

MASTER WIRELESS COMMUNICATIONS SITE AGREEMENT
Wireless Equipment Attachments

CITY OF SEATTLE, CITY LIGHT DEPARTMENT

NO. 230300-1-613

New Cingular Wireless PCS, LLC

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MASTER WIRELESS COMMUNICATIONS SITE AGREEMENT

Wireless Equipment Attachments

NO. 230300-1-613
New Cingular Wireless PCS, LLC

SPECIAL TERMS AND CONDITIONS

THIS MASTER WIRELESS COMMUNICATIONS SITE AGREEMENT (“**Agreement**” or “**Site Agreement**”) is entered into by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington (hereinafter referred to as the “**City**”), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, whose address is 575 Morosgo Drive NE, Atlanta, GA 30324 (hereinafter referred to as “**Company**”).

WHEREAS, the City, under the jurisdiction of the City Light Department (“**Facility Owner**” or “**City Light**”), owns and/or has an interest in land, street light poles, utility poles and/or other structures (individually and collectively the “**Premises**”); and

WHEREAS, the Company desires to obtain permission to use certain portions of the Facility Owner’s Premises described below for the installation and operation thereon of wireless communications Equipment, as defined in the General Terms and Conditions of this Wireless Communications Site Agreement and including antennas, a radio access node cabinet, cables, and other Company-owned wireless communication attachments to a City-owned structure;

NOW, THEREFORE, it is mutually agreed as follows:

I. PREMISES: Subject to the terms and conditions set forth herein, the City hereby grants to the Company the right to attach Equipment to the Facility Owner’s structures commonly known as electrical distribution poles (“**Pole**” or “**Poles**”), and other structures and property that the City may grant use of from time to time (hereinafter referred to as “**Facility**” or “**Facilities**”), located in Seattle, and in portions of other cities and unincorporated King County, Washington, where the City owns Facilities.

II. SCOPE, USE/PURPOSE, ISSUANCE OF PERMITS:

A. The Company's radio communications transport equipment, referred to as a wireless equipment attachment (“**WEA**”), consists of an antenna(s) and radio access node (“**RAN**”) cabinet component (“**Equipment**”) and a fiber optic cable component attached horizontally from Pole to Pole between Facilities (“**Fiber**”). Each component is authorized under a separate agreement with the City. This Agreement governs all Equipment. Fiber attachments are granted under the City’s separate Master Pole Attachment Agreement.

B. The Premises may be used only for the following use and purpose: The Equipment components of a radio communications services system that provides a network that can be utilized simultaneously by different licensed communication company frequencies for wireless personal communications services to include, but not be limited to, digital voice, data, and video services.

C. For use of each Facility, the Company will submit to the Facility Owner a site specific Wireless Equipment Pole/Facility Attachment Application and Permit (the “**Permit**”), an example of which is attached hereto as **Exhibit A**. City Light agrees that Company may, subject to City Light acceptance of the site specific applications and issuance of a Permit for each Facility, make use of the Facilities, partially or wholly owned and maintained by City Light, for the transmission of any lawful communications, including the installation,

maintenance, operation and removal of Equipment thereon in accordance with the terms of this Agreement and for no other purpose.

III. SITE AGREEMENT CONTENTS: This Agreement consists of these Special Terms and Conditions as well as the General Terms and Conditions, all Exhibits and Addenda hereto attached, and all Permits issued hereunder which by this reference are made a part hereof. In the event of a conflict between the terms of the Special Terms and Conditions with the General Terms and Conditions, the Special Terms and Conditions will prevail. This Agreement is intended to be the legally operative document between the City and the Company for the use of the Premises for the purpose stated herein and may not be modified except by written agreement of the parties. This Agreement supersedes all other understandings or agreements, written or oral, between the parties relating to the subject matter of this Agreement.

The Company acknowledges and agrees that it has not yet provided the City all necessary plans, analyses and documentation to complete the City's review and grant of acceptance of the Facilities and Equipment, and that, as a result of the City's review of the Company's plans and analyses, the City may deny the installation of the Facilities and Equipment outright or require additional terms and/or conditions which will be stated in each Permit and become a part hereof. The City is under no obligation to accept this installation of Equipment at any specific Facility if it determines in its sole discretion that the installation will interfere in any way with the City's electrical or communication facilities and their maintenance and operations.

IV. TERM: The Term of this Agreement ("**Term**") begins on the date the Agreement is fully executed by both parties. The Term shall be five (5) years unless it is terminated earlier pursuant to the provisions herein ("**Initial Period**"). At its option, the Company may renew the Agreement for up to three (3), five (5)-year periods (the "**Option Period(s)**") provided all terms of this Agreement are met. The Option Periods will automatically commence on the date following the termination of the Initial Period or prior Option Period, whichever is applicable, unless the Company notifies the City in writing of its desire not to renew the Agreement six months prior to the expiration date of the Initial Period or Option Period, whichever is applicable. The Rental rate will be subject to re-negotiation for each Renewal Period as described below. The Term applies only to the duration of the permission to attach Equipment to the Owner's Facilities; all other terms and conditions of the Agreement are and remain effective upon full execution of the Agreement. On January 1, 2036, one year prior to the end of the last Option Period, the Company may request an extension of the agreement. The Facility Owner may extend the agreement, provided it determines that the Equipment does not interfere with the City's use and Company is not in violation of any of the terms or conditions of the Agreement.

In the event of the inability of the Facility Owner to deliver possession of the Premises, or any portion thereof, at the time of the commencement of the Term or the grant of a Permit, neither the City nor any of its officers, employees or agents will be liable for any damage caused thereby, nor will this Agreement or the Permit thereby become void or voidable nor will the term herein specified be in any way extended, but in such event, the Company will not be liable for any rent until such time as the Facility Owner can deliver possession. If a required permit or other jurisdictional approval is delayed beyond the commencement of the Term or the grant of a Permit, or is denied, then either party may terminate this Agreement or the Permit with 30-days written notice to the other party. Prepaid rent for the period after the termination date, if any, will be refunded.

V. RENT, OPTION PERIODS, PAYMENT SCHEDULE, BOND:

A. Rent.

1. WEA Attachments: For up to two omni or two panel antennas and one RAN cabinet on one Pole (antenna and cabinet sizes must comply with City Light's construction guidelines), rent for the 2016 calendar year is One Thousand Seven Hundred Thirty-One and 88/100 Dollars (\$1,731.88) per Facility.
2. The rent will increase on January 1, 2017 and on January 1st of each successive calendar year by adding an inflationary adjustment which will be equal to the greater of 4% or the inflation increase as

defined by the Consumers Price Index (CPI-U) for All Urban Consumers for the Seattle Everett Statistical Metropolitan Area, as published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor.

B. Option Periods. The rental rate for the Premises subject to an active Permit will either continue to be established by increasing the rental rate as described in paragraph V.A. or as follows: The intent of the parties is to achieve a market rate for the use of the City's Facilities. The parties agree that the City may present a finding that the rental rate as calculated above does not fairly compensate the City at a fair market rate and may set a rate based on the finding. If the Company disagrees with the rate, it may present information to rebut the City's finding. The City will consider the information provided by the Company and inform the Company within 60 days of receipt of the information of the final rent adjustment.

