



Customer Site Name:  
Customer Site No.:

Crown Site Name: Tx Laredo  
JDE Business Unit: 871715  
License Identifier: 212076

### ROOFTOP LICENSE AGREEMENT

THIS ROOFTOP LICENSE AGREEMENT (this "Agreement") is entered into as of this 18th day of SEPTEMBER, 2009 (the "Effective Date"), between Pinnacle Towers III LLC, a Delaware limited liability company, with its principal place of business at 2000 Corporate Drive, Canonsburg, Washington County, Pennsylvania 15317 ("Licensor"), and City of Laredo, a City in the State of Texas, with its principal place of business at 1110 Houston St, Laredo, Webb County, TX 78040 ("Licensee").

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the parties hereto agree as follows:

#### 1. DEFINITIONS

The following terms as used in this Agreement are defined as follows:

**"Acquiring Party"** Any person acquiring title to Licensor's interest in the real property of which the Site forms a part through a Conveyance.

**"Adjustment Date"** The date on which the Basic Payment shall be adjusted as set forth in Section 5.2 below.

**"AM Detuning Study"** A study to determine whether measures must be taken to avoid disturbance of an AM radio station signal pattern, as described in Section 2.3 below.

**"Base Fee"** The then-current Basic Payment, as described in Section 5.2 below.

**"Basic Payment"** The consideration paid by Licensee for the right to use the Licensed Space as described in Section 5.1 below and subject to adjustment as described in Section 5.2 below.

**"Closeout Documentation"** As-built drawings and other installation documentation required by Licensor, as described in Section 2.6 below.

**"Consumer Price Index"** The index published by the Bureau of Statistics of the U.S. Department of Labor for Urban Wage Earners and Clerical Workers For All Items (CPIW) U.S. City, Average (1982-84-100) or the successor thereto.

**"Conveyance"** Including, without limitation, any exercise by a Lender of its rights under the Security Instrument, including a foreclosure, sheriff's or trustee's sale under the power of sale contained in the Security Instrument, the termination of any superior lease of the Site and any other transfer, sale or conveyance of the Licensor's interest in the property of which the Site forms a part under peril of foreclosure or similar remedy, including, without limitation to the generality of the foregoing, an assignment or sale in lieu of foreclosure or similar remedy.

Prepared by: S. Taylor  
Prepared on: July 17, 2009

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**"Equipment"** Licensee's communications equipment including, but not limited to Licensee's antennas, cables, connectors, wires, radios, radio shelter or cabinet, and related transmission and reception hardware and software, and other personal property.

**"FCC"** The Federal Communications Commission.

**"Government Entity"** Any federal, state or local governmental unit or agency thereof with jurisdiction applicable to the Site.

**"IL"** The certain Consumer Price Index described in Section 5.2 below.

**"Intermodulation Study"** A study to determine whether an RF interference problem may arise, as described in Section 2.3 below.

**"Intermodulation Study Fee"** The fee payable by Licensee to Licensor to defray Licensor's costs incurred in preparing or obtaining an Intermodulation Study. The amount of the Fee shall be reasonably commensurate with the scope and complexity of the subject Intermodulation Study.

**"IR"** The certain Consumer Price Index described in Section 5.2 below.

**"Lender"** Any and all lenders, creditors, indenture trustees and similar parties.

**"Licensed Space"** That portion of the Site which is licensed to Licensee hereunder.

**"Licensee"** The party named as "Licensee" in the first paragraph hereof and its successors in interest.

**"Licensor"** The party named as "Licensor" in the first paragraph hereof and its successors in interest.

**"Modification"** (i) Any modification to the Equipment as specified herein or an approved Site Engineering Application; (ii) any alterations in the frequency ranges or FCC licensed allocation or power levels specified in the approved Site Engineering Application; (iii) any change in Licensee's technology protocol (e.g., GSM, CDMA, TDMA, iDEN, etc.); (iv) any addition of Equipment or occupation of additional space, or relocation of Equipment on the rooftop, or relocation of equipment shelter space; or (v) any repair to the Equipment that affects building loading capacity.

**"Modification Application Fee"** The fee payable by Licensee to Licensor in the amount of Zero Dollars (\$0.00) to defray Licensor's costs incurred in evaluating a Site Engineering Application.

**"Prime Lease"** The lease(s), sublease(s), management agreement(s) or other prior agreement(s) or instrument(s) (e.g., deed) from which Licensor derives its rights in the Site and/or which contain(s) restrictions on use of the Site, as described in Article 18 below.

**"Pro Rata Share"** The fraction or decimal equivalent determined by dividing one (1) by the total number of then-existing users of the Site. In no event shall the Pro Rata Share exceed fifty percent (50%).

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**"Regulatory Compliance Costs"** The reasonable costs, including reasonable attorneys' fees, incurred by Licensor at the Site after the Effective Date in order to comply with any applicable law, regulation, rule, guideline, directive or requirement promulgated by a Government Entity.

**"RF"** Radio frequency.

**"Security Instrument"** Any and all mortgages, deeds of trust or other deeds, and any similar security agreements that encumber the Site to secure the debt of Licensor.

**"Site"** The property referred to in Section 2.1 below, which is owned, leased, or otherwise controlled by Licensor and which contains the Licensed Space.

**"Site Application Fee"** The fee paid by Licensee to Licensor to evaluate a Site Engineering Application to determine whether the building and Site have sufficient capacity to accommodate the Equipment.

**"Site Engineering Application"** The application form (as may be amended by Licensor from time to time), which shall be submitted to Licensor by Licensee when Licensee desires to apply for a license to install or make a Modification to Equipment. The approved Site Engineering Application is attached to, and incorporated into, this Agreement as **Exhibit B**.

**"Site Plan"** The site plan referred to in Section 2.2 below, a copy of which is attached hereto as **Exhibit C**.

**"Site Rules"** The "Site Rules" or its successor, issued by Licensor from time to time, as described in Section 2.2 below.

**"Structural Analysis"** An engineering analysis performed to determine whether the physical and structural capacity of the building are sufficient to accommodate the proposed Equipment, which analysis takes into consideration factors such as weight, wind loading and physical space requirements.

**"Structural Analysis Fee"** The fee payable by Licensee to Licensor in the amount of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) to defray Licensor's costs incurred with respect to its performance of a Structural Analysis.

**"Subsequent Use"** Any installation or modification to Licensor's or another user's equipment subsequent to the installation or modification of the Equipment as described in Section 6.1 below.

**"Term"** The term of this Agreement, as set forth in Article 4 below.

**"Term Commencement Date"** August 1, 2009.

**"Work"** The installation of Equipment or construction of an approved Modification to Equipment at the Site, as set forth in Section 2.5 below.

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**2. SITE, LICENSE, EQUIPMENT, LICENSED SPACE, APPLICATION FOR MODIFICATIONS,  
CONDITIONS PRECEDENT**

**2.1 The Site.** The Site consists of certain premises on the roof of, and/or within, and/or adjacent to a certain building located on a certain parcel of property, located in the City of Laredo, the County of Webb, and the State of Texas, which property is described in **Exhibit A** hereto.

**2.2 License to Install, Operate and Maintain the Equipment.** Licensor hereby grants a license to Licensee to install, operate and maintain the Equipment at the Site within the Licensed Space, as such Equipment and Licensed Space is described in, and subject to, the approved Site Engineering Application attached hereto as **Exhibit B** and as shown in the Site Plan attached hereto as **Exhibit C**. Such license is subject to the Site Rules and is restricted exclusively to the installation, operation and maintenance of antennas and other Equipment consistent with the specifications and in the locations identified in **Exhibit B** and **Exhibit C**. If Licensee fails to install the total number of permitted antennas and transmission lines as described in **Exhibit B** and **Exhibit C** within one hundred eighty (180) days of commencement of its initial installation of Equipment, the right to install any such antennas and lines not installed shall be deemed waived, with no reduction of the Basic Payment. No capacity or rights will be reserved for future installation of such Equipment after such one hundred eighty (180) day period.

**2.3 Application for Modifications.** Licensee shall apply to make Modifications by submitting a Site Engineering Application to Licensor together with payment of the Modification Application Fee. A Structural Analysis, AM Detuning Study or an Intermodulation Study may be required by Licensor in connection with a proposed Modification, and Licensee will be liable for the cost thereof. Any approved Modification shall be evidenced by an amendment to this Agreement, and the Site Engineering Application approved by Licensor describing the Modification shall be an exhibit to said amendment.

**2.4 Conditions Precedent to Installation of Equipment or Modification.** Notwithstanding anything to the contrary herein, the parties agree that Licensee's right to install Equipment or make a Modification to Equipment at the Site shall not commence until the following conditions are satisfied: (i) Licensor has received any written consent required under the Prime Lease to allow Licensor to license the Licensed Space to Licensee; (ii) a Site Engineering Application has been approved by Licensor; (iii) the Site Application Fee, Structural Analysis Fee, Intermodulation Study Fee and fee for AM Detuning Study (if any) have been paid; (iv) Licensee has received all required permits (if any) for its installation of, or Modification to, the Equipment and all required regulatory or governmental approvals of Licensee's proposed use of the Site, and Licensor has received, reviewed, and accepted copies of such required permits (if any) and such required regulatory or governmental approvals; and (v) Licensor has received a waiver of any applicable rights of first refusal in and to the space or Licensed Space that Licensee identifies in the Site Engineering Application. With respect to Licensee's initial installation of Equipment at the Site, if any applicable conditions precedent are not satisfied within one hundred eighty (180) days of the date of full execution of this Agreement, either party shall have the right to terminate this Agreement upon written notice to the other party, unless and until all applicable conditions precedent are thereafter satisfied. Upon satisfaction of all conditions precedent, Licensor shall provide written notice to Licensee to confirm said satisfaction. In the event that Licensee breaches this Agreement by installing Equipment or making a Modification other than as permitted hereunder, then in addition to all other remedies available to Licensor, Licensor shall be entitled to receive, and Licensee shall pay to Licensor, upon notice from Licensor, an administrative fee equal to six (6) times the Basic Payment, if payable monthly, or one-half (1/2) the Basic Payment, if payable annually, based on the amount of the Basic Payment at the time of said notice.

**2.5 Performance of Work.** Licensee may engage Licensor to install Licensee's Equipment, and to make approved Modifications to Licensee's Equipment pursuant to this Article 2 (the "Work"), upon terms mutually agreed upon by the parties in writing; provided, however, in the event that Licensee does not engage Licensor to perform the Work, Licensee shall (i) only engage a vendor approved by Licensor to perform the Work and (ii) pay to Licensor One Thousand and 00/1000 Dollars (\$1,000.00) upon completion of the Work for the purpose of defraying

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the cost associated with Licensor's inspection of the Work. Notwithstanding Licensor's inspection of any Work not performed by Licensor, Licensor shall in no way be liable for any defect in the Work or any of the materials used, and Licensee shall not rely on Licensor's inspection of the Work as confirmation that no defects exist. All Work shall be performed in accordance with the standards set forth in the Site Rules.

**2.6 Closeout Documentation.** In the event that Licensee engages Licensor to perform any Work for Licensee, Licensor shall provide to Licensee all Closeout Documentation within forty-five (45) days of completion of the Work. In the event that Licensee does not engage Licensor to perform any Work for Licensee and Licensee engages a vendor approved by Licensor to perform the Work in accordance with Section 2.5, Licensee shall provide to Licensor all Closeout Documentation within forty-five (45) days of completion of the Work; provided, however, in the event that Licensee fails to provide to Licensor said Closeout Documentation within said forty-five (45) day period, Licensee shall pay to Licensor Three Thousand Five Hundred and 00/100 Dollars (\$3,500.00) for the purpose of defraying Licensor's costs associated with preparation of the Closeout Documentation required hereunder.

