Counsel, Roni Jackson, to Russell Tsuji dated September 28, 2020 ("InSite's September 2020 Letter"). A copy of that letter is attached to the Staff Report as Exhibit 6 and is attached hereto as Exhibit 2 for the Board's convenience.

InSite's September 2020 Letter was in response to a letter from Mr. Tsuji to Ms. Jackson dated May 18, 2020 (attached to the Staff Report as Exhibit 5). Despite Staff's failure to address the ground lease renewal from 2014, InSite was now requested to respond within 30 days during a time when COVID-19 shut down many in-person operations and businesses were running on skeleton staff to respond to business issues that often came up. Such was the position that InSite faced in which staff, working remotely, responded to a myriad of issues relating to its holdings. As such, while unfortunate, the unusual situation presented by the COVID pandemic caused an immaterial delay in InSite's response.¹

It should be noted that Mr. Tsuji's letter with an arbitrary 30-day response deadline came after InSite's good faith efforts to address the rent and occupancy issue for over a 5-year period since its December 30, 2014 acquisition of the site. In addition, InSite's thorough September 28, 2020 response caused DLNR no harm whatsoever as InSite consistently confirmed its obligation to pay a commercially reasonable rent for its occupancy of the site.

It also should be noted that during this same period, InSite was preparing to file its application with the Hawaii State Public Utilities Commission ("PUC") to obtain "public utility" status. Due to COVID, staffing issues with the Consumer Advocate's office and the PUC and problems with the PUC's website, InSite's filing was substantially delayed until end of summer through no fault of InSite. That application is still pending despite no objection or other position from the Consumer Advocate or the public to InSite's application.

According to the Staff Report, Staff began negotiating with Cingular on September 1, 2020 without notice to InSite.² Staff ultimately determined that it would recommend issuance of a new lease to Cingular instead of InSite.³

¹ In addition to her role as general counsel, Ms. Jackson played a material, operational role at InSite during the COVID Pandemic (as one of only two C-Level Team members resident in InSite's VA offices). This necessitated a "critical things first" approach which was necessary and appropriate.

² Attached as Exhibit 3 is the final clean version of the Communications License Agreement that AT&T and InSite exchanged regarding AT&T's desire to lease space on InSite's tower. Per Section 2(a), the commencement date was not anticipated to occur later than 12/1/2020, and per Section 3, the License Fee was to be \$2,900/mo. for the Equipment specified in Exhibit A. Section 17 expressly addresses the expired ground lease (see Paragraph 17(a)), and gives AT&T the right to terminate and a relocation allowance if InSite were to be unable to negotiate a replacement ground lease with DLNR (see Paragraph 17(b)). This presumably was how AT&T became aware of an opportunity for a direct lease with DLNR. If so, that would constitute tortious interference with InSite's prospective economic advantage. In any event, once AT&T is made aware that DLNR has no right to the tower, AT&T presumably would resume negotiations with InSite.

Staff incorrectly represents that InSite sought to avoid paying rent. Quite to the contrary, InSite brought the lease rent issue to the Staff's attention and has been in regular contact with Staff since 2014 to resolve this matter. As such, InSite is surprised by and disagrees with Staff's position that InSite is in default on the lease rent. In fact, in order to resolve this issue, InSite offered and eventually paid DLNR one hundred percent (100%) of the revenue received from the tower in question for InSite's entire period of ownership thereof - \$15,524.18 - as a gesture of good faith.

InSite's Ownership of the Tower

As Staff candidly concedes in the Staff Report, page 6, the Lease signed by InSite and the Board recognizes that the Lessee retained the improvements on the premises at the expiration of the lease.⁴ It may now be "current departmental policy" to prohibit interlineations on form leases, but that was not the case in 1963 when Lease S-3795 was issued.

The bifurcation of ownership—with DLNR owning the land and the Lessee owning the tower—made sense then and still makes sense today. While DLNR has unique expertise in managing State lands, it has no experience in owning or maintaining communications towers.

Staff always understood that InSite owned the Tower. InSite carefully and consistently made its ownership interest known. In this regard, the Staff report references a 2016 report prepared by Staff and provided to InSite on June 2, 2016 (the "2016 Report"). The 2016 Report is attached to the Staff Report to the Board (without an exhibit number). Therein, InSite asked Staff to set the rent, and reminded Staff that InSite owned the improvements on the site. Despite InSite's request to Staff to advise if InSite's understanding was incorrect, Staff never contradicted InSite's position.

Interestingly, the Staff Report expressly omits any reference to, or discussion of, the October 1, 2020 letter from InSite's counsel (the "October 2020 Letter").⁵ The October 2020 Letter again clearly states InSite's position as to its ownership of the tower and right to compensation therefore in the event that the parties failed to execute a replacement lease. Staff's recitation of the history of this matter fails to state a material fact in its omission of InSite's express challenge to Staff's conclusion that the deletion of the phrase "and improvements of whatever name or nature" from Section 15 of the Lease is not binding on the parties.

While Staff may argue that InSite's ownership of the tower somehow ceased when the stated lease term expired in 2013, this argument fails for two main reasons. First, Staff asserts that the State is entitled to rent on the site from InSite as a holdover tenant. If Staff maintains that the lease term expired in 2013 and right to occupancy therefore ceased at that time, then no

³ InSite agrees with Kauai Mayor Kawakami's concern for improvement of telecommunication services on Kauai. The most logical and expeditious way to achieve that goal would be for DLNR to finalize negotiations with InSite, the owner of the tower. Then FirstNet can provide those services as a licensee of InSite.

⁴ The Lease required the Lessee to build at its sole cost microwave and allied facilities at a total cost of not less than \$40,000.

⁵ A copy of that letter is attached hereto as Exhibit 4.

rent would be owed to the State. Second, Staff treated InSite as the occupant and continued to negotiate with InSite during this term. InSite, in good faith, engaged in those negotiations and relied on the Staff's representations that its occupancy was valid. During this time, InSite's ownership of the tower remained. It never relinquished its ownership interest. Quite to the contrary, in reliance of Staff's representations that InSite was a valid tenant, InSite has been leasing space on its tower to Hawaiian Telcom and has been making improvements.⁶ While we recognize Staff's desire to facilitate Cingular's installation at the tower, it is unfair and untenable for Staff to now maintain that occupancy was terminated in 2013. Staff's own behavior during the interim period clearly indicates otherwise, and Staff is estopped from taking a contrary position now.

It follows, therefore, that InSite maintains ownership of the tower and related improvements per the terms of the lease and must be compensated if the Board decides to terminate the ground lease and allow a new tenant to not only occupy the same area but to utilize and occupy InSite's facility. This compensation includes not only the value of the 50 foot self-support tower and the tower foundation, but also the value of work at the site that will inure to the State's benefit.⁷ In addition, any attempt by the State to conscript private property would constitute an unconstitutional and unlawful taking of private property under the 14th Amendment. By agreeing to the Staff's recommendation to "take" InSite's facilities for the State's own benefit and use without just compensation to InSite, this Board, along with staff, acting under the color of state law, would be depriving InSite of its rights, privileges and immunities guaranteed under the U.S. Constitution and in violation of 42 USC § 1983.

InSite's Proposal in Response to Staff's Recommendation

The practical solution to this dispute would be for the Board to issue a new lease on commercially reasonable terms to InSite as soon as its PUC application is granted. At that time (or before, with the Board's consent), InSite could enter into the Communications License Agreement that it has already negotiated with Cingular for the use of InSite's tower and carry out its anticipated business plan.

If the Board instead elects to proceed with a lease to Cingular, then it must compensate InSite for its tower and related site work before it can lawfully take possession of InSite's tower and lease it to Cingular. Rather than pay InSite directly, if the parties are able to reach agreement as to the amount due and owing to InSite, the Board could issue InSite a credit to be applied

⁶ A copy of InSite-Hawaiian Telcom's License Agreement is attached as Exhibit 5. Hawaiian Telcom's tenancy at the site is curiously not addressed by Staff's report to the Board and, as such, the Board may be unaware of same. Is DLNR proposing to accept the assignment of the InSite-HT Site License Agreement if it takes title to the tower?

⁷ The value of the tower, foundation and other improvements belonging to InSite would need to be determined via appraisal. InSite estimates that such may be in excess of \$200,000. Among the additional costs for which InSite would require compensation include the cost of the October 1, 2018 Structural Analysis Report commissioned by InSite to confirm the suitability of the tower for AT&T's proposed use thereof and the \$52,000 incurred by InSite in 2020 for the removal of the underground storage tank at the site.

It should be noted that Staff did not object to InSite's work to remove the UST or challenge its tenancy during this time. Had InSite known that Staff would question InSite's holdover tenancy, there would be no reason for InSite to undertake the expensive removal process.

InSite's Testimony Regarding General Lease No. S-3795

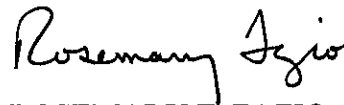
against rent that becomes due and owing for other communications towers owned by InSite on other DLNR land.

Conclusion

InSite appreciates this opportunity to participate in this matter and present this testimony to the Board members.

ASHFORD & WRISTON
A Limited Liability Law Partnership LLP

By



ROSEMARY T. FAZIO
NAOMI U. KUWAYE



September 28, 2020

VIA CERTIFIED MAIL
ADVANCE COPY VIA ELECTRONIC MAIL

Mr. Russell Y. Tsuji
Land Division Administrator
State of Hawaii
Department of Land and Natural Resources ("DLNR")
P.O. Box 621
Honolulu, HI 96809

Re: Your May 18, 2020 Correspondence re Expired General Lease No. S-3795 ("DLNR's Correspondence") – InSite Site No. HI029 Kapele

Dear Russell:

I hope that this letter finds you and family doing well during these challenging times. IWG II, LLC, an affiliate of and successor-in-interest to, InSite Towers Development, LLC ("collectively, "InSite"), acknowledges receipt of DLNR's Correspondence regarding General Lease No. S-3795 and respectfully offers the following in response:

1. InSite agrees and acknowledges that General Lease No. S-3795 dated November 26, 1963 between the State of Hawaii by its Board of Land and Natural Resources ("BLNR"), as Lessor, and Hawaiian Telcom, Inc., formerly known as Hawaiian Telephone Company ("Hawaiian Telcom"), InSite's predecessor-in-interest, expired on November 25, 2014 ("Lease No. S-3795" or the "Expired Lease" herein). InSite also agrees and acknowledges that BLNR consented to Hawaiian Telcom's assignment of the Lease to InSite pursuant to the terms of that certain Decision issued on October 24, 2014 as Agenda Item D-9 (the "BLNR Decision"), and that the annual rent specified in the Decision as applicable to Lease No. S-3795 is \$2,000.
2. Throughout 2015, InSite made a number of attempts to engage the DLNR Staff with respect to commencing negotiations for a replacement ground lease for Lease No. S-3795 (the "Replacement Lease"). However, the DLNR Staff, presumably occupied with more pressing matters, was unresponsive. In effort to move this matter forward, I contacted and began working with Kevin Moore of DLNR in June of 2016. Kevin advised as to the lengthy and complex nature of the auction process for a Replacement Lease (the "Auction Process") given that InSite Towers Development, LLC is not registered as a public utility with the Hawaii Public Utilities Commission (the "PUC").
3. As Kevin advised that the Auction Process could take a period of years, he recommended that InSite and BLNR enter into an interim license for use of the premises subject to Lease No. S-3795 (the "Premises") that would be retroactive to December 30, 2014, the date on which InSite acquired the communications tower site located on the Premises from Hawaiian Telcom (the "Interim License"). During my discussions with Kevin, I expressly inquired as to whether InSite should tender payment under the Expired Ground Lease prior to the issuance of the Interim License or Replacement Lease. **He advised that DLNR could not accept rent payments under the Expired Lease.**

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EXHIBIT 2



Mr. Russell Y. Tsuji
September 28, 2020
Page 2

4. In furtherance of Kevin's recommendation that InSite pursue the Interim License, he provided a draft submittal for presentation to the BLNR on which he requested InSite's feedback. A copy of the Draft Submittal reflecting InSite's limited comments is enclosed (the "Draft Submittal"). By his June 17, 2016 email, Kevin agreed that DLNR would present the Draft Submittal to the BLNR for consideration at its July 2016 meeting. However, **until receipt of your May 18, 2020 correspondence, InSite was entirely unaware that the Draft Submittal had never been placed on the BLNR's Agenda for review and decision.**
5. Because of the significant difficulty InSite experienced in getting the DLNR Staff to respond to our inquiries regarding the Interim License, InSite's counsel, Rosemary Fazio of Ashford + Wriston, and I requested a brief meeting with you and Blue Kanahe following the May 1, 2019 mediation in Honolulu pertaining to General Lease No. S-4588. You and Ms. Kanahe kindly obliged and advised that the finalization of the Replacement Lease could be expedited if InSite or one of its affiliates were to register with the Hawaii PUC as a public utility.
6. Presumably after you brought the matters that we discussed during the meeting discussed in the previous paragraph to Kevin Moore's attention, I received an email from Kevin dated July 10, 2019 in which he alleged, in direct contradiction to our conversations in 2016, that InSite owed "back rent" of \$2,000 per year under the Expired Lease in addition to the thirty percent (30%) revenue share referenced in the October 2014 BLNR Decision pertaining to rent received by InSite since December 30, 2014 under its Site License Agreement with Hawaiian Telcom (the "InSite-HT License Agreement"). Kevin was aware of the InSite-HT License Agreement as, to ensure transparency, I discussed it with him in 2016, specifically noting that: (i) Hawaiian Telcom was InSite's sole tenant at the Premises (this continues to be correct), (ii) the License Agreement commenced on December 30, 2014 with a 10 year initial term, and (iii) initial annual rent payable under the Agreement was \$2,400 with a three percent (3%) annual escalation. I responded to Kevin's aforementioned email on August 23, 2019, reminding Kevin that he had expressly instructed InSite not to tender payment to DLNR until the Interim License was issued. **Oddly, Kevin's email provided no explanation as to why DLNR did not present the Draft Submittal to BLNR or why DLNR failed to notify InSite of same.** Kevin's August 26, 2019 email in response to mine stated that *"the situation developed in large part because our Fiscal Office stopped issuing invoices for the lease, which was an oversight on our part."* With all due respect, this statement is in direct contradiction to DLNR's 2016 statement that it could not accept rent payments on an Expired Lease.
7. As you know, InSite greatly values its relationship with DLNR and has at all times acted with candor and in good faith in all dealings with DLNR. In furtherance of this course of conduct, I have enclosed a statement reflecting all rent payments received by InSite from Hawaiian Telcom, its sole tenant at the Premises, for the period December 30, 2014-December 29, 2020. As you will note, **the rents received for this six (6) year period total to \$15,524.18.**
8. As the result of its 2019 discussions with DLNR, InSite formed InSite Hawaii, LLC, a Delaware corporation ("InSite Hawaii") in July of 2019. InSite Hawaii qualified to do business in Hawaii in October 2019 and filed its Application for a Certificate of Authority with the Hawaii Public Utilities Commission on August 6, 2020 (the "Application"). If InSite Hawaii's application is approved, it will pursue a Replacement Lease with DLNR with respect to the Premises. However, the finalization of that Lease must include terms, including financial terms, that make sense for both parties. As you will note from the enclosed, confidential Tower Cash Flow or "TCF" calculations, after site operating and maintenance expenses (which do not yet include ground rent or a revenue share given that the Replacement Lease has not yet been negotiated), InSite nets only \$62.69 per month, \$752.28 annually, from operating the Premises. **While AT&T has expressed interest in co-locating on the Premises to the benefit of both DLNR and InSite, it will not commit to entering into a license agreement absent the finalization and execution of a Replacement Lease by InSite and DLNR.**

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Mr. Russell Y. Tsuji
September 28, 2020
Page 3

9. In the interim and while InSite awaits the PUC's decision on InSite Hawaii's PUC Application, InSite proposes as follows: not later than October 31, 2020, InSite will make a lump sum payment of \$7,762.09 to DLNR, which sum represents fifty percent (50%) of all rents received by InSite pertaining to the Premises for the period December 30, 2014 through December 29, 2020, in full and final settlement of the amount due for InSite's occupancy of the Site for such six year period. In the interim, DLNR and InSite will commence negotiations with respect to the Replacement Lease such that, upon the PUC's approval of InSite Hawaii's Application, the Replacement Lease would be complete pending only submission to the Board of Land and Natural Resources by the DLNR Staff for the Board's final review and approval.

InSite looks forward to working with DLNR toward a mutually-satisfactory resolution of this matter. I personally appreciate the opportunity to work with you and your team again on another transaction to the mutual benefit of DLNR and InSite.

Best regards,

A handwritten signature in black ink, appearing to read "Roni D. Jackson".

Roni D. Jackson
General Counsel
(m) (714) 396-1360
Roni.Jackson@insitewireless.com

Enclosures

cc: Kevin E. Moore/DLNR
Michael H. Ferreira/DLNR
Rosemary Fazio, Esq./Ashford + Wriston

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Market: Hawaii
Cell Site Number: HIL04129
Cell Site Name: Waimea 2 (HI)
FA Number:
Address: Kokee Rd., Waimea, HI

Site No.: HI029 Kapele RS
Licensor: IWG II, LLC

COMMUNICATIONS LICENSE AGREEMENT

This Communications License Agreement (“**Agreement**”) is entered into this _____ day of _____, 2019 (“**Execution Date**”), between **IWG II, LLC**, a Delaware limited liability company (“**LICENSOR**”) and **New Cingular Wireless PCS, LLC**, a Delaware limited liability company (“**LICENSEE**”).

1. Scope of License. Subject to the terms and conditions of this Agreement and the underlying Master Lease (as defined in Section 17, below), LICENSOR hereby grants permission to LICENSEE to install, maintain and operate the radio communications equipment, antennas, cable runs, electrical and communications equipment, equipment shelter(s) and other supporting equipment described in attached Exhibit A, annexed hereto (“**Equipment**”) at LICENSOR’s communication site described in Exhibit B, annexed hereto (“**Site**”), at the location described in Exhibit C, annexed hereto (“**Licensed Premises**”) together with the nonexclusive right to use, subject to the terms, conditions, and covenants of this Agreement, the rights-of way shown on Exhibit C for cable runs from the Tower (as defined in Section 2(a), below) to the ground space, ingress and egress and electric and telephone utility services. LICENSOR also grants LICENSEE a non-exclusive Right of Way two feet (2’) in total width immediately adjacent to the ground space for the purpose of installing, maintaining and operating grounding equipment (the “**Grounding Right-of-Way**”). LICENSEE shall have the right to use the Grounding Right-of-Way for any purpose not inconsistent with the rights granted herein; provided however, that LICENSEE shall not construct any buildings or other structures within the Grounding Right-of-Way. All of the above rights-of-way shall be in locations designated by LICENSOR (collectively, the “**Rights-of-Way**”), which Rights-of-Way LICENSOR may relocate at LICENSOR’s sole expense from time to time provided such relocation does not materially interfere with LICENSEE operations. LICENSOR and LICENSEE acknowledge that LICENSOR is unable to obtain utility service on behalf of LICENSEE and that LICENSEE is solely responsible for working directly with the utility companies to obtain utility service for the Licensed Premises; provided however, that all utility plans (including, without limitation, plans for the Grounding Right-of-Way) must be approved in writing by the LICENSOR in accordance with the installation of LICENSEE’s Equipment.

2. Term. (a) Subject to Section 17 below, the “**Initial Term**” of this Agreement shall be for a period of five (5) years beginning on the “**Commencement Date**” which shall be the earlier of: (i) the date of LICENSOR’s issuance, at LICENSEE’s request, of a notice authorizing LICENSEE to proceed with the construction of its Equipment at the Site (“**NTP**”); or December 1, 2020.

(b) Subject to Section 17 below, the “**Renewal Term(s)**” of this Agreement shall be three (3) additional periods of five (5) years each. The Renewal Term(s) shall commence automatically without further action on the part of LICENSOR or LICENSEE, unless LICENSEE delivers written notice to LICENSOR at least sixty (60) days prior to the expiration of the Initial Term or the then applicable Renewal Term of LICENSEE’s election not to renew. The Initial Term and any and all Renewal Terms exercised shall be collectively referred to as the “**Term**” hereinafter.

3. License Fee. Beginning on the Commencement Date, LICENSEE shall pay to LICENSOR a monthly fee of Two Thousand Nine Hundred and 00/100 Dollars (\$2,900.00) (the “**License Fee**”). The License Fee shall be payable in equal monthly installments in advance on the first day of each month to LICENSOR and shall be sent to the attention of IWG II, LLC, Re: HI029 AT&T, P.O. Box 759178, Baltimore, MD 21275-9178, or to such other address as designated in writing by LICENSOR. The License Fee shall be prorated for any partial month occurring during the then current term on the actual number of days in such month. LICENSOR agrees to provide LICENSEE with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by LICENSEE. For the administrative convenience of LICENSEE, LICENSOR hereby agrees to permit LICENSEE to deliver the initial payment of the License Fee no later than thirty (30) days following the Commencement Date.

(a) Effective on the anniversary of the Commencement Date of this Agreement during each year of the Initial Term and any Renewal Term(s) exercised, the then current License Fee payable by LICENSEE to LICENSOR shall be increased by an amount equal to three percent (3%) over the License Fee payable by LICENSEE for the preceding twelve (12) month period.

(b) LICENSEE shall pay any charges to install utilities and telco to the Licensed Premises, including emergency power generators, and shall be responsible for paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by LICENSEE at the Licensed Premises with such payments made directly to the applicable utility entity.