C. Form and Timing of Payment. The commencement date of all Permits executed pursuant to the terms of the Agreement shall occur 180 days after the full execution of such Permit. Rent for any portion of a calendar year will be prorated daily through December 31st of that year.

D. Bond. As specified within the Permit, within 35 days of the approval of any Permit to attach Equipment, the Company shall provide a Payment and Performance Bond issued for the performance of its obligations hereunder (the "Performance Bond"). Every Surety named on this bond must either appear on the United States Treasury Department's most current list (Circular 570 as amended or superseded) or have a current rating of at least A-VII in A.M. Best's Key Rating Guide. For Class I Attachments, the Performance Bond shall be One Thousand and No/100 Dollars (\$1000.00) for each Pole or Facility, shall be for a term of 5 years, shall be continuously renewed, extended or replaced so that it remains in effect for the entire Term of this Agreement, and shall be issued in the form provided by the City. At the beginning of each Option Period, the amount of the Performance Bond shall be increased by 20 percent. The Facility Owner agrees to accept a cash deposit equal to the amount of the Performance Bond for each Facility or Pole, in lieu of a performance bond, to be held until (1) an acceptable performance bond, or other acceptable form of security has been reached to allow the Company to remain in compliance with the aforesaid bond requirement; or (2) the deposit is executed upon pursuant to the terms and conditions of the Agreement.

VI. LEASEHOLD EXCISE TAX: In addition to the rent, the Company will pay annually in advance to the City the then current, applicable State Leasehold Excise Tax, unless the Company is centrally assessed by the State of Washington and provides documentation, that is acceptable to the City, of its central assessment. The current, annual State Leasehold Excise Tax, as of the date of execution of this Agreement, is 12.84% of the rental amount.

VII. CONSTRUCTION OF NEW POLE: The City allows the Company to replace an existing Pole, if it is not structurally capable of holding the Company's Equipment, for and in consideration of the Company's agreement to design and pay all costs for the new Facility, including all costs to accommodate the Company's Equipment that are incurred by other utilities, companies or the City, who own existing attachments or equipment on the Pole or have the right to place attachments or equipment on the Pole in the future, and the dismantling and removal of the existing Pole, subject to and in compliance with all terms and conditions of this Agreement and the requirements in Seattle Municipal Code 15.32.300 for Special attachments. Upon completion of the Facility, the Company hereby deeds the Facility to the City and continues to own its Equipment.

VIII. PROJECT SCHEDULE FOR INSTALLATION(S) AND MAINTENANCE: No installation of Equipment will proceed until design, specifications and all other project details are accepted by the Facility Owner, as evidenced by the issuance of the Permit. The Facility Owner crews will install and perform all maintenance on the Equipment on the Facility. The Facility Owner, in consultation with the Company, will schedule installation of Equipment upon satisfactory completion by the Company of all terms and conditions required by this Agreement prior to the installation. Power clearances, if any, for Equipment installation and/or maintenance will be at the Facility Owner's sole discretion. The Facility Owner agrees to make a good faith effort to install/maintain Equipment in a timely manner but retains all right(s) to determine the installation date, or to suspend or terminate the installation or maintenance at any time unusual hazards exist which compromise safety and/or system reliability.

IX. OTHER PARTIES WITH SENIOR PRIORITY RIGHTS: All parties with existing equipment on and/or attachments to the Facility and the City have Senior Priority Rights.

X. OTHER SPECIAL CONDITIONS:

A. SECURED FACILITIES. The Facilities subject to this Agreement are deemed to be Secured Facilities and will be subject to the special limitations and conditions described in Section II.J.4. Access and Maintenance - Secured Facilities, of the General Terms and Conditions. Except, the Company may access its radio access node and other Equipment located below the secondary powerlines on a Facility without a City Light escort provided it complies with City Light's standards and construction guidelines, and all applicable regulations and codes regarding equipment attached to Poles.

B. WORK BY FACILITY OWNER ONLY. Due to the specific nature of the Secured Facility, all Work on the Secured Facility must be performed by the Facility Owner (City) as described in Section III.B.2. Company and Contractors Requirements - Approvals, of the General Terms and Conditions. Except, the Company may work on its radio access node and other Equipment located below the secondary powerlines on a Facility, provided it complies with City Light's standards and construction guidelines, and all applicable regulations and codes, including electrical clearance codes, regarding equipment attached to Poles. The Company will turn antennas and other Equipment producing radio frequency off when the Facility Owner performs any work on the Facility. The Facility Owner will endeavor to provide Company with 24-hours advanced oral notice to Company's designated notification number of scheduled maintenance and installation work with estimated outage time that requires power-down of Equipment provided, however, that each piece of installed Equipment is properly marked with the Company's name and appropriate notification numbers. If the company fails to turn off the antenna(s) or other Equipment producing radio frequency, if any, the Facility Owner will take reasonable steps to turn them off.

C. NECESSARY PERMITS AND ENVIRONMENTAL REVIEW. Company hereby confirms that prior to installation of the Equipment, it shall have contacted the relevant local jurisdictions and complied with all permit and environmental review requirements of those jurisdictions. Failure to comply with all permit and environmental review requirements of those jurisdictions is a breach of this Agreement and is a cause for cancellation of Company's use of the non-complying Equipment.

D. STANDARDS, ADDITIONAL ANALYSES, AND AS-BUILT PLANS.

1. The required plans and specifications, described in the Permit, will comply with the latest version of the Facility Owner's Construction Guidelines or Standards, a current copy of which shall be provided to Company upon the execution of this Agreement.
2. For Facilities requiring Pole replacement, in addition to the requirements described in the guidelines, the Company's design documentation will include, but not be limited to, a wind loading analysis, per NESC rules 250C & 261A2f for Extreme Wind Loading, using the class of the pole, and the weight and configuration of all equipment on the pole and the Equipment proposed in the application, or using such weight and configuration of equipment that the Facility Owner dictates. The analysis will be made and reported using the PLS-POLE computer program or other computer program acceptable to the Facility Owner and will be attached to the Permit. Upon completion of Equipment installation, the Facility Owner may require the Company to provide as-built plans for the Equipment, and other computer files required in the Facility Owner's wireless standards.
3. All construction plans and specifications and the structural/wind loading analysis, if required, will be signed and stamped by a licensed Washington State Professional Engineer and must be acceptable to the Facility Owner.

E. VENUE for any dispute regarding the terms or performance of this Agreement will be in the Superior Court of King County, Washington.

F. COMPANY REGULATORY STATUS: The City permits occupancy of its Facilities based on the Company's status as a wireless communications company offering to communications services. In the event that Company's regulatory status changes at any time during the Term or Option Periods, the Company shall promptly notify City of such change.