### **3. ACCESS, USE OF SITE**

**3.1 Access to Site.** Licensor hereby grants to Licensee a non-exclusive license for pedestrian ingress to and egress from the Site over the access areas designated for Licensor's use as described in **Exhibit A**, on a 24 hour per day, 7 day per week basis, pursuant and subject, however, to any restrictions in the Prime Lease, for the purposes of maintaining, operating and repairing the Equipment, together with license to maintain, operate and repair utility lines, wires, cables, pipes, lines, or any other means of providing utility service, including electric and telephone service, to the Licensed Space. Licensor shall have no duty to remove snow or otherwise maintain the access area.

**3.2 Authorized Persons; Safety of Personnel.** Licensee's right of access shall be limited to authorized employees, contractors or subcontractors of Licensee, or persons under their direct supervision. Licensee shall not allow any person to climb a tower (if any) at the Site without ensuring that such person works for a vendor approved by Licensor for the subject work.

**3.3 Notice to District Manager.** Licensee agrees to provide Licensor's designated District Manager (or other designated person) prior notice of any access to be made by Licensee to the Site, except in the event of an emergency, in which event Licensee shall provide notice within twenty-four (24) hours following such emergency access. For the purposes hereof, an emergency shall be deemed to be a situation that reasonably appears to present an imminent risk of bodily injury or property damage.

**3.4 Licensee's Use of the Site.** Licensee shall use the Licensed Space at the Site to install, operate and maintain only the Equipment and shall transmit and receive only within the FCC licensed frequency ranges and at the power levels specified herein.

**3.5 Permits, Authorizations and Licenses.** Licensee shall be solely responsible for obtaining, at its own expense, all permits, authorizations and licenses associated with its occupancy of Licensed Space at the Site and utilization of Equipment thereon and shall promptly provide copies thereof to Licensor.

**3.6 Zoning Approval.** Licensee must provide Licensor with copies of any zoning application or amendment that Licensee submits to the applicable zoning authority in relation to its installation or modification of Equipment at the Site, at least seventy-two (72) hours prior to submission to the applicable zoning authority. Licensor reserves the right to (i) require that it be named as co-applicant on any such zoning application or amendment and/or (ii) require revisions to any such zoning application or amendment. Licensor also reserves the right, prior to any decision by the applicable zoning authority, to approve or reject any conditions of approval, limitations or other obligations that would apply to the owner of the Site or property, or any existing or future Site

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licensee, as a condition of such zoning authority's approval; provided, however, Licensor shall not unreasonably withhold or delay approval of any such conditions of approval, limitations or other obligations. Licensee agrees that any Modification, or change in use of the Licensed Space, as approved herein, requires an amendment hereto which may entitle Licensor to additional compensation. Licensee shall be solely responsible for all costs and expenses associated with (i) any zoning application or amendment submitted by Licensee, (ii) making any improvements or performing any other obligations required as a condition of approval with respect to same and (iii) any other related expenses.

3.7 **Utilities.** Licensee shall pay for all electricity and other utilities it uses. If separate metering is unavailable, Licensee shall pay a share of such costs as allocated by Licensor.

#### **4. TERM**

4.1 **Term of Agreement.** The term of this Agreement shall commence on the Term Commencement Date and continue for a period of Five (5) year(s), ending on the day immediately prior to the Fifth (5th) anniversary of the Term Commencement Date at twelve o'clock (12:00 p.m.) EST (the "Term").

4.2 **Automatic Term Renewal.** The Term shall automatically extend for Two (2) renewal period(s) of Five (5) year(s) each unless either party provides written notice to the other of its election not to renew the Term, at least One Hundred Eighty (180) days prior to the end of the current Term.

4.3 **Term Subject to Prime Lease.** Notwithstanding the foregoing, if Licensor's rights in the Site are derived from a Prime Lease, then the Term shall continue and remain in effect only as long as Licensor retains its interest under said Prime Lease.

#### **5. CONSIDERATION**

5.1 **Basic Payment.** Licensee shall pay to Licensor Five Hundred and 00/100 Dollars (\$500.00) per month (the "Basic Payment") for its license and use of the Licensed Space. The Basic Payment shall be paid in advance and without demand, in equal monthly payments payable on the Term Commencement Date, and on the first day of each month thereafter continuing for the Term, subject to extensions as provided for herein. Payments shall be made by check payable to Pinnacle Towers III LLC, PO Box 409250, Atlanta, GA 30384-9250. Licensee shall include the JDE Business Unit No. 871715 on or with each payment. Licensee shall also make any payments required to be made by a user of the Site to the lessor or landlord under the Prime Lease, attached hereto as **Exhibit D**.

5.2 **Adjustments to Basic Payment.** The Basic Payment shall be increased (but never decreased) on the first anniversary of the Term Commencement Date and every anniversary of the Term Commencement Date thereafter (the "Adjustment Date") by an amount equal to the increase in the Consumer Price Index for the applicable period. Licensor's failure to demand any such increase shall not be construed as a waiver of any right thereto and Licensee shall be obligated to remit all increases notwithstanding any lack of notice or demand thereof. The adjustment to the Basic Payment shall be calculated by the following formula:

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The adjusted Basic Payment = (IR/IL) x Base Fee.

"Base Fee" shall mean the then-current Basic Payment.

"IR" is the Consumer Price Index for the month which is five (5) months preceding the Adjustment Date.

"IL" is the Consumer Price Index for the month which is seventeen (17) months preceding the Adjustment Date.

**5.3 Regulatory Compliance Costs.** In the event that Licensor incurs Regulatory Compliance Costs at the Site during the Term, Licensee shall pay to Licensor its Pro Rata Share of such Regulatory Compliance Costs within thirty (30) days of receipt of Licensor's invoice for same.

**5.4 Taxes, Fees and Assessments.** Licensee shall pay directly to the applicable Government Entity or to Licensor if Licensor is invoiced by such Government Entity, all taxes, fees, assessments or other charges assessed by any Government Entity against the Equipment and/or Licensee's use of the Site or the Licensed Space. Licensee shall pay to Licensor or the appropriate taxing authority, if and when due, any sales, use, ad valorem or other taxes or assessments which are assessed or due by reason of this Agreement or Licensee's use of the Site or the Licensed Space. Licensee shall also pay to Licensor its Pro Rata Share of all taxes, fees, assessments or charges assessed by any Government Entity against the Site or against Licensor's improvements thereon. Licensor shall provide notice of any assessments to be paid by Licensee promptly upon receipt. Licensor shall invoice Licensee annually, indicating the amount of the assessment, its Pro Rata Share and the amount due. Said invoices shall be paid within thirty (30) days of Licensee's receipt.

## **6. INTERFERENCE**

**6.1 Interference to Licensee's Operations.** Licensor agrees that neither Licensor nor Licensor's other users of the Site or property adjacent to the Site controlled or owned by Licensor, whose equipment is installed or modified subsequently to Licensee's Equipment ("Subsequent Use"), shall permit their equipment to interfere with Licensee's permitted transmissions or reception. In the event that Licensee experiences RF interference caused by such Subsequent Use, Licensee shall notify Licensor in writing of such RF interference and Licensor shall cause the party whose Subsequent Use is causing said RF interference to reduce power and/or cease operations in order to correct and eliminate such RF interference within seventy-two (72) hours after Licensor's receipt of such notice. In the event Licensor is notified of any RF interference experienced by Licensee alleged to be caused by a Subsequent Use, the entity responsible for the Subsequent Use shall be obligated to perform (or cause to be performed) whatever actions are commercially reasonable and necessary at no cost or expense to Licensee to eliminate such RF interference. Licensor further agrees that any licenses or other agreements with third parties for a Subsequent Use will contain provisions that similarly require such users to correct or eliminate RF interference with Licensee's operation of its Equipment following receipt of a notice of such interference.

**6.2 Interference by Licensee.** Notwithstanding any prior approval by Licensor of Licensee's Equipment, Licensee agrees that it will not allow its Equipment to cause RF interference to Licensor and/or other pre-existing uses of users of the Site in excess of levels permitted by the FCC. If Licensee is notified in writing that its operations are causing such RF interference, Licensee will immediately take all necessary steps to determine the cause of and eliminate such RF interference. If the interference continues for a period in excess of seventy-two (72) hours following such notification, Licensor shall have the right to require Licensee to reduce power and/or cease operations until such time as Licensee can make repairs to the interfering Equipment. In the event that Licensee fails to promptly take such action as agreed, then Licensor shall have the right to terminate the operation of the Equipment causing such RF interference, at Licensee's cost, and without liability to Licensor for any inconvenience, disturbance, loss of business or other damage to Licensee as the result of such actions.

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## **7. RELOCATION OF EQUIPMENT BY LICENSOR**

7.1 **Relocation of Equipment at Licensor's Option.** Licensor shall have the right to change the location of the Equipment upon sixty (60) days written notice to Licensee, provided that said change does not, when complete, materially alter the signal pattern of the Equipment existing prior to the change. Any such relocation shall be performed at Licensor's expense and with reasonably minimal disruption to Licensee's operations and shall be evidenced by an amendment to this Agreement.

7.2 INTENTIONALLY DELETED.

## **8. RF EXPOSURE**

Licensee agrees to reduce power or suspend operation of its Equipment if necessary and upon reasonable notice to prevent exposure of workers or the public to RF radiation in excess of the then-existing regulatory standards.

## **9. LIENS**

Licensee shall keep the Licensed Space, the Site and any interest it or Licensor has therein free from any liens arising from any work performed, materials furnished or obligations incurred by or at the request of Licensee, including any mortgages or other financing obligations, and shall discharge any such lien filed, in a manner satisfactory to Licensor, within thirty (30) days after Licensee receives written notice from any party that the lien has been filed.

## **10. MUTUAL INDEMNIFICATION**

INTENTIONALLY DELETED.

## **11. INSURANCE**

Licensee shall carry public liability insurance covering its use of the Site with companies and in a form satisfactory to Licensor. The policy shall name Licensee as insured and Licensor as an additional insured. The policy shall bear endorsements to the effect that the insurer agrees to notify Licensor not less than thirty (30) days in advance of any modification or cancellation thereof. At a minimum, Licensee and all parties accessing the Site for or on behalf of Licensee (other than independent contractors, which must provide coverage specified by Licensor) shall obtain the following insurance coverage: (i) Statutory Workers' Compensation including \$500,000 Employers' Liability; (ii) Comprehensive General Liability including personal injury, broad form property damage, independent contractor, XCU and products/completed operations with limits not less than \$1,000,000 per occurrence, \$2,000,000 aggregate, and excess (umbrella) insurance coverage with limits not less than \$4,000,000 per occurrence; (iii) Automobile Liability with limits not less than \$1,000,000 per occurrence; and (iv) Fire and extended coverage insurance on all of Licensee's improvements at the Site including all of Licensee's Equipment and other personal property at the Site. The amount of the insurance limits identified above shall be increased on every fifth (5<sup>th</sup>) anniversary of the date of this Agreement by twenty-five percent (25%) over the amount of the insurance limits for the immediately preceding five (5) year period. All insurers will be rated A.M. Best A-(FSC VIII) or better and must be licensed to do business in the jurisdiction where the Site is located. The insurance requirements in this Agreement shall not be construed to limit or otherwise affect the liability of Licensee. All policies required to be provided pursuant to this Article 11 shall contain a waiver of subrogation in favor of Licensor. Licensee shall provide certificates evidencing said coverage to Licensor upon execution hereof. Licensee shall provide a copy of said policies to Licensor upon request.

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## **12. CASUALTY OR CONDEMNATION**

**12.1 Casualty.** In the event that the Site, or any part thereof, is damaged by fire or other casualty not caused by Licensee, and the Site is not repaired or restored within ninety (90) days after the date of such damage (or such longer period as may be reasonably required under the circumstances), and the damage effectively precludes Licensee's use of the Site as authorized under this Agreement, then either party may, at its option, terminate this Agreement without further liability of the parties, as of the date of the damage. Except for said contingent termination right, if, for any reason whatsoever, Licensee's use of the Site is interrupted due to casualty, Licensee's sole remedy shall be abatement of the Basic Payment for the period during which Licensee's use of the Site is interrupted. In no event shall Licensor be liable to Licensee for damage to the Equipment or interruption or termination of Licensee's operations caused by forces majeure, acts of God or acts or omissions of third parties.