(c) If LICENSEE remains in possession of the Licensed Premises following the expiration of this Agreement, such tenancy shall be deemed to be a month-to-month license under the same terms and conditions of this Agreement, except that the License Fee

EXHIBIT 3

payable during such holdover period shall be one hundred fifty percent (150%) the License Fee payable during the last year of the immediately preceding term.

(d) LICENSEE shall pay when due of any personal property taxes or other taxes assessed against LICENSEE's personal property that is located within the Licensed Premises, and. LICENSOR shall pay all real property taxes and all other similar taxes and assessments in the amount(s) currently levied against the Site or personal property and improvements thereon owned and maintained by LICENSOR. LICENSEE shall pay, as an additional fee, to LICENSOR its pro-rata share of any increase in real property taxes and other similar taxes and assessments levied against the Site directly attributable to the improvements and/or Equipment of LICENSEE ("**Pro-rata Charges**"), and LICENSOR agrees to furnish proof of any such increase to LICENSEE. If applicable, LICENSEE further agrees to pay any sales or use tax assessed by local and/or state jurisdictions with respect to any revenues paid by LICENSEE to LICENSOR hereunder. LICENSOR agrees to provide LICENSEE, within thirty (30) days of receipt of the same, reasonable supporting documentation from the appropriate taxing authority and LICENSEE shall pay the Pro-rata Charges to LICENSOR for receipt no later than thirty (30) days before such are due to such taxing authority. If LICENSOR fails to provide such notice within such time frame, LICENSOR shall be responsible for all increases in taxes for the year covered by the assessment to the extent that LICENSOR's delay precludes LICENSEE from challenging such assessment with the appropriate government authorities. LICENSEE shall have the right, at its sole cost and expense, to contest all taxes, assessments, charges and impositions assessed against its personal property or improvements, and LICENSOR agrees to reasonably cooperate with LICENSEE in such a contest at LICENSEE's sole cost and expense.

(e) LICENSEE agrees that payment of License Fee shall be due and paid without the necessity of a demand or invoice from LICENSOR, and that LICENSEE shall pay as an additional fee a late charge equal to ten percent (10%) of any delinquent and unpaid portion of the then applicable License Fee delivered to LICENSOR more than ten (10) days after its due date, provided; however, LICENSOR shall not impose such late charge unless LICENSOR has provided written notice to LICENSEE of such failure and LICENSEE shall not have remedied such failure within ten (10) business days after written notice thereof from LICENSOR. All charges payable under this Agreement such as utilities and taxes shall be billed by LICENSOR within one (1) year of LICENSOR's receipt of an invoice; any charges beyond such period shall not be billed by LICENSOR, and shall not be payable by LICENSEE. The foregoing shall not apply to the License Fee. The provisions of the foregoing sentence shall survive the termination or expiration of this Agreement.

4. Governmental Approvals and LICENSEE'S Inspection of Licensed Premises. (a) The Licensed Premises shall be provided in "AS IS" condition by LICENSOR. LICENSEE has visited and inspected the Licensed Premises and accepts the physical condition thereof and acknowledges that no representations or warranties have been made to LICENSEE by LICENSOR as to the condition of the Licensed Premises, including the tower or towers, as the case may be, and/or the storage facilities, or as to any engineering data. LICENSEE is responsible for determining all aspects as to the acceptability, accuracy and adequacy of the Licensed Premises for LICENSEE's use. LICENSOR shall have no obligation to obtain licenses for LICENSEE, or to maintain, insure, operate or safeguard LICENSEE's Equipment.

(b) Notwithstanding subsection (a) above, LICENSOR represents and warrants that as of the Execution Date, LICENSOR has obtained all Governmental Approvals necessary for the construction and operation of the Site for the purposes contemplated herein, and that LICENSOR has completed construction of the Site.

5. Permitted Use, Installation, Operating Procedures. (a) The Licensed Premises may be used by LICENSEE for the transmission and reception of communications signals, including wireless communication purposes and uses incidental thereto. LICENSEE shall, at LICENSEE's expense, (i) conduct any and all engineering tests, environmental tests, and all other feasibility studies which LICENSEE deems in its sole discretion necessary or desirable for its use of the Licensed Premises, and (ii) obtain all licenses, certificates, permits, authorizations or approvals ("**Governmental Approvals**") from the applicable Governmental Authority(ies) necessary for LICENSEE's installation of its Equipment. LICENSOR agrees to reasonably cooperate with LICENSEE to obtain all required Governmental Approvals and any and all local public utility rights-of-way requested by LICENSEE, but shall not be responsible for incurring any out of pocket expenses in such regard. LICENSOR shall also provide LICENSEE with plans and Tower drawings upon request.

(b) LICENSEE shall have the right, at its expense, to install, construct, repair and maintain the Equipment on the Licensed Premises as defined and consistent with attached Exhibits A and C during the term hereof in compliance with all local, State and Federal regulations. All installations, operation and maintenance of Equipment must be in accordance with LICENSOR's policies as set forth in attached Exhibit D, annexed hereto ("**Installation and Maintenance Standards**"). Prior to the installation of LICENSEE's Equipment or any modifications, supplement, replacement, upgrade or relocation of the Equipment within the Licensed Premises at any time during the Term is subject to the following:

(i) LICENSEE shall have the right to undertake upgrades, modifications, changes, additions and substitutions to the Equipment and Licensee's initial frequencies (collectively "**Licensee Changes**") pursuant to the following:

- A. Licensee Changes of any equipment which will be located within LICENSEE's equipment shelter located on the Licensed Premises may be undertaken by LICENSEE upon prior written notice to LICENSOR, but without the need for LICENSOR's approval. Any Licensee Changes installed within

the equipment shelter of the Licensed Premises shall not result in an increase in the License Fee or any other direct or indirect cost to LICENSEE hereunder.

- B. For any LICENSEE Changes involving equipment, transmission lines or antennas attached to LICENSOR's Tower, the prior consent of LICENSOR shall be required to any such changes, such consent not to be unreasonably withheld, conditioned or delayed; provided in no event shall LICENSOR condition its consent upon an increase in the License Fee or other direct or indirect cost to LICENSEE hereunder unless the LICENSEE Change will result in (A) an increase the number of antennas attached to the Tower above twelve (12); or (B) an increase in the size, weight, wind-loading or surface area when compared to the equipment, transmission line or antenna which is being changed or replaced. If a Licensee Change involving equipment, transmission lines or antennas attached to the Tower would result in either (A) an increase in the number of antennas attached to the Tower above twelve (12); or (B) an increase in the size, weight, wind-loading or surface area when compared to the equipment, transmission line or antenna which is being changed or replaced, then LICENSOR shall have the right to condition its consent on a commercially reasonable increase in the License Fee payable by LICENSEE hereunder. Notwithstanding the foregoing, the parties agree that if, following the Execution Date of this Agreement, LICENSEE is required to add additional antennas attached to the Tower in order to comply with Applicable Laws, LICENSOR shall not condition its consent to the installation of such antennas upon an increase in the License Fee payable by LICENSEE hereunder to the extent that the installation of such additional antennas results in only a *de minimis* increase in: (1) the Equipment deployed by LICENSEE on the Tower; (2) the space occupied by LICENSEE's Equipment on the Tower; and (3) the wind-loading of the Tower, all as authorized by and set forth in Exhibit A to this Agreement. Additionally, for only those Licensee Changes which require LICENSOR's prior consent hereunder, LICENSEE shall reimburse LICENSOR for LICENSOR's reasonable out of pocket expenses (not to exceed One Thousand and 00/100 Dollars (\$1,000.00)) incurred in connection with such review and approval.
- C. LICENSEE shall have the right to add, change or modify the frequencies initially identified in Exhibit A upon written notice to LICENSOR, which notice shall, to the extent it relates to additional frequencies to be operated by LICENSEE at the Site, be accompanied by a copy of the FCC License(s) applicable to each such frequency evidencing that LICENSEE or any Affiliate of LICENSEE is the licensee thereunder, and subject to LICENSEE's strict compliance with LICENSEE's Interference covenants to LICENSOR under Section 6 of this Agreement.

(ii) All work performed at the Licensed Premises in connection with such installation, maintenance, operation, modification and removal of LICENSEE's Equipment shall be performed at LICENSEE's sole cost and expense by LICENSEE's employees or by contractors approved by LICENSOR, such approval not to be unreasonably withheld or delayed. The engagement of a contractor by LICENSEE shall not relieve LICENSEE of any of its obligations under this Agreement. In no event shall any approval by LICENSOR of the performance of work by a LICENSEE contractor(s) be the basis for an increase in the License Fee pursuant to this Agreement.

(iii) No work performed by LICENSEE, its contractors, subcontractors or materialsmen pursuant to this Agreement, whether in the nature of construction, installation, alteration or repair to the Licensed Premises or to LICENSEE's Equipment, will be deemed for the immediate use and benefit of LICENSOR so that no mechanic's lien or other lien will be allowed against the property and estate of LICENSOR by reason of any consent given by LICENSOR to LICENSEE to improve the Licensed Premises. If any mechanic's or other liens will at any time be filed against the Licensed Premises or the property of which the Licensed Premises is a part by reason of work, labor, services, or materials performed or furnished, or alleged to have been performed or furnished, to LICENSEE or to anyone using the Licensed Premises through or under LICENSEE, LICENSEE will forthwith cause the same to be discharged of record or bonded to the reasonable satisfaction of LICENSOR. If LICENSEE fails to cause such lien to be so discharged or bonded within thirty (30) days after it has actual notice of the filing thereof, then, in addition to any other right or remedy of LICENSOR, LICENSOR may bond or discharge the same by paying the amount claimed to be due, and the amount so paid by LICENSOR, including reasonable attorneys' fees incurred by LICENSOR either in defending against such lien or in procuring the bonding or discharge of such lien, together with interest thereon at the statutory rate, will be due and payable by LICENSEE to LICENSOR within ten (10) business days following LICENSEE's receipt of LICENSOR's invoice therefore, which invoice shall be accompanied by commercially reasonable substantiation of the costs incurred by LICENSOR.

(iv) All of LICENSEE's Equipment shall be clearly marked to show LICENSEE's name, address, telephone number and the name of the person to contact in case of emergency, FCC call sign, frequency and location. All coaxial cable relating to the Equipment shall be identified in the same manner at the bottom and top of the line. At LICENSOR's request, LICENSEE shall promptly deliver to LICENSOR written proof of compliance with all applicable Federal, State, and local laws, rules and regulations in connection with any installations or modifications of Equipment.

(c) LICENSOR agrees that LICENSEE shall have the right to nonexclusive access to the Licensed Premises over and across the Site (“**Access**”) twenty-four (24) hours per day, seven (7) days per week, for its testing and studies pursuant to Section 5(a) performed prior to the start of the Initial Term and during the Term for the purpose of ingress, egress, maintenance and operation of the Equipment and any associated utilities.

6. Interference. (a) The installation, maintenance and operation of the LICENSEE’s Equipment shall not cause harmful interference measurable in accordance with current industry standards (“**Interference**”) with the equipment, facilities or operations of LICENSOR or with any other licensee or sub-licensees at the Site on the Commencement Date, as long as such user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that if the installation or operation of LICENSEE’s Equipment results in Interference:

(i) with other radio communications systems and equipment installed prior to the Commencement Date of this Agreement, LICENSEE shall upon request (verbal or otherwise) immediately suspend its operations (except for intermittent testing) and do whatever LICENSOR reasonably deems necessary to eliminate or remedy such Interference. If it is determined that such Interference cannot be rectified by LICENSEE within thirty (30) days after written notice of said Interference, then LICENSOR may, at its option, terminate this Agreement upon written notice to LICENSEE. In the event LICENSOR elects to terminate this Agreement pursuant to the preceding sentence, LICENSEE shall remove the Equipment at its sole cost and expense and in accordance with Section 8 herein. Following any such termination of this Agreement by LICENSOR and LICENSEE’s removal of its Equipment in accordance with Section 8 herein, LICENSEE shall have no further payment obligations hereunder except for the payment of the License Fee and other charges that accrued prior to the effective date of the termination which remain unpaid as of such date; or

(ii) with any other radio communications systems and equipment installed at the Licensed Premises after the Commencement Date of this Agreement, LICENSEE shall cooperate fully with LICENSOR and any future LICENSEE or sub-licensee injured by LICENSEE’s Interference (“**Future Party**”) to remedy such Interference. LICENSEE shall cooperate with LICENSOR and assist in the cure of such Interference, provided, however, that all costs related to remedying such Interference shall be the responsibility of the Future Party, unless such Interference is due to failure, defects or deficiencies in LICENSEE’s system, Equipment, or installation caused by LICENSEE.

(b) LICENSEE hereby acknowledges that LICENSOR has licensed, and will continue to license, space at and upon the Site to third parties for the installation and operation of radio communication facilities. LICENSOR shall (i) not knowingly permit the installation of equipment or other facilities by any person or entity that installs its equipment at the Site and/or otherwise commences the transmission and reception of radio signals after the date of this Agreement (each a “**Future User**”) if such equipment, facilities or the operation thereof will cause Interference with (A) LICENSEE’s Equipment and/or (B) LICENSEE’s permitted use granted pursuant to Section 5, or (C) encroach onto LICENSEE’s Licensed Premises; (ii) require the inclusion of substantially similar to the interference cure language set forth above in Section 6(a) (the “**Interference Cure Provision**”) in any license or other agreement between LICENSOR and any Future User of the Site or any portion thereof; and (iii) to use good faith efforts to cause any Future User that causes Interference to remedy any such Interference, which efforts shall include, but not necessarily be limited to, the enforcement of the Interference Cure Provisions. In the event that such Future User causes Interference with LICENSEE’s Equipment or LICENSEE’s permitted use, and with respect to which LICENSOR has complied with its obligations in preceding sentence, then LICENSEE, as its sole remedies, in lieu of any and all other remedies at law, or in equity, may either:

(i) terminate this Agreement at any time thereafter by giving LICENSOR ten (10) business days prior written notice to that effect, and such termination shall be effective at the end of such ten (10) business day period, provided, however, that such termination will not be effective if LICENSOR causes such Interference to be substantially eliminated within such ten (10) business day period. Not later than fifteen (15) days following any such termination, LICENSEE shall pay LICENSOR any fees due for the period up to the termination of the Agreement. Any advance payments for periods after the termination of the Agreement will be reimbursed to LICENSEE; or

(ii) seek injunctive relief against LICENSOR from a court of competent jurisdiction, ordering LICENSOR to comply with the terms and conditions of this Section 6 and cause such interfering party to cease such interference. LICENSOR and LICENSEE agree that LICENSEE’s remedies pursuant to this Section 6(b) shall be limited to the termination of this Agreement or the filing of a claim for injunctive relief except in the event that LICENSOR fails to timely respond to LICENSEE’s notice of interference, and/or to diligently work in good faith to assist in eliminating such interference. In the event that LICENSEE brings an action against LICENSOR pursuant to this Section 6(b), and it is determined that LICENSEE has misidentified the interfering party and/or provided LICENSOR with defective interference information, LICENSEE agrees to indemnify and hold LICENSOR harmless from any claims, demands, or causes of action arising from such misidentification and/or defective interference information, including reasonable attorneys fees.

This Section 6(b) shall not limit the rights or remedies that LICENSEE may have with respect to the Future Users that cause Interference with LICENSEE's Equipment or permitted use granted pursuant to Section 5.

(c) Any dispute relating to the interpretation of this Section 6 pertaining to Interference shall be interpreted and resolved in accordance with applicable FCC rules, regulations and policies.

(d) LICENSOR reserves the right to require LICENSEE to relocate upon six (6) months notice, one or more of its antenna(s), and LICENSEE agrees to relocate said antenna(s) and/or tower equipment at LICENSOR's expense, provided that said relocation of LICENSEE's Equipment pursuant to this paragraph shall: (1) be performed at LICENSOR's cost and expense; (2) not result in the material interruption of the communications services provided by LICENSEE at the Licensed Premises; (3) not diminish the quality of the communications service provided by LICENSEE at the Licensed Premises; (4) be in a substantially similar configuration to the ground area previously occupied by LICENSEE's Equipment in the Licensed Premises, and provided that the relocated area shall not be smaller in size or less efficient for LICENSEE's use of the Licensed Premises; and (5) not result in an increase in LICENSEE's costs under this Agreement or increase LICENSEE's actual or potential liability or obligations to LICENSOR or Master Lessor (as defined in Section 17, below). The new location for LICENSEE's relocated antenna(s) and/or equipment must be to a mutually agreeable location. LICENSEE shall not unreasonably deny, delay or condition the approval for any proposed relocation.

7. Structural Modifications and Repairs. In the event LICENSOR, based upon reasonable technical evidence, determines that any structural modifications or repairs are needed to be made to any portion of the Licensed Premises due to LICENSEE's Equipment or improper installation or operations of the Equipment by LICENSEE, or other improvements made by LICENSEE, LICENSOR shall notify LICENSEE of the needed modifications or repairs, and the following procedures shall apply:

(a) If structural modifications are necessary prior to LICENSEE's installation or modification of the Equipment, then either: (i) LICENSEE shall, at its sole cost and expense, promptly make all such noticed modifications in accordance with Section 5 hereof; or (ii) If such noticed modifications are not completed within sixty (60) days of such notice either party shall have the right to terminate this Agreement by giving the other party thirty (30) days' prior written notice.

(b) If repairs are necessary due to the presence of LICENSEE's Equipment or due to improper installation or operations of the Equipment, LICENSEE shall, at its sole cost and expense, promptly make all such noticed repairs in accordance with Section 5 hereof; provided, however, that in the event of an emergency, LICENSOR shall have the right to make such modifications or repairs at LICENSEE's expense, upon notice to LICENSEE, and such sum shall be due within thirty (30) days of the rendering of an invoice as an additional fee hereunder. LICENSOR shall provide LICENSEE with reasonably advanced, written notice of normal, non-emergency work at the Site which may be performed by LICENSOR if such work is likely to have a material adverse effect on the use or operation of the Equipment or with LICENSEE's use of the Licensed Premises.

(c) If LICENSOR chooses to repair the Site and such repairs are likely to interrupt LICENSEE's operation of its Equipment, then LICENSEE may, subject to all applicable laws and regulations and subject to the prior written approval of the Master Lessor (if such approval by Master Lessor is deemed necessary), install a "cell-on-wheels" or similar temporary facility at a mutually agreed upon location at the Site until the completion of such repairs.

(d) During the Term, LICENSOR shall reasonably maintain the Site in a proper operating and reasonably safe condition in accordance with all Applicable Laws.

8. Removal of LICENSEE's Equipment. LICENSEE shall remove any and all of the Equipment within ninety (90) days of the expiration or earlier termination of this Agreement. Such removal shall be performed pursuant to the guidelines set forth in Section 5 of this Agreement, without any interference, damage or destruction to any other equipment, structures or operations at the Licensed Premises or any equipment of other licensee or tenants thereon. LICENSEE shall submit a removal plan for LICENSOR's written approval, such approval not to be unreasonably withheld, conditioned or delayed. Any and all interference or damage caused to the LICENSOR's equipment or equipment of other licensees or tenants by such removal shall be immediately repaired or eliminated by LICENSEE. If LICENSEE fails to make such repairs, at LICENSEE's sole cost and expense, within thirty (30) days after the occurrence of such damage, injury or interference, LICENSOR may perform all reasonable and necessary repairs at LICENSEE's cost and expense and such sum shall be due upon the rendering of an invoice as an additional fee hereunder not later than ten (10) business days following LICENSEE's receipt of LICENSOR's invoice therefore, which invoice shall be accompanied by reasonable substantiation of the costs incurred by LICENSOR.

9. Indemnification. (a) LICENSEE shall indemnify and hold LICENSOR harmless from (i) all costs of any damage done to LICENSOR's, Master Lessor's (as defined in Section 17 below), and/or other licensees' or tenants' facilities or equipment located at the Site, that occur as a result of the installation, operation or maintenance of LICENSEE's Equipment or other improvements; and (ii) any claims, demands, or causes of action for personal injuries, including any payments made under any workers compensation law or any plan of employee's disability and death benefits, arising out of LICENSEE's occupancy of the Licensed Premises or the installation, maintenance and operation or removal of LICENSEE's Equipment, except to the extent attributable to the negligence or willful misconduct of LICENSOR. LICENSEE shall not

be responsible or liable to LICENSOR for any loss, damage or expense occasioned by, through, or in conjunction with any acts or omissions of Master Lessor or any other licensees or tenants occupying the Site.

(b) LICENSOR shall indemnify and hold LICENSEE harmless from (i) all costs of any damage done to LICENSEE and its Equipment that occur as a result of LICENSOR's installation, operation or maintenance of Licensor's Tower, and LICENSOR's use or operation of the Site, or caused in whole or in part by the negligence or willful misconduct of LICENSOR, and (ii) any claims, demands, or causes of action for personal injuries, including any payments made under any workers compensation law or any plan of employee's disability and death benefits, arising out of LICENSOR's operations or use of the Site, or caused in whole or in part by the negligence or willful misconduct of LICENSOR. LICENSOR shall not be responsible or liable to LICENSEE for any loss, damage or expense occasioned by, through, or in connection with any acts or omissions of other licensees or tenants occupying the Site.

(c) LICENSEE shall also indemnify and hold LICENSOR harmless from any losses, liabilities, claims, demands or causes of action for property damage or personal injuries, including any payment made under any worker's compensation law or any plan of employees' disability and death benefits, arising out of or resulting from any claims, damages, losses, liabilities or causes of action resulting in any way from RF radiation emissions from LICENSEE's Equipment or any other harmful effect of LICENSEE's Equipment.

(d) Notwithstanding anything to the contrary in this Agreement, LICENSEE and LICENSOR each waive any claims that each may have against the other with respect to consequential, incidental or special damages including but not limited to lost income or profits, provided, however, that the License Fees and other sums to be paid to LICENSOR hereunder shall be deemed to constitute direct damages for which LICENSOR may seek recovery.