G. COMPLIANCE WITH FEDERAL COMMUNICATIONS COMMISSION (FCC) REGULATIONS: For each initial Permit and each time a tenant or Equipment that increases the radio frequency is added to the Facility, the Company must provide documentation of its planned compliance with the FCC regulations applicable to each of its installations. In addition, the Company must submit the City's "Applicant's Statement of FCC Compliance" form signed and stamped by a Washington State Professional Engineer specializing in radio frequency, certifying that the cumulative frequency complies with FCC requirements.

H. OPTION FOR CITY TO ACQUIRE EQUIPMENT IN EVENT OF COMPANY DEFAULT OR BANKRUPTCY: In the event Company, or any successor of Company, ceases to use any Equipment for a period of one year, or Company evidences any other form of abandonment of the Equipment, including a rejection of this Agreement or the Equipment or any ownership rights in the Equipment by a Bankruptcy Court that has jurisdiction over Company, Company shall remove all of its permitted Equipment. If Company fails to comply with this section, the City shall obtain, at its option, full and complete right, title and ownership of the Equipment.

I. COMPANY CHANGE IN USE: The Company shall not change its use of the Facilities without the express written consent of the City. In the event that such change in use subjects Company to franchise or other authorization under law that includes provisions intended to regulate Company's operations, the Company must obtain such franchise and/or other authorization from the appropriate entity, including if applicable, the City.

J. MODIFICATIONS TO GENERAL TERMS AND CONDITIONS. The following sections from the General Terms and Conditions are modified as follows:

1. I.A. - Add "telecommunications services company offering radio communications" to the definition of Company.
2. I.C. - As authorized by City of Seattle Ordinance No. 119395, the definition of Facility or Facilities for this Agreement is revised to include electrical distribution and other poles owned or installed by the City.
3. II.C.1. - Add to the list of risks the Company acknowledges and accepts "- Risks associated with having Equipment co-located on Facilities within public rights of way or on other property near vehicular access or roadways."
4. II.I.2 - Add to the beginning of the second sentence: "After 10 days written notice," if Company fails or refuses...
5. III.D.2. - Add paragraph regarding self-insured status: Should the Company be self-insured, under this section, the Company must provide the levels of insurance protection required by this Agreement to indemnify for the activities and services of this Agreement. The Company will provide the City a letter from the Corporate Risk Manager, or appropriate Finance Officer, stipulating if actuarially funded and fund limits; plus any excess declaration pages to meet the Agreement requirements. Further, this letter should advise how the Company would protect and defend the City as an additional insured in their self-insured layer, and include claims handling directions in the event of a claim.
6. IV. B. - The sale of or offer to transport to third parties radio communications on the Equipment operated by Company by commercial contract shall not be deemed to be an assignment or transfer of rights or privileges under this Agreement.

7. III.C.1 – Add to the beginning of the paragraph: “Except to the extent caused by the negligence or willful misconduct of City or any of its employees or agents,”
8. III. D.5 and D.7 - Add paragraph regarding alternative proof of insurance: In lieu of a duplicate copy of the required insurance policy(ies) with its endorsements as evidence of coverage, Company may provide the City a certificate of liability insurance naming the City as an additional insured attached thereto.

XI. NOTICES AND CONTACTS: All notices and other communications subject to this Agreement will be delivered or mailed to

FACILITY OWNER: Seattle City Light
Joint Use Engineering
3613 4th Ave S
Seattle, WA 98134-2207

Facility Manager: Doug Haberman (Phone 206-733-9138)

COMPANY: New Cingular Wireless PCS, LLC
Attn: AT&T Network Real Estate
Site No.: Seattle City Light MLA (WA)
575 Morosgo Drive NE
Atlanta, GA 30324
Network Operations Center: 1-800-832-6662

WITH A COPY TO: New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department – Network Operations
Site No. Seattle City Light MLA (WA)
208 S. Akard Street
Dallas, TX 75202-4206

XII. EFFECTUATION OF AGREEMENT: In order to be effective, this Agreement must be (1) signed by an authorized representative of the Company and returned to the Superintendent at the address set forth above, accompanied by any required policy of insurance and other required documentation, including but not limited to those listed in Section II.A. of the General Terms and Conditions, and (2) signed by the Superintendent pursuant to authority granted in Ordinance No. 119395. The effective date of this Agreement shall be the date on which it is signed by the authorized representative of the City.

.IN WITNESS WHEREOF, the parties hereto have affixed their signatures below:

CITY OF SEATTLE
City Light Department

980 Juan Tran
By: Tuan Tran
Title: Director, Energy Delivery Engineering

Authorizing Ordinance: 119395

ACKNOWLEDGMENT:

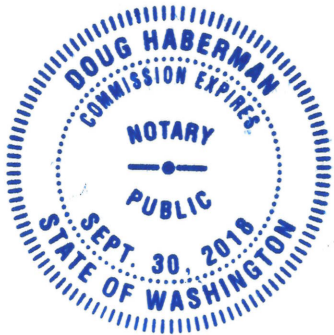
STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Tuan Tran signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Director, Energy Delivery Engineering of the City Light Department of THE CITY OF SEATTLE to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 2/28/17
Douglas R Haberman
Douglas R Haberman

NOTARY PUBLIC in and for the State of Washington, residing at King County.
My appointment expires 9/30/18.

Seal:



NEW CINGULAR WIRELESS PCS, LLC
a Delaware limited liability company

By: AT&T Motility Corporation
Its: Manager

By: [Signature]
Title: Director

ACKNOWLEDGMENT:

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

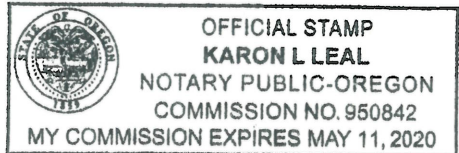
On this 17 day of FEB 2016, before me, the subscriber, a Notary Public in and for said State and County, personally appeared WAYNE WOODEN, the DIRECTOR AND MANAGER of NEWPCS, LLC (ATT Mobility) known or identified to me to be the person whose name is subscribed to the within instrument, and in due form of law acknowledged that he/she is authorized on behalf of said company to execute all documents pertaining hereto and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal in said State and County on the day and year last above written.

Dated: [Signature]
[Signature]
(Notary Signature)

NOTARY PUBLIC in and for the State of OREGON, residing at OREGON.
My appointment expires 5-11-2020

Seal:



WIRELESS COMMUNICATIONS SITE AGREEMENT

Wireless Equipment Attachments
No. 230300-1-613

New Cingular Wireless PCS, LLC

GENERAL TERMS and CONDITIONS

I. DEFINITIONS

Whenever used in this Agreement with initial letters capitalized, the following terms shall have the following specified meanings, unless the context clearly requires a different meaning:

A. Company

A business licensed in the State of Washington, providing commercial mobile services, unlicensed wireless services, or common carrier wireless exchange access services, or other wireless telecommunications services for the purposes of connecting to the public switch telephone network or to the Internet authorized by the Federal Communications Commission.