**12.2 Condemnation.** If any part of the Site shall be taken under the power of eminent domain, Licensor and Licensee shall be entitled to assert their respective claims in accordance with applicable state law.

## **13. DEFAULT, REMEDIES, WAIVER OF CONSEQUENTIAL DAMAGES**

Either of the following shall constitute an event of default hereunder: (i) Licensee's failure to either pay any amount due hereunder within ten (10) days of written notice from Licensor that said payment is delinquent; or (ii) either party's failure to cure any breach of any covenant of such party (not related to timeliness of payments) herein within thirty (30) days of written notice from the non-breaching party of said breach; provided, however, such thirty (30) day cure period shall be extended upon the breaching party's request if deemed by the non-breaching party to be reasonably necessary to permit the breaching party to complete the cure, and further provided that the breaching party shall commence any cure within the thirty (30) day period and thereafter continuously and diligently pursue and complete such cure. In the event of default by Licensee, Licensee shall immediately make full payment of all amounts that Licensor would have been entitled to receive hereunder for the remainder of the then-current Term and Licensor shall have the right to accelerate and collect said payments. All delinquent amounts shall bear interest at the lesser of one and one-half percent (1 ½%) per month, or the maximum amount permitted by law. Except as otherwise provided in this Agreement, neither party shall be liable to the other for consequential, indirect, special, punitive or exemplary damages for any cause of action whether in contract, tort or otherwise, hereunder.

## **14. USE OF HAZARDOUS CHEMICALS**

The use of batteries, fuel tanks or any other hazardous chemicals at the Site requires Licensor's prior written approval. Licensee agrees to provide to Licensor no later than each January 15th, an annual inventory of its hazardous chemicals at the Site.

## **15. GOVERNING LAW, VENUE**

The laws of the state where the Site is located, regardless of conflict of law principles, shall govern this Agreement, and any dispute related to this Agreement shall be resolved by arbitration or litigation in said state.

## **16. ASSIGNMENT, SUBLEASE, SHARING**

This Agreement may not be sold, assigned or transferred, in whole or in part, by Licensee without the prior written approval or consent of Licensor, which consent may not be unreasonably withheld. Any such assignment shall be evidenced by a form provided by Licensor and executed by Licensor, Licensee and the assignee. Notwithstanding the foregoing, Licensee shall have the right to assign its interest hereunder to any entity that owns or acquires all or substantially all of Licensee's assets or shares of ownership without the consent of Licensor, upon one hundred eighty (180) days prior written notice. Licensee shall not sublease or license its interest in this

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Agreement, either directly or through subsidiaries or affiliated entities. Licensee shall not share the use of its Equipment with any third party.

### **17. NOTICES**

All notices hereunder shall be in writing and shall be given by (i) established express delivery service which maintains delivery records, (ii) hand delivery or (iii) certified or registered mail, postage prepaid, return receipt requested. Notices may also be given by facsimile transmission, provided the notice is concurrently given by one of the above methods. Notices are effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible. The notices shall be sent to the parties at the following addresses:

As to Licensee: City of Laredo  
1101 Garden St.  
Laredo, TX 78040  
Telephone Number: 956-721-2050  
956-721-2060  
Facsimile Number: 956-721-2059

As to Licensors: Pinnacle Towers III LLC  
2000 Corporate Drive  
Canonsburg, PA 15317  
Attention: Legal Department  
Telephone Number: (724) 416-2000  
Facsimile Number: (724) 416-2353

Licensors or Licensee may from time to time designate any other address for this purpose by giving written notice to the other party.

### **18. PRIME LEASE AGREEMENT**

Licensors and Licensee acknowledge that Licensee's use of the Site is subject and subordinate to the Prime Lease. A redacted copy of the Prime Lease is attached as **Exhibit D** hereto. Licensee agrees to be bound by and to perform all of the duties and responsibilities required of the lessee, grantee or licensee as set forth in the Prime Lease to the extent they are applicable to the access to and use of the Site.

### **19. TERMINATION**

19.1 **Withdrawal or Termination of Approval or Permit.** In the event any previously approved zoning or other permit of a Government Entity affecting the use of the Site as a communications facility is withdrawn or terminated, this Agreement shall be deemed to have been terminated effective as of the date of the termination of the permit or approval.

19.2 **Termination of Prime Lease.** In the event that the Prime Lease terminates for any reason, this Agreement shall be deemed to have terminated effective as of the date of the termination of the Prime Lease.

### **20. NO WAIVER**

No provision of this Agreement will be deemed to have been waived by either party unless the waiver is in writing and signed by the party against whom enforcement is attempted.

**Prepared by:** S. Taylor  
**Prepared on:** July 17, 2009

**Customer Site Name:**  
**Customer Site Number:**

**Crown Site Name:** Tx Laredo  
**JDE Business Unit:** 871715  
**License Identifier:** 212076

## **21. NON-DISCLOSURE**

The parties agree that without the express written consent of the other party, neither party shall reveal, disclose or publish to any third party the terms of this Agreement or any portion thereof, except to such party's auditor, accountant, lender or attorney or to a Government Entity if required by regulation, subpoena or government order to do so. Notwithstanding the foregoing, either party may disclose the terms of this Agreement to any of its affiliated entities, and Licensor may disclose the terms of this Agreement to the lessor or landlord under the Prime Lease, the owner or manager of the building, any of its lenders or creditors, or to third parties that are existing or potential lessees or licensees of space at the Site, as may be reasonably necessary with respect to the operation, leasing, licensing and marketing of the Site, including, without limitation, terms relating to Licensee's permitted frequencies for the purposes of RF compliance tests and terms relating to Licensee's Equipment installed, or to be installed, on the tower for the purposes of structural analysis.

## **22. SUBORDINATION, NON-DISTURBANCE, ATTORNMENT**

**22.1 Subordination.** Subject to Section 22.2, this Agreement and Licensee's rights hereunder are and will be subject and subordinate in all respects to: (i) the Security Instrument from Licensor in favor of Lender insofar as the Security Instrument affects the property of which the Site forms a part; (ii) any and all advances to be made thereunder; and (iii) any and all renewals, extensions, modifications, consolidations and replacements thereof. Said subordination is made with the same force and effect as if the Security Instrument had been executed prior to the execution of this Agreement.

**22.2 Non-Disturbance.** The subordination described in Section 22.1 is conditioned upon the agreement by Lender that, so long as this Agreement is in full force and effect and Licensee is not in material default (beyond applicable notice and cure periods) hereunder, Lender, for itself and on behalf of its successors in interest, and for any Acquiring Party, agrees that the right of possession of the Site and all other rights of Licensee pursuant to the terms of this Agreement shall remain in full force and effect and shall not be affected or disturbed by Lender in the exercise of its rights under the Security Instrument.

**22.3 Liability of Parties.** Licensee and Licensor agree (i) that any Conveyance shall be made subject to this Agreement and the rights of Licensee hereunder and (ii) that the parties shall be bound to one another and have the same remedies against one another for any breach of this Agreement as Licensee and Licensor had before such Conveyance; provided, however, that Lender or any Acquiring Party shall not be liable for any act or omission of Licensor or any other predecessor-in-interest to Lender or any Acquiring Party. Licensee agrees that Lender may join Licensee as a party in any action or proceeding to foreclose, provided that such joinder is necessary to foreclose on the Security Instrument and not for the purpose of terminating this Agreement.

**22.4 Attornment.** Licensee agrees that, upon receipt by Licensee of notice to attorn from Lender or any Acquiring Party, along with reasonable supporting documentation, (i) Licensee shall not seek to terminate this Agreement and shall remain bound under this Agreement, and (ii) Licensee shall attorn to, accept and recognize Lender or any Acquiring Party as the licensor or lessor hereunder pursuant to the provisions expressly set forth herein for the then remaining balance of the Term of this Agreement and any extensions or expansions thereof as made pursuant hereto. Licensee agrees, however, to execute and deliver, at any time and from time to time, upon the request of Lender or any Acquiring Party any reasonable instrument which may be necessary or appropriate to evidence such attornment.

[Remainder of Page Intentionally Left Blank]

**Prepared by:** S. Taylor  
**Prepared on:** July 17, 2009


Customer Site Name:  
Customer Site Number:

Crown Site Name: Tx Laredo  
JDE Business Unit: 871715  
License Identifier: 212076

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

**Licensor**  
Pinnacle Towers III LLC

By:  
Print Name:  
Title:  
Area:



  
**Tim Dowdle**  
District Manager  
West Area

Date:

9/18/09

**Licensee**  
City of Laredo

By:  
Print Name: Carlos Villarreal  
Title: City Manager

Date:

9/15/09

**Attest:**

  
Gustavo Guevara, Jr.  
City Secretary

Date:

9/15/09

For

Prepared by: S. Taylor  
Prepared on: July 17, 2009

12

CROWN CASTLE STANDARD FORM RLA 7-7-09

**Customer Site Name:**  
**Customer Site Number:**

**Crown Site Name:** Tx Laredo  
**JDE Business Unit:** 871715  
**License Identifier:** 212076

**EXHIBIT A to Rooftop License Agreement**

**SITE AND ACCESS DESCRIPTIONS**

See Attached

**Prepared by:** S. Taylor  
**Prepared on:** July 17, 2009

**EXHIBIT "A"**

Being a 11232.91 square foot easement on the 12<sup>th</sup> Floor and 7<sup>th</sup> Floor roof of the Hamilton Hotel for a Communications Antennae and being partly out of Lot 10, Lot 9, and Lot 1, Block 73, Western Division of the City of Laredo and conveyed by deed to Hamilton Hotel Company, as recorded in Volume 333, Page 93, Deed Records, Webb County, Texas, and being more particularly described by metes and bounds as follows to wit:

Beginning at the 7<sup>th</sup> story roof Northwest building corner of said Hamilton Hotel, situated in said Lot 10, from which a cut "X" found at the Northwest corner of said Lot 10, bears, North 41 degrees, 49 minutes, 32 seconds West, 7.65 feet, for the northwest corner hereof;

Thence, along the North 7<sup>th</sup> story roof line, North 89 degrees, 36 minutes, 29 seconds East, 76.18 feet, from which a cut "X" found at the Northeast corner of said Lot 10, bears, North 60 degrees, 34 minutes, 47 seconds East, 11.75 feet, for the Northeast corner hereof;

Thence, along the East 7<sup>th</sup> story roof line, South 00 degrees, 02 minutes, 49 seconds West, 46.25 feet, to a building corner for an exterior corner hereof;

Thence along a South 7<sup>th</sup> story roof line, South 89 degrees, 36 minutes, 29 seconds West, 30.00 feet, to a building corner for an interior corner hereof;

Thence, along a East 7<sup>th</sup> story roof line, South 00 degrees, 02 minutes, 49 seconds West, 38.45 feet, to a building corner which meets the 12<sup>th</sup> story roof line, for an interior corner hereof;

Thence, with a North 12<sup>th</sup> story roof line, South 89 degrees, 57 minutes, 11 seconds East, 2.10 feet, to a building corner for an exterior corner hereof;

Thence, with a East 12<sup>th</sup> story roof line, South 00 degrees, 02 minutes, 49 seconds West, 119.19 feet, to a point on a North line of a tract of land conveyed by deed to Oscar Garcia, Sr., as recorded in Volume 64, Page 460, Deed Records, Webb County, Texas, for an exterior corner hereof;

Thence, with a North line of said Garcia tract, South 89 degrees, 46 minutes, 30 seconds West, 2.00 feet, to a building corner for an interior corner hereof;

Thence, with a West line of said Garcia tract, South 00 degrees, 13 minutes, 30 seconds East, 5.40 feet, to a point on the South 12<sup>th</sup> story roof line for an exterior corner hereof;

Thence, with the South 12<sup>th</sup> story roof line, South 89 degrees, 27 minutes, 19 seconds West, 36.98 feet, to a building corner for an exterior corner hereof;

Thence, with a West 12<sup>th</sup> story roof line, North 02 degrees, 04 minutes, 44 seconds West, 4.75 feet, to a building corner for an interior corner hereof;

Thence, with a South 12<sup>th</sup> story roof line, North 89 degrees, 52 minutes, 30 seconds West, 10.94 feet, to a building corner, from which a cut "X" found at the Southwest corner of said Lot 1, bears, South 22 degrees, 28 minutes, 20 seconds West, 13.34 feet, for an exterior corner hereof;

Thence, with the West 12<sup>th</sup> story roof line North 00 degrees, 00 minutes, 30 seconds West, 204.54 feet, to the Point of Beginning and containing 11232.91 square feet of land, more or less.