10. Damage or Destruction. LICENSOR and LICENSEE agree that LICENSOR shall in no way be liable for loss of use or other damage of any nature arising out of the loss, destruction or damage to the Licensed Premises or to LICENSEE's Equipment located thereon, by fire, explosion, windstorms, water or any other casualty or acts of third parties. In the event the Licensed Premises or any part thereof is damaged or destroyed by the elements or any other cause, LICENSOR may elect to repair, rebuild, or restore the Licensed Premises or any part thereof, to the same condition as it was immediately prior to such casualty. In such event, the payments required herein shall cease as of the date of such casualty until the Licensed Premises is restored to a usable condition for LICENSEE's operation. If LICENSOR chooses not to repair, restore or rebuild the Licensed Premises, LICENSOR shall send to LICENSEE a notice of cancellation of this Agreement within thirty (30) days of such casualty. If this Agreement is canceled, the payments required herein shall terminate as of the date of such casualty and LICENSEE shall not be obligated to pay a termination fee as referenced in Section 15. Additionally, LICENSOR shall refund to LICENSEE the License Fee and any other payments that pertain to any period(s) after the effective date of termination.

11. Condemnation. In the event that any public or quasi-public authority under a power of condemnation or eminent domain takes any part of the Licensed Premises or any access way required by LICENSEE for the conduct of its telecommunications facility, this Agreement shall terminate as of the date title to the Licensed Premises vests in the condemning authority. Sale of all or part of the Site to a purchaser with the power of eminent domain in the face of the exercise of that power shall be deemed a taking by condemnation. If any condemnation occurs within six (6) months prior to the expiration of the then current term of this Agreement, then this Agreement may be terminated by either party upon written notice to the other. LICENSEE may on its own behalf make a claim in any condemnation proceeding involving the Licensed Premises for losses related to its antennas, its equipment, its relocation costs and its damages and losses (but not for the loss of its license hold interest), provided that any award to LICENSEE will not diminish Licensor's recovery. Any advance payments for periods after the termination of the Agreement will be reimbursed to LICENSEE.

12. Insurance and Subrogation. (a) LICENSEE shall keep in full force and effect during the term of this Agreement commercial general liability insurance, including blanket contractual and completed operations coverage, with the limits of liability of Two Million Dollars (\$2,000,000.00) per occurrence and in the aggregate for bodily injury and property and worker's compensation with a limit of not less than the applicable statutory limit. Said insurance policy shall include LICENSOR as an additional insured and shall provide that LICENSEE will endeavor to provide LICENSOR at least thirty (30) days prior written notice of any cancellation in such insurance policy that is not replaced. Licensor's additional insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Licensee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of Licensor, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of Licensor, its employees, agents or independent contractors; and, (iii) not exceed Licensee's indemnification obligation under this Agreement, if any. Additionally, LICENSEE shall obtain a waiver of subrogation from its insurer on the policies listed above. LICENSEE shall be required to furnish to LICENSOR, prior to the installation of the Equipment, and for the duration of this Agreement thereafter, current certificates of insurance confirming that the insurance coverage as specified herein is in full force and effect. Notwithstanding the forgoing, LICENSEE may, in its sole discretion, self insure any of the required insurance under the same terms as required by this Agreement. In the event LICENSEE elects to self-insure its obligation under this Agreement to include LICENSOR as an additional insured, the following conditions apply: (i) LICENSOR shall promptly and no later than thirty (30) days after notice thereof provide LICENSEE with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide LICENSEE with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like;

(ii) LICENSOR shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of LICENSEE; and(iii) LICENSOR shall fully cooperate with LICENSEE in the defense of the claim, demand, lawsuit, or the like.

(b) Notwithstanding the foregoing insurance requirements, the insolvency, bankruptcy, or failure of any insurance company carrying insurance for LICENSEE, or failure of any such insurance company to pay claims accruing, shall not be held to waive any of the provisions of this Agreement or relieve LICENSEE from any obligations under this Agreement.

13. Notices. All notices, demands, requests or other communications which are required to be given, served or sent by one party to the other pursuant to this Agreement shall be in writing and shall be mailed, postage prepaid, by registered or certified mail, or forwarded by a reliable overnight courier service with delivery verification, to the following addresses for LICENSOR and LICENSEE or such address as may be designated thirty (30) days prior in writing by either party:

IF to LICENSOR: IWG II, LLC
ATTN: Legal Department
1199 N. Fairfax Street, Suite 700
Alexandria, VA 22314
(703) 535-3009
(703) 535-3051 FAX

with a copy to: InSite Wireless Group, LLC
ATTN: General Counsel
260 Newport Center Drive, Suite 421
Newport Beach, CA 92660
(949) 999-3319
(949) 999-3359 FAX

IF to LICENSEE: New Cingular Wireless PCS, LLC
ATTN: Tower Asset Group – Lease Admin.
Re: Cell Site Number: HIL04129
Cell Site Name: Waimea 2 (HI)
Fixed Asset No.:
575 Morosgo Drive NE
Atlanta, GA 30324

with a copy to: New Cingular Wireless PCS, LLC
ATTN: AT&T Legal Dept. - Network Ops
Re: Cell Site Number: HIL04129
Cell Site Name: Waimea 2 (HI)
Fixed Asset No.:
208 S. Akard Street
Dallas, TX 75202

Notice given by certified or registered mail or by reliable overnight courier shall be deemed delivered on the date of receipt (or on the date receipt is refused) as shown on the certification of receipt or on the records or manifest of the U.S. Postal Service or such courier service.

14. Default. (a) Any one or more of the following events shall constitute a default by LICENSEE (“LICENSEE Default”) under this Agreement: (i) the failure by LICENSEE to pay monetary amounts due under this Agreement within twenty (20) days after LICENSEE’s receipt of LICENSOR’s written notice thereof specifying the failure; (ii) If LICENSEE fails to observe or perform any non-monetary obligations under this Agreement and does not cure such failure within thirty (30) days from its receipt of written notice of breach or if the breach by its nature cannot be cured within said thirty (30) day period, LICENSEE shall not be in default if it commences curing within said thirty (30) day period and thereafter continuously and diligently pursues the cure to completion; (iii) prosecution of any case, proceeding or other action under any existing or future law of any jurisdiction, domestic or foreign relating to bankruptcy, insolvency, reorganization or relief with respect to LICENSEE, or seeking reorganization, arrangement, adjustment, winding-up liquidation, dissolution, composition or other relief with respect to LICENSEE or LICENSEE’s debts; or (iv) the making by LICENSEE of an assignment or any other arrangement for the general benefit of creditors under any state statute.

(b) In the event of a LICENSEE Default, LICENSOR shall be entitled at LICENSOR’s option to terminate this Agreement and in the event that LICENSEE does not remove its Equipment, improvements, personnel, or personal property from the Licensed Premises (except for wiring and cabling) within ninety (90) days of the effective date of any such termination of this Agreement, then LICENSOR shall have the right to remove all of LICENSEE’s Equipment, improvements, personnel or personal property located at the Licensed Premises at LICENSEE’s cost and expense. In the event that LICENSOR should, as a result of the LICENSEE Default, incur any costs or expenses on behalf of LICENSEE or in connection with LICENSEE’s obligations hereunder, such sums shall be immediately due to LICENSOR upon rendering of an invoice to LICENSEE as an additional fee hereunder.

(c) At any time or from time to time after the removal of the LICENSEE’s property from the Licensed Premises pursuant to Section 14 (b) above, whether or not the current term of this Agreement shall have been terminated, LICENSOR may (but shall be under no obligation to) re-license LICENSEE’s former space at the Licensed Premises, or any part thereof, for the account of the LICENSOR, for such term or terms (which may be greater than or less than the period which would otherwise have constituted the balance of the current term) and on such conditions (which may include concessions or free rent) and for such uses as LICENSOR, in LICENSOR’s absolute discretion, may determine, and may collect and receive payments therefrom. LICENSOR shall not be responsible or liable for any failure to re-license LICENSEE’s former space at the Licensed Premises or any part thereof or for any failure to collect any payments due upon any such re-licensing.

(d) No LICENSEE Default pursuant to this Section 14, by operation of law or otherwise (except as expressly provided herein), no removal of LICENSEE’s property from the Licensed Premises pursuant to the terms of this Agreement, and/or no re-licensing of

LICENSEE's former space at the Licensed Premises shall relieve LICENSEE of LICENSEE's obligations or liabilities hereunder, all of which shall survive such LICENSEE Default, removal and/or re-licensing. Without limiting the foregoing, upon LICENSEE's removal from the Licensed Premises pursuant to this Section 14, LICENSEE shall nonetheless remain liable for all license fees and other payments hereunder for the remainder of the then-current term subject to LICENSOR's duty to mitigate damages and any other obligations as may be imposed under Applicable Laws.

(e) All of the rights, powers, and remedies of LICENSOR provided for in this Agreement or now or hereafter existing at law or in equity, or by statute or otherwise, shall be deemed to be separate, distinct, cumulative, and concurrent. No one or more of such rights, powers, or remedies, nor any mention or reference to any one or more of them in this Agreement, shall be deemed to be in the exclusion of, or a waiver of, any other rights, powers, or remedies provided for in this Agreement, or now or hereafter existing at law or in equity, or by statute or otherwise. The exercise or enforcement by LICENSOR of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise or enforcement by LICENSOR of any or all of such other rights, powers, or remedies.

(f) LICENSOR shall be in default ("**LICENSOR Default**") under this Agreement in the event (i) of the failure by LICENSOR to pay any monetary amounts due under this Agreement within ten (10) business days after LICENSOR's receipt of written notice from LICENSEE specifying the failure; (ii) that LICENSOR fails to perform any of its material obligations under this Agreement and such failure continues for thirty (30) days after receipt of written notice from LICENSEE specifying the failure. No such failure, however, will be deemed to exist if LICENSOR has commenced to cure the default within such period and continuously and diligently pursues the cure to completion. In the event of a LICENSOR Default, (i) LICENSEE shall have the right to exercise any and all rights available to it under law and equity, including the right to cure LICENSOR's Default and to deduct the commercially reasonable costs actually incurred by LICENSEE in effectuating such cure from any monies due to LICENSOR from LICENSEE; (ii) at LICENSEE's option, to terminate this Agreement and to remove all of LICENSEE's Equipment, improvements, personnel or personal property located at the Site. LICENSEE shall pay LICENSOR any fees due for the period up to the termination of the Agreement. Any advance payments for periods after the termination of the Agreement will be reimbursed to LICENSEE.

15. Termination. Notwithstanding the foregoing, in the event that (a) LICENSEE does not obtain, fails to obtain renewals of or has revoked, through no fault of LICENSEE, any license, permit or other approval required by the Federal, state or local government for the construction and operation of the Equipment (at LICENSOR's request, LICENSEE shall provide to LICENSOR documentation evidencing LICENSEE's failure to obtain, or loss of, any such required license, permit or approval); or (b) it is determined by LICENSEE in good faith, after the expiration of the Initial Term, that the Site is no longer suitable for use as a telecommunications facility due to bona fide technological changes (non-economic) or changes in environmental conditions that have a material, adverse impact on LICENSEE's use of the Site and which cannot be reasonably remedied in a cost-effective manner, LICENSEE shall have the right to terminate this Agreement by giving LICENSOR ninety (90) days prior written notice. In addition, if LICENSEE terminates this Agreement pursuant to this Section 15, LICENSEE shall pay to LICENSOR, together with such termination notice, a termination fee equal to twelve (12) months of the monthly License Fee then in effect under this Agreement, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by LICENSEE under any one or more of Sections 6(b), 7, 11, or 14(f) of this Agreement.

16. Assignment and Sublicensing. (a) LICENSOR reserves the right to assign, transfer, mortgage or otherwise encumber the Licensed Premises and/or its interest in this Agreement. LICENSEE shall upon written notice execute and deliver to LICENSOR such further mutually agreeable instruments subordinating this Agreement, as may be reasonably required by LICENSOR in connection with LICENSOR's contemplated transaction.

(b) Except as expressly authorized in this Section 16(b), LICENSEE may not assign, transfer, encumber its interest in this Agreement, or otherwise share (except as expressly authorized in this Section 16(c) below) in whole or in part, any portion of the Licensed Premises or LICENSEE's operations therefrom without the prior written consent of LICENSOR, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, LICENSOR agrees that LICENSEE may assign this Agreement, upon written notice to LICENSOR but without LICENSOR's consent, to (i) any Affiliate (as defined below) of LICENSEE; or (ii) any entity acquiring all or substantially all of the assets of LICENSEE in the market where the Site is located, as defined by the FCC, including any such assignment by reason of a merger, acquisition or other business reorganization; provided, however, such assignment shall not relieve LICENSEE of its obligations under this Agreement. The term "**Affiliate**" means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, or is controlled by, or is under common control with that party. The term "**control**" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency, or otherwise.

(c) Except (i) to any Affiliate of LICENSEE, or (ii) in the limited instance of roaming agreements between LICENSEE and other wireless carriers that are not licensed by the FCC to provide cellular, PCS, or other similar wireless services in the greater Waimea area, LICENSEE may not sublicense, share or utilize, in whole or in part, its Equipment, its frequencies or all or any part of LICENSEE's interest in this Agreement at any time.

17. Master Lease. (a) LICENSEE hereby acknowledges that LICENSOR leases the Site pursuant to that certain General Lease No. S-3795 dated November 26, 1963, as amended by that certain Board of Land and Natural Resources Authorization PSF No.: 13KD-154 dated December 13, 2013 (hereinafter collectively referred to as "Master Lease"), between the State of Hawaii, Department of Land and Natural Resources (hereinafter referred to as "Master Lessor") and LICENSOR, successor in interest to Hawaiian Telcom, Inc. This Agreement shall be subject and subordinate to the Master Lease, and to the matters to which the Master Lease is or shall be subject and subordinate. Nothing contained in this Agreement shall be construed to create privity of estate or of contract between LICENSEE and Master Lessor. If for any reason the term of the Master Lease shall terminate prior to the expiration date of this Agreement, this Agreement shall thereupon be automatically terminated and except for any breach of any representation or warranty set forth herein by LICENSOR, LICENSOR shall not be liable to LICENSEE by reason thereof.

(b) Notwithstanding anything in this Agreement to the contrary, LICENSEE acknowledges and agrees that the Master Lease has expired and that LICENSOR is currently holding over under the Master Lease. LICENSOR will use commercially reasonable efforts to reach a new agreement with Master Lessor on terms and conditions reasonably acceptable to LICENSOR for the extension, renewal and/or replacement of the Master Lease. LICENSOR specifically disclaims any representation or warranty to LICENSEE as to the likelihood of success in obtaining such extension, renewal or replacement agreement. Should LICENSOR's holdover status be terminated and should LICENSOR be unable to extend, renew and/or replace the Master Lease in accordance herewith, LICENSEE may, upon written notice to LICENSOR, elect to terminate this Agreement, which termination will be effective upon delivery of such written termination notice (the "Termination Right"). In the event that LICENSEE elects to exercise the Termination Right, then LICENSOR shall reimburse LICENSEE for its documented and commercially reasonable relocation costs, such reimbursement not to exceed (i) \$50,000 for any termination effective during years 1-5 of the Agreement, and (ii) \$25,000 for any termination effective during years 6-10 of the Agreement. LICENSEE shall not be entitled to any reimbursement for commercially reasonable relocation costs at any time after the 10th year of the Agreement. Notwithstanding the foregoing, LICENSEE shall not be entitled to any relocation reimbursement if LICENSEE has not completed the initial installation of its Equipment prior to exercising the Termination Right. In the event LICENSOR is successful in obtaining such extension, renewal or replacement agreement following its receipt of LICENSEE's Termination Notice, but prior to LICENSEE's vacation of the Site, then LICENSOR shall provide written notice of such resolution to LICENSEE, and LICENSEE shall no longer have the Termination Right as of the date of receipt of such notice and this Paragraph 17(b) will no longer be in force or effect.

18. Compliance with Laws and Warranties. (a) LICENSEE shall maintain and operate its Equipment during the term of this Agreement in compliance with all present and future rules and regulations of any local, State or Federal authority having jurisdiction with respect hereto, including without limitation, the rules and regulations of the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA") and the Occupational Safety and Health Administration ("OSHA").

(b) LICENSEE and LICENSOR each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(c) Subject to the terms of this Agreement, LICENSOR covenants and agrees that at all times during the Term, LICENSEE's quiet enjoyment of the Licensed Premises shall not be disturbed so long as LICENSEE is not in LICENSEE Default (as defined in Section 14(a) above) under the terms of this Agreement. LICENSOR further covenants during the Term that there are no liens, judgments, restrictions or other impediments on LICENSOR's interest in the Tower or the Site that prevent or have a material, adverse effect upon LICENSEE's use of the Tower or the Site in the manner contemplated by this Agreement.

(d) LICENSOR represents, warrants and agrees that: (i) LICENSOR solely owns all of the right, title and interest of the Lessee under the Master Lease; (ii) to LICENSOR's knowledge, the Master Lease is not encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect LICENSEE's use and enjoyment of the Licensed Premises under this Agreement; (iii) LICENSOR solely owns the Tower and to LICENSOR's knowledge, the Tower is not encumbered by any liens, restrictions, covenants, conditions, easements, or any other agreements of record or not of record, which would adversely affect LICENSEE's use and enjoyment of the Licensed Premises under this Agreement; and (iv) to LICENSOR's knowledge, as of the date of LICENSOR's delivery of the Licensed Premises to LICENSEE, the Licensed Premises are in compliance with all Applicable Laws.

(e) With respect to the Master Lease, LICENSOR further represents and warrants to LICENSEE that: (i) as of the Execution Date, LICENSOR has not assigned or hypothecated any of its rights, title or interest under the Master Lease to any third parties independently of LICENSOR's granting of a security interest in all of LICENSOR's assets to LICENSOR's lender; (ii) as of the Execution Date, to LICENSOR's knowledge, neither Master Lessor, under the Master Lease nor LICENSOR is, or with the giving of notice, or passage of time (or both), will be in default under any of the terms or conditions of the Master Lease; (iii) as of the Execution Date that the Master Lease attached as Exhibit E and except for the redaction of the basic economic terms between LICENSOR and Master Lessor, constitutes the entire agreement between Master Lessor and LICENSOR, and there are no written or oral amendments thereto; (iv) during the Term of this Agreement, LICENSEE shall not be responsible directly or indirectly for any cost, expense or liability under the Master Lease unless expressly set forth in this Agreement including the specific section reference in the Master Lease;

and (v) during the Term, LICENSOR shall timely perform and comply with all of the terms covenants and conditions of the Master Lease.

19. RF Emissions Compliance. (a) LICENSEE is aware of its obligation to comply with all applicable rules and regulations of the FCC pertaining to RF emissions standards, as well as all applicable rules and/or regulations of any other federal or state agency (including but not limited to OSHA) having jurisdiction over the installation, operations, maintenance and/or working conditions involving RF emissions and/or safety and work standards performed on or near communication towers and antenna Licensed Premises. LICENSEE agrees to be solely responsible for compliance with all applicable FCC and other governmental requirements with respect to installation, operation and maintenance of its Equipment and for repairs to its Equipment at the Licensed Premises. LICENSEE will immediately remedy its operations to comply with such laws, rules and regulations as they apply to its operations and/or the operations of all licensees and users taken in the aggregate at the Licensed Premises.

(b) LICENSEE shall take all commercially reasonable steps required to cooperate with all licensees and users at the Licensed Premises to comply individually and in the aggregate with all applicable FCC and other governmental RF emissions standards. In this respect, LICENSEE agrees to pay LICENSOR its pro rata share of the cost of any engineering studies, to be conducted no more frequently than one (1) time in any consecutive twelve (12) month period unless required more frequently under Applicable Laws, at the request of the LICENSOR at the Licensed Premises, involving measurement and RF emissions compliance pertaining to the Licensed Premises.

20. Replacement and Renovation of Tower. LICENSOR reserves the right, in its sole discretion, to renovate, replace or rebuild the Tower, building or shelter and related improvements thereof. In such event, LICENSOR shall provide LICENSEE with tower space suitable to allow LICENSEE to continue to operate the Equipment in a substantially similar manner during any such construction period. LICENSOR shall be solely responsible for the costs associated with such renovation, replacement, or rebuilding of the Tower, building or shelter and related improvements and the removing and re-installing the Equipment. LICENSOR reserves the right to erect one or more towers on the Licensed Premises. LICENSEE shall have the right to establish a temporary facility on the Licensed Premises at no additional cost to LICENSEE to provide such services as LICENSEE deems necessary during any such renovation, replacement or reconstruction by LICENSOR for so long as adequate space is available and such temporary facility does not interfere with such construction or use by the other licensees, tenants and customers on the Licensed Premises. The location of such temporary facility shall be subject to LICENSOR's approval, which shall not be unreasonably withheld, conditioned or delayed.

21. Waiver of LICENSOR's Lien. LICENSOR waives any and all lien rights it may have, statutory or otherwise, concerning LICENSEE's Equipment which shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law and LICENSOR consents to LICENSEE's right to remove, pursuant to Section 8 of the Agreement, all or any portion of the Equipment from time to time in LICENSEE's sole discretion.

22. Environmental. (a) LICENSOR has no actual knowledge of, and has not received notice of, the disposal or release or presence of Hazardous Substances, as defined below, at the Licensed Premises, or any past, present or future events, conditions or circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent compliance or continued compliance on the part of LICENSOR in any material respect with any Environmental Laws, or may give rise to any material common law or legal liability, or otherwise form the basis of any material claim, action, demand, suit, lien, proceeding, hearing, study, or investigation, based on or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling, or the emission, discharge, release or threatened release into the environment of any Hazardous Substance.