B. Equipment

Antenna(s), remote access node cabinets, and all communications box, cable, wire and other attachments necessary for the antenna system to operate, located on a Facility, and owned and operated by the Company or for the benefit of the Company, including utility facilities that serve the Company's Equipment.

C. Facility or Facilities

A structure including but not limited to: buildings, and transmission, communication and water towers; as well as electrical distribution and other poles owned or installed by the City, as authorized by City of Seattle Ordinance No. 119395.

D. Facility Manager

The person designated by the Facility Owner to manage the Facility, including granting access, determining and approving its use and terms and conditions for such use.

E. Facility Owner

The City department which operates and/or manages a Facility or Facilities and holds the legal right to grant permission to occupy, use or modify Facilities or Premises.

F. Hazardous Substance

Any hazardous, toxic, or dangerous waste, substance or material, including petroleum products, or any contaminant, pollutant or chemical defined or identified in any environmental regulation as posing a potential risk to human health or the environment.

G. Indirect Costs

Overhead associated with the services provided by the City on behalf of the Company, which includes but is not limited to supervision, administration, and accounting services.

H. Premises

The Facility or Facilities and the real property, if any that the Facility Owner has an interest in, described in the Site Agreement.

I. Secured Facility

A Facility designated in the Site Agreement, or subsequently designated by written notice from the City during the term of this Agreement, where access is limited as a matter of public safety or legal restriction, which requires that special access conditions be established and enforced.

J. Senior Priority Rights

Rights bestowed based on date authorized to attach Equipment to a Facility, such that parties without such senior priority shall have the burden to correct any interference caused by their installation to those with senior priority rights, provided the Equipment of the holder of the senior priority right is operating within the governing technical specifications.

K. Work

Collectively, the installation, construction, maintenance, repair, relocation and/or removal of Equipment and other work performed in connection with such Equipment on, in, to, or across from a Facility or Premises.

II. SPECIFIC AGREEMENTS

A. RELATIONSHIP TO SITE AGREEMENT

These General Terms and Conditions, with amendments agreed to by the parties, are an attachment to and a part of Master Wireless Communications Site Agreement No. 230300-1-613.

The Special Terms and Conditions and/or the Permit contain requirements and agreements particular to the use of the Premises and shall specify at minimum the following, including information, contact names and addresses where appropriate:

- Company and Project Manager
- Facility or Facilities to be Used; Facility Owner/Manager
- Site map and drawings specifying Equipment locations & installation details.
- Project Schedule for Installations
- Changes or Addenda to General Terms and Conditions
- Bond Requirements for Installation
- Identification of other telecommunication services with Senior Priority Rights or approved for coincident installation.

B. GENERAL PLANNING, ENGINEERING AND DESIGN CONSIDERATIONS

1. Co-location With Other Telecommunications Service Providers

The Company acknowledges that the use of City properties and Facilities is explicitly authorized under a policy to encourage co-location of equipment of multiple providers. The Company agrees to coordinate the installation of its Equipment with other telecommunications providers seeking installation. The Company shall not be granted Senior Priority Rights with respect to other telecommunication providers identified in the Site Agreement as previous or concurrent attachers. The Company shall be granted Senior Priority Rights with respect to other telecommunications providers who are approved for installation after the execution of the Site Agreement. The Company shall operate its wireless communications facilities and services in a manner that will not cause substantial interference to the Facility Owner or to any other third party with Senior Priority Rights to the Company.

2. Preparation of Detailed Engineering Design

The Company shall prepare engineering plans and specifications in consultation with and for the approval (pertaining only to the compatibility of the installation with the Facilities) of the Facility Owner(s) to complete design engineering for use of Facilities. The Facility Owner will make a good faith effort to review and approve, deny, or request revisions to the plans and specifications in a timely manner.

3. Installation of Equipment

The Company shall be responsible to ensure compliance with all requirements of the Facility Owner(s) regarding installation of Equipment.

4. Complete Acceptance

The City shall accept installation of the Company Equipment by issuing a letter to the Company stating that the Work has been completed in accordance with approved specifications and that all punch-list items have been resolved to the satisfaction of the Company and Facility Owner. Such acceptance shall authorize initiation of services from the Premises.

5. Establish Maintenance Plan

The Company shall develop a maintenance plan agreement for the Equipment, documenting procedures necessary to meet the requirements of this Agreement, for review and approval by the City within 60 days of execution of the Agreement.

C. ACKNOWLEDGMENT AND ACCEPTANCE OF RISKS

1. Location on City Premises

In choosing to locate Equipment on City Premises, the Company acknowledges and accepts all risks, including but not limited to:

- Possibility of fires that may damage the Equipment
- Risks associated with having Equipment co-located with such Facilities and the Equipment of other telecommunications providers
- Ground movement
- Loss of line of sight path, including where caused by City action
- City change in the use of the Premises

The Company explicitly acknowledges that these risks include bearing all costs associated with such risks, except such costs caused by the gross negligence or willful misconduct of the City, including but not limited to provision of alternate communication paths, loss of Company business and restoration of its Equipment and/or systems if they are damaged.

The Company may terminate the Agreement pursuant to Section E.6. if any of the risks listed in this clause occur, cause material interference to the Company's operations on the Premises and the Company's operations cannot be restored to their prior condition within sixty (60) days of the occurrence. The Company will not be liable for any rent during the time the Facility is rendered unusable, except when caused by action of the Company or failure of the Company to perform its obligations under this Agreement.

2. Damage or Destruction

In the event that the Premises and/or Facilities (a) are damaged by fire, earthquake, act of war, or other extraordinary casualty to such an extent as to render them unusable in whole or in substantial part; or (b) are destroyed, the City shall not be obligated to rebuild the Premises and/or Facilities or to compensate the Company for any loss of income under this Agreement. The City shall not be obligated to restore the functionality of the Premises and/or Facilities in the event of loss, damage, or destruction. The decision of the City to restore the Facility shall be based on City need for the Facility. The Company will not be liable for any loss, damage, or destruction of the Premises and/or Facilities, except loss, damage, or destruction

caused by action of the Company, or failure of the Company to perform its obligations under this Agreement. The Company will not be liable for any rent during the time the Facility is rendered unusable, except when caused by action of the Company or failure of the Company to perform its obligations under this Agreement.

The Company may terminate the Agreement pursuant to Section E. 6. If the Company's operations are materially interfered with due to the occurrence of (a) or (b) and the Company's operations cannot be restored to their prior condition within sixty (60) days of the occurrence.

3. Acceptance of Premises and Facilities

The Premises and Facilities have been inspected by both parties and are accepted by Company in their existing condition as of the commencement date of this Agreement without reservation except for latent defects or faulty construction of the Premises and Facilities not discoverable by inspection at the time of taking possession.

D. PAYMENT TO FACILITY OWNERS

1. Facility Use Payment

Rental fees and the commencement date for the fees are stated in the Special Terms and Conditions of the Site Agreement.