Basis of Bearings: The east line of Block 128 taken as due North.

0954  
693

**Customer Site Name:**  
**Customer Site Number:**

**Crown Site Name:** Tx Laredo  
**JDE Business Unit:** 871715  
**License Identifier:** 212076

**EXHIBIT B to Rooftop License Agreement**

**APPROVED SITE ENGINEERING APPLICATION**

See Attached

**Prepared by:** S. Taylor  
**Prepared on:** July 17, 2009

**14**

**CROWN CASTLE STANDARD FORM RLA 7-7-09**



## Customer Approved: Jul 08 2009

Application ID: 82274

Revision # 7 Submitted: May 13 2009

Submitted By: Ivette Zubia

Original Submit Date: May 13 2009

Desired Install Date: N/A

Reason for Application: First time antenna installation at this site

JDE Job Number 120023

Applications are subject to applicable Crown Castle engineering, regulatory, zoning/planning, and priority property-owner approval. Approval conditions may result in alternative requirements for type and/or placement of equipment. Approval conditions may also lead to additional or revised engineering analysis at Crown Castle discretion and upon consent of the customer.

### Company Information

**MLA:** Stand Alone Agreement - TLA  
**Company:** CITY OF LAREDO  
**Address:** PO BOX 210  
**City/Town:** LAREDO  
**State:** TX **Postal Code:** 78042-0210  
**Customer Job Number:** N/A  
**Customer Payment Reference:** N/A  
**Customer Site Name:** N/A  
**Customer Site Number :** N/A

### Site Information

**Crown Castle Site Name:** Laredo  
**Crown Castle Site ID:** 871715 **Crown Castle A Structure:**  
**Crown Castle District:** Austin  
**Address:** 815 Salinas Street  
**City/Town:** LAREDO  
**State:** TX **Postal Code:** 78040  
**County:** Webb  
**Latitude:** 27° 30' 23.9" **Longitude:** -99° 30' 29.9"  
**Structure Type:** GUYED **Structure Height:** 310.5 ft

### Legal Entity Information

Operating Legal Entity: CITY OF LAREDO

Primary Contact: Juan C. Pruneda

Phone: 956-721-2050

E-mail: jpruneda@ci.laredo.tx.us

Fax: 956-721-2059

Address: 1101 Garden St.

City/Town: Laredo

State: TX Postal Code: 78040

RF Contact: Remy Mejia

Phone: 512-2879031

E-mail: RMejia@rzaustin.com

### Service Information

Svc	Technology	EIRP (WATTS)	Std Frequency	Frequencies Transmit		Receive	
				Start	Stop	Start	Stop
1	TDMA	30.0		5470.0	5725.0	5470.0	5725.0
2	OFDM	25.0		5470.0	5725.0	5470.0	5725.0

### Antenna Information

Cust  
Mount  
Class /  
Eng

Leg



#	Mount Type	C Line Pos.	Mount Elev	Level	Azimuth	or Face	Mfg. / Model	Svc	Transmit Start	Transmit Stop	Receive Start	Receive Stop	Use	Orient	Status
1	Other Mount Other Mount [See Sketch]	A	215	215.0 FT	359	Leg A	MOTOROLA 5401AP	1	5470.0	5725.0	5470.0	5725.0	TX/RX	Mid-Mount	Proposed
2	Other Mount Other Mount [See Sketch]	B	215	215.0 FT	119	Leg B	MOTOROLA 5401AP	1	5470.0	5725.0	5470.0	5725.0	TX/RX	Mid-Mount	Proposed
3	Other Mount Other Mount [See Sketch]	C	215	215.0 FT	269	Leg C	MOTOROLA 5401AP	1	5470.0	5725.0	5470.0	5725.0	TX/RX	Mid-Mount	Proposed
4	Side Arm Mount Side Arm Mount [SO 304-1]	A	174	174.0 FT	354	Leg C	MOTOROLA PTP 54600	2	5470.0	5725.0	5470.0	5725.0	TX/RX	Mid-Mount	Proposed

## Feedline Information

#	Customer Mount Class	Pos.	Qty	Mfg.	Model	Length	Location	Ladder Type	Status
1	Other Mount	A	3	Primary: BELDEN Secondary: N/A	7919A	265.0 ft	F3G	FLLDR	Proposed
2	Other Mount	B	3	Primary: BELDEN Secondary: N/A	7919A	265.0 ft	F3G	FLLDR	Proposed
3	Other Mount	C	3	Primary: BELDEN Secondary: N/A	7919A	265.0 ft	F3G	FLLDR	Proposed
4	Side Arm Mount	A	2	Primary: BELDEN Secondary: N/A	7919A	224.0 ft	F3G	FLLDR	Proposed

## Optional Component Information

#	Customer Mount Class	Pos.	Qty.	Type	Tower Mounted Equipment			Status
					Mfg.	Model	Elevation	
1	Other Mount	A	N/A	N/A	N/A	N/A	N/A	N/A
2	Other Mount	B	N/A	N/A	N/A	N/A	N/A	N/A
3	Other Mount	C	N/A	N/A	N/A	N/A	N/A	N/A
4	Side Arm Mount	A	N/A	N/A	N/A	N/A	N/A	N/A

## Building/Pad/Power Requirements

	Type	L	W	H	Power Requirements				
Building Requirements	Cabinet				VAC	120	Phase	Single Phase	
New Building/Shelter		1 ft 0 in	2 ft 0 in	1 ft 0 in	Amps	200			
					Generator Requirements				
Existing Building/Shelter Floor Space		N/A	N/A	N/A	Generator Needed?	No	Size (kW)	N/A	
Building Identification		N/A	N/A	N/A	Leased Area & Pad Size		Fuel Type	N/A	
Pad Requirements		0				Length	Width	Fuel Tank Size	N/A
Required Leased Size		1 ft 0	2 ft 0	1 ft 0	Leased Area:	N/A N/A	N/A N/A	Manufacturer	N/A

	in	in	in	<b>Pad Size:</b>	N/A	N/A	<b>Model</b>	N/A
<b>Pad Size</b>	N/A	N/A		<b>Battery Requirements</b>				
	N/A	N/A		<b>Quantity</b>	0			
<b>Number of Equipment Cabinets at time of Install</b>	1			<b>Manufacturer</b>	N/A	<b>Model</b>	N/A	

**Comments/Additional Information****Comments:**

CITY OF LAREDO. First time insallation. Ground space of 1' x 2' required to accomodate (1) 1" x 1" cabinet. Customer is proposing to install (4) Motorola antennas. (3) at 230' and (1) at 189'. Customer is proposing (11) lines. ( The Canopy antenna will have 9 lines assigned to it with 3 to each location). No lead acid batteries or generator are required for this installation. PLEASE REVIEW INTERNAL COMMENTS FOR DETAILS. Final Configuration: 2 antennas, 11 lines \*\*\*\*\*MOUNT LEVELS TO BE 230' AND 189' \*\*\*\*\* 5401APS TO BE AT LEG A, B AND C, THE PTP54600 WILL BE MOUNTED ON LEG C AND NOT FACE C \*\*\*\*\* (Leg C is the north-most leg.) \*\*\*\*\*

**\*\*Indicates where Cut Sheet data has been entered.**

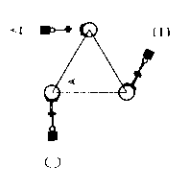
**NOTICE: Structural Analysis shall be performed in accordance with the current revision of the TIA/EIA 222 standard and applicable local building permit codes and standards. EME analysis shall be consistent with current revision of FCC/OSHA standard OETB 65. AM detuning, when required, will be performed to 47 CFR22.371. The customer is responsible for all analysis expenses. All construction drawings are subject to Crown Castle engineering approval prior to commencement of tower attachments and compound installations. Installation of equipment not conforming to approved drawings may violate the terms of the occupancy agreement and will be corrected at the customer's expense. Crown Castle International requires drawings for pre-construction approval and as built drawings for physical configuration validation to be submitted as unlocked AutoCAD files (Version 2000i preferred).**

**Appendix A - Antenna, Feedline, TME Specifications****Antenna Specifications**

Quantity	Manufacturer	Model	Type	Height	Width	Depth	Weight	Flat Plate Area
1	MOTOROLA	PTP 54600	PANEL	14.5 IN	14.5 IN	3.75 IN	12.1 LBS	0.0
3	MOTOROLA	5401AP	PANEL	11.75 IN	3.4 IN	3.4 IN	1.0 LBS	0.0 FT2

**Feedline Specifications**

Quantity	Manufacturer	Model	Nominal Size	Nominal O.D.
11	BELDEN	7919A	17/64	0.265 IN

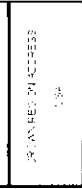


LEVEL DRAWING

LEGEND: TYPE, ANTENNA MOUNTING LOCATION			

STREET ADDRESS		CITY		STATE		ZIP	
1234 MAIN ST		SPRINGFIELD		MA		01104	
APARTMENT NUMBER		FLOOR		UNIT		SUITE	
APT 5B		2ND		101		SUITE 101	
PHONE NUMBER		FAX NUMBER		TELEPHONE NUMBER		TELEPHONE NUMBER	
(408) 555-1234		(408) 555-5678		(408) 555-9012		(408) 555-3456	
E-MAIL ADDRESS		WEB ADDRESS		BUSINESS E-MAIL ADDRESS		BUSINESS WEB ADDRESS	
JOHN.DOE@EXAMPLE.COM		WWW.EXAMPLE.COM		JOHN.DOE@EXAMPLE.COM		WWW.EXAMPLE.COM	
DATE OF BIRTH		DATE OF DEATH		DATE OF BIRTH		DATE OF DEATH	
01/01/1980		01/01/2020		01/01/1980		01/01/2020	
DATE OF LAST CONTACT		DATE OF LAST CONTACT		DATE OF LAST CONTACT		DATE OF LAST CONTACT	
01/01/2020		01/01/2020		01/01/2020		01/01/2020	
DATE OF NEXT CONTACT		DATE OF NEXT CONTACT		DATE OF NEXT CONTACT		DATE OF NEXT CONTACT	
01/01/2021		01/01/2021		01/01/2021		01/01/2021	
DATE OF NEXT CONTACT		DATE OF NEXT CONTACT		DATE OF NEXT CONTACT		DATE OF NEXT CONTACT	
01/01/2022		01/01/2022		01/01/2022		01/01/2022	
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DATE OF NEXT CONTACT		DATE OF NEXT CONTACT		DATE OF NEXT CONTACT		DATE OF NEXT CONTACT	
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DATE OF NEXT CONTACT		DATE OF NEXT CONTACT		DATE OF NEXT CONTACT		DATE OF NEXT CONTACT	
01/01/2030		01/01/2030		01/01/2030		01/01/2030	

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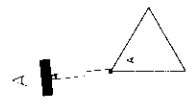