(b) To LICENSOR's actual knowledge, there is no pending or threatened litigation against LICENSOR or Master Lessor pertaining to the Site or the real estate on which the Site is located, and LICENSOR knows of no facts or circumstances that might give rise to, any civil, criminal, or administrative action, suit, demand, claim, hearing, notice or demand letter, notice of violation, environmental lien, investigation, or proceeding relating in any way to Environmental Laws.

(c) LICENSEE has no actual knowledge of, and has not received notice of, the release or presence of Hazardous Substances, as defined below, at the Licensed Premises related to LICENSEE's Equipment to be installed at the Licensed Premises, or any past, present or future events, conditions or circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent compliance or continued compliance on the part of LICENSEE in any material respect with any Environmental Laws, or may give rise to any material common law or legal liability, or otherwise form the basis of any material claim, action, demand, suit, lien, proceeding, hearing, study, or investigation, based on or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling, or the emission, discharge, release or threatened release into the environment of any Hazardous Substance.

(d) As used herein, "Environmental Laws" shall mean all federal, state and local laws relating to pollution or protection of the environment, including laws relating to emissions, discharges, releases, or threatened releases of any Hazardous Substances into the environment (including without limitation ambient air, surface, water, groundwater, or land), or otherwise relating to the generation manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Substances and any and all

regulations, codes, standards, plans, orders, decrees, judgments, injunctions, notices of demand letters issued, entered, promulgated or approved thereunder.

(e) As used herein, “**Hazardous Substances**” shall mean any pollutant, contaminant, hazardous, toxic or dangerous waste, substance or material, or any other substance or material regulated or controlled pursuant to Environmental Law, including without limiting the generality of the foregoing, asbestos, PCBs, petroleum products (including crude oil, natural gas, natural gas liquids, liquefied natural gas or synthetic gas) or any other substances defined as a “hazardous substance” “extremely hazardous waste” “restricted hazardous waste” “hazardous material”, “hazardous chemical”, “toxic substance” or other similar term in any Environmental Law.”

(f) LICENSOR and LICENSEE each agree that they will not use, generate, store or dispose of any Hazardous Substance on, under, about or within the Site in violation of any law or regulation.

(g) LICENSOR and LICENSEE each agree to defend and indemnify the other party and its partners, Affiliates, agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorneys' fees and costs) arising from the breach of any warranty or agreement contained in this Section 22.

23. Miscellaneous. (a) In the event of litigation between the parties in connection with this Agreement, each party shall be entitled to recover its reasonable attorneys' fees and court costs related to such issue on which that party is the prevailing party, as determined and allocated by the court as part of the judgment.

(b) Each party agrees to furnish to the other, within thirty (30) days after request, such truthful estoppel information as the other may reasonably request with respect to the status of the Agreement. No proprietary financial or other proprietary information of LICENSOR or LICENSEE shall be required to be furnished in connection with any estoppel certificate; provided, however, that the inclusion of the then monthly current License Fee payable under this Agreement shall not be deemed to constitute proprietary financial information, and shall be included in any estoppel certificate executed by LICENSEE pursuant to this provision.

(c) This Agreement, including the Exhibits attached hereto, constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by both parties.

(d) If either party is represented by a real estate broker in this transaction, that party shall be fully responsible for any fee due such broker, and shall hold the other party harmless from any claims for commission by such broker.

(e) This Agreement creates a license only and LICENSEE acknowledges that LICENSEE does not and shall not claim at any time, any real property interest or estate of any kind or extent whatsoever in the Licensed Premises by virtue of this Agreement or LICENSEE's use of the Licensed Premises pursuant hereto. Nothing herein contained shall be construed as constituting a partnership, joint venture or agency between LICENSOR and LICENSEE.

(f) This Agreement may not be recorded; however LICENSOR acknowledges that LICENSEE may prepare and execute a Memorandum of Agreement (“**Memorandum**”), in a form satisfactory for recording. Upon LICENSOR's prior written approval, such Memorandum may be filed of record by LICENSEE, at LICENSEE's sole cost and expense, including taxes or assessments incurred in connection therewith. Within thirty (30) days following LICENSEE's receipt of LICENSOR's written request, delivered by LICENSOR, after the expiration or earlier termination of this Agreement, LICENSEE agrees to prepare, execute and record, at its expense, a release in a form acceptable to LICENSOR in its commercially reasonable judgment (the “**Release**”)

(g) This Agreement shall be construed in accordance with the laws of the State of Hawaii, without regard to the choice of law rules thereof.

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

(i) LICENSOR and LICENSEE each hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other on any matter arising out of or in any way related to this Agreement.

(j) This License may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.

(k) LICENSOR acknowledges and agrees that LICENSEE's execution of this Agreement and the undertaking by LICENSEE of an investigation to determine whether the Licensed Premises are suitable for the purpose needed by LICENSEE are good and valuable consideration that have been delivered by LICENSEE and received by LICENSOR in connection with this License. (l) The submission

of this Agreement for examination does not constitute an offer to license the Licensed Premises, and this Agreement becomes effective only upon the full execution of this Agreement by the parties hereto.

[SIGNATURE PAGE FOLLOWS]

This Agreement is executed as of the Execution Date reflected on page one hereof.

LICENSOR: **IWG II, LLC,**
a Delaware limited liability company

By: _____
Name: _____
Title: _____
Date: _____, 2019

LICENSEE: **NEW CINGULAR WIRELESS PCS, LLC,**
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____
Name: _____
Title: _____
Date: _____, 2019

[ACKNOWLEDGMENTS APPEAR ON FOLLOWING PAGE]

LICENSOR ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

Commonwealth of Virginia
City of Alexandria

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Virginia that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

LICENSEE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

Equipment

LICENSOR Site Name and Number: HI029 Kapele RS
 LICENSEE Site Name and Number: HIL04129 Waimea 2

LICENSEE: New Cingular Wireless PCS, LLC

The mounting method and exact location of the Equipment listed herein shall be subject to LICENSOR's approval.

SYSTEM REQUIREMENTS									
POWER provided by:	Utility Company direct				TRF/CO provided by:	Fiber			
Power Requirements:	Amps:	200	Volts:	N/A	No. of Outlets:	N/A			
Generator Provided by:	Licensee:	Make:	Generac 30 KW	Model:	SD030	Fuel type:	Diesel	Capacity:	190 gal
Batteries:	Quantity:	TBD	Make:	TBD	Model:	TBD			
SPACE REQUIREMENTS & RADIO INVENTORY									
Type of Space Required:	Ground:	Yes	Floor:	No	Total Square Feet:	240 sq ft			
Dimensions of Equipment Floor/Ground Space:	12' x 20'				Equipment Height:	9' 6"			
Dimensions of Generator Ground Space:	w/in shelter				Dimensions of Fuel Tank Ground Space:	N/A			
EQUIPMENT LOADING DESCRIPTION (FINAL CONFIGURATION)									
	Sector 1	Sector 2	Sector 3	DISH(ES)		OTHER			
Antenna Type (i):	Panel	Panel	Panel	Dish	Radio				
# of Antennas (ii)/Sector:	Four (4)	Four (4)	Four (4)	One (1)	Two (2)				
Tx, Rx or Both:	Both	Both	Both	Both	Both				
Antenna Manufacturer (i):	KMW	KMW	KMW	Andrew	Nokia				
Antenna Model (i):	EPBQ654L8H8-L2	EPBQ654L8H8-L2	EPBQ654L8H8-L2	VHLPX6-11A	11 GHz ODU				
Antenna Dimensions (i):	96" X 21" X 6.3"	96" X 21" X 6.3"	96" X 21" X 6.3"	6'	11" x 11" x 7"				
Antenna Weight (i):	86 lbs	86 lbs	86 lbs	137 lbs	14.1 lbs				
Antenna RAD Cr (i):	48'	48'	48'	45'	45'				
# of RRU/RRH/Sector (i):	Six (6)	Six (6)	Six (6)						
RRU/RRH Manufacturer (i):	Ericsson	Ericsson	Ericsson						
RRU/RRH Model (i):	RRUS-11E B12	RRUS-11E B12	RRUS-11E B12						
RRU/RRH Dimensions (i):	19.7" X 17" X 7.2"	19.7" X 17" X 7.2"	19.7" X 17" X 7.2"						
RRU/RRH Weight (i):	48 lbs	48 lbs	48 lbs						
RRU/RRH RAD Cr (i):	48'	48'	48'						
# of IMAs/Sector (i):	None	None	None						
# of Diplexers/Sector:	None	None	None						
# of Surge Suppressors/Sector:	Three (3)	None	None						
Surge Suppressor Make:	RayCap	N/A	N/A						
Surge Suppressor Model:	DC6-48-60-18-8F	N/A	N/A						
Surge Suppressor Dimensions:	24" X 11"	N/A	N/A						
Surge Suppressor Weight:	32.8 lbs	N/A	N/A						
Surge Suppressors RAD Cr:	48'	N/A	N/A						
Transmit Frequencies:	734.00 - 746.00 MHz			11 GHz	N/A				
Receive Frequencies:	704.00 - 716.00 MHz			11 GHz	N/A				
# of Lines:	Two (2)	Two (2)	Two (2)	Two (2)	None				
Line Size:	7/8"	7/8"	7/8"	Cat 5	N/A				
Mount Type:	Sector Frame	Sector Frame	Sector Frame	T-Arm	None				
Mount Size:	Twelve Feet (12')	Twelve Feet (12')	Twelve Feet (12')	Six Feet (6)	N/A				

NOTE: ANY (i) CHANGE IN THE NUMBER, SIZE, PLACEMENT, ARRAY, OR LOCATION OF THE EQUIPMENT LISTED ABOVE IN THIS EXHIBIT A, OR (ii) INCREASE IN THE SIZE OR FOOTPRINT OF THE LICENSED PREMISES SHALL REQUIRE THE WRITTEN CONSENT OF LICENSOR, NOT TO BE UNREASONABLY WITHHELD, CONDITIONED OR DELAYED, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 5(b)(i)(B) OF THE COMMUNICATIONS LICENSE AGREEMENT TO WHICH THIS EXHIBIT IS ATTACHED, AND A WRITTEN AMENDMENT TO THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, LICENSEE SHALL, PURSUANT TO SECTION 5(b)(i)(C) OF THE COMMUNICATIONS LICENSE AGREEMENT TO WHICH THIS EXHIBIT IS ATTACHED, BE PERMITTED UPON WRITTEN NOTICE TO LICENSOR, BUT WITHOUT LICENSOR'S CONSENT, TO MAKE CHANGES TO LICENSEE'S EQUIPMENT WITHIN LICENSEE'S EQUIPMENT SHELTER IN THE LICENSED PREMISES OR TO ADD OR CHANGE FREQUENCIES SUBJECT TO THE INTERFERENCE PROVISIONS IN SECTION 6.

EXHIBIT B

The Site

Site Name: **LICENSOR:** HI029 Kapele RS
 LICENSEE: HIL04129 Waimea 2

The Site consists of the telecommunications tower and equipment shelter located in Kauai County, Hawaii at:

Kokee Rd.
Waimea, HI

Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-003 portion and
Waimea, Kauai, Tax Map Key: (4) 1-4-001 portion

The geodetic coordinates of the Site are:

North Latitude: 22° - 04' - 50.54"

West Longitude: 159° - 39' - 59.34"

EXHIBIT C

Licensed Premises¹ and Rights-of Way

[See attached drawings, Rev. __ dated __, prepared by __, and
consisting of __ (__) pages, appears on following pages]

¹ The parties agree that this Exhibit C will be replaced with a new Exhibit C which shall more particularly describe the location and dimensions of the Equipment and Licensed Premises, when the "AS-BUILT" drawings have been completed.

EXHIBIT D

INSTALLATION AND MAINTENANCE STANDARDS

Purpose:

The purpose of these Standards is to insure that the installation of all LICENSEE electronics equipment in LICENSOR tower sites meets or exceeds established Electronics Industry Association (EIA) standards. These Standards have been developed to insure a safe, interference free operating environment for all LICENSOR tower site licensees. LICENSOR reserves the right to make changes and/or modifications to these standards, from time to time, and shall provide Licensee with thirty (30) days prior written notice of any such changes or modifications.

General Considerations:

- All RF equipment installed must be FCC Type Accepted for Radio Service and frequencies proposed in the License Agreement and attached exhibits.
- All 929/931 MHz PCP/RCC paging licensees are **REQUIRED** to install a bandpass filter on the final output of their transmitter. The bandpass filter should provide a minimum of 40dB attenuation at 896-901 MHz.
- Repeater systems shall have, as a minimum requirement, a single stage isolator and a bandpass/reject type duplexer. Notch type duplexers are not acceptable.
- All installed equipment shall be housed in suitable EIA approved enclosure(s) or equipment rack(s). All enclosure doors and covers shall remain closed and locked at all times except during actual equipment servicing.
- Site keys obtained by a Licensee will not be duplicated.
- Licensee or their representatives will refrain from making any adjustments to any on site Licensor equipment (heating, ventilation, air conditioning, generator, etc.)

Installation Standards:

- All Licensee installations require the use of certified electronics technicians, steeplejacks, electricians or licensed contractors that have received LICENSOR approval prior to commencing any installation work. All installation work shall be in accordance with a previously approved installation plan. LICENSOR at its sole discretion shall have the right to supervise the installation of any and all equipment. Certificates of Insurance may also be required by LICENSOR of any installer.
- All installation work shall conform to established EIA/TIA and manufacturer's installation standards, as well as any special standards imposed by LICENSOR. All work shall be performed in a neat and workmanlike manner. Any new installation will not cause mechanical, electrical or electronic interference to other Licensee RF equipment, other associated Licensee equipment, or any Licensor equipment located in the equipment shelter, generator shelter, tower structure or anywhere else on the site.
- All installations shall comply with all applicable local, state and federal requirements. In the absence of any applicable government standards, applicable BOCA and NEC Codes, as well as EIA and TIA Standards will apply.
- Equipment shall be installed in locations and positions determined by LICENSOR. The Manager of Tower Operations will designate the exact locations for the installation of electronic equipment, transmission lines and antennas. If, for any reason, the proposed installation cannot conform to these instructions, the Manager of Tower Operations shall be contracted prior to any further work.

Transmission Line(s):

- All transmission lines shall be Heliac® Low Density Foam (LDF) Cable or approved equal with a minimum diameter of 0.5 inch (Andrew LDF4-050A or approved equal).
- All transmission lines will be attached to tower waveguide ladders using stainless steel hangers (Andrew 42396A Series or approved equal) secured to waveguide ladders with stainless steel barrel bolts (Andrew 31769 Series or approved equal). The use of stainless steel angle adapters (Andrews 31768-A or approved equal) is authorized. Cable ties, either metal or plastic, are not approved.

- Transmission lines shall be connected through an acceptable lightning arrester (Polyphaser ISPT50HN series or approved equal) located inside the equipment room and connected to the internal building “halo” ground buss.
- All transmission lines of less than 300 FT AGL overall length shall be equipped with three (03) standard grounding kits (Andrews 204989 Series or approved equal) mounted at the top and bottom of the vertical waveguide ladder and at the waveguide entry port on provided “halo” ground busses.
- All transmission lines of more than 300 FT AGL overall length shall be equipped with four (04) standard grounding kits (Andrews 204989 Series or approved equal) mounted at the top midpoint and bottom of the vertical waveguide ladder and at the waveguide entry port on provided “halo” ground busses/
- All transmission lines shall enter the equipment room through the provided four (4) or five (5) inch diameter waveguide entry port. Licensee is responsible for providing the appropriately sized waveguide entry port boot and boot cushion (Mircoflex B Series or approved equal).
- All transmission lines shall be tagged at the top and bottom of each run near the connector with an identification tag containing the Licensee’s name, FCC or IRAC call sign, and the frequency assigned. Brass tags with copper wire are preferred. Plastic tags with vinyl labels or indelible ink markings are acceptable.
- Interior routing of transmission line(s) shall be via Licensor provided “unistrut” waveguide supports and using Licensee provided stainless steel hangers (Andrews 42396A Series or equal) to a point directly above Licensee’s equipment and should terminate in the required lightning arrester. Cabling from the lightning arrester to Licensee’s equipment shall be by “Superflex”® cable, Heliac® transmission line no larger than 0.5 inch (LDF4-50A) or approved equal. The installed waveguide ladders shall not be utilized to route transmission line(s) where overhead Unistrut® is installed, but may be used to route cabling from the lightning arrester to Licensee’s equipment.

Power Cable Installations:

- Power cables will be connected to designated electrical outlets. At many tower sites, all available electrical all outlets are reserved for test equipment use only, due to circuit breaker size. If an outlet of suitable size is not available, the installation of a suitable outlet by a qualified electrician is the responsibility of the Licensee. One circuit breaker per cabinet is preferred. Installation of overhead outlets attached to the side of the cable ladder above Licensee’s equipment by through bolting or by electrical box clamp is preferred.
- All electrical wiring shall be routed via electrical conduit or electrical metal tubing (EMT) using WATERTIGHT flexible jumpers. Wall runs are not authorized except to get to and from the cable or wire trays or ladder, where necessary. The use of Romex cable, BX cable or equal requires permission of the Manager of Tower Operations.
- EIA or TIA approved lightning surge protection is required on all AC electrical circuits, in addition to any such protection provided by the utility.

Grounding Requirements:

- All installed equipment cabinets and racks shall be grounded to the equipment room interior overhead “halo” ground buss. Termination to equipment to be via lug bolt. Termination to “halo” ground buss to be by split bolt or by “micropress” pressure clamp.
- All equipment ground wires to be No. 6 AWG copper wire or better.
- Routing ground wire(s) via overhead cable ladders and trays is approved.

Equipment Identification:

- All installed RF equipment will be equipped with an ID pouch/holder. This ID container shall display, as a minimum, the Licensee’s Name, FCC or IRAC Call Sign, frequency, address, Point-of-Contact name and telephone number, as well as a copy of the FCC Station License.

Equipment Maintenance:

- Licensee shall be responsible for all maintenance of its installed equipment in accordance with all applicable rules, regulations, and laws.
- Maintenance work shall be performed by certified electronics technicians, steeplejacks, licensed electricians and contractors previously approved by the Manager of Tower Operations.
- All equipment shall be maintained within normal operating parameters, as specified by the equipment manufacturer and in accordance with the FCC Type Acceptance certification(s). Licensee's equipment will not be maintained or operated in a manner that will cause harmful interference or be the source of a hazard to other Licensees using the tower site.
- Upon entering or exiting any shelter, building or tower site, all fence gates and doors opened shall be closed and securely locked behind the person entering or exiting the facility. In addition, any alarms disabled upon entry must be enabled upon exiting. It is the responsibility of the Licensee or his designated representative to see that the site is securely locked and the premises is clean before departing the tower site. At sites that are centrally monitored, the Licensee or his agent must notify the Central Monitoring Station of each entry and exit, disabling and resetting any applicable alarm device(s) installed. Any problems encountered should be reported to the LICENSOR at (866) 886-8807.

Removal of Installed Equipment:

- Any or all removal of Licensee's equipment shall be performed by certified electronics technicians, steeplejacks, licensed electricians or licensed contractors previously approved by LICENSOR. All removal operations shall be in accordance with a previously approved removal plan. Removal operations shall be accomplished in a workmanlike manner without any interference, damage or destruction of any other equipment, structures or operations at the site or to any other equipment installed therein. All trash, scrap or debris shall be removed from the site along with all Licensee equipment. The premises shall be left in a clean and orderly condition.
- Any equipment left by Licensee upon final departure from the site (all keys turned in) becomes the property of LICENSOR to do with as determined by LICENSOR.

Additional Fees:

- Any work not performed or performed incorrectly by Licensee may be corrected in a timely manner by Licensee at its sole cost and expense after notification by LICENSOR.
- If licensee fails to correct an installation discrepancy in a timely manner, after proper notification by LICENSOR reserves the right to correct the discrepancy by other means and bill the Licensee for all costs associated with that action.

EXHIBIT E

Master Lease (redacted)

[see attached]



October 1, 2020

Russell Y. Tsuji
Land Division Administrator
Department of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

Re: InSite Towers Development, LLC’s Use of State Land under Expired
General Lease No. S-3795, Hanapepe Microwave Tower Site and Linking
Easements A and B, Hanapepe, Waimea, Kauai, TMKs: (4) 1-4-001:016,
and 017 and other portions of plat 001

Dear Mr. Tsuji,

This letter responds to your letter dated September 30, 2020, to our client, Roni Jackson, General Counsel for InSite Towers Development, LLC (“InSite”).

At the outset, and with sincerest respect, please understand that the substance and the tone of your letter came as a complete surprise. InSite believed that it was working cooperatively with DLNR in InSite’s years-long effort to regularize the Ka Pele Lease. The purpose of this letter is to get the parties back into the same canoe.

I cannot recount the relevant chronology more clearly and accurately than Ms. Jackson did in her letter dated September 28, 2020. I add only that she has written documentation which evidence all of the assertions in her letter. For a period of years, InSite was explicitly instructed not to pay rent under expired General Lease No. S-3795 (the “Lease”). It would be non-productive and embarrassing to your Division to bring this matter to the Board without your first fully understanding the complete set of facts. I can share whatever documentation you may require in this regard.

Further, and most importantly: pursuant to the clear terms of the Lease (specifically, Section 15 thereof), InSite, not DLNR, owns the tower on the Ka Pele site (the “Tower”). As a consequence, DLNR cannot lease the Tower to a third party whether New Cingular Wireless PCS, LLC (doing business as “AT&T”), InSite’s valued customers on hundreds of InSite’s communications tower sites throughout the United States, Puerto Rico and the U.S. Virgin Islands, or otherwise.