2. Business Utility Tax

Company is subject to City of Seattle Business Utility Tax based on Gross Sales to Customers inside the City per City of Seattle Ordinance No. 117401 and SMC Chapter 5.48 or as the same may be superseded or amended.

3. State Leasehold Excise Tax

Company is subject to the State Leasehold Excise Tax for the commercial use of tax-exempt property per RCW Chapter 82.29A.

4. Other Taxes

Company agrees to pay all current and future taxes that are applicable to Company's uses under this Agreement.

5. Reimbursement

Company shall reimburse Facility Owner within thirty (30) days after receipt of invoice for all amounts paid and costs incurred by Facility Owner at Company's expense:

a. For Performance of Work

The Company shall reimburse Facility Owner(s) for all costs incurred by the Facility Owner(s) in the performance of Work necessary for the installation and operation of the Equipment. In addition to reimbursement for direct costs of labor and materials incurred in the performance of Work necessary

for the installation and operation of the Equipment, the Facility Owner(s) shall be eligible to be reimbursed by the Company for Indirect Costs that may be included in the billing rate. Examples of Work for which the Facility Owner will be reimbursed by the Company include the relocation of City equipment or work in a high-security or high-risk area, such as on electrical transmission towers.

b. For Relocation

The Company shall reimburse Facility Owner(s) for all direct and verifiable costs associated with any relocation of Facility Owner's Facilities to accommodate the Company's use of the Facility unless the costs of relocation of any equipment located within or on Facilities are borne by a third party. In addition to reimbursement for direct costs of labor and materials incurred for such relocation, the Company shall reimburse Facility Owner(s) for Indirect Costs.

c. For On-Call Staff

The Company shall reimburse Facility Owner for all on-call staff required for access to Secured Facilities.

d. For Utilities and Other Services

Unless otherwise provided in the Special Terms and Conditions of this Agreement, the Company shall provide, or shall otherwise pay, before delinquency, its pro-rata share of costs for providing services on or to the Premises including, where applicable, but not limited to elevator service, electricity, gas, water, telephone, sewer, garbage, solid waste, heating, janitorial, security, tree trimming, and grounds maintenance, and shall also pay all charges for utilities provided exclusively for the Company's requirements and for utility installations and modifications thereto occasioned by the Company's requirements. The Company shall not be entitled to an offset, reduction or return of rental as the result of any interruption or failure of said services.

6. Payment

The Company shall pay all amounts due to the Facility Owner under this Agreement within thirty (30) days of the date of the invoice from the Facility Owner. The Facility Owner may elect to assess an interest fee of 0.033% for each day payment is late, and may consider the Company in default if any amount is not paid to the Facility Owner by the due date.

7. Sublease Rental Income

In the event the Company exercises its right to sublease under Section IV. B. Assignment, Successors and Assigns, the Company and the Facility Owner shall equally divide any income or benefits from the sublease of facilities constructed by the Company on the Premises to any other entity.

E. TERM & TERMINATION

1. Term -- Expiration of the Agreement

This Agreement shall expire in accordance with the term, including any option periods, established in the Special Terms and Conditions of this Agreement.

2. Termination -- Default

With notice as set forth below, and without recourse by the Company, the City may terminate this Agreement if any of the following occurs:

- a. The Company, after notification that its operations are interfering with the operations of the City at the Facility, fails to cure the operational interference within 30 days.
- b. The Company enters restricted areas of the Premises without proper notification to the City and/or without the required City observer present.
- c. The Company fails to pay rent or reimburse the City for expenses as required by the General Terms and Conditions.
- d. The Company fails to maintain the required insurance coverages.
- e. The Company fails to perform required Work within the time specified, or any authorized extension thereof.
- f. The Company fails to satisfactorily perform Work in conformance with the Agreement and/or to the satisfaction of the Facility Owner.

In the event the City intends to terminate this Agreement for any of reasons (a) - (f) above, the City shall provide a written notice to cure, identifying the nature of the alleged basis for termination with reasonable specificity, and advising the Company of the City's intent to terminate the Agreement.

All further actions shall conform to the following procedures:

The Company shall, within three (3) business days after receipt of such notice if the breach is a failure to pay rent, entrance into restricted areas without authorization, or failure to maintain required insurance, otherwise, within thirty (30) days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or, in a written response to the City, present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

The City shall determine (a) whether a failure to comply with a material provision has occurred; (b) whether such failure is excusable; (c) whether such failure has been cured or will be cured by the Company; and (d) whether any proposed cure is reasonable. The Company shall make available to the City, if requested, any records, documents or other information the City reasonably deems necessary to make the determination.

If the City determines that a failure to comply with a material provision has occurred and that such failure is not excusable and has not been or will not be cured by the Company in a manner and in accordance with a schedule reasonably

satisfactory to the City, the City may terminate the Agreement.

3. Termination -- City Use of Premises

The City may terminate the Agreement to accommodate the City's need to utilize the Premises in a manner inconsistent with the continued use of the Facility by the Company, or to relocate, replace or remove the existing Equipment, consistent with a capital project approved by the Seattle City Council. The City shall review proposals from the Company for a mutually acceptable location on the Premises or a nearby site under control of the City, to which the Company may relocate its Equipment at its own expense under the same terms and conditions of this Agreement. The City shall give written notice to the Company under this provision with a 180-day period to remove the Equipment from the Premises from the date that notice of the intent to terminate was given, unless due to a public safety emergency, wherein the Company shall comply within such shorter time as specified by the City.

4. Termination Due to Damage, Destruction or Material Interference

The Company may terminate the agreement upon the occurrence of the conditions detailed in Section II. C.1. Location on City Premises or Section II. C.2. Damage or Destruction, by giving sixty (60) days notice to the City as required under Section IV. J. Notices.

5. Expiration or Termination -- Removal of Equipment.

Upon termination of the Agreement due to expiration or default, the Company shall promptly remove all Equipment from the Facilities and surrender the Premises. If the Company shall fail to promptly remove the Equipment upon expiration of the term of the Agreement, City may, after sixty (60) days' advance written notice to Company of its intent to do so, remove and dispose of the Equipment at Company's expense. Company shall receive credit for unused portions of the Facility rent, less any City cost to remove and dispose of Equipment, if the termination is effective before the end of the billing period.

6. Expiration or Termination -- Restoration of Sites

Where this Agreement is for the use of unimproved Premises, the Company shall restore, at its own expense, the Premises to its previous state, except for normal wear and tear, when directed to do so by the City, including the removal of any structures and Equipment and the restoration of comparable landscape features. At its option, the Company may offer to sell part or all of its structures or Equipment to the City. At its sole discretion, the City may choose to accept or reject the offer.

F. MODIFICATIONS TO FACILITIES

At the Company's request, the Facility Owner may make modifications to Facilities to facilitate building access for the installation of Equipment. Any requests by the Company for such modifications shall be made to the Facility Manager. The Company shall pay all costs for such modifications.