SPACE RESOURCES FOR PROFESSIONAL STAFF

1129	SECRET	NO/05/02	✓
1130	SECRET	NO/05/02	✓
1131	SECRET	NO/05/02	✓
1132	SECRET	NO/05/02	✓
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1199	SECRET	NO/05/02	✓
1200	SECRET	NO/05/02	✓

[illegible][illegible]

A1-11



BUSINESS - 1:37:55 - CNEP 3:4 - 3:45 - 74

[illegible]

50306-50307

## LEVEL DRAWING

1

**Customer Site Name:**  
**Customer Site Number:**

**Crown Site Name:** Tx Laredo  
**JDE Business Unit:** 871715  
**License Identifier:** 212076

**EXHIBIT C to Rooftop License Agreement**

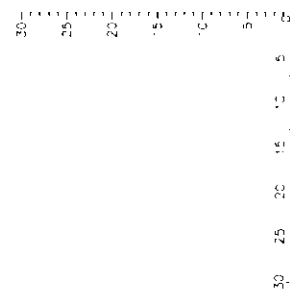
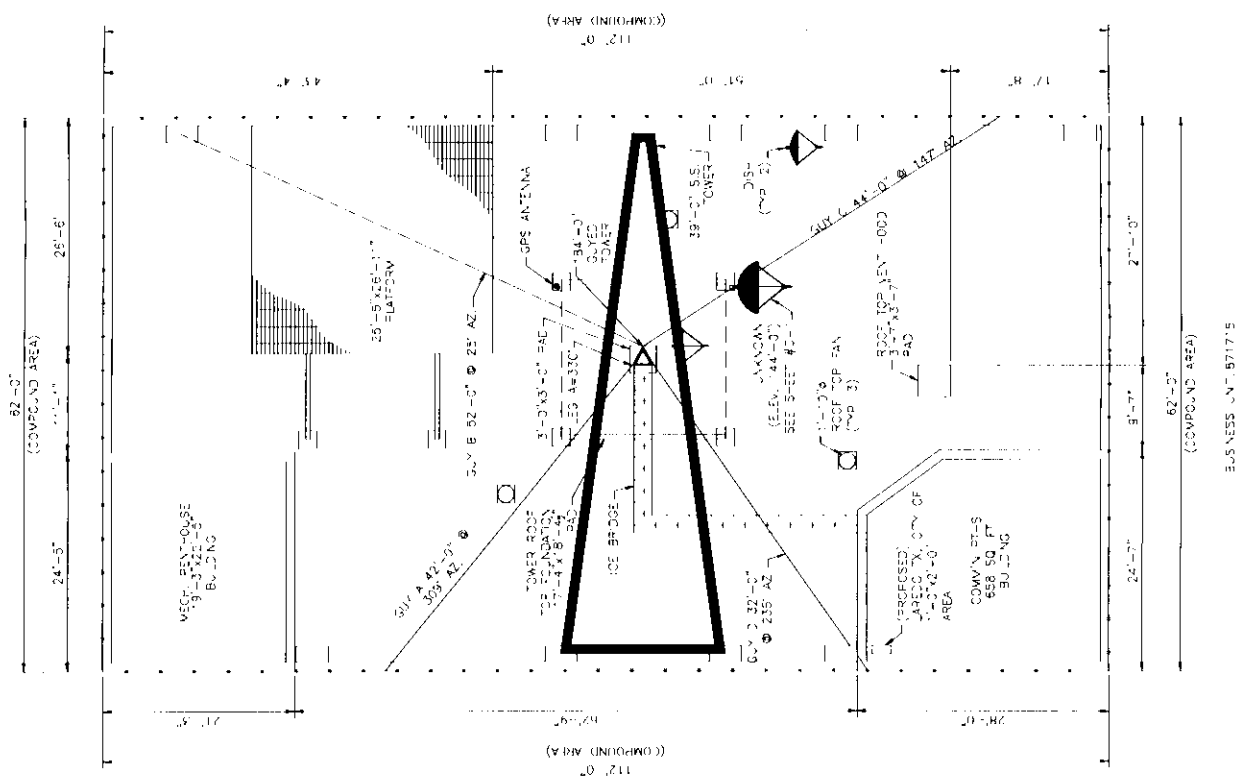
SITE PLAN; LOCATION AND DIMENSIONS (LENGTH, WIDTH, HEIGHT)  
OF EQUIPMENT BUILDING/FLOOR SPACE  
AND ANY OTHER INSTALLATION AT THE SITE

See Attached

**Prepared by:** S. Taylor  
**Prepared on:** July 17, 2009

**15**

**CROWN CASTLE STANDARD FORM RLA 7-7-09**



**Customer Site Name:**  
**Customer Site Number:**

**Crown Site Name:** Tx Laredo  
**JDE Business Unit:** 871715  
**License Identifier:** 212076

**EXHIBIT D to Rooftop License Agreement**

**PRIME LEASE AGREEMENT**

See Attached

**Prepared by:** S. Taylor  
**Prepared on:** July 17, 2009

**16**

**CROWN CASTLE STANDARD FORM RLA 7-7-09**

## PARTIAL ASSIGNMENT

This Partial Assignment (the "Assignment") is effective as of the 31<sup>st</sup> day of August, 1999, by and between PINNACLE TOWERS INC., a Delaware corporation, whose address is 1549 Ringling Boulevard, 3rd Floor, Sarasota, Florida 34236 ("Assignor") and PINNACLE TOWERS III INC., a Florida corporation, whose address is 1549 Ringling Boulevard, 3rd Floor, Sarasota, Florida 34236 ("Assignee").

### RECITALS:

- A. Assignor is a party to that certain Master Sublease Agreement dated August 31, 1999, by and between Assignor and Pinnacle Towers Canada Inc., a corporation constituted under the laws of New Brunswick ("PTCI"), each as sublessees, and, among others, Motorola, Inc., a Delaware corporation (collectively or individually, as the context requires, the "Motorola Entities"), as sublessors (the "Master Agreement").
- B. Assignor is a party to that certain Operating Agreement dated August 31, 1999, by and between Assignor, PTCI, and the Motorola Entities (the "Operating Agreement"; the Operating Agreement together with the Master Agreement are collectively referred to herein as the "Agreements").
- C. Assignor and Assignee entered into that certain Agreement for Purchase and Sale of Assets effective as of August 31, 1999 by and between Assignor and Assignee (the "Purchase Agreement").
- D. Pursuant to the Purchase Agreement, Assignor agreed to sell, transfer, assign and deliver to Assignee and Assignee agreed to purchase, accept, and receive from Assignor, all of Assignor's right, title and interest in and to the Rooftop Assets (as defined in the Purchase Agreement).
- E. Pursuant to the Master Agreement and until such time as each respective landlord of certain Purchased Assets (as defined in that certain Agreement for Purchase and Sale of Assets dated June 29, 1999, by and between Assignor and the Motorola Entities) consents in writing to the transfer of such Purchased Assets (hereinafter "Consent"), the Motorola Entities subleased to Assignor, among other things, the Rooftop Assets identified on Exhibit A (the "Subleased Rooftop Assets").



- F. Pursuant to the Operating Agreement and until such time as Assignor and Motorola Entities obtain Consent, Assignor agreed to operate, among other things, the Rooftop Assets identified on Exhibit B (the "Operated Rooftop Assets"; the Operated Rooftop Assets together with the Subleased Rooftop Assets are collectively or individually, as the context requires, referred to herein as the "Pending Rooftop Assets").
- G. Assignor wishes to assign to Assignee and Assignee wishes to assume, certain of Assignors' right, title, and interest in and to the Agreements on the terms hereinafter set forth.

NOW, THEREFORE, for and in consideration of the payment of Ten Dollars (\$10.00) by Assignee to Assignor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

TERMS:

1. Recitals. The foregoing Recitals are true and correct and are hereby incorporated herein by reference.
2. Assignment. Assignor hereby assigns, transfers, conveys and sells to Assignee, its successors and assigns, all right, title, and interest of Assignor in and to the Agreements only as such Agreements pertain to the Pending Rooftop Assets.
3. Assumption. Assignee hereby accepts this assignment and assumes all future duties, obligations, and liabilities of Assignor under the Agreements only as such pertain to the Pending Rooftop Assets, from and after the date hereof.
4. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties thereto and their respective successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this Assignment on the day and year first above written.

Signed, sealed and delivered  
in the presence of:

Tanya Brady  
Name: Tanya Brady  
Josephine Cutsinger  
Name: Josephine Cutsinger

ASSIGNOR:

PINNACLE TOWERS INC.,  
a Delaware corporation

Bernard Gaboury  
Bernard Gaboury, President

ASSIGNEE:

PINNACLE TOWERS III INC.,  
a Florida corporation

Tanya Brady  
Name: Tanya Brady  
Josephine Cutsinger  
Name: Josephine Cutsinger

Steven R. Day  
Steven R. Day, Vice President,  
Chief Financial Officer and  
Secretary

**EXHIBIT "A"**

**The Subleased Rooftop Assets**

EXHIBIT "B"

The Operated Rooftop Assets

TPAI #969063 v2

0400-587

DOC#: 705527

65289-RL

After Recording Return to:  
Richard D. Morrow  
Locke Liddell & Sapp LLP  
100 Congress Avenue, Suite 100  
Austin, Texas 78701-4042

## ASSIGNMENT GRANTEE'S INTEREST IN ROOF TOP COMMUNICATIONS TOWER EASEMENT AGREEMENT

Date: August 17<sup>th</sup>, 2000

This Assignment of Roof Top Communications Tower Easement Agreement (the "**Assignment**") pertains to that Roof Top Communications Tower Easement Agreement described as follows (the "**Agreement**"):

Date: August 17<sup>th</sup>, 2000

Grantor: Hamilton Housing Partners, Ltd., a Texas limited partnership

Grantee: Covenant Hamilton Housing, LLC, a Texas limited liability company

Property: See Exhibit A attached hereto and made a part hereof

Recorded: In Volume 954, Page 667, of the Real Property Records of Webb County, Texas.

The parties to the Assignment are as follows:

Assignor: Covenant Hamilton Housing, LLC, a Texas limited liability company

Assignor's Mailing

Address: 2901 Bee Caves Road  
Box C  
Austin, Texas 78746

Assignee: Pinnacle Towers Inc., a Delaware corporation

Assignee's Mailing

Address: 301 N. Cattlemen Road  
Suite 300  
Sarasota, Florida 34232

0954 688

400-587

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, (a) Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Agreement; (b) Assignee hereby assumes and agrees to pay all amounts, if any, payable under the Agreement; (c) Assignee hereby agrees to perform and be bound by the terms of the Agreement; (d) Assignee hereby agrees to indemnify and hold Assignor harmless from any loss, damage, and expense resulting or arising from Agreement.

Assignor hereby represents and warrants to Assignee that as of the date hereof, (a) there are no unpaid amounts under the Agreement; (b) there are no existing defaults under the Agreement; and (c) there are no offsets, rights of rescission, or other claims arising out of, relating to, or in connection with the Agreement.

This assignment shall bind and inure to the benefit of successors in interest of the parties.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

0954 689

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be duly executed as of the date first above written.

COVENANT HAMILTON HOUSING, LLC  
a Texas limited liability company

Name: \_\_\_\_\_

By: \_\_\_\_\_

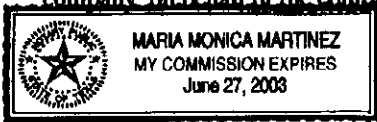
Name: \_\_\_\_\_

As Its: \_\_\_\_\_

Name: \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF WEBB

This instrument was acknowledged before me on this 17 day of August, 2000, by  
William C. Screen, as President of Covenant Hamilton Housing, LLC, a Texas limited liability  
company, on behalf of the company.