If, as threatened, DLNR intends to evict InSite from the premises, then it will be required to pay InSite for its Tower which, as DLNR is aware, also subject to a Site License Agreement with Hawaiian Telcom. If DLNR and InSite cannot reach agreement on the purchase price, then InSite, consistent with its contractual rights, will remove the Tower.

Russell Y. Tsuji
October 1, 2020
Page 2

We sincerely hope that we can quickly address DLNR's concerns regarding payment for InSite's interim occupancy of the Premises during the period from December 30, 2014 to the present, and to finalize a new lease between InSite Hawaii, LLC and DLNR to become effective once InSite Hawaii's PUC Application is approved. We expect that approval to be received before the end of the year.

I look forward to working cooperatively with you or your designee on an expedited basis. Please let me know if you have any questions. Thank you for your review and consideration of this matter.

Very truly yours,
ASHFORD & WRISTON
A Limited Liability Law Partnership LLP

By 
ROSEMARY T. FAZIO

RTF:lms

cc: Daniel A. Morris, Esq.

SITE LICENSE AGREEMENT

This Standard Site License Agreement ("SLA"), made this 30th day of December, 2014 ("Effective Date") between InSite Towers Development, LLC, with its principal offices located at 1199 N. Fairfax Street, Suite 700, Alexandria, VA 22314, hereinafter designated LICENSOR and Hawaiian Telcom, Inc., a Hawaii corporation, with its principal offices at 1177 Bishop Street, Honolulu, HI 96813, hereinafter designated LICENSEE.

1. This Site License Agreement is a SLA as referenced in that certain Master License Agreement between InSite Towers Development, LLC and Hawaiian Telcom, Inc. dated December 30, 2014 ("Agreement"). All of the terms and conditions of the Agreement are incorporated hereby by reference and made a part hereof without the necessity of repeating or attaching the Agreement. In the event of a contradiction, modification or inconsistency between the terms of the Agreement and this SLA, the terms of this SLA shall govern. Capitalized terms used in this SLA shall have the same meaning described for them in the Agreement unless otherwise indicated herein.

2. The Property owned by the LICENSOR is described as follows:

(Insert description or attach Exhibit 1, Description of Property, if necessary.)

3. The Premises licensed by the LICENSOR to the LICENSEE hereunder is described as follows:

(Insert description or attach Exhibit 2, Description of Premises. In the event the Premises consist of a Tower or Tower and land, Exhibit 2 shall describe the location on the Tower of the LICENSEE's equipment together with any specific right-of-way, easement or path being licensed between any such Tower and land parcel.)

4. In the event an Exhibit 2 is attached hereto describing the Premises, the LICENSEE shall have the right to survey the Property and/or Premises and, upon the agreement of the parties, said survey shall then become Exhibit 2A which shall be attached hereto and made a part hereof and shall control in the event of any discrepancies between it and Exhibit 2. The cost for such work shall be borne by the LICENSEE.

5. The initial term (the "SLA Initial Term") of this SLA shall be for ten (10) years beginning with the commencement date of this SLA and shall be subject to extension as provided in Section 6. In the event of surrender of the Tower to LICENSEE pursuant to and in accordance with the terms of an applicable Pad Lease Agreement, if any, between LICENSEE, as Landlord, and LICENSOR, as Tenant, this SLA shall automatically terminate. This SLA may not be terminated by LICENSEE during the SLA Initial Term except as expressly authorized in the Agreement, this SLA, or as otherwise permitted by law. The commencement date of this SLA is December 30, 2014.

6. LICENSEE shall have the option to extend the SLA Initial Term of this SLA for four (4) successive additional periods of five (5) years each (each, a "SLA Renewal Term"). The SLA Initial Term along with all SLA Renewal Terms shall collectively be referred to as the "SLA Term". Provided that LICENSEE is not then in default under this SLA beyond any applicable notice and cure period (in which case renewal shall be subject to LICENSOR's agreement), Each SLA Renewal Term shall commence automatically, unless LICENSEE delivers notice to LICENSOR of its intent not to renew, such notice to be delivered not less than ninety (90) days prior to the end of the then-current term. Each applicable SLA Renewal Term shall be on the same terms and conditions as are applicable during the SLA Initial Term or the immediately preceding SLA Renewal Term, subject only to the annual License Fee increases set forth in Section 7 below. Notwithstanding the foregoing, if LICENSOR's rights in the Property are derived from a prime lease, license or other similar agreement with a third party and such agreement has a shorter term or extension terms than those provided for under this Section, then LICENSEE's right to extend this SLA shall only be for as long as LICENSOR has the right to extend its interest in the same applicable Property.

7. The License Fee for the first year of the SLA Term pursuant to this SLA shall be due at an annual amount of Two Thousand Four Hundred Dollars (\$2,400.00) per LICENSEE-owned antenna to be paid in annual installments on December

30th of each year during the Term, in advance, to InSite Towers Development, LLC, 1199 N. Fairfax Street, Suite 700, Alexandria, VA 22314, Attention: Accounts Payable (HI029 – Kapele RS) or to such other person, firm or place as the LICENSOR may, from time to time, designate in writing at least thirty (30) days in advance of any License Fee payment date. In accordance with Section 6 of the Agreement, the License Fee for each year shall be 103% of the annual License Fee for the immediately preceding year commencing on the annual anniversary thereof.

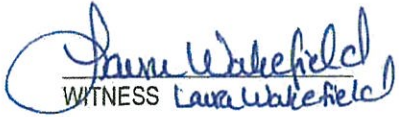
8. If the Property is subject to a Prime Agreement affecting LICENSOR's interest at the Property, a copy of such Prime Agreement is attached hereto as Exhibit 3.

9. LICENSEE's Equipment Information (subject to modification in accordance with the terms and requirements of the Agreement): Attach the approved Collocation Application as Exhibit 4.

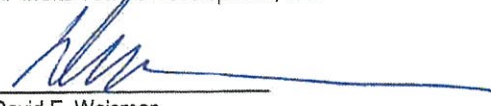
(SIGNATURES ON PAGE IMMEDIATELY FOLLOWING)

IN WITNESS WHEREOF, the parties hereto have caused this Standard Site License Agreement to be executed by their duly authorized representatives as of the Effective Date set their hands and affixed their respective seals the day and year first above written.

LICENSOR: InSite Towers Development, LLC


WITNESS Liana Wakefield


WITNESS Kateri Bruno

BY: 
NAME: David E. Weisman
TITLE: President and CEO
DATE: December 29, 2014

LICENSEE: Hawaiian Telcom, Inc.

WITNESS

WITNESS

BY: _____
NAME: _____
TITLE: _____
DATE: _____

IN WITNESS WHEREOF, the parties hereto have caused this Standard Site License Agreement to be executed by their duly authorized representatives as of the Effective Date set their hands and affixed their respective seals the day and year first above written.

LICENSOR: InSite Towers Development, LLC

WITNESS

WITNESS

BY: _____
NAME: David E. Weisman
TITLE: President and CEO
DATE: December 29, 2014

LICENSEE: Hawaiian Telcom, Inc.

Brandon A. Mussil
WITNESS

Elaine R. P.
WITNESS

BY: [Signature]
NAME: JOHN T. KOMELI
TITLE: SVP & General Counsel
DATE: DEC 29 2014

Approved
as to form
LEGAL DEPT.
By [Signature]
Date 12/29/14

EXHIBIT 1
Description of Property

HI029
(KAPELE RS)

LEASE AREA #1

BEGINNING AT THE SOUTHWEST CORNER OF THIS LEASE AREA, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUUKAPELE" BEING 445.73 FEET SOUTH AND 117.05 FEET WEST WITH AZIMUTHS RUNNING CLOCKWISE ABOUT TRUE SOUTH:

1. 155°50'00" 60.00 FEET ALONG PARCEL 003;
2. 245°50'00" 70.00 FEET ALONG PARCEL 003 AND EASEMENT C;
3. 335°50'00" 60.00 FEET ALONG PARCEL 003 AND EASEMENT C;
4. 65°50'00" 70.00 FEET ALONG PARCEL 003 AND THE ACCESS ROAD EASEMENT TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 4,200 SQ.FT

TOGETHER THE RIGHT TO USE THOSE CERTAIN EASEMENTS APPURTENANT TO THE PUU KA PELE MICROWAVE STATION SITE AND PUU KA PELE MICROWAVE TOWER SITE, KNOWN AS EASEMENT A, EASEMENT B, EASEMENT C AND ACCESS ROAD EASEMENT, ALL CONTAINED WITHIN THE PARENT PARCEL AND FURTHER DESCRIBED IN GENERAL LEASE NO. 5-3795, RECORDED IN DEED BOOK 4852, AT PAGE 547, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.

LEASE AREA #2

BEGINNING AT THE NORTHWEST CORNER OF THIS LEASE AREA, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUUKAPELE" BEING 25.17 FEET SOUTH AND 35.40 FEET EAST WITH AZIMUTHS RUNNING CLOCKWISE ABOUT TRUE SOUTH:

1. 290°45'00" 35.00 FEET ALONG PARCEL 003;
2. 20°45'00" 35.00 FEET ALONG PARCEL 003 AND EASEMENT B;
3. 110°45'00" 35.00 FEET ALONG PARCEL 003, EASEMENT B, EASEMENT C AND EASEMENT A;
4. 200°45'00" 35.00 FEET ALONG PARCEL 003 AND EASEMENT A TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 1,225 SQ.FT

TOGETHER THE RIGHT TO USE THOSE CERTAIN EASEMENTS APPURTENANT TO THE PUU KA PELE MICROWAVE STATION SITE AND PUU KA PELE MICROWAVE TOWER SITE, KNOWN AS EASEMENT A,

EASEMENT B, EASEMENT C AND ACCESS ROAD EASEMENT, ALL CONTAINED WITHIN THE PARENT PARCEL AND FURTHER DESCRIBED IN GENERAL LEASE NO. S-3795, RECORDED IN DEED BOOK 4852, AT PAGE 547, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.

Which the foregoing is part of the following parent parcel:

PARENT PARCEL - COMMITMENT 01-14024824-01T

SITUATED IN THE COUNTY OF KAUAI, STATE OF HAWAII:

HANAPEPE MICROWAVE TOWER SITE:

BEGINNING AT A PIPE AT THE NORTH CORNER OF THIS PARCEL OF LAND AND ON THE WEST BOUNDARY OF ELEELE SCHOOL LOT, GOVERNOR'S EXECUTIVE ORDER 341, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUOLO" BEING 6479.21 FEET NORTH AND 6647.89 FEET EAST, AS SHOWN ON GOVERNMENT SURVEY REGISTERED MAP 2615, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 347° 03' 25.01 FEET ALONG ELEELE SCHOOL LOT, GOVERNOR'S EXECUTIVE ORDER 341 TO A PIPE;
2. 75° 35' 24.36 FEET ALONG GOVERNMENT LAND TO A PIPE;
3. 165° 35' 25.00 FEET ALONG GOVERNMENT LAND AND ALONG THE EAST END OF EASEMENT B TO A PIPE;
4. 255° 35' 25.00 FEET ALONG THE SOUTH END OF EASEMENTS B AND A TO THE POINT OF BEGINNING.

EASEMENT A:

BEGINNING AT A PIPE AT THE SOUTHEAST CORNER OF THIS EASEMENT, BEING ALSO THE INITIAL POINT OF THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUOLO" BEING 6479.21 FEET NORTH AND 6647.89 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 75° 35' 5.45 FEET ALONG THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE TO A PIPE;
2. 130° 35' 45.82 FEET ALONG THE NORTHEAST SIDE OF EASEMENT B;
3. 155° 56' 46.0" 297.68 FEET;
4. 245° 56' 46.0" 25.00 FEET;
5. 335° 56' 46.0" 340.00 FEET TO THE POINT OF BEGINNING. EASEMENT B:

BEGINNING AT THE EAST CORNER OF THIS EASEMENT, AND ON THE NORTH BOUNDARY OF THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUOLO" BEING 6477.85 FEET NORTH AND 6642.61 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 75° 35' 19.55 FEET ALONG THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE TO A PIPE;
2. 345° 35' 15.67 FEET ALONG THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE TO A PIPE;
3. 130° 35' 276.08 FEET TO A PIPE;
4. 162° 32' 47.25 FEET ALONG GRANT 9640 TO KAUAI TELEPHONE COMPANY, LIMITED TO A PIPE;
5. 310° 35' 314.54 FEET TO THE POINT OF BEGINNING.

PUU KA PELE MICROWAVE STATION SITE:

BEGINNING AT A PIPE AT THE WEST CORNER OF THIS PARCEL OF LAND, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KA PELE" BEING 390.98 FEET SOUTH AND 141.61 FEET WEST, AS SHOWN ON GOVERNMENT SURVEY REGISTERED MAP 2602, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 245° 50' 70.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 AND ALONG THE SOUTH END OF EASEMENT C TO A PIPE;
2. 335° 50' 60.00 FEET ALONG THE SOUTH END OF EASEMENT C AND ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO A PIPE;
3. 65° 50' 70.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ALONG THE NORTH END OF ACCESS ROAD AND AGAIN ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO A PIPE;
4. 155° 50' 60.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO THE POINT OF BEGINNING.

PUU KA PELE MICROWAVE TOWER SITE:

BEGINNING AT A PIPE AT THE NORTH CORNER OF THIS PARCEL OF LAND, THE TRUE AZIMUTH AND DISTANCE FROM GOVERNMENT SURVEY TRIANGULATION STATION "PUU KA PELE" BEING 305° 25' 43.44 FEET, AS SHOWN ON GOVERNMENT SURVEY REGISTERED MAP 2602, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 290° 45' 35.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO A PIPE;
2. 20° 45' 35.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 AND ALONG THE NORTHERLY END OF EASE-B TO A PIPE;

3. 100° 45' 35.00 FEET ALONG THE NORTHERLY ENDS OF EASEMENTS B AND C AND THE EASTERLY END OF EASEMENT A TO A PIPE;

4. 200° 45' 35.00 FEET ALONG THE EASTERLY END OF EASEMENT A AND PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO THE POINT OF BEGINNING.

EASEMENT A:

BEGINNING AT THE EAST CORNER OF THIS EASEMENT AND ON THE WESTERLY BOUNDARY OF THE ABOVE MICROWAVE TOWER SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KA PELE" BEING: 41.70 FEET SOUTH AND 29.14 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 20° 45' 17.32 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE TO A PIPE;
2. 290° 45' 5.00 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE;
3. 19° 45' 12.33 FEET ALONG THE WEST SIDE OF EASEMENT C; 4. 66° 56' 333.23 FEET;
5. 156° 56' 25.00 FEET;
6. 246° 56' 350.00 FEET TO THE POINT OF BEGINNING.

EASEMENT B:

BEGINNING AT THE NORTH CORNER OF THIS EASEMENT AND ON THE EASTERLY BOUNDARY OF THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KAPELE" BEING: 53.72 FEET SOUTH AND 62.01 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 335° 55' 22.4" 90.00 FEET;
2. 65° 55' 22.4" 25.00 FEET;
3. 155° 55' 22.4" 71.63 FEET;
4. 199° 45' 12.92 FEET ALONG THE EAST SIDE OF EASEMENT C; 5. 290° 45' 5.00 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE TO A PIPE;
6. 200° 45' 17.73 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE TO THE POINT OF BEGINNING.

EASEMENT C:

BEGINNING AT THE SOUTH CORNER OF THIS EASEMENT AND ON THE EASTERLY BOUNDARY OF THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KAPELE" BEING

391.19 FEET SOUTH AND 64.80 FEET WEST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 155° 50' 31.64 FEET ALONG THE ABOVE DESCRIBED KA PELE MICROWAVE STATION TO A PIPE;
2. 65° 50' 4.24 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE STATION SITE;
3. 199° 45' 323.42 FEET;
4. 290° 45' 25.00 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE;
5. 19° 45' 342.83 FEET PARTLY ALONG THE NORTHERLY END OF EASEMENT B TO THE POINT OF BEGINNING.

ACCESS ROAD:

BEGINNING AT A PIPE AT THE NORTHEAST CORNER OF THIS PARCEL OF LAND AND ON THE SOUTHERLY BOUNDARY OF THE ABOVE DESCRIBED PUU KA PELE MICROWAVE STATION SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KA PELE" BEING 429.34 FEET SOUTH AND 80.56 FEET WEST, AS SHOWN ON GOVERNMENT SURVEY REGISTERED MAP 2602, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ON A CURVE TO THE RIGHT WITH A RADIUS OF 130.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING: 35°20' 41" 169.68 FEET TO A PIPE;
2. 76° 05' 5.71 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69;

THENCE ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ON A CURVE TO THE LEFT WITH A RADIUS OF 10.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING:

3. 32°18' 30" 13.84 FEET;
4. 168° 32' 50.04 FEET ON THE EAST SIDE OF KOKEE ROAD;

THENCE ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ON A CURVE TO THE LEFT WITH A RADIUS OF 10.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING:

5. 302°18' 30" 14.44 FEET;
6. 256° 05' 3.60 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, TO A PIPE;

THENCE ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ON A CURVE TO THE LEFT WITH A RADIUS OF 100.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING:

7. 218° 19' 26.5" 122.47 FEET TO A PIPE;

8. 245° 50' 32.25 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE STATION SITE TO THE POINT OF BEGINNING.

TAX I.D. NUMBERS: (4)1-4-001-016-0000, (4)1-9-003-030-0000, (4)1-4-001-017

EXHIBIT 2

Description of Premises

See Exhibit 1 and Exhibit 4

EXHIBIT 3

Prime Agreement

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (X) Pickup () To:

This document consists of 13 pages

Tax Map Key No.: (4)1-4-001-017-0000, (4)1-4-001-016-0000

InSite Site ID: HI029
InSite Site Name: Kapele RS

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

THIS ASSIGNMENT AND ASSUMPTION OF GROUND LEASE (this "Assignment") is made this 30th day of December, 2014 ("Closing Date"), by and between HAWAIIAN TELCOM, INC., a Hawaii corporation having its principal place of business at 1177 Bishop Street, Honolulu, Hawaii 96813, ("Assignor") and INSITE TOWERS DEVELOPMENT, LLC, a Delaware limited liability company having its principal place of business at 1199 N. Fairfax Street, Suite 700, Alexandria, Virginia 22314 ("Assignee").

WITNESSETH:

For TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration paid by the Assignee, the receipt of which is hereby acknowledged, and in consideration of the covenants and agreements of the Assignee hereinafter expressed, Assignor does hereby sell, assign, transfer, set over and deliver unto Assignee:

All of that certain lease more particularly described in Exhibit "A" (the "Lease") attached to this Assignment and expressly made a part of this Assignment,

including, without limitation, the leasehold estate described in the Lease; together with all interests thereto appertaining; subject to the encumbrances, exceptions, reservations, restrictions and other matters noted in Exhibit "A"; and together also with the personal property, if any, described in Exhibit "A".

And all of the estate, right, title and interest of the Assignor in and to the land demised by the Lease, and all buildings, improvements, rights, easements, privileges and appurtenances thereunto belonging or appertaining or used, occupied and enjoyed in connection with the Lease and the land demised by the Lease.

TO HAVE AND TO HOLD the same unto the Assignee according to the tenancy set forth in this Assignment of Lease, for and during the remaining term of the Lease, absolutely.

SUBJECT, HOWEVER, to the payment of the rents reserved by the Lease and subject also to the observance and performance by the Assignee of all of the covenants and conditions contained in the Lease which are or ought to be observed and performed by the Lessee named in the Lease, effective as of and from the Closing Date and during the remainder of the term of the Lease.

AND, in consideration of the premises, the Assignor does hereby covenant with the Assignee that the Assignor is the lawful owner of the property described in this Assignment; that the Lease is in full force and effect and is not in default; that said property is free and clear of and from all liens and encumbrances, except for the lien of any taxes not yet by law required to be paid, and except as may be specifically set forth in this Assignment and in Exhibit "A"; that the Assignor is the lawful owner of said personal property (if any) and that Assignor's title thereto is free and clear of and from all liens and encumbrances except as set forth in Exhibit "A"; that the Assignor has good right to sell and assign said real property and personal property (if any) as aforesaid; and, that the Assignor will WARRANT AND DEFEND the same unto the Assignee against the lawful claims and demands of all persons, except as aforesaid.

AND, in consideration of the foregoing, the Assignee does hereby promise, covenant and agree to and with the Assignor and to and with the Lessor named in the Lease, that the Assignee will, effective as of and from the Closing Date and during the remainder of the term of the Lease, pay the rents thereby reserved as and when the same become due and payable pursuant to the provisions of the Lease, and will also faithfully observe and perform all of the covenants and conditions contained in the Lease which from and after the date of this Assignment are or ought to be observed and performed by the Lessee named in the Lease, and will at all times hereafter indemnify and save harmless the Assignor and the Lessor from and against the nonpayment of said rents and the nonobservance or nonperformance of said covenants and conditions and each of them.

ASSIGNEE'S RECEIPT OF LEASE AND ACKNOWLEDGEMENT. The Assignee hereby acknowledges prior receipt of a copy of the Lease and further acknowledges that the Assignee has read, understood and accepted all of the terms and provisions of the Lease.

COUNTERPARTS. Each of the parties to this document may execute different and separate copies of this document (called "counterparts"), each of which when so executed shall be deemed to be an original, and all of which taken together will constitute one and the same document. The document assembled in this manner will be binding upon all of the parties, even though all of them have not signed the same original or counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this document, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

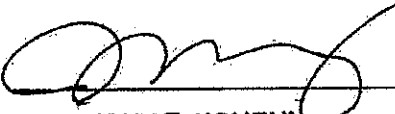
The terms "Assignor" and "Assignee," as and when used in this Assignment of Lease, or any pronouns used in place thereof mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, trustees or corporations and their and each of their respective successors, heirs, personal representatives, and assigns, according to the context hereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere in this Assignment of Lease. The term "Lease," as and when used in this Assignment, means the lease or sublease demising the leasehold estate described in Exhibit "A," together with all amendments of such lease or sublease, if any, whether or not listed in Exhibit "A." The term "rent," as and when used in this Assignment, means and includes all rents, taxes, assessments and any other sums charged pursuant to the Lease.