All modifications to Facilities shall be subject to the review and approval by the Facility

Owner during design and construction. If the Company is responsible for the construction of the installation subject to this Agreement, any unauthorized modifications must be corrected at the expense of the Company. The Company may be required to remove such modification and restore the Facility to its previous condition or as approved by Facility Owner. In the event the City performs the restoration work, the Company shall reimburse the City for the actual costs associated with the restoration.

G. REQUIREMENTS FOR CONSTRUCTION AND INSTALLATION

1. Construction and installations are to be made only as approved by City. Attachments and Equipment shall conform to Technical Data Sheets attached to the Site Agreement.
2. Construction and installation of Equipment shall be in accordance with requirements of the State of Washington Electrical Construction Code, State of Washington Administrative Code (Chapter 296-45), Seattle Electrical Code, Seattle Building Code and all other applicable codes as now in force and as revised or changed in the future.
3. Installation of Equipment made by Company to City Facilities under this Agreement shall not disturb or conflict with the equipment of the City. Moving, rearranging, or adjustment of City Facilities to provide space to accommodate the Equipment shall be done at the expense of Company, and, at the City's option, by the City.
4. In the event radio interference occurs, all users of the site are required to participate in solving the problem by providing technical personnel and equipment to locate the source of the specific problem.
5. The City hereby reserves a right of access to inspect the areas occupied by the Company.

H. MODIFICATIONS OF EQUIPMENT

Equipment shall not be materially changed or added to without submitting new Technical Data Sheets and without the written approval of the City. Replacement of like parts during maintenance and repair is acceptable without specific approval, provided that the replacement does not change the visual appearance, increase consumption, or increase or change the pattern, frequency, and/or power of the radio frequency emissions from the Equipment.

All provisions in this Section are subject to any and all conditions as required under the Special Terms and Conditions of this Agreement, including but not limited to Section X, Other Special Conditions.

I. PERFORMANCE OF WORK

1. Company shall perform the Work in a workmanlike and skillful manner and comply in full with applicable Codes. Company shall ensure that the Work and the Equipment are in all respects (a) safe, (b) free from all faults and defects in workmanship, material, and design,

and (c) in conformance with the requirements of this Agreement.

2. Company shall promptly and satisfactorily correct or replace any work or Equipment found to be defective or not in conformity with the requirements of this Agreement. If Company fails or refuses to perform any Work required by this Agreement or to make any such corrections or replacements, City may perform such Work and make such corrections and replacements at Company's expense.
3. Company shall, at all times, keep its work areas cleared of rubbish, refuse and other debris and in a neat, clean and safe condition. Upon completion of any portion of any of the Work, Company shall promptly remove all rubbish, refuse and other debris and all of its equipment and surplus materials. If Company fails to do so, City may perform such work at Company's expense.

J.ACCESS AND MAINTENANCE

1. Maintenance

Company shall maintain all Equipment in good and safe condition and state of repair.

2. Permission to Enter

Access to Facilities shall be allowed only after the Facility Owner has been notified per item 3., below, and permission has been granted by the Facility Owner.

3. Requests for Access

All requests for access to Facilities must be made through the appropriate City Facility Manager or designee in writing (facsimile acceptable), and shall be subject to the restrictions and conditions in this Agreement.

The Company shall notify the Facility Manager at least three (3) working days before access to any City Facility is desired. The affected City Department will respond to requests for access from the Company at least twenty-four (24) hours prior to the requested start time and no later than 48 hours from the receipt of the request, indicating whether access has been granted as requested, access has been delayed or access has been denied.

In the event of an emergency, requests for access may be made in person or by telephone. The City shall provide a mechanism to request emergency access on a 24-hour, 7 day a week basis. In such cases, the Company will follow up with prompt written documentation of the request.

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

All access to City Facilities by the Company or its contractors must be coordinated with the appropriate authority staff designated by the City's Facility Manager(s). The Company and its contractors must comply with whatever conditions for access to City

Facilities that are specified by designated Facility Managers.

4. Secured Facilities

Where Equipment is located on or in Facilities identified as Secured Facilities in the Site Agreement, Company shall be accompanied by City staff, at Company expense, pursuant to the reimbursement provisions of Section II.D.5. City shall maintain a call-out system to facilitate Company access on a continuous basis for emergency maintenance and repairs.

5. Project Control

City staff shall be authorized to stop Work that is being conducted by the Company and its contractors if, after discussions with the Company if reasonably feasible, City staff determine that the Work in question would or could potentially cause hazards to workers or interference with the City Facilities, or facilities of other users on-site.

6. Priority Restoration

Restoration of City services shall be given the highest priority in the event that any of these services and the Company's telecommunication services are interrupted at the same time, unless otherwise agreed to by the City and the Company at the time of restoration.

7. Hazardous Substances

The Company understands and agrees that flammable or Hazardous Substances, including but not limited to explosives, petroleum products, paint, solvents, and resins, are not allowed on the Premises without the express written permission of the City. In the event written permission to store the preceding substances is granted by the City, the Company agrees to dispose such substances in a legal manner.

Prior approval may be obtained for Hazardous Substances used during construction through the construction approval process. Prior approval may also be obtained for the use of petroleum products for emergency generation of electrical power during periods of outage. Prior to initiating any other process requiring the use or storage of, or generating, on or adjacent to the Premises, Hazardous Substances, the Company covenants and agrees to obtain the City's prior approval. The City may consider approving the specific use, but only after the Company demonstrates to the satisfaction of the City that Company has all necessary permits for operation and a Hazardous Substances emergency response plan.

Company agrees to cooperate in any environmental audits conducted by the City's staff or independent third parties specifically related to the Company's use or storage of Hazardous Substances. Company agrees to reimburse the City for the cost of such audits. Company agrees to provide the City with notice of every governmental inspection of the Premises, notice of violation, and order to clean up contamination, within five (5) days after receipt thereof by the Company. Company agrees to permit the City to participate in all settlement or abatement discussions. In the event Company fails to take remedial measures, as stated in any final administrative or judicial order or decrees signed by a state, federal, or local regulatory agency within 90 days of such order or decree, the City may elect to perform such work, and Company covenants and agrees to reimburse the City for all direct costs and Indirect

Costs associated with the City's work.

Company hereby agrees to release, defend and indemnify the City and hold the City harmless for any suits, claims, damages, strict liabilities, and costs or liabilities associated with the removal or remediation of any Hazardous Substance (including petroleum and gasoline products) that are released onto or from the Premises, or otherwise come to be located on the Premises during the term of the Agreement due to the actions of the Company, including but not limited to those that may have migrated to or from the Premises. "Cost" shall include, but not be limited to, all response or remediation costs, disposal fees, investigation costs, monitoring costs, civil or criminal penalties, attorney fees, and other litigation costs incurred in connection with such removal or remediation.