(personalized notary seal)

Maria Monica Martinez  
Notary Public Signature

0954 690

PINNACLE TOWERS INC.  
a Delaware corporation

Kristin N. Roberts  
Name: Kristin N. Roberts  
Billie J. Hair  
Name: Billie J. Hair

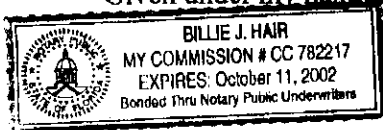
By: \_\_\_\_\_  
Name: JAMES BOKISH  
As to: ASSISTANT SECRETARY

STATE OF FLORIDA

COUNTY OF Sarasota

Before me, the undersigned, a Notary Public on this day personally appeared James Bokish know to me or proved to me on the oath of \_\_\_\_\_, to be the person and officer whose name is subscribed to the foregoing instrument and the person and acknowledged to me that the same was the act of the said Pinnacle Towers Inc., a Delaware corporation, and that he or she had executed the same as the act of such corporation for the purpose and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office, this 18th day of August, A.D., 2000.



Billie J. Hair  
Notary Public Signature  
**Billie J. Hair**

(personalized notary seal)



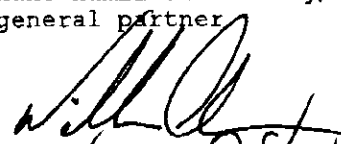
GRANTOR'S CONSENT

Hamilton Housing Partners, Ltd., a Texas limited partnership, hereby consents to the foregoing Assignment of Roof Top Communications Tower Easement Agreement and Right of First Refusal.

HAMILTON HOUSING PARTNERS, LTD.  
a Texas limited partnership

By: Covenant Hamilton Housing, LLC,  
its general partner

Name: \_\_\_\_\_

By:   
Name: William C. Skeen  
As its: President

Name: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF WEBB

This instrument was acknowledged before me on this 17 day of August, 2000, by William C. Skeen, as President of Covenant Hamilton Housing, Ltd., as general partner of Hamilton Housing Partners, Ltd., a Texas limited partnership.



(personalized notary seal)

  
Notary Public Signature

Fee Amount: \$19.00

COUNTY CLERK  
HENRY FLORES

Page 4  
Signed: 21718:65849:AUSTIN:212438.1

Recorded  
AUG. 30, 2000 AT 10:34AM

DOC#: 705527

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EXHIBIT "A"

Being a 11232.91 square foot easement on the 12<sup>th</sup> Floor and 7<sup>th</sup> Floor roof of the Hamilton Hotel for a Communications Antennae and being partly out of Lot 10, Lot 9, and Lot 1, Block 73, Western Division of the City of Laredo and conveyed by deed to Hamilton Hotel Company, as recorded in Volume 333, Page 93, Deed Records, Webb County, Texas, and being more particularly described by metes and bounds as follows to wit:

Beginning at the 7<sup>th</sup> story roof Northwest building corner of said Hamilton Hotel, situated in said Lot 10, from which a cut "X" found at the Northwest corner of said Lot 10, bears, North 41 degrees, 49 minutes, 32 seconds West, 7.65 feet, for the northwest corner hereof;

Thence, along the North 7<sup>th</sup> story roof line, North 89 degrees, 36 minutes, 29 seconds East, 76.18 feet, from which a cut "X" found at the Northeast corner of said Lot 10, bears, North 60 degrees, 34 minutes, 47 seconds East, 11.75 feet, for the Northeast corner hereof;

Thence, along the East 7<sup>th</sup> story roof line, South 00 degrees, 02 minutes, 49 seconds West, 46.25 feet, to a building corner for an exterior corner hereof;

Thence along a South 7<sup>th</sup> story roof line, South 89 degrees, 36 minutes, 29 seconds West, 30.00 feet, to a building corner for an interior corner hereof;

Thence, along a East 7<sup>th</sup> story roof line, South 00 degrees, 02 minutes, 49 seconds West, 38.45 feet, to a building corner which meets the 12<sup>th</sup> story roof line, for an interior corner hereof;

Thence, with a North 12<sup>th</sup> story roof line, South 89 degrees, 57 minutes, 11 seconds East, 2.10 feet, to a building corner for an exterior corner hereof;

Thence, with a East 12<sup>th</sup> story roof line, South 00 degrees, 02 minutes, 49 seconds West, 119.19 feet, to a point on a North line of a tract of land conveyed by deed to Oscar Garcia, Sr., as recorded in Volume 64, Page 460, Deed Records, Webb County, Texas, for an exterior corner hereof;

Thence, with a North line of said Garcia tract, South 89 degrees, 46 minutes, 30 seconds West, 2.00 feet, to a building corner for an interior corner hereof;

Thence, with a West line of said Garcia tract, South 00 degrees, 13 minutes, 30 seconds East, 5.40 feet, to a point on the South 12<sup>th</sup> story roof line for an exterior corner hereof;

Thence, with the South 12<sup>th</sup> story roof line, South 89 degrees, 27 minutes, 19 seconds West, 36.98 feet, to a building corner for an exterior corner hereof;

Thence, with a West 12<sup>th</sup> story roof line, North 02 degrees, 04 minutes, 44 seconds West, 4.75 feet, to a building corner for an interior corner hereof;

Thence, with a South 12<sup>th</sup> story roof line, North 89 degrees, 52 minutes, 30 seconds West, 10.94 feet, to a building corner, from which a cut "X" found at the Southwest corner of said Lot 1, bears, South 22 degrees, 28 minutes, 20 seconds West, 13.34 feet, for an exterior corner hereof;

Thence, with the West 12<sup>th</sup> story roof line North 00 degrees, 00 minutes, 30 seconds West, 204.54 feet, to the Point of Beginning and containing 11232.91 square feet of land, more or less,

Basis of Bearings: The east line of Block 128 taken as due North.

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693

0400587

DOC#: 705526

65288-RR

Return to:  
Evan N. Bortin, Esquire  
Kirk Pinkerton, P.A.  
P.O. Box 3798  
Sarasota, FL 34230

**ROOF TOP COMMUNICATIONS TOWER  
EASEMENT AGREEMENT**

This Rooftop Communications Tower Easement Agreement ("Easement Agreement", "Agreement", or "Easement") dated as of August 17<sup>th</sup>, 2000, by and between Covenant Hamilton Housing LLC, a Texas limited liability company ("Grantee"), whose address is 2901 Bee Caves Road, Box C, Austin, Texas 78746, and Hamilton Housing Partners, Ltd., a Texas limited partnership ("Grantor"), whose address 2901 Bee Caves Road, Box C, Austin, Texas 78746.

**BACKGROUND**

Grantor is the owner of the Land described in Exhibit "A" attached hereto, which Land includes a building (the "Structure") upon which communications towers, antennae, and related facilities are, or will be located. The Land and the Structure shall be collectively referred to as the "Premises". Grantee has requested Grantor grant a non-exclusive easement over a portion of the roof of the Structure, the specific location(s) of which is/are described in Exhibit "B" attached hereto and made a part hereof (the rooftop portions of the Structure to which Grantee has the right to utilize pursuant to the terms hereof are referred to herein collectively as the "Easement Property"), for purposes hereinafter set forth consistent with the ownership, operation and maintenance of communications tower(s) and antennae, including but not limited to installing, operating, and maintaining radio and/or communications towers, antennae, dishes, buildings, equipment, tower guy wires, guy wire anchors, guy stubs, ground connections, and all fixtures, attachments, equipment and accessories related thereto (collectively, the "Easement Equipment") (including the right to grant to third parties the right to lease/license the Easement Property from Grantee for such uses), and including ingress and egress for the same (for itself, its customers, lessees, sub-lessees, and licensees), and all other related general and miscellaneous uses. Grantor has agreed to Grantee's request upon the terms and conditions of this Easement.

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**OPERATIVE PROVISIONS**

In consideration of the premises, the sum of \$10.00, and other good and valuable considerations, the receipt and sufficiency of which the parties hereby acknowledge, Grantor and Grantee hereby agree as follows:

1. **Grant of Easement.** Grantor, for itself, its successors and assigns, hereby grants and conveys unto Grantee, its customers, lessees, sub-lessees, licensees, successors and assigns (collectively, "Customers"), a non-exclusive easement on, over, across and through the Easement Property for all purposes consistent with the ownership, operation and maintenance of the Easement Equipment, including but not limited to, installing, leasing, operating, maintaining, repairing, replacing, rebuilding, altering, inspecting, improving, and removing the Easement Equipment, and for ingress and egress for the same.

2. **Private Easement.** Nothing in this Agreement shall be deemed to be a dedication of any area for public use. All rights, easements and interests herein created are private and do not constitute a grant for public use or benefit.

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3. Successors Bound. This Easement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. It is the intention of the parties hereto that all of the various rights, obligations and easements created in this Easement shall run with the Land and shall inure to the benefit of and be binding upon all future owners of the Land and all persons claiming under them.

4. Duration. The duration of the Easement granted herein (the "Term") shall be for a period of thirty-seven (37) years, unless (a) this Easement is terminated as set forth herein, or (b) Grantee provides written, recordable notice of its intent to terminate this Easement, in which event this Easement shall terminate upon Grantee's recordation of any such notice. However, in the event (a) Grantee, its successors and/or assigns, removes all of the Easement Equipment which is/are the subject of this Easement Agreement, and fails to initiate the replacement thereof for a period of 90 days, or (b) for a period of 180 days, there are no leases between Grantee, as lessor, and third party lessees, for use of the Easement Property, then this Easement shall automatically terminate.

5. Easement Consideration. Grantor hereby acknowledges the receipt, in advance, of all consideration due hereunder. Accordingly, no additional consideration shall be due during the term of this Easement.

6. Use.

a. General. The Easement Property shall be used for the purpose of, without limitation, erecting, installing, operating and maintaining the Easement Equipment, including leasing, subleasing, and licensing space thereon to third parties. Subject to the other terms of this Agreement, Grantee may make any improvement, alteration, or modifications to the Easement Property as are deemed reasonably appropriate by Grantee. At all times during the term of this Easement Agreement, Grantee shall have the non-exclusive right to use the Easement Property. Grantee and its Customers shall have the right to access the Easement Property during Grantor's normal business hours, which shall be deemed to be between 8:00 am and 6:00 pm, Monday through Friday, and 9:00 am and 1:00 pm on Saturday, exclusive of holidays. Prior to accessing the Easement Property, Grantee shall use reasonable efforts to provide advance notice to Grantor, provided, however, in the event of an emergency, or if the giving of notice is not practical, Grantee and its Customers shall have access to the Easement Property at any time and shall promptly thereafter provide written notice to Grantor of its access thereto. Grantee shall have the exclusive right to lease, sublease, license, or sublicense the Easement Equipment, and shall also have the exclusive right to lease or sublease to third parties any portion of the Easement Property itself, but no such lease, sublease or license shall relieve or release Grantee from its obligations under this Agreement. If, at any time during the term of this Agreement, the Federal Aviation Administration, Federal Communications Commission, or other governmental agency changes its regulations and requirements or otherwise takes any action, the result of which is that Grantee may no longer use the Easement Property for the purposes originally intended by Grantee, or if technological changes render Grantee's intended use of the Easement Property obsolete or impractical, Grantee shall have the right to cancel and terminate this Easement Agreement upon written notice to Grantor.

b. Compliance with Law. Grantee and its Customers shall use the Easement Property solely for the installation, operation, maintenance and replacement, at such parties' sole expense, of the Easement Equipment, including any additions thereto or replacements thereof. Grantee shall use reasonable efforts to insure its Customers' compliance with any Federal Communications Commission ("FCC") license held by its Customers, copies of which shall be provided to Grantor promptly upon written demand therefor (the "FCC Licenses"). Additionally, Grantee and its Customers shall conduct their communication services at the Easement Premises utilizing only the frequency or frequencies and operating only at the transmission power specified in said FCC Licenses and other licenses governing the same, as amended from time to time. Upon Grantor's request from time to time, Grantee shall certify to Grantor or provide other evidence reasonably satisfactory to Grantor that the Easement Equipment is being operated within the frequency ranges and at the power levels permitted by the FCC Licenses. Grantee will install, maintain, and operate, and shall cause its Customers to install, maintain, and operate, the Easement Equipment at all times in a good, safe, workmanlike and first-class manner, and in strict compliance with all applicable federal, state, and local laws, ordinances, rules and regulations, including without limitation

applicable occupational, health and safety standards and the regulations promulgated by the FCC and FAA and all applicable codes, including without limitation zoning, building and fire codes. Grantee, at Grantee's sole cost and expense, shall be solely responsible for securing and maintaining all applicable permits, licenses and approvals for the installation, maintenance, and operation of the Easement Equipment, including, without limitation, any required FCC License. Grantee shall deliver to Grantor copies of any such permits, licenses or approvals upon Grantor's written request.