[EXECUTION ON FOLLOWING PAGES]


IN WITNESS WHEREOF, the undersigned have executed these presents on the day and year first above written.

Assignor:

HAWAIIAN TELCOM, INC.

By: 
Name: JOHN T. KOMELJI
Title: SVP & General Counsel

WITNESS

By: 
Print Name: GWENDOLYN A. MASSIAH

Approved as to form LEGAL DEPT. By: <u>LVA</u> Date: <u>4/2/11</u>
--

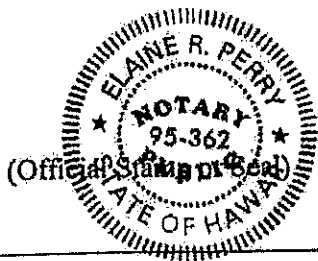
STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 30th day of December, 2014, before me personally appeared JOHN T. KOMENI, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: Elaine R. Perry

Print Name: ELAINE R. PERRY
Notary Public, State of Hawaii

My commission expires: Sept. 5, 2015



NOTARY CERTIFICATE STATEMENT

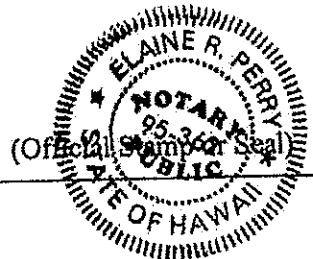
Document Identification or Description: Assignment & Assumption of Ground Lease- HI029 Kapele RS between Hawaiian Telcom, Inc. and InSite Towers Development, LLC

Doc. Date: Dec. 30, 2014 or Undated at time of notarization.

No. of Pages: 13
Jurisdiction: First Circuit (in which notarial act is performed)

Elaine R. Perry Dec. 30, 2014
Signature of Notary Date of Notarization & Certification Statement

ELAINE R. PERRY
Printed Name of Notary



[Assignee Signature page to Assignment and Assumption of Ground Lease]

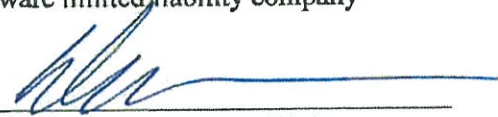
Assignee:

INSITE TOWERS DEVELOPMENT, LLC
a Delaware limited liability company

WITNESS

By: 

Print Name: GORDON CHIU

By: 

Name: David E. Weisman

Title: President & CEO

COMMONWEALTH OF VIRGINIA)
)
) ss.
)
CITY OF ALEXANDRIA)

On this 30th day of December, 2014, before me personally appeared David E. Weisman, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: Karin Holliker Firsov

Print Name: Karin Holliker Firsov
Notary Public, State of Virginia

My commission expires: 2.28.2017

(Official Stamp or Seal)

NOTARY CERTIFICATE STATEMENT

Document Identification or Description: Assignment + Assumption of Ground Lease - HI029 Kapele RS between Hawaiian Telcom, Inc. and InSite Towers Development, LLC

Doc. Date: 12/30/14 or Undated at time of notarization.

No. of Pages: 13

Jurisdiction: 18th Circuit (in which notarial act is performed)

Karin Holliker Firsov 12.30.2014
Signature of Notary Date of Notarization & Certification Statement

Karin Holliker Firsov
Printed Name of Notary



(Official Stamp or Seal)

InSite Site ID: HI029
InSite Site Name: Kapele RS

EXHIBIT A

Site Number: HI029
Site Name: Kapele RS
Landlord Name: State of Hawaii by its Board of Land and Natural Resources
Original Tenant Name: Hawaiian Telcom, Inc. a Hawaii corporation, by virtue of name change from Verizon Hawaii Inc., by virtue of name change from GTE Hawaiian Telephone Company Incorporated, by virtue of name change from Hawaiian Telephone Company
Lease Exe Date: November 26, 1963
Lease Recordation Information: General Lease No. S-3795, Book 4852, Page 547
TCT #, if applicable: N/A
Amendments: as may be amended from time to time

Ground Lease Description: See EXHIBIT A-1

EXHIBIT A-1

Legal Description of Parent Parcel and Lease Area

PARENT PARCEL - COMMITMENT 01-14024824-01T

SITUATED IN THE COUNTY OF KAUAI, STATE OF HAWAII:

HANAPEPE MICROWAVE TOWER SITE:

BEGINNING AT A PIPE AT THE NORTH CORNER OF THIS PARCEL OF LAND AND ON THE WEST BOUNDARY OF ELEELE SCHOOL LOT, GOVERNOR'S EXECUTIVE ORDER 341, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUOLO" BEING 6479.21 FEET NORTH AND 6647.89 FEET EAST, AS SHOWN ON GOVERNMENT SURVEY REGISTERED MAP 2615, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 347° 03' 25.01 FEET ALONG ELEELE SCHOOL LOT, GOVERNOR'S EXECUTIVE ORDER 341 TO A PIPE;
2. 75° 35' 24.36 FEET ALONG GOVERNMENT LAND TO A PIPE;
3. 165° 35' 25.00 FEET ALONG GOVERNMENT LAND AND ALONG THE EAST END OF EASEMENT B TO A PIPE;
4. 255° 35' 25.00 FEET ALONG THE SOUTH END OF EASEMENTS B AND A TO THE POINT OF BEGINNING.

EASEMENT A:

BEGINNING AT A PIPE AT THE SOUTHEAST CORNER OF THIS EASEMENT, BEING ALSO THE INITIAL POINT OF THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUOLO" BEING 6479.21 FEET NORTH AND 6647.89 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 75° 35' 5.45 FEET ALONG THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE TO A PIPE;
2. 130° 35' 45.82 FEET ALONG THE NORTHEAST SIDE OF EASEMENT B;
3. 155° 56' 46.0" 297.68 FEET;
4. 245° 56' 46.0" 25.00 FEET;
5. 335° 56' 46.0" 340.00 FEET TO THE POINT OF BEGINNING. EASEMENT B:

BEGINNING AT THE EAST CORNER OF THIS EASEMENT, AND ON THE NORTH BOUNDARY OF THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY

TRIANGULATION STATION "PUOLO" BEING 6477.85 FEET NORTH AND 6642.61 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 75° 35' 19.55 FEET ALONG THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE TO A PIPE;
2. 345° 35' 15.67 FEET ALONG THE ABOVE DESCRIBED HANAPEPE MICROWAVE TOWER SITE TO A PIPE;
3. 130° 35' 276.08 FEET TO A PIPE;
4. 162° 32' 47.25 FEET ALONG GRANT 9640 TO KAUAI TELEPHONE COMPANY, LIMITED TO A PIPE;
5. 310° 35' 314.54 FEET TO THE POINT OF BEGINNING.

PUU KA PELE MICROWAVE STATION SITE:

BEGINNING AT A PIPE AT THE WEST CORNER OF THIS PARCEL OF LAND, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KA PELE" BEING 390.98 FEET SOUTH AND 141.61 FEET WEST, AS SHOWN ON GOVERNMENT SURVEY REGISTERED MAP 2602, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 245° 50' 70.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 AND ALONG THE SOUTH END OF EASEMENT C TO A PIPE;
2. 335° 50' 60.00 FEET ALONG THE SOUTH END OF EASEMENT C AND ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO A PIPE;
3. 65° 50' 70.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ALONG THE NORTH END OF ACCESS ROAD AND AGAIN ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO A PIPE;
4. 155° 50' 60.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO THE POINT OF BEGINNING.

PUU KA PELE MICROWAVE TOWER SITE:

BEGINNING AT A PIPE AT THE NORTH CORNER OF THIS PARCEL OF LAND, THE TRUE AZIMUTH AND DISTANCE FROM GOVERNMENT SURVEY TRIANGULATION STATION "PUU KA PELE" BEING 305° 25' 43.44 FEET, AS SHOWN ON GOVERNMENT SURVEY REGISTERED MAP 2602, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 290° 45' 35.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO A PIPE;
2. 20° 45' 35.00 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 AND ALONG THE NORTHERLY END OF EASE-B TO A PIPE;
3. 100° 45' 35.00 FEET ALONG THE NORTHERLY ENDS OF EASEMENTS B AND C AND THE EASTERLY END OF EASEMENT A TO A PIPE;
4. 200° 45' 35.00 FEET ALONG THE EASTERLY END OF EASEMENT A AND PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69 TO THE POINT OF BEGINNING.

EASEMENT A:

BEGINNING AT THE EAST CORNER OF THIS EASEMENT AND ON THE WESTERLY BOUNDARY OF THE ABOVE MICROWAVE TOWER SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KA PELE" BEING: 41.70 FEET SOUTH AND 29.14 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 20° 45' 17.32 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE TO A PIPE;
2. 290° 45' 5.00 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE;
3. 19° 45' 12.33 FEET ALONG THE WEST SIDE OF EASEMENT C; 4. 66° 56' 333.23 FEET;
5. 156° 56' 25.00 FEET;
6. 246° 56' 350.00 FEET TO THE POINT OF BEGINNING.

EASEMENT B:

BEGINNING AT THE NORTH CORNER OF THIS EASEMENT AND ON THE EASTERLY BOUNDARY OF THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KAPELE" BEING: 53.72 FEET SOUTH AND 62.01 FEET EAST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 335° 55' 22.4" 90.00 FEET;
2. 65° 55' 22.4" 25.00 FEET;
3. 155° 55' 22.4" 71.63 FEET;
4. 199° 45' 12.92 FEET ALONG THE EAST SIDE OF EASEMENT C; 5. 290° 45' 5.00 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE TO A PIPE;
6. 200° 45' 17.73 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE TO THE POINT OF BEGINNING.

EASEMENT C:

BEGINNING AT THE SOUTH CORNER OF THIS EASEMENT AND ON THE EASTERLY BOUNDARY OF THE ABOVE DESCRIBED PUU KA PELE MICROWAVE STATION SITE THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KAPELE" BEING 391.19 FEET SOUTH AND 64.80 FEET WEST, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. 155° 50' 31.64 FEET ALONG THE ABOVE DESCRIBED KA PELE MICROWAVE STATION TO APIPE;
2. 65° 50' 4.24 FET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE STATION SITE;
3. 199° 45' 323.42 FEET;
4. 290° 45' 25.00 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE TOWER SITE;
5. 19° 45' 342.83 FEET PARTLY ALONG THE NORTHERLY END OF EASEMENT B TO THE POINT OF BEGINNING.

ACCESS ROAD:

BEGINNING AT A PIPE AT THE NORTHEAST CORNER OF THIS PARCEL OF LAND AND ON THE SOUTHERLY BOUNDARY OF THE ABOVE DESCRIBED PUU KA PELE MICROWAVE STATION SITE, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU KA PELE" BEING 429.34 FEET SOUTH AND 80.56 FEET WEST, AS SHOWN ON GOVERNMENT SURVEY REGISTERED MAP 2602, THENCE RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:-

1. ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ON A CURVE TO THE RIGHT WITH A RADIUS OF 130.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING: 35°20' 41" 169.68 FEET TO A PIPE;

2. 76° 05' 5.71 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69;
THENCE ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ON A CURVE TO THE LEFT WITH A RADIUS OF 10.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING:
 3. 32°18' 30" 13.84 FEET;
4. 168° 32' 50.04 FEET ON THE EAST SIDE OF KOKEE ROAD;
THENCE ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ON A CURVE TO THE LEFT WITH A RADIUS OF 10.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING:
 5. 302°18' 30" 14.44 FEET;
6. 256° 05' 3.60 FEET ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, TO A PIPE;
THENCE ALONG PUU KA PELE PARK, GOVERNOR'S EXECUTIVE ORDER 69, ON A CURVE TO THE LEFT WITH A RADIUS OF 100.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING:
 7. 218° 19' 26.5" 122.47 FEET TO A PIPE;
8. 245° 50' 32.25 FEET ALONG THE ABOVE DESCRIBED PUU KA PELE MICROWAVE STATION SITE TO THE POINT OF BEGINNING.

TAX I.D. NUMBERS: (4)1-4-001-016-0000, (4)1-9-003-030-0000, (4)1-4-001-017-0000

LEASE AREA #1

BEGINNING AT THE SOUTHWEST CORNER OF THIS LEASE AREA, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUUKAPELE" BEING 445.73 FEET SOUTH AND 117.05 FEET WEST WITH AZIMUTHS RUNNING CLOCKWISE ABOUT TRUE SOUTH:

1. 155°50'00" 60.00 FEET ALONG PARCEL 003;
2. 245°50'00" 70.00 FEET ALONG PARCEL 003 AND EASEMENT C;
3. 335°50'00" 60.00 FEET ALONG PARCEL 003 AND EASEMENT C;
4. 65°50'00" 70.00 FEET ALONG PARCEL 003 AND THE ACCESS ROAD EASEMENT TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 4,200 SQ.FT

TOGETHER THE RIGHT TO USE THOSE CERTAIN EASEMENTS APPURTENANT TO THE PUU KA PELE MICROWAVE STATION SITE AND PUU KA PELE MICROWAVE TOWER SITE, KNOWN AS EASEMENT A, EASEMENT B, EASEMENT C AND ACCESS ROAD EASEMENT, ALL CONTAINED WITHIN THE PARENT PARCEL AND FURTHER DESCRIBED IN GENERAL LEASE NO. S-3795, RECORDED IN DEED BOOK 4852, AT PAGE 547, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.

LEASE AREA #2

BEGINNING AT THE NORTHWEST CORNER OF THIS LEASE AREA, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUUKAPELE" BEING 25.17 FEET SOUTH AND 35.40 FEET EAST WITH AZIMUTHS RUNNING CLOCKWISE ABOUT TRUE SOUTH:

1. 290°45'00" 35.00 FEET ALONG PARCEL 003;
2. 20°45'00" 35.00 FEET ALONG PARCEL 003 AND EASEMENT B;

InSite Site ID: HI029
InSite Site Name: Kapele RS

3. 110°45'00" 35.00 FEET ALONG PARCEL 003, EASEMENT B, EASEMENT C AND EASEMENT A;

4. 200°45'00" 35.00 FEET ALONG PARCEL 003 AND EASEMENT A TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 1,225 SQ.FT

TOGETHER THE RIGHT TO USE THOSE CERTAIN EASEMENTS APPURTENANT TO THE PUU KA PELE MICROWAVE STATION SITE AND PUU KA PELE MICROWAVE TOWER SITE, KNOWN AS EASEMENT A, EASEMENT B, EASEMENT C AND ACCESS ROAD EASEMENT, ALL CONTAINED WITHIN THE PARENT PARCEL AND FURTHER DESCRIBED IN GENERAL LEASE NO. S-3795, RECORDED IN DEED BOOK 4852, AT PAGE 547, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.



NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 26, 2013

WILLIAM J. ARA, JR.
CHAIRMAN
BOARD OF LAND AND NATURAL RESOURCES
COMMISSIONER OF WATER RESOURCES MANAGEMENT

ESTHER KIA'AINA
DISTRICT DEPUTY

WILLIAM M. IAMI
DEPUTY DIRECTOR - WATER

AGRICULTURE, RESOURCES,
HUNTING AND FISHING
DEPARTMENT OF CONSERVATION
COMMISSIONER OF WATER RESOURCES MANAGEMENT
COMMISSIONER OF COASTAL LAND
CONSERVATION AND MANAGEMENT

DEPARTMENT OF FORESTRY AND WILDLIFE
DISTRICT PRESIDENT
KARUKAWA AND RESERVE COMMISSION
LAND
STATE PARKS

PSF No.: 13KD-154
LD-MS

Hawaiian Telcom, Inc.
1177 Bishop Street
Honolulu, HI 96813

Dear Hawaiian Telcom, Inc.:

Authorize a One-Year holdover to Hawaiian Telcom, Inc., for Telecommunication Purposes, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-003 portion, and Waimea, Kauai TMK: (4) 1-4-001 portion.

We are pleased to inform you that at its meeting of December 13, 2013, under agenda item D-3, the Board of Land and Natural Resources approved your request for a One-Year holdover.

We will be requesting the assistance of the Department of the Attorney General in preparing the lease extension document. Please be informed that the fee for processing these documents is \$52.50. We will bill this amount to your account, and you should see the charge on your next statement.

If you have any questions, please feel free to contact Milo Spindt at 808-274-3491. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Milo Spindt".

Milo Spindt
District Land Agent

Enclosure
cc: Central Files

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

December 13, 2013

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No. 13KD 154

Kauai

Authorize a One-Year Holdover of General Lease No. S 3795 to Hawaiian Telecom, Inc., for Telecommunication Purposes, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-003 portion, and Waimea, Kauai TMK: (4) 1-4-001 portion.

APPLICANTS:

Hawaiian Telecom, Inc., a Hawaii corporation.

LEGAL REFERENCE:

Section 171-40, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-003 portion, and Waimea, Kauai TMK: (4) 1-4-001 portion, as shown on the attached maps labeled Exhibit A.

AREA:

45,377 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5b lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
December 13, 2013 40.

D-3

CURRENT USE STATUS:

Encumbered by General Lease No. S 3795, Hawaiian Telcom, Inc., for
Telecommunication Purposes. Lease expires on November 25, 2013. Last rental
reopening occurred on November 26, 1988. Rent is currently \$2,000.00 per annum.

CHARACTER OF USE:

Microwave tower facilities together with appurtenant easements.

LEASE TERM:

One year holdover

COMMENCEMENT DATE:

November 26, 2013

HOLDOVER ANNUAL RENT:

\$2,000.00 per annum

METHOD OF PAYMENT:

Annual payments, in advance.

RENTAL REOPENINGS:

Not applicable

PERFORMANCE BOND:

Holdover from current lease.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact
Statement Exemption List", approved by the Environmental Council and dated April 28,
1986, the subject request is exempt from the preparation of an environmental assessment
pursuant to Exemption Class No. 1 that states "Operations, repairs, or maintenance of
existing structures, facilities, equipment, or topographical features, involving negligible
or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Hawaiian Telcom, Inc.

Place of business registration confirmed:	YES	x	NO
Registered business name confirmed:	YES	x	NO
Applicant in good standing confirmed:	YES	x	NO

REMARKS:

The property covered by this proposal comprises approximately 45,377 square feet of land in Hanapepe and in Puu Ka Pele for microwave towers and easements. On March 4, 1960, the Commissioner of Public Lands, acting on an urgent request from Hawaiian Telephone Company (HTC), granted a right-of-entry for construction of the microwave facilities at the Hanapepe and Puu Ka Pele Sites. HTC had previously been asked by the U.S. Navy to install a microwave system on Kauai, linking a site at Kokee with Bonham Air base and the Hanapepe Central Office.

On November 17, 1961 (items E-21 and E-21-a), the Board of Land and Natural Resources (Board) approved separate lease proposals for the two sites. However, due to the delay in withdrawing the site at Puu Ka Pele from the Executive Order (GEO 69), the matter was brought back to the Board and approved under Act 32 on April 19, 1963 (item F-3). General Lease No. S-3795 was issued on November 26, 1963 for a term of 50 years, ending on November 25, 2013.

HTC has been known by a number of different names over the years and is now known as Hawaiian Telcom, Inc. (HTI).

On August 9, 2013 (item D-17), as amended on October 25, 2013 (item D-9), the Board approved the assignment of this lease to GTP Structures I, LLC (GTP). However, the documentation to complete the assignment was not consummated and HTI is proceeding as the lessee. The one-year holdover will provide time to for HTI, to apply for a new lease of the site.

As of October 11, 2013 HTI is in compliance with all lease terms and conditions. Rent is paid up to November 25, 2013. HTI has posted a \$4,000.00 bond. In the past five years there have been no Notices of Default issued.

HTI has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

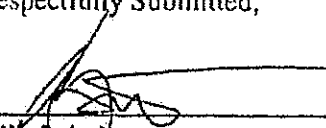
The proposed use has continued since 1963 and will continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that

the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:

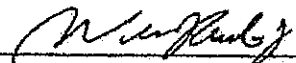
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a one-year hold over lease to Hawaiian Telcom, Inc., covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current lease holdover document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Milo Spind
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

App.Bk. 34:42
L.B. F-3 4/19/63
Ad.Bk. 25:6
Ex.Or.No. 69
Rev.Pmt. S-3289

GENERAL LEASE NO. S-3795

THIS INDENTURE OF LEASE, made this 26th day of November, 1963, by and between the STATE OF HAWAII, by its Board of Land and Natural Resources, hereinafter called the "LESSOR", and HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation, whose post office address is P. O. Box 2200, Honolulu, Hawaii, hereinafter called the "LESSEE", said Lessee being the highest qualified bidder for this lease which was duly advertised and sold at public auction in conformity with the laws of the State of Hawaii:

WITNESSETH:

THAT, the Lessor, in consideration of the rents to be paid and of the terms, covenants and conditions herein contained and on the part of the Lessee to be kept, observed and performed, does hereby demise and lease unto said Lessee, and Lessee does hereby accept and rent, Hanapepe Microwave Tower Site; Easement "A" for overhead easement; Easement "B" for utility overhead easement; Puh Ka Pele Microwave Station Site; Puh Ka Pele Microwave Tower Site; Easements "A" and "B" for overhead easement; Easement "C" for road easement and easement for access road from Kokee Station Site, hereinafter more particularly described in Schedules "A" and "B", attached hereto and made parts hereof.