K. RIGHTS OF PROPERTY and EASEMENTS

Nothing in the Site Agreement, including the Special and General Terms and Conditions, Exhibits and/or Addenda shall be construed to convey to the Company any property rights in Facilities or Premises. Nothing in the Site Agreement, including the Special and General Terms and Conditions, Exhibits and/or Addenda shall be construed to compel a Facility Owner to maintain any of its Facilities for a period longer than is necessary for its own service requirements. This Agreement shall not be construed as requiring the City to obtain any easement for the benefit of the Company. The Company may request and obtain, at the discretion of the City, easements for access and utilities to, from, and across the Premises. All Equipment purchased and installed by the Company shall remain the property of the Company, unless otherwise agreed to by the Parties in an amendment hereto.

III. COMPANY AND CONTRACTORS REQUIREMENTS

A. CONTRACTS

The Company is responsible for ensuring that the applicable terms and conditions of the Site Agreement, Exhibits and Addenda are included in agreements with contractors. The Company shall be held liable for any negligence caused by its contractors' performance or failure to perform the work under the Site Agreement or any contracts with the Company.

B. APPROVALS

1. All contractors hired by the Company to work within or on the Premises shall be subject to approval by Facility Owner(s) which approval shall not be unreasonably withheld or delayed. In all agreements with contractors, the Company may require such contractors to attend a pre-construction meeting with the appropriate authority to review installation requirements and Work restrictions prior to any Work being performed in or on the Premises. The contractor's agreement shall state that the Facility Owner has authority to stop Work as specified in Section II.J and may require that inadequate Work be corrected after discussion with Company representatives.
2. Where identified in the Site Agreement, certain Facilities require, due to the nature of the facility, that all Work be completed by the Facility Owner at Company expense pursuant to the reimbursement provisions of Section II.D.5.

C. RELEASE, INDEMNITY AND HOLD HARMLESS

1. Company releases and shall defend, indemnify and hold harmless City, its successors and assigns, and the respective directors, officers, employees and agents of City and its successors and assigns (collectively referred to as the "Indemnitees") from any and all claims, losses, costs, liabilities, damages and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or in connection with the Equipment or installation of any Equipment to any structure, the performance of any Work, the operation of any Equipment, or the Company's system, or the acts or omissions of Company or any of its suppliers or contractors of any tier, the respective successors and assigns of Company, or anyone acting on Company's behalf in connection with said installation of Equipment, performance of Work, or operation of Equipment or Company's system.
2. Such indemnity, protection and hold harmless shall include any demand, claim, suit or judgment for damages to property or injury to or death of persons, including officers, agents, and employees of either party hereto including payment made under or in connection with any Worker's Compensation Law including Title 51 RCW or under any plan for employees' disability and death benefits, which may arise out of or be caused or contributed to by the erection, maintenance, presence, use or removal of Company's Equipment or installations of Equipment including any claims or demands of customers of the Company with respect thereto. The Company specifically agrees to defend, indemnify and hold harmless the Indemnitees for claims against the Indemnitees by the Company's employees or employees of contractors and subcontractors employed by Company to perform work under this Agreement. For this purpose, the Company agrees to waive its immunity under Title 51 RCW, and acknowledges that this waiver has been mutually negotiated by the parties.

3. The Indemnitees shall not be liable to the Company or to the Company's customers, and the Company hereby indemnifies, protects and saves harmless City against any and all such claims or demands, suit or judgment for loss, liability, damages and expense by the Company's customers, or for any interruption to the service of the Company, or for interference with the operation of the Equipment.
4. To the fullest extent permitted by applicable law, the foregoing release, indemnity and hold harmless provisions shall apply to and for the benefit of the Indemnitees. If it is determined that RCW 4.24.115 applies to this Agreement, the Company agrees to defend, indemnify and hold harmless the Indemnitees to the maximum extent permitted thereunder, and specifically for the Company's negligence concurrent with that of the Indemnitees to the full extent of the Company's negligence.
5. City is willing to permit installations of the Equipment to the Facilities for the fees described in II.D. only in consideration of and in reliance upon such release, indemnity and hold harmless.

D. WORKER'S COMPENSATION, INSURANCE AND BOND

1. Company shall ensure that, with respect to all persons performing the Work, Company or its suppliers or contractors maintain in effect at all times during the term of this Agreement coverage or insurance in accordance with the applicable laws relating to worker's compensation and employer's liability (including, but not limited to, the Washington Industrial Insurance Act and the laws of the state in which any such person was hired), regardless of whether such coverage or insurance is mandatory or merely elective under the law. Company shall furnish to the City such assurance and evidence of such coverage or insurance (such as copies of insurance policies and Certificates of Compliance issued by the Washington State Department of Labor and Industries) as the City may request.
2. Company shall obtain, and maintain continuously for the term of this Agreement, at its own expense, occurrence form Commercial General Liability insurance with endorsements and/or other insurance to indemnify for the activities and services of this Agreement. Minimum limit of coverage shall be \$1,000,000 each occurrence and \$2,000,000 in the aggregate. Company shall also obtain, and maintain continuously for the term of this Agreement, at its own expense, business automobile liability coverage for owned, non-owned and hired vehicles. Minimum limit coverage for bodily injury and property damage shall be \$1,000,000 per person and \$1,000,000 per occurrence. The insurance carrier issuing the policy must have an A.M. Best rating of at least A-VII and be legally authorized and licensed to do business in the State of Washington.
3. Such insurance shall be endorsed to include the City of Seattle, its directors, officers, employees, agents and joint users as additional insured, and shall not be reduced or canceled without forty-five (45) days prior written notice to the City.
4. Such insurance shall include a "cross liability", "severability of interests", or "separation of insureds" clause indicating essentially that "except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each insured were the only named insured, and separately to each insured against whom the claim is made or suit is brought".

5. Prior to commencement of performance of any of the Work, Company shall provide the City a duplicate (photocopy or facsimile acceptable) of the required insurance policy(ies) with its endorsements as evidence of coverage. The company or companies issuing such insurance and the policies issued shall be subject to approval by the City.
6. Company shall promptly advise the City of all claims relating to damage to property or injury to or death of persons arising or alleged to have arisen in any manner by, or directly or indirectly associated with, the erection, maintenance, presence, use or removal of Company's Equipment. Copies of all accident or other reports made to any insurer by Company shall be furnished to the City.
7. Company shall also furnish the City with such additional assurance and evidence of such insurance (such as copies of all insurance policies) as the City may from time to time request. Within thirty (30) days after any notice of termination, cancellation, expiration or alteration in any policy of insurance required under this Agreement, Company shall deliver to the City a duplicate of the replacement policy with its endorsements naming the City as an additional insured.
8. Company shall ensure that any policies of insurance that Company or any of its suppliers or contractors of any tier carry as insurance against property damage or against liability for personal injury (including death) shall include a provision therein providing a waiver of the insurer's right to subrogation against the Indemnitees. To the extent permitted by its insurance policies, the City hereby waives all rights of subrogation against Company, its successors and assigns, and the respective directors, officers, employees and agents of Company and its successors and assigns.
9. The requirements of this Agreement as to insurance and acceptability to the City of insurers and insurance to be maintained by Company are not intended to and shall not in any manner limit or qualify the liabilities and obligations of or assumed by Company under this Agreement.