c. No Illegal Uses; Comply with Insurance. In addition to any other limitations set forth herein, including but not limited to those set forth in Sections 6a and 6b above, Grantee and its Customers shall not use the Premises or the Easement Property for any illegal purpose, or for any other purpose which is inconsistent with applicable FCC, FAA, or other governmental or regulatory requirements.

d. Grantor's Right to be Present. Grantor shall have the right, but not the obligation, to be present during any entry by Grantee or any of its Customers onto the Premises. Grantee and its Customers shall use reasonable efforts to give Grantor notice of its intent to enter the Premises, subject to Grantee's rights in the event of an emergency as provided hereinabove.

e. Grantee to Provide Description of Easement Equipment. Upon the date hereof, and from time to time thereafter upon thirty (30) days written notice, Grantee agrees to promptly provide information regarding the Easement Equipment to Grantor, including but not limited to the type of equipment and the specifications thereof.

f. Grantee's Limitations Re: Other Tenants. Grantee acknowledges that Grantor does not have the right to require any tenant or other occupant of the Premises to use Grantee's or any of its Customers' services, and Grantor shall have no obligation to assist Grantee in persuading tenants or other occupants of the Premises to use such services. Grantor shall have no obligation to provide Grantee with any information concerning the tenants or other occupants of the Premises and Grantor shall have no responsibility whatsoever in connection with the failure by any tenant or other occupant to pay for any communication or other services provided by Grantee and any of its Customers. Grantee and its Customers shall not have the right to enter the premises of any tenant or other occupant of the Premises, without the prior written consent of the tenant or occupant.

g. Structural Alterations. During the term of this Easement Agreement, Grantee shall not make any alterations to the Structure itself (other than with respect to the communications building located upon the Structure), without Grantor's approval, which approval shall not be unreasonably withheld or delayed. Grantor hereby covenants, recognizes, and agrees that it is Grantee's intent to locate towers, antennae and related appurtenances upon the Easement Property, which towers, antennae and related appurtenances may need to be affixed to the Structure itself. Provided (i) the structural integrity of the Structure is not compromised, (ii) the intended use of the Structure is not going to be unreasonably interrupted, and (iii) the proposed alteration and its results are otherwise in compliance with the terms of this Agreement, Grantee may not withhold its consent to any such alteration. However, prior to the commencement of any alteration to the Structure itself (which shall not include the communications building located upon the Structure), Grantee shall first submit engineering plans therefor to Grantor. Thereafter, Grantor shall have ten (10) days in which to review such plans. If Grantor does not object to such plans within said 10-day period, it shall be deemed to have automatically accepted and approved any such plans. Any objection to such plans must be accompanied by a reasonably detailed explanation as to the reason for such rejection. Drilling holes into the Structure will not be adequate cause to withhold Grantor's approval, provided any such drilling does not compromise the structural integrity of any portion of the Structure.

h. Grantor's Equipment. The parties hereby recognize that Grantor shall be permitted to retain its existing equipment upon and within the Easement Property, provided, however, Grantee shall have no obligation to protect, maintain, or safeguard same. Such responsibility shall remain with the Grantor, and Grantor, for itself, its successors and assigns, hereby agrees to indemnify, defend, and hold harmless Grantee from and

against any and all liabilities, claims, suits, demands, causes of action, or judgments, including reasonable attorneys' fees, arising out of, relating to, or otherwise pertaining to Grantor's location, use, operation, and maintenance of any such equipment, including, without limitation, any damage to the Easement Equipment, or any injury to (person or property) of any guest, licensee, invitee, agent, or employee of the Grantor, or any other party (other than Grantee, its guests, licensees, invitees, agents, or employees) utilizing the Easement Property for any purpose whatsoever. Grantor hereby covenants and agrees to properly maintain its equipment in a good and safe condition and state of repair, normal wear and tear excepted. Grantor may perform routine maintenance on its equipment without Grantee's consent, provided, however, Grantor shall not disturb or otherwise interfere with Grantee's or its Customers' equipment located upon or within the Easement Property. Grantor and Grantee shall use best efforts to cooperate in the event extraordinary repairs and maintenance, or any replacements and/or additions to its equipment or the roof itself, are required. Grantee shall have the right to supervise any such repairs and/or maintenance, replacements and/or additions. Grantor hereby covenants and agrees that its use of the Easement Property, other than such uses as exist as of the date hereof, will not interfere with Grantee's ownership, operation, maintenance, use, and/or transmission of the communications towers, facilities, antennae, dishes, and related equipment located upon or within the Easement Property, from time to time, and hereby agrees that Grantor will promptly undertake any remedial action necessary to remedy or prevent any such material interference, failing which Grantee may undertake to do so, and deduct the full cost thereof from any consideration due hereunder and/or charge Grantor for the full cost thereof. If and when Grantor elects to supplement and/or replace any of Grantor's equipment located upon or within the Easement Property, or to place new equipment upon or within the Easement Property, Grantor shall first provide Grantee with notice thereof, and will thereafter use best efforts not to interfere with, and to use equipment which will not interfere with, Grantee's permitted use of the Easement Property. Grantor will make every reasonable effort not to detrimentally impact any Easement Equipment (including the reception and/or transmissions of signals therefrom) now or hereafter located upon or within the Easement Property by Grantee or its Customers. Notwithstanding the foregoing, or anything contained herein to the contrary, Grantor shall be permitted to install or replace equipment located on the Easement Property if required to do so by a governmental agency or body of any kind.

i. Radiated Power Restrictions. Grantor and Grantee shall cooperate with and permit the other to implement reasonable measures at the Premises, including restricting public access and posting signage and markings, in order to fulfill any radio frequency ("RF") exposure obligations or the like. Grantee may take any and all reasonable measures to restrict third party access to the Easement Equipment, and Grantor hereby agrees to fully cooperate with Grantee in this regard. Grantor shall use its best efforts to prevent its agents, guests, licensees, tenants, and any other party acting by or through Grantor, from interfering with, tampering with, or otherwise coming in close proximity to the Easement Equipment. Grantee represents and warrants that the installation of the Easement Equipment will not cause the Premises to exceed the FCC radiated power density maximum permissible exposure ("MPE"). In the event excess radiated power densities occur subsequent to the installation of the Easement Equipment, the parties shall cooperate to determine the source thereof. If Grantee or any of its Customers is the source, Grantee shall diligently pursue the elimination of such excess and to fulfill the RF exposure obligations. Grantor shall have no liability to Grantee for damages caused by any source's (other than Grantor's) refusal or failure to eliminate such excess or fulfill its RF exposure obligations.

j. Easement Equipment. Grantor hereby acknowledges that Grantee has performed an audit of the Easement Equipment, effective December, 1999. Grantor represents that it has added no additional Easement Equipment to the Easement Property. Notwithstanding anything contained herein to the contrary, Grantee shall be permitted to continue to maintain the existing Easement Equipment upon the Easement Property, and that it is the parties' intent that the location of the Easement Equipment, as currently situated and operated, does not, and shall not constitute a violation of any of the terms, provisions, and requirements of this Agreement.



7. Easement Equipment; Installation; Removal; Roof.

a. Installation. Subject to the other terms of and in strict compliance with this Agreement, Grantee or its Customers shall have the right to erect, install, maintain and operate on the Easement Property such Easement Equipment as Grantor may deem necessary or appropriate. The Easement Equipment now or hereafter located on the Easement Property shall not be deemed to be part of the Easement Property, but is deemed part of the Easement Equipment and the property of Grantee or its Customers. Legal title to all of the Easement Equipment (other than cabling and wiring installed in the Premises, if any) shall be and remain with Grantee or its Customers subject to the provisions hereof. Grantee at all times shall have care, custody, and control of the Easement Equipment, subject to the provisions of this Agreement, and all of the Easement Equipment kept, stored, or maintained on the Premises will be kept, stored, or maintained at the sole risk of Grantee. Grantor and Grantee shall cooperate with each other in taking all reasonable measures and precautions to render the Easement Equipment inaccessible to unauthorized persons. Grantee shall be responsible for ensuring that its Customers, agents, employees and contractors fully comply with all of the applicable terms of this Agreement to the same extent that Grantee must fully comply if it were performing the acts performed by such agents, employees or contractors, and Grantee shall be liable to Grantor if any agent, employee or contractor fails fully to comply. Without limiting the foregoing, all actions or omissions of any Customer, employee, agent and/or contractor shall be attributed to Grantee for all purposes under the Agreement, and Grantee shall indemnify Grantor for actions or omissions of Grantee's employees, agents and contractors to the same extent that Grantor would indemnify Grantor if Grantee engaged in the same actions or made the same omissions. Grantee hereby specifically acknowledges that all of the equipment, structures, fixtures, antennae, dishes, signs and other ancillary buildings and equipment will be located on the Structure of Grantor and that Grantee and its Customers shall take all reasonable measures not to damage any portion of the Structure or the structural integrity thereof, including, without limitation the agreement not to place any extraordinary load capacity on the Structure unless a licensed engineer, retained by Grantor at Grantee's expense, has determined that such capacity will not materially adversely effect the structural integrity of any portion of the Structure. Notwithstanding anything contained herein to the contrary, Grantor recognizes that it is Grantee's intent to maximize its use of the Easement Property with the placement of multiple antennae. Grantor further recognizes that such use will involve the placement of equipment upon the roof of the Structure that may have an adverse effect on the wear and tear and/or life expectancy of such roof. Grantee shall have no responsibility whatsoever to reimburse Grantor for any expense associated with the normal wear and tear on the roof related to Grantee's permitted or contemplated non-construction uses thereof, other than Grantee's pro-rata share of expenses associated with a material reduction of the life expectancy of the roof directly attributable to Grantee's use thereof from this date henceforth.

b. Identification of Easement Equipment. Grantee shall use reasonable efforts to cause its Customers to use and maintain tags to identify the owner and/or user of any particular part of the Easement Equipment, which tags shall indicate the applicable party's name and frequency number(s). Grantee shall also cause to be posted a copy of the applicable party's FCC License on the Easement Equipment upon installation. Upon the request of Grantor, (i) all Easement Equipment shall be painted to match the color of the Building, and (ii) Grantee shall supply to Grantor evidence reasonably satisfactory to Grantor that the installation of the applicable Easement Equipment shall not produce RF interference in excess of that permitted by applicable law or regulations, and that such Easement Equipment is structurally sound. In addition to the Easement Equipment located at the Easement Property as of the date hereof, the only other types of Easement Equipment which may be located and/or installed at the Easement Property without the prior written consent of Grantor, such consent not to be unreasonably delayed, withheld or conditioned, are those devices that do not affect the structural integrity of the Structure in a materially adverse manner, and which otherwise comply with all governmental requirements, including without limitation zoning.

c. Removal of Easement Equipment. At any time during the term of this Easement Agreement and within thirty (30) days after termination hereof, Grantee or its Customers shall have the right to remove their Easement Equipment from the Easement Property. Grantee shall keep the Easement Property and the Easement Equipment neat and clean. Additionally, in the event the Agreement is terminated, upon Grantor's written

request, Grantee shall remove the Easement Equipment from the Premises (other than Easement Equipment which is located on the Premises as of the date hereof) at Grantee's sole cost and expense. Grantee shall, at its sole cost and expense, repair any damage to the Premises (including, but not limited to, the Easement Property) and shall restore the Premises and the Easement Property to its condition existing as of the date hereof, ordinary wear and tear excluded. If Grantee does not remove the Easement Equipment within ten (10) days of Grantor's request, as required hereinabove, Grantor may remove the Easement Equipment and store it at Grantee's sole cost and expense, including the cost and expense of repairing any damage to the Premises and restoring the Easement Property and the Premises to the condition existing as of the date hereof, which amount shall be paid to Grantor on demand. If Grantee fails to claim the Easement Equipment and pay such amounts required under the preceding sentence within ten (10) days after written notice from Grantor, Grantor shall have the right to dispose of the Easement Equipment as Grantor sees fit at Grantee's expense.

d. Repairs. Grantee will immediately and properly repair any roof leaks or other damage or injury (including structural damage) to the roof of the Structure or any other part of the Premises caused by Grantee's use of the Premises or the installation, use, maintenance, or removal of the Easement Equipment. If Grantee does not immediately repair any such leaks, damage, or injury, Grantor may, but is not obligated to, make such repairs and charge Grantee for all costs and expenses incurred in doing so. Grantor will promptly and properly repair any damage or injury (including structural damage) to the roof of the Structure or any other part of the Premises not otherwise caused by Grantee's use of the Premises. Further, subject to the terms of this Agreement, Grantor may repair, alter, remove or improve, at its own expense, the Premises. In doing so, Grantor shall minimize the disruption of Grantee's permitted use of the Easement Property.