TO HAVE AND TO HOLD the demised premises unto the Lessee for the term of fifty (50) years commencing on the 26th day of November, 1963, and ending on and including the 25th day of November, 2013, unless

sooner terminated as hereinafter provided, the Lessor reserving and the Lessee yielding and paying to the Lessor at the Office of the Department of Land and Natural Resources, Honolulu, Oahu, State of Hawaii, in equal annual installments in advance, but not more than one year in advance on the 26th day of November of each and every year of said term, provided that the first installment shall be prorated to the next rental due date and paid upon the execution hereof, an annual rent for and during said term as follows:

A. For the first 25 years the sum of ONE HUNDRED SEVENTY-TWO AND NO/100 DOLLARS (\$172.00) per annum, which sum shall have been established by bid at public auction.

B. For the remaining 25 years from November 25, 1988, to and including November 25, 2013, the rent shall be in an amount determined by a qualified appraiser appointed by the Lessor as will be equal to the prevailing rate of return of similar leaseholds determined by the then market value of such land and government-owned improvements for the specific use set forth herein; provided, however, that the new rental shall in no event be lower than the figure established for the immediately preceding period. In the event the Lessor and Lessee fail to agree to the appraisal of the fair market rental, the Lessee may appoint its own appraiser who together with the Lessor's appraiser shall promptly appoint a third appraiser and the appraised fair market rental shall be determined by arbitration and as provided by Chapter 188, Revised Laws of Hawaii 1955, or as amended. The Lessee shall bear the cost of the appraiser appointed by it and the cost of the third appraiser shall be borne equally by the Lessor and Lessee.

RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals. All minerals, as hereinafter defined, in, on

or under the demised premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove such minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of such minerals by any means whatsoever, including strip mining, conditioned upon the payment, prior to any exercise of such rights, of just compensation for destruction of or damage or injury, caused or to be caused by the exercise of such right to occupy and use said land to permanent improvements placed upon said premises by the Lessee; provided, however, that if in the process of conducting such activity the Lessee shall permanently be denied the full use of the surface or any portion of said lands or if the Lessor shall by reason of its activity destroy the value of any part or portion of said lands for the specific use herein set forth, the rent hereinbelow reserved shall be reduced as though said portion or part had been withdrawn by the Lessor.

"Minerals" as used herein shall mean any or all oil, gas, coal, phosphate, sodium, sulfur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, in, on or under the land; provided, that "minerals" shall not include any of the foregoing substances and deposits when used in road or building construction in furtherance of the Lessee's permitted activities on the demised premises and not for sale to others.

2. Waters. All surface and ground waters appurtenant to the demised land. The right to enter, remove, capture, divert or impound water shall be exercised by the Lessor upon payment of just compensation to the Lessee for improvements taken as a condition precedent to the exercise by the Lessor of such rights.

3. Right to use. The right to cross and use for all purposes said easement areas, subject to the easements herein granted, and to grant to others rights or privileges affecting the whole or any portion of said easement areas; provided, however, that the right herein reserved shall not be exercised by the Lessor or by any grantee, licensee or permittee of the Lessor in such a manner as to interfere unreasonably with the Lessee in the use of said easements.

4. Inspection by Lessor. The right to itself and its agents and representatives and to the agents and representatives of the County in which said land is situated to enter at any time the demised premises for the purposes of examining the work carried on by the Lessee or to cross any portion of said land for the purpose of performing any public or official duties; provided, however, the exercise of such rights shall not interfere unreasonably with the Lessee or its use of the premises.

5. Inspection by prospective bidders. The right to authorize any person or persons to enter upon and inspect the demised premises at any time following a published notice for the resale of the same for purposes of informing and apprising themselves of the condition of said lands preparatory to bidding at public auction for any new lease thereof; provided, however, any such entry and inspection shall be conducted during reasonable hours after first contacting the Lessee, and shall, if the Lessee so requires, be made in the company of the Lessee or its designated agents; provided, further, that no such authorization shall be given prior to one year before expiration or earlier termination of this lease.

AND LESSOR hereby covenants with Lessee that, upon payment of the rent as aforesaid, and observance and performance of all the terms, covenants and conditions, the Lessee shall peaceably

hold and enjoy the premises for the term demised without hindrance or interruption by the Lessor or anyone lawfully or equitably claiming by, through or under said Lessor except as herein expressly provided.

THE LESSEE, IN CONSIDERATION OF THE PREMISES, COVENANTS WITH LESSOR AS FOLLOWS:

1. Payment of rent. That the Lessee shall pay said rent to the Lessor at the place specified above, or at such other place as the Lessor may from time to time designate, in legal tender of the United States of America without deduction and without notice or demand.

2. Taxes, assessments, etc. That the Lessee shall during the term of this lease pay when due all taxes and assessments of every description, which may be charged or assessed on the demised premises, or on any improvements thereon, except that real property taxes shall be prorated as of the dates of commencement and expiration respectively of said term; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only such installments together with interest as shall become due and payable during said term.

3. Utility services. That the Lessee shall pay when due all charges, duties and rates of every description to which said demised premises, or any part thereof, or any improvement thereon, which the Lessor or Lessee in respect thereof, may, during said term become liable for water, sewer, gas, refuse collection or any other utilities or services whether assessed to or payable by the Lessor or Lessee.

4. Covenant against discrimination. That the Lessee covenants that the use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed or color.

5. Sanitation, etc. That the Lessee shall keep the demised premises and improvements in a clean, sanitary and orderly condition, and shall observe, perform and comply with all laws, ordinances, rules and regulations of the Federal, State, Municipal or County governments respecting or affecting the land and improvements.

6. Waste. That the Lessee shall not make, permit or suffer, any waste, strip, spoil, nuisance or unlawful, improper or offensive use of the demised premises.

7. Repairs to improvements. That the Lessee shall, at its own expense, keep and maintain all buildings and improvements of every nature whatsoever now or hereafter erected, constructed or installed on the demised premises in good order, condition and repair, reasonable wear and tear excepted.

8. Liens. That the Lessee shall keep and maintain the demised premises free and clear of all mechanics' and materialmen's liens; that in the event any such lien is filed against the demised premises, including any improvements on the demised lands, it shall indemnify and save harmless the Lessor from all loss, cost, interest and expense with respect thereto and that in case of the construction of any improvements on said premises, other than such construction undertaken by Lessee with its own employees, it shall, prior to the commencement of construction, unless such requirement shall be waived in writing by the Lessor, deposit with the Lessor a certificate or other evidence satisfactory to the Lessor that the contractor constructing such improvements has secured and delivered to the Lessee a bond with a surety or sureties, approved by the Lessor, guaranteeing the construction of said improvements free and clear of all mechanics' and materialmen's liens.

9. Character of use. That the Lessee shall use the demised premises for the specific use of Microwave transmission

facilities and appurtenant easements as follows:

Hanapepe Microwave Tower Site

Easement A for overhead easement (20 feet high)

Easement B for utility and overhead easement (20 feet high)

Puu Ka Pele Microwave Station Site

Puu Ka Pele Microwave Tower Site

Easements A and B for overhead easement (20 feet high)

Easement C for road easement and overhead easement (20 feet high)

Easement for access road from Kokee to Station Site

10. Improvements. That the Lessee shall within a period of ninety (90) days from the commencement of the lease complete the construction on the demised premises of microwave and allied facilities at a total cost of not less than FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00), unless the Lessor extends the time of completion. Provided, however, that the Lessor may, if the Lessee defaults with respect to the construction of such improvements and, after proper notice, fails to remedy or cure such default, declare a forfeiture of all the right, title and interest of the Lessee in and to the demised premises.

That the Lessee shall use due care for public safety in the construction, maintenance, repair and operation of the facilities within the areas demised hereunder.

11. Bond, improvement. That the Lessee shall, within a period of ninety (90) days from the commencement of the lease, furnish the Lessor with a good and sufficient bond satisfactory to the Lessor in an amount of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) to guarantee performance of the facilities and improvement requirements of this lease; provided, however, that the Lessor shall release the bond here required whenever the Lessee shall present to the Lessor satisfactory evidence that the facilities and other improvement requirements have been met.

12. Liability of Lessee. That, except as otherwise provided, the Lessee shall, at all times with respect to the premises, use

due care for public safety and agrees that it will indemnify and hold the Lessor harmless from any claims or demand by any person or persons for damages, including claims for property damage, personal injury or wrongful death, arising out of any accident on or about the demised premises, including sidewalks and roadways, if any, adjacent thereto, occasioned by any condition created or suffered on the premises, or by any fire thereon, or growing out of, or caused by any failure on the part of the Lessee to maintain the premises in accordance with the terms and conditions of this lease. Provided, however, that as to the areas demised for easements, such indemnification shall extend to claims or demands for property damage, personal injury or death caused by the negligent or wilful acts of the Lessee, its officers, employees, agents, contractors, permittees and licensees only.

13. Bond, compliance. That the Lessee shall, within ninety (90) days from the commencement of the lease, file with the Lessor, and thereafter keep in full force and effect during the period of this lease, a good and sufficient bond, conditioned upon the full and faithful observance and performance by said Lessee of all of the terms, covenants and conditions of this lease, in an amount equal to the next even thousand dollars above the sum of two years' rental on the demised premises.

Such bond shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business as such in the State of Hawaii, or by not less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in Section 7-21, Revised Laws of Hawaii 1955; provided, however, the Lessee may furnish a bond in like amount, conditioned as aforesaid, executed by it alone as obligor, if, in lieu of any surety or sureties, it shall also furnish and at all times thereafter keep and maintain on deposit with the Lessor security in certified checks, certificates of deposit (payable on demand or after such period as the Lessor may stipulate), bonds, stocks or other negotiable

securities properly endorsed, or execute and deliver to said Lessor a deed or deeds of trust of real property, all of such character as shall be satisfactory to said Lessor and valued in the aggregate at not less than the principal amount of said bond. It is agreed that the value at which any securities may be accepted and at any time thereafter held by the Lessor under the foregoing proviso shall be determined by the Lessor, and that the Lessee may, with the approval of the Lessor, exchange other securities or money for any of the deposited securities if in the judgment of the Lessor the substitute securities or money shall be at least equal in value to those withdrawn. It is further agreed that substitution of sureties or the substitution of a deposit of security for the obligation of a surety or sureties may be made by the Lessee; but only upon the written consent of the Lessor and that until such consent be granted, which shall be discretionary with the Lessor, no surety shall be released or relieved from obligation hereunder.

14. Fire insurance. That the Lessee shall, at its own expense, keep all buildings now or hereafter erected on the demised premises insured throughout the term against loss or damage by fire and the hazards covered by broad form insurance coverage in the joint names of the Lessor, Lessee and Mortgagee, if any, as their interest may appear, at its full replacement value; loss, if any, to be adjusted with the Lessee acting in conjunction with the Lessor and Mortgagee, if any, and payable to the Lessee, Lessor and Mortgagee, if any, as their interest may appear. In the event of loss or damage the Lessee shall, from the proceeds of such insurance:

- (a) With the Lessor's and Mortgagee's approval, rebuild or replace and repair said buildings according to the original plans therefor, with due allowance for normal wear and tear; or

- (b) With the Lessor's and Mortgagee's approval rebuild or replace and repair the same according to modified plans; or
- (c) With the Lessor's and Mortgagee's approval, use said proceeds for the construction of new buildings or the amendment of buildings not damaged as aforesaid; or
- (d) Request of the Lessor and Mortgagee a division of said proceeds, in which event, subject to the Lessor's and Mortgagee's approval, the Lessee shall pay off the balance owing on any mortgage and the Lessee shall then receive that proportion of said proceeds which the unexpired term of this lease at the time of said loss or damage bears to the whole of said term, and the Lessor shall retain the balance of said proceeds.

With respect to proof of the Lessee's compliance with the provisions of this paragraph the Lessee shall furnish the Lessor and Mortgagee, if any, with a certificate showing such insurance to be initially in force and shall furnish a like certificate upon each renewal of such insurance, each such certificate to contain or be accompanied by an undertaking of the insurer to notify the Lessor and Mortgagee, if any, of any intention to cancel any such insurance prior to actual cancellation. The granting of the approval as aforesaid shall not be arbitrarily or unreasonably withheld.

15. Surrender. That the Lessee shall and will, except as herein provided, at the expiration or sooner termination of this lease, peaceably and quietly surrender and deliver possession of the demised premises to the Lessor, together with all buildings

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~~and improvements of whatever name or nature~~, now on or hereafter erected or placed upon the same, in good order and condition, reasonable wear and tear excepted.

IT IS MUTUALLY AGREED BY LESSOR AND LESSEE AS FOLLOWS:

1. Assignments, etc. That the Lessee shall not sublet, transfer or assign any right, privilege or authority herein given or in any manner sublet, transfer or assign this lease for the whole or any part of the term hereof; provided, that with the prior written consent of the Lessor, the assignment and transfer of a lease or unit thereof may be made where extreme economic hardship is demonstrated to the satisfaction of the Lessor.

2. Mortgages. That the Lessee may mortgage this lease or any part thereof with the prior written consent of the Lessor. If the mortgage or security interest is to a recognized lending institution in either the State of Hawaii or elsewhere in the United States, such consent may extend to foreclosure and sale at such foreclosure to any purchaser, including the mortgagee, without regard to whether or not the purchaser is qualified to lease, or hold the land or any interest therein. The interest of the mortgagee or holder shall be freely assignable. The term "holder" includes an insurer or guarantor of the obligation or condition of such mortgage, including the Federal Housing Administration, the Small Business Administration, Farmers Home Administration, or any other Federal Agency or their respective successors and assigns or any lending institution authorized to do business in the State of Hawaii or elsewhere in the United States; provided, that the consent to mortgage to a non-governmental holder shall not confer any greater rights or powers in the holder than those which would be required by any of the aforementioned federal agencies.

3. Condemnation. That, if, at any time, during the term of this lease, the demised premises or any part thereof shall be

taken or condemned for public purposes use by the State or any County or City and County or any other governmental agency or subdivision, the rental shall be reduced proportionately. The Lessee shall be entitled to receive from the condemning authority ^{1/2} ~~(a) the value of growing crops, if any, which it is not permitted to harvest and~~ ^{N.P.} ~~(b)~~ the proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the lease; provided, that the Lessee may, in the alternative, remove and relocate its improvements to the remainder of the lands occupied by it. The foregoing rights of the Lessee shall not be exclusive of any other to which it may be entitled by law. Where the portion so taken renders the remainder unsuitable for the uses for which the land was demised, the Lessee shall have the option to surrender its lease and be discharged from any further liability therefor; provided, that it may remove its permanent improvements within such reasonable period as may be allowed by the Lessor.

4. Breach. That if the Lessee shall fail to yield or pay said rent or any part thereof at the times and in the manner aforesaid or shall fail to observe or perform any of the covenants, terms and conditions herein contained and on its part to be observed or performed, and any such failure shall continue for a period of ninety (90) days or additional period permitted by the Lessor for good cause after written notification thereof by personal service, registered or certified mail by the Lessor to the Lessee and to all holders of record of security interest to this lease, or if the Lessee shall become bankrupt, or shall abandon the demised premises, or if this leasehold shall be taken on execution, then in any such case, the Lessor may after having complied with the provisions as aforesaid, at once re-enter upon the demised premises or upon any part thereof in the name of the whole, and, upon or without such entry, at its option

terminate this lease without legal process and without prejudice to any other remedy or action for arrears of rent or for any preceding or other breach of contract, and in case of such termination all buildings and improvements on the demised lands shall be and remain the property of Lessor,

The term "holder of a security interest" as used herein shall refer to a person who is the owner or possessor of a security interest in the land demised and who has filed with the Department of Land and Natural Resources and with the ^{Bureau} ~~Division~~ of Conveyances of the State of Hawaii, a copy of the document creating such interest.

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5. Protection of Mortgagee. In the event the Lessor seeks to forfeit the interest created by this lease, each recorded holder of a security interest may, at its option, cure or remedy the breach or default within ninety (90) days from the date of receipt of the notice hereinabove set forth, or within such additional period as the Lessor may allow for good cause, and add the cost thereof to the mortgage debt and the lien of the mortgage. Upon failure of the holder, from any moneys at its disposal, including the Special Land and Development Fund, to exercise its option, the Lessor may: (a) pay to the holder the amount of the mortgage debt, together with interest and penalties, and secure an assignment of said debt and mortgage from said holder, or if ownership of such interest or estate shall have vested in such holder by way of foreclosure, or action in lieu thereof, the Lessor shall be entitled to the conveyance of said interest or estate upon payment to said holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with such foreclosure and preservation of its security interest, less appropriate credits, including income received from said interest

or estate subsequent to such foreclosure; or (b) terminate the outstanding interest or estate subject to the lien of such mortgage, without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default and thereupon use its best efforts to redispense of the land affected thereby to a qualified and responsible person who will assume the obligation of the mortgage and the debt thereby secured; provided, that a reasonable delay by the Lessor in instituting or prosecuting any right or remedy it may have hereunder shall not operate as a waiver of such right or to deprive it of such remedy when it may still hope otherwise to resolve the problems created by the breach or default. The proceeds of any redispense affected hereunder shall be applied, first, to reimburse the Lessor for costs and expenses in connection with such redispense, second, to discharge in full any unpaid purchase price or other indebtedness owing the State in connection with such interest or estate terminated as aforesaid, and the balance, if any, shall be paid to the owner of such interest or estate.

6. Termination or abandonment. That the sites and appurtenant easements herein granted shall revert to the Lessor upon termination of this lease, or abandonment of the specific purpose for which it was granted for a continuous period of one (1) year.

7. Acceptance of rent not a waiver. That the acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant or condition of this lease nor of the Lessor's right to declare and enforce a forfeiture for any such breach, and the failure of the Lessor to insist upon strict performance of any such term, covenant or condition, or to exercise any option herein conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any such term, covenant, condition or option.

IN WITNESS WHEREOF, the STATE OF HAWAII, the Lessor herein, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be duly executed this 4th day of August, 1964; and HAWAIIAN TELEPHONE COMPANY, the Lessee herein, has caused these presents to be executed this 22nd day of July, 1964, both effective as of the day and year hereinabove set forth.

STATE OF HAWAII

By: [Signature]

Chairman and Member
Board of Land and
Natural Resources

And By: [Signature]

Member
Board of Land and
Natural Resources

LESSOR

HAWAIIAN TELEPHONE COMPANY

By: [Signature]

Its VICE PRESIDENT

And By: [Signature]

Its ASSISTANT SECRETARY

LESSEE

APPROVED AS TO FORM:

[Signature]
Deputy Attorney General

Dated: 7-27-64

STATE OF HAWAII)
) SS
CITY AND COUNTY OF HONOLULU)

On this 22nd day of July, 1964, before me appeared L. W. Robello and J. E. Ellis to me personally known, who, being by me duly sworn, did say that they are the Vice President and Assistant Secretary respectively, of HAWAIIAN TELEPHONE COMPANY and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said L. W. Robello and J. E. Ellis acknowledged said instrument to be the free act and deed of said corporation.

Oliver H. Graybeak
Notary Public, 2nd Judicial
Circuit, State of Hawaii

My Commission expires: 1/21/66

by
Checked by: h

SCHEDULE "A"

Hanapepe Microwave Tower Site and
Linking Easements A and B

Hanapepe, Waimea (Kona), Kauai, Hawaii

Being portions of the Government (Crown) Land of Hanapepe

Hanapepe Microwave Tower Site:

Beginning at a pipe at the north corner of this parcel of land and on the west boundary of Eleele School Lot, Governor's Executive Order 341, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUOLO" being 6479.21 feet North and 6647.89 feet East, as shown on Government Survey Registered Map 2615, thence running by azimuths measured clockwise from True South:-

1. 347° 03' 25.01 feet along Eleele School Lot, Governor's Executive Order 341 to a pipe;
2. 75° 35' 24.36 feet along Government Land to a pipe;
3. 165° 35' 25.00 feet along Government Land and along the east end of Easement B to a pipe;
4. 255° 35' 25.00 feet along the south end of Easements B and A to the point of beginning and containing an AREA OF 617 SQUARE FEET.

EASEMENT A.

Beginning at a pipe at the southeast corner of this Easement, being also the initial point of the above described Hanapepe Microwave Tower Site, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUOLO" being 6479.21 feet North and 6647.89 feet East, thence running by azimuths measured clockwise from True South:-

1. 75° 35' 5.45 feet along the above described Hanapepe Microwave Tower Site to a pipe;
2. 130° 35' 45.82 feet along the northeast side of Easement B;
3. 155° 56' 46.0" 297.68 feet;
4. 245° 56' 46.0" 25.00 feet;
5. 335° 56' 46.0" 340.00 feet to the point of beginning and containing an AREA OF 8,073 SQUARE FEET.

EASEMENT B.

Beginning at the east corner of this Easement, and on the north boundary of the above described Hanapepe Microwave Tower Site, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUOLO" being 6477.85 feet North and 6642.61 feet East, thence running by azimuths measured clockwise from True South:-

1. 75° 35' 19.55 feet along the above described Hanapepe Microwave Tower Site to a pipe;
2. 345° 35' 15.67 feet along the above described Hanapepe Microwave Tower Site to a pipe;
3. 130° 35' 276.08 feet to a pipe;
4. 162° 32' 47.25 feet along Grant 9640 to Kauai Telephone Company, Limited to a pipe;
5. 310° 35' 314.54 feet to the point of beginning and containing an AREA OF 7,232 SQUARE FEET.