E. PERMITS

Company shall obtain and comply (and shall ensure that the Equipment, the Work, and all of Company's suppliers and contractors of any tier comply) with all applicable permits including authorizations as required under the City's Land Use Code (SMC Chapter 23), if applicable, licenses, franchises, rights-of-way, easements, and other rights required to perform the Work and operate the Equipment and the Company's system in accordance with this Agreement. Company shall furnish to City such evidence thereof (such as certified copies of permits, licenses, franchises, rights-of-way, and easements) as City may request.

F. COMPLIANCE WITH LAWS AND REQUIREMENTS

In the performance of the Work under this Agreement, and the continued use of the Company's Equipment on City Premises, the Company shall comply (and shall ensure that the Equipment, the Work, and all of Company's suppliers and contractors of any tier comply) with all applicable:

1. laws, ordinances, rules, regulations, orders, licenses, permits, and other requirements, now or hereafter in effect, of any governmental authority;

2. industry standards and codes; and
3. City construction guidelines, specifications, rules, and regulations which apply to Company's Work and will be provided by City to Company on request.
4. Federal requirements regarding radio-frequency emissions and interference with other electronic or telecommunications equipment and the City's Radio-Frequency Radiation regulations (SMC 25.10) as administered by the Health Department.
5. Senior priority rights held by other telecommunications entities to be protected from interference.

Company shall furnish such documents as may be required to effect or evidence compliance. All laws, regulations, and orders required to be incorporated in agreements of this character are incorporated herein by this reference.

G. NONDISCRIMINATION AND AFFIRMATIVE ACTION

During the performance of Work, the Company, for itself, its assignees and successors in interest, agrees as follows:

1. The Company will not discriminate against any employee or applicant for employment because of race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. The Company will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental, or physical handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising, layoff or termination, rates or pay or other forms of compensation, and selection for training, including apprenticeship.
2. Failure to comply with any of the terms of these provisions shall be a material breach of this contract.
3. The Company will insert in all contracts for Work covered by these Agreements, a copy of Seattle Municipal Code Section 20.42.050 and will require compliance with same by its contractors.

H. WOMEN'S AND MINORITY BUSINESS UTILIZATION

The Company will make reasonable efforts to utilize women's business enterprises and minority business enterprises in any contracting. The Company will require that its contractors and subcontractors will make reasonable efforts to utilize women's business enterprises and minority business enterprises. The Company will maintain records reasonably necessary for monitoring its compliance with the provisions of this section.

IV. ADDITIONAL CONDITIONS AND PROVISIONS

A. NON WAIVER

The failure of either party to insist upon or enforce strict performance of any of the provisions of this Agreement or to exercise any rights under this Agreement shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall be and remain in full force and effect.

B. ASSIGNMENT; SUCCESSORS AND ASSIGNS

Company may assign, transfer, sub-lease or otherwise dispose of any of the privileges granted under this Agreement to a business entity which meets the following criteria: (i) licensed by the Federal Communications Commission to operate a wireless communications business; and (ii) (1) is a parent, subsidiary, affiliate or successor of the Company; or (2) controls or is controlled by or under common control with the Company; or (3) is merged or consolidated with the Company; or (4) purchases a majority or controlling interest in the ownership or assets of the Company; (5) purchases substantially all of the assets of the Company; or (6) purchases substantially all of the assets of the Company in the Metropolitan Trading Area in which the Premises are located. Upon notification to the City by the Company of such action, together with a statement by the receiver of the privileges that it will comply with the conditions of the Site Agreement, the Company shall be relieved of all future performance, liabilities and obligations under the Agreement. The Company may not otherwise assign transfer, sub-lease or otherwise dispose of any of the privileges granted under this Agreement without the written consent of City.

C. SURVIVAL

The obligations imposed on Company and all provisions of this Agreement which may reasonably be interpreted or construed as surviving the completion, termination or cancellation of this Agreement, shall survive the completion, termination or cancellation of this Agreement.

D. ENTIRE AGREEMENT

The entire Site Agreement between the City and the Company shall consist of the Special Terms and Conditions, and the General Terms and Conditions contained herein, and all Exhibits, Permits and/or Addenda issued concurrent with or subsequent to the execution of this Agreement, and any amendments to same.

E. APPLICABLE LAW

This Agreement shall in all respects be interpreted, construed and enforced in accordance with the laws of the State of Washington.

F. SEVERABILITY

In the event any section, sentence, clause, or phrase of the Agreement is adjudicated to be invalid or illegal by a court of last resort and of competent jurisdiction, the remainder of the Agreement shall be unaffected by such adjudication and all other provisions shall remain in full force and effect as though the section, clause, or phrase so adjudicated to be invalid had not been included herein. The Parties hereto agree to then negotiate in good faith the replacement section, sentence, clause, or phrase which is legal and most closely represents the original intent of the Parties.

G. RIGHTS CUMULATIVE

The rights and remedies of the Company and the City provided for under this Agreement are in addition to any other rights and remedies provided by law. The failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. The use of one remedy shall not exclude or waive the right to use another.

H. CONTRACTUAL RELATIONSHIP

This Agreement does not constitute the Company as the agent or legal representative of a Facility Owner for any purpose whatsoever. The Company is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the Facility Owner or to bind the Facility Owner in any manner or thing whatsoever. In no event shall the City be construed or held to have become in any way or for any purpose a partner, associate, or joint venture of the Company or any party associated with the Company in the conduct of the Company's business or otherwise.

I. HEADINGS

The titles of sections are for convenience only and do not define or limit the contents.

J. NOTICES

All notices and other materials to be delivered hereunder, shall be in writing and shall be delivered or mailed to addresses as identified in the Special Terms and Conditions of this Agreement.

K. NON-EXCLUSIVITY

This is a non-exclusive arrangement.

L. MODIFICATION OR AMENDMENT

No modification to or amendment of the provisions of this Agreement shall be effective unless in writing and signed by authorized representatives of the City and the Company. The City and the Company expressly reserve the right to modify this Agreement, from time to time, by mutual agreement.

M. ATTORNEY FEES AND COSTS

In the event legal action is taken or commenced between the parties hereto, declaratory or otherwise, for the enforcement of any of the covenants, terms, or conditions of this Agreement, the prevailing party shall be entitled to its costs and reasonable attorney fees as determined by the trial and appellate courts.

Costs and reasonable attorney fees shall include, but not be limited to, reasonable attorney fees, paralegal and legal support staff expenses, costs of arbitration, mediation, expert witnesses, exhibits, reasonable investigations, and reimbursement for all time, expense, and overhead of all prevailing party personnel or consultants assisting in the legal action or responding to or investigating a claim or demand.

APPENDIX A

PREFERRED SERVICE RATE

To the extent the Company provides a preferred service rate to other government users of its network, Company agrees to offer the City of Seattle the lowest rate then charged by Company for similar services provided to like entities within the United States. Nothing contained herein shall require Company to provide particular services not otherwise provided to its customers or to install additional facilities or expand, modify or upgrade its existing network solely to accommodate any request made by the City.