Puu Ka Pele Microwave Station and Tower Sites
Linking Easements A, B and C
and Access Road

Waimea (Kona) Kauai, Hawaii

Being portions of the Government (Crown) Land of Waimea

Puu Ka Pele Microwave Station Site:

Beginning at a pipe at the west corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU KA PELE" being 390.98 feet South and 141.61 feet West, as shown on Government Survey Registered Map 2602, thence running by azimuths measured clockwise from True South:-

1. 245° 50' 70.00 feet along Puu Ka Pele Park, Governor's Executive Order 69 and along the south end of Easement C to a pipe;
2. 335° 50' 60.00 feet along the south end of Easement C and along Puu Ka Pele Park, Governor's Executive Order 69 to a pipe;
3. 65° 50' 70.00 feet along Puu Ka Pele Park, Governor's Executive Order 69, along the north end of Access Road and again along Puu Ka Pele Park, Governor's Executive Order 69 to a pipe;
4. 155° 50' 60.00 feet along Puu Ka Pele Park, Governor's Executive Order 69 to the point of beginning and containing an AREA OF 4,200 SQUARE FEET.

Puu Ka Pele Microwave Tower Site:

Beginning at a pipe at the north corner of this parcel of land, the true azimuth and distance from Government Survey Triangulation Station "PUU KA PELE" being 305° 25' 43.44 feet, as shown on Government Survey Registered Map 2602, thence running by azimuths measured clockwise from True South:-

1. 290° 45' 35.00 feet along Puu Ka Pele Park, Governor's Executive Order 69 to a pipe;
2. 20° 45' 35.00 feet along Puu Ka Pele Park, Governor's Executive Order 69 and along the northerly end of Easement B to a pipe;
3. 110° 45' 35.00 feet along the northerly ends of Easements B and C and the easterly end of Easement A to a pipe;

4. 200° 45' 35.00 feet along the easterly end of Easement A and Puu Ka Pele Park, Governor's Executive Order 69 to the point of beginning and containing an AREA OF 1,225 SQUARE FEET.

EASEMENT A:

Beginning at the east corner of this easement and on the westerly boundary of the above described Puu Ka Pele Microwave Tower Site, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU KA PELE" being: 41.70 feet South and 29.14 feet East, thence running by azimuths measured clockwise from True South:-

1. 20° 45' 17.32 feet along the above described Puu Ka Pele Microwave Tower Site to a pipe;
2. 290° 45' 5.00 feet along the above described Puu Ka Pele Microwave Tower Site;
3. 19° 45' 12.33 feet along the west side of Easement C;
4. 66° 56' 333.23 feet;
5. 156° 56' 25.00 feet;
6. 246° 56' 350.00 feet to the point of beginning and containing an AREA OF 8,526 SQUARE FEET.

EASEMENT B:

Beginning at the north corner of this easement and on the easterly boundary of the above described Puu Ka Pele Microwave Tower Site, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU KA PELE" being: 53.72 feet South and 62.01 feet East, thence running by azimuths measured clockwise from True South:-

1. 335° 55' 22.4" 90.00 feet;
2. 65° 55' 22.4" 25.00 feet;

3. 155° 55' 22.4" 71.63 feet;
4. 199° 45' 12.92 feet along the east side of Easement C;
5. 290° 45' 5.00 feet along the above described Puu Ka Pele Microwave Tower Site to a pipe;
6. 200° 45' 17.73 feet along the above described Puu Ka Pele Microwave Tower Site to the point of beginning and containing an AREA OF 2,010 SQUARE FEET.

EASEMENT C:

Beginning at the south corner of this easement and on the easterly boundary of the above described Puu Ka Pele Microwave Station Site, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU KA PELE" being 391.19 feet South and 64.80 feet West, thence running by azimuths measured clockwise from True South:-

1. 155° 50' 31.64 feet along the above described Puu Ka Pele Microwave Station Site to a pipe;
2. 65° 50' 4.24 feet along the above described Puu Ka Pele Microwave Station Site;
3. 199° 45' 323.42 feet;
4. 290° 45' 25.00 feet along the above described Puu Ka Pele Microwave Tower Site;
5. 19° 45' 342.83 feet partly along the northerly end of Easement B to the point of beginning and containing an AREA OF 8,260 SQUARE FEET.

ACCESS ROAD:

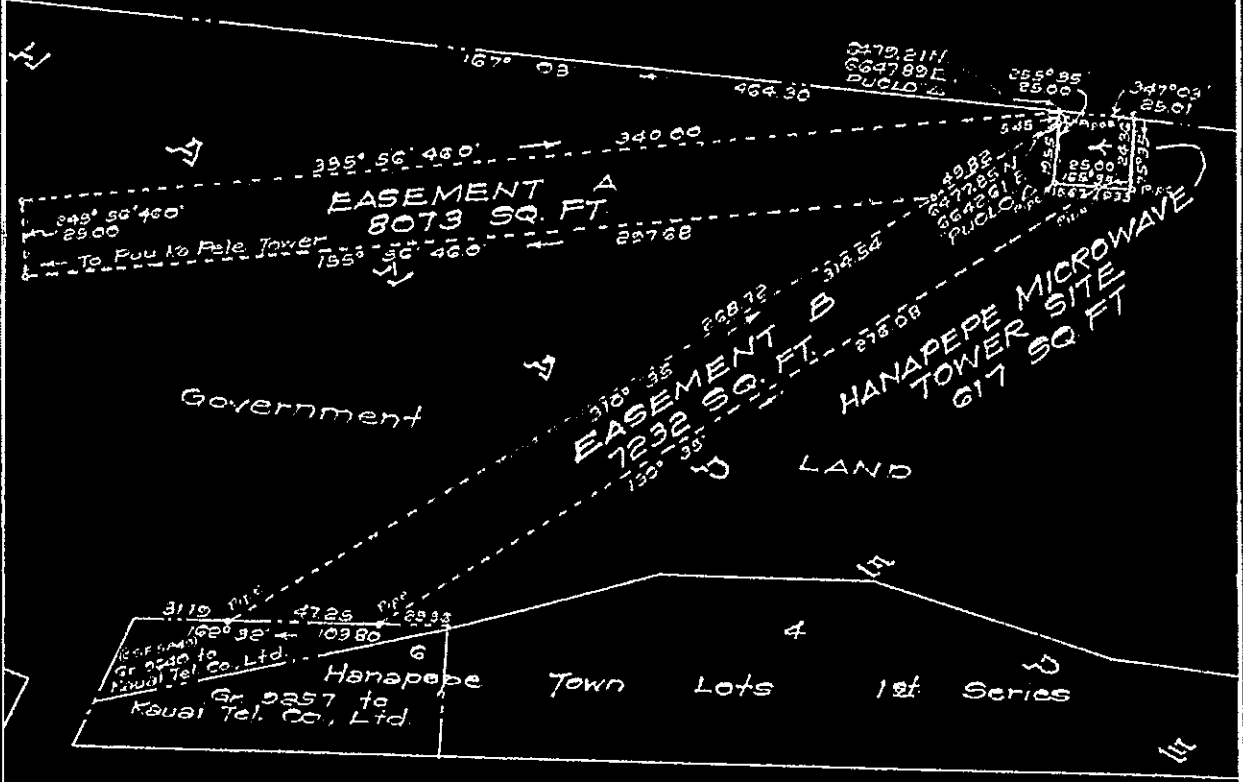
Beginning at a pipe at the northeast corner of this parcel of land and on the southerly boundary of the above described Puu Ka Pele Microwave Station Site, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU KA PELE" being 429.34 feet South and 80.56 feet West, as shown on Government Survey Registered Map 2602, thence running by azimuths measured clockwise from True South:-

1. Along Puu Ka Pele Park, Governor's Executive Order 69, on a curve to the right with a radius of 130.00 feet, the chord azimuth and distance being: 35° 20' 41" 169.68 feet to a pipe;
2. 76° 05' 5.71 feet along Puu Ka Pele Park, Governor's Executive Order 69;
3. Thence along Puu Ka Pele Park, Governor's Executive Order 69, on a curve to the left with a radius of 10.00 feet, the chord azimuth and distance being: 32° 18' 30" 13.84 feet;
4. 168° 32' 50.04 feet on the east side of Kokee Road;
5. Thence along Puu Ka Pele Park, Governor's Executive Order 69, on a curve to the left with a radius of 10.00 feet, the chord azimuth and distance being: 302° 18' 30" 14.44 feet;
6. 256° 05' 3.60 feet along Puu Ka Pele Park, Governor's Executive Order 69, to a pipe;
7. Thence along Puu Ka Pele Park, Governor's Executive Order 69, on a curve to the left with a radius of 100.00 feet, the chord azimuth and distance being: 218° 19' 26.5" 122.47 feet to a pipe;
8. 245° 50' 32.25 feet along the above described Puu Ka Pele Microwave Station Site to the point of beginning and containing an AREA OF 5,235 SQUARE FEET.

True North
Scale: 1 in = 50 ft

ILI OF ELEELE
R.P. 4455, LC Aw 7712, Ap 5 to M Kekuanooa

ELEELE SCHOOL LOT
Governors Executive Order 241
(CS= 5083)



Hanapepe Microwave Tower Site and
Linking Easements A and B
Hanapepe, Waimea (Kona), Kauai, Hawaii
Scale: 1 inch = 50 feet.

JOB 952
C. BK 13 (Hashimoto's)

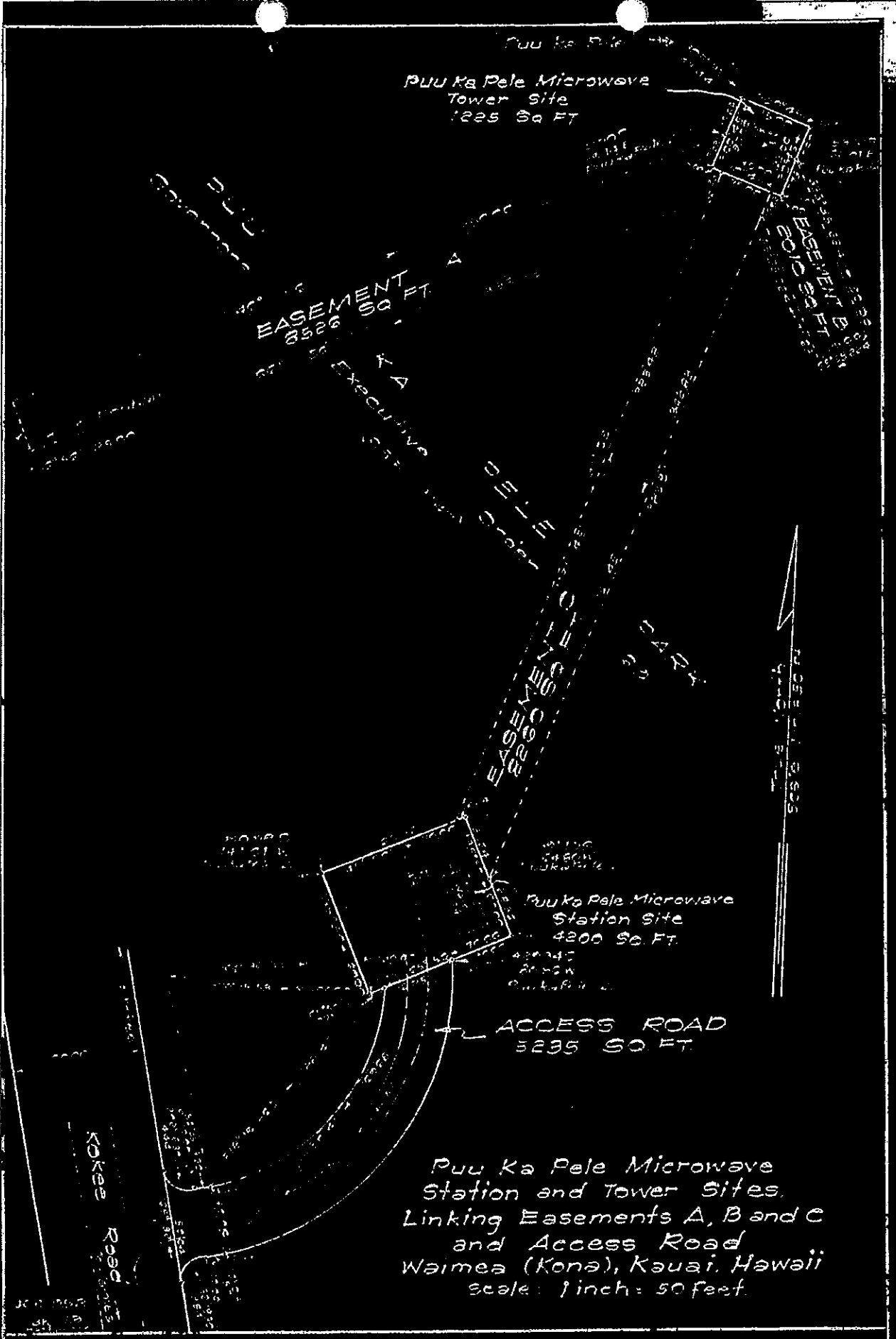
TAX MAP 1-9-09

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

C. S. F. No. 13622

STATE OF HAWAII

RTH. Feb. 9, 1962



Puu Ka Pele
 Puu Ka Pele Microwave
 Tower Site
 1225 Sq FT

EASEMENT A
 8526 Sq FT

EASEMENT B
 5010 Sq FT

EASEMENT C
 2220 Sq FT

Puu Ka Pele Microwave
 Station Site
 4200 Sq FT

ACCESS ROAD
 3235 Sq FT

Puu Ka Pele Microwave
 Station and Tower Sites,
 Linking Easements A, B and C
 and Access Road
 Waimea (Kona), Kauai, Hawaii
 Scale: 1 inch = 50 feet

TAX MAP 1-4-61
 C. S. F. NO 13623

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 STATE OF HAWAII

FILED Feb 9, 1962

EXHIBIT 4

**Description of LICENSEE's Equipment
(Attach Approved Collocation Application)**

**EXHIBIT 4
Equipment**

Site Name and #: HI029 KAPELE RS; WDU332

Licensee Name: Hawaiian Telecom

The mounting method and exact location of the space and equipment listed herein shall be subject to InSite's approval.

SYSTEM REQUIREMENTS					
POWER provided by:	Licensor			ETL CO provided by:	T1
Power Requirements:	Amps: 50	Volts: 120/240	No. of Outlets:	N/A	
Generator Provided by:	Licensor	Make: Onan	Model: 30,ODDA-15R/15433D	Fuel Type: Diesel	Capacity: 600 gal
Batteries:	Quantity: N/A	Make: N/A	Model: N/A	N/A	
GROUND/FLOOR SPACE REQUIREMENTS & RADIO INVENTORY					
Type of Space Required:	Ground: None	Floor: Yes	Total Square Feet:	319 sq ft	
Dimensions of Equipment/Ground/Floor Space:	319 sq ft			N/A	
Dimensions of Generator/Ground Space:	N/A			Dimensions of Fuel Tank/Ground Space: N/A	
TOWER MOUNTED EQUIPMENT LOADING (FINAL CONFIGURATION)					
	DISH(ES)	DISH(ES)	DISH(ES)	DISH(ES)	OTHER/Antennas
Antenna Type (1)	Other	N/A	N/A	N/A	N/A
# of Antennas (1)	One (1)	None	N/A	N/A	N/A
Tilt, Rx or Bch	Both	N/A	N/A	N/A	N/A
Antenna Manufacturer (1)	ANDREW	N/A	N/A	N/A	N/A
Antenna Model (1)	UH-X8-59H RF	N/A	N/A	N/A	N/A
Antenna Dimensions (1)	8FT	N/A	N/A	N/A	N/A
Antenna Weight (1)	500 lbs	N/A	N/A	N/A	N/A
Antenna RAD (1)	23FT , 142.5DEG	N/A	N/A	N/A	N/A
Transmit Frequencies	6 GHZ	N/A	N/A	N/A	N/A
Receive Frequencies	6 GHZ	N/A	N/A	N/A	N/A
# of Tower Mounted Radios	None	None	None	None	None
# of Lines	Two (2)	None	None	None	None
Line Size	EW52	N/A	N/A	N/A	N/A

As of the Commencement Date, the Annual License Fee is \$2,400 (1 Antenna).

LICENSOR SITE: HI029 Kapele RS
LICENSEE SITE: Puu Ka Pele RS & Microwave
LICENSEE: Hawaiian Telcom, Inc.

FIRST AMENDMENT TO SITE LICENSE AGREEMENT

This First Amendment to Site License Agreement ("First Amendment") is made this 28th day of August, 2018 ("Execution Date") by and between IWG II, LLC, a Delaware limited liability company ("LICENSOR"), and Hawaiian Telcom, Inc, a Hawaiian corporation ("LICENSEE").

WHEREAS, LICENSOR, as successor in interest to InSite Towers Development, LLC, successor in interest to Hawaiian Telcom, Inc., and LICENSEE entered into a certain Site License Agreement dated December 30, 2014, pursuant to that certain Master License Agreement dated December 30, 2014 (collectively, the "Agreement"), whereby LICENSOR licenses to LICENSEE a portion of the Property at LICENSOR's telecommunications site located at Latitude 22° - 04' - 50.54" N and Longitude 159° - 39' - 59.34" W at Kokee Rd, Waimea, Kauai County, Hawaii (the "Site," and known to LICENSOR as "HI029 Kapele RS " and known to LICENSEE as "Puu Ka Pele RS & Microwave"); and

WHEREAS, LICENSOR and LICENSEE desire to amend the Agreement to allow LICENSEE to modify certain equipment;

NOW, THEREFORE, in consideration of the mutual promises herein set forth and other good and valuable consideration, the parties agree as follows:

1. Any capitalized term used herein, but not defined, shall have the meaning ascribed to such term in the Agreement.
2. Effective as of the earlier of: (i) the date of LICENSOR's issuance, at LICENSEE's request, of a notice authorizing LICENSEE to proceed with its equipment modifications at the Site, or (ii) July 15, 2018 ("Amendment Effective Date"), Exhibit 4 to the Agreement shall be deleted in its entirety and replaced with Exhibit 4 attached hereto and incorporated herein by reference.
3. LICENSOR's notice address as listed in Section 20 of the Agreement, are hereby amended as follows:

IF to LICENSOR:
IWG II, LLC
ATTN: Legal Department
1199 N. Fairfax Street, Suite 700
Alexandria, VA 22314
(703) 535-3009
(703) 535-3051 FAX

with a copy to:
InSite Wireless Group, LLC
ATTN: General Counsel
260 Newport Center Drive, Suite 421
Newport Beach, CA 92660
(949) 999-3319
(949) 999-3359 FAX

4. As of the Execution Date, LICENSEE shall submit any License Fee payments due to the following updated address:

IWG II, LLC
Re: HI029 Hawaiian Telcom, Inc.
1199 N. Fairfax Street, Suite 700
Alexandria, VA 22314

5. Each of the parties executing this First Amendment hereby covenants and warrants that such party has full power and authority to enter into this First Amendment and that each of the persons signing on behalf of LICENSOR and LICENSEE is duly authorized to do so.

6. This First Amendment may be executed in duplicate counterparts, each of which shall be deemed an original.

7. The parties agree that, except as amended herein, the terms and conditions of the Agreement shall remain in full force and effect; provided, however, that in the event of a conflict between the terms of the Agreement and the terms of this First Amendment, the terms of this First Amendment shall control.

IN WITNESS WHEREOF, the undersigned have executed this First Amendment as of the date first written above.

LICENSOR: IWG II, LLC

By: *Robert L Johnson*
Name: Robert L Johnson
Title: COO
Date: 8-28-10

LICENSEE: HAWAIIAN TELCOM, INC.

By: *[Signature]*
Name: John T. Komeiji
Title: President and General Manager
Date: _____

Approved
as to form
Legal (113)
By SC
Date 8-22-10

#10-315

EXHIBIT 4

**Equipment
Site Name and Number: HI029 Kapele RS**

LICENSEE: Hawaiian Telcom, Inc.

The mounting method and exact location of the space and equipment listed herein shall be subject to LICENSOR's approval.

Licensor			Microwave	
3.23		-48VDC	N/A	
Licensor	Onan	30.ODDA-15R/15433D	Diesel	600 GAL
UNK		Exide	N/A	
No		Yes	319 sq ft	
	319 sq ft		N/A	
	N/A			N/A
N/A	N/A	N/A	Parabolic w/	N/A
None	None	None	One (1)	None
N/A	N/A	N/A	Both	N/A
N/A	N/A	N/A	Radio Waves	N/A
N/A	N/A	N/A	HPD6-11 (TR)	N/A
N/A	N/A	N/A	6 FT	N/A
N/A	N/A	N/A	251 lbs	N/A
N/A	N/A	N/A	37 ft. 156.80 deg	N/A
None	None	None		
None	None	None		
None	None	None		
None	None	None		
N/A			11.075 GHZ	N/A
N/A			11.565 GHZ	N/A
None	None	None	One (1)	None
N/A	N/A	N/A	1/2"	N/A
N/A	N/A	N/A	Pipe Mount	N/A
N/A	N/A	N/A	Three Feet (3')	N/A

NOTE: ANY (i) CHANGE IN THE NUMBER, SIZE, PLACEMENT, ARRAY, OR LOCATION OF THE EQUIPMENT LISTED ABOVE IN THIS EXHIBIT 4, (ii) CHANGE IN FREQUENCY FROM THAT LISTED ABOVE IN THIS EXHIBIT 4, OR (iii) INCREASE IN THE SIZE OR FOOTPRINT OF THE LICENSED AREA SHALL REQUIRE THE WRITTEN CONSENT OF THE LICENSOR AND A WRITTEN AMENDMENT TO THIS AGREEMENT.

NOTE: AUDIBLE ALARMS RELATED TO GENERATOR AND HVAC EQUIPMENT SHALL BE PERMANENTLY DISABLED AT UNMANNED SITES.