8. Assignment. Grantee may assign this Easement Agreement to any person or entity who or which acquires all, or substantially all of the assets of Grantee, by sale, merger, operation of law, or otherwise, without the consent of Grantor. Any such assignee shall be bound by all of the terms and conditions of this Agreement and shall, upon written request of Grantor, execute a writing stating the same. Any other assignment of this Agreement may be accomplished only after seeking Grantor's written consent thereto, which consent shall not be unreasonably withheld, conditioned, or delayed. Grantor may, without the consent of Grantee, assign this Agreement to any party or entity who or which acquires the Land and Structure upon which the Easement Property is situated, provided any such assignee shall be bound by all the terms and conditions of this Agreement, and shall, upon written request of Grantee, execute a writing stating the same. Additionally, the change of the partnership structure of Grantor, including but not limited to the substitution or admission of partners, shall not be deemed an assignment of this Agreement.

9. Warranties and Agreements

a. Owner. Grantor represents and warrants that it is the owner in fee simple of the Easement Property, free and clear of all liens and encumbrances, except as set forth on the attached Exhibit "C", and that it alone has full right to grant this easement. Grantor covenants that, so long as Grantee is not in default hereunder, Grantee shall peaceably and quietly hold and enjoy the Easement Property for the term of this Easement Agreement without any hindrance, molestation or ejection by Grantor, its successors or assigns.

b. Taxes, Liens, Non-Disturbance. During the term of this Easement Agreement, Grantor covenants and agrees that (i) Grantor will pay all real property taxes attributable to the Land, Structure, and/or Premises before the same become past due; provided, however, Grantor shall not be deemed to have failed to pay such taxes if Grantor provides a bond therefore or is protesting such taxes and is using reasonable diligence to do so (failing which Grantee may pay such taxes and seek reimbursement from Grantor for the cost thereof), and (ii) Grantor shall not grant, create, or suffer any claim, lien, encumbrance, easement, restriction, or other charge or exception to title to the Easement Property which will have a material adverse affect thereon without the prior written consent of Grantee, which shall not be unreasonably delayed, withheld or conditioned; provided, however, that it is expressly agreed and understood that Grantor may subject its interest in the Easement Property to mortgage loans if its lender shall agree, for itself, its successors, and assigns, by written instrument in form and substance



reasonably satisfactory to Grantee: (1) to be bound by the terms of this Easement Agreement; (2) not to disturb Grantee's use or possession of the Easement Property in the event of a foreclosure of such lien or encumbrance so long as Grantee is not in default hereunder; and (3) not to join Grantee as a party defendant in any such foreclosure proceeding taken by it. Notwithstanding the foregoing, Grantee shall pay or shall reimburse Grantor, if and when due, any sales, use, personal property or other taxes or assessments (but not ad valorem taxes) which are assessed or due by reason of this Agreement, Grantee's or any of its Customers' use of the Premises or the Easement Equipment.

c. Lawsuits. To the best of Grantor's knowledge, Grantor has complied, and will continue to comply, with all environmental, health, zoning, building, occupational, and safety laws with respect to the Land, the Structure, and the Easement Property, and no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand or notice has been filed or commenced against Grantor or regarding the Land, the Structure, and the Easement Property alleging any failure so to comply. No asbestos containing thermal insulation or products containing PCB, formaldehyde, chlordane or heptachlor or other hazardous materials have been placed on or in the Land, Structure, or the Easement Property by Grantor.

d. Zoning, etc. To Grantor's knowledge, and with inquiry, the Premises, and Easement Equipment located thereon as of the date hereof, are properly permitted, and are in compliance with all applicable laws, including, without limitation, all zoning, occupational, and permitting laws and requirements. Grantor hereby represents to Grantee that it has performed an independent investigation of the Easement Equipment's compliance with all applicable zoning, permitting, and related requirements, and hereby represents that, to its knowledge, the Easement Equipment, as currently situated, configured, and operated, is in compliance with all local, state, and federal zoning, licensing, and permitting laws and requirements.

e. Access; Utilities Grantor has no knowledge of any fact or condition that could result in the termination or reduction of the current access from the Land to existing highways and roads, or to sewer, electric, or other utility services serving the Easement Property. Grantee shall have the right to reasonably utilize any such access to the Land for purposes of ingress and egress to and from the Easement Property. The Premises, including, without limitation, improvements related heating, electrical, plumbing, and other building equipment are and will be maintained to facilitate Grantee's intended use of the Easement Property as set forth herein. Grantor hereby covenants and agrees that it shall not hinder access to the Easement Property. Grantor further covenants and agrees that it will take no act, or omit to take any act, which might interfere with, inhibit, eliminate, reduce, or otherwise similarly affect the Easement Property's access to utilities.

f. Other Rights to the Easement Property. With respect to the Structure and/or Easement Property: (i) there currently exist no leases, subleases, licenses, management agreements, concessions or other agreements, written or oral, granting to any party or parties the right of use, management, or occupancy of any portion of the of Easement Property, other than any existing tower/antennae tenants and/or as provided in Exhibit C, attached hereto and made a part hereof; (ii) there are no outstanding options or rights of first refusal to purchase the Structure, the Easement Property or any portion thereof or interest therein except as listed in Exhibit C, attached hereto and made a part hereof; and (iii) there are no parties (other than Grantor, and tower and tower lessees) in possession of the Easement Property.

h. Repair. With respect to the Premises, Grantor covenants and agrees to use best efforts to: (i) at all times during the term of this Easement Agreement, maintain in good, sound, and substantial repair and condition, the Premises upon which the Easement Property is situated, including, without limitation, the structural integrity thereof; (ii) promptly and properly effect any repairs to the Land and/or Structure, when and as needed, which could create or cause an interruption to Grantee's use thereof, or which might otherwise affect Grantee's rights hereunder (failing which Grantee may effect any such repair, and seek reimbursement from Grantor for the reasonable cost thereof); (iii) maintain, intact, the Structure upon which the Easement Property is situated, in a good and proper state of repair, and in full compliance with all applicable rules, regulations, zoning requirements, and other governmental requirements, except as the same applies to the Easement Equipment.

i. Insurance. During the term of this Easement Agreement, Grantor covenants and agrees that it shall at all times carry insurance on the Premises for fire, wind, flood, and other casualty. Grantor covenants and agrees that such insurance shall include protection against all hazards, by the broad form fire and extended coverage form of insurance policy in effect in the state in which the Land is situated, and shall be in such amount which, in the event of damage or destruction, shall yield funds adequate to fully restore the Premises and Easement Property (but not the Easement Equipment) to the condition existing immediately prior to any such damage or destruction. Upon request, Grantor shall provide Grantee with proof of such insurance, which insurance shall name Grantee as an additional insured thereunder.

j. Destruction. Grantor hereby covenants and agrees that in the event the Structure upon which the Easement Property is situated, shall be wholly or partially destroyed by fire, flood, act of God, or other casualty, or by termites or other natural causes, that Grantor shall promptly remove all debris therefrom and repair or rebuild the same, restoring said improvements to the same condition in which they were immediately prior to such destruction to the extent there are insurance proceeds to do so and subject to the rights of any mortgagee of Grantor holding a lien of which the Premises to collateral. In the event of partial or complete destruction of the Structure or Easement Property, and subject to the terms hereinabove and the terms of its partnership agreement and the requirements of any mortgagee of the Premises, Grantor shall use its best efforts to cause the replacement and/or restoration thereof as soon as possible, failing which Grantee shall be entitled to receive a prorated refund of the consideration paid for this Easement Agreement.

10. Indemnification/Injury to Third Persons/Default.

a. Grantor Indemnification of Grantee. Grantee shall not be liable for any damage or injury caused to any person or property by reason of the failure of Grantor to perform any of the covenants, agreements, or provisions herein, for any damage or injury caused by reasons of any defect in the Land, the Structure, and/or the Easement Property now or in the future existing, or for any damage or injury otherwise relating to or arising out of the Land, the Structure, or the Easement Property (unless caused by the negligence, act or omission of Grantee, or Grantee's invitees, guests, mortgagees, agents, purchasers, Customers, tenants, employees or licensees). Grantor hereby agrees to indemnify and save Grantee harmless from and against any and all loss, damages, claims, demands, liability or expenses, including reasonable attorneys' fees and costs, by reason of injury or damage to persons (including loss of life) or property which may arise or be claimed to have arisen as a result of, or otherwise arising out of the Premises, unless caused by the negligence, act or omission of Grantee, or Grantee's invitees, guests, mortgagees, agents, purchasers, Customers, tenants, employees or licensees. Specifically, but without limitation, Grantor hereby agrees to indemnify and save Grantee harmless from and against any and all loss, damages, claims, demands, liability or expenses, including reasonable attorneys' fees and costs, by reason of injury or damage to persons (including loss of life) which may arise or claim to have arisen as a result of the fact that the Easement Equipment is located upon the Premises (unless caused by the negligence, act or omission of Grantee, or Grantee's invitees, guests, mortgagees, agents, purchasers, Customers, tenants, employees or licensees), it being intended hereby that Grantor shall have the obligation to establish and coordinate reasonable measures to prevent third party (with the exception of those third parties listed in the preceding parenthetical) access to the Easement Equipment. Grantor hereby recognizes that, inasmuch as Grantee shall not have the exclusive right to occupy the Easement Property, that Grantee will be unable to prevent access to the Easement Property by third parties other than its own invitees, guests, mortgagees, agents, purchasers, tenants, employees and/or licensees. It is the parties' intention hereby that Grantor shall have the obligation to prevent Grantor's tenants, own invitees, guests, mortgagees, agents, purchasers, tenants, employees and/or licensees from accessing, interfering with, tampering with, or otherwise coming into contact with the Easement Equipment except if supervised or in the case of an emergency as provided in this Agreement. Consequently, except in the case of an emergency, any access to the Easement Property by such a party that is not supervised by Grantee, one of its Customers, or an agent of either, shall be at such party's own risk, and Grantee shall have no liability or responsibility therefor.

(b) Grantee Indemnification of Grantor. Grantor shall not be liable for any damage or injury caused to any person or property by reason of the failure of Grantee to perform any of the covenants, agreements, or

provisions herein. Grantee hereby agrees to indemnify and save Grantor harmless from and against any and all loss, damages, claims, demands, liability or expenses, including reasonable attorneys' fees and costs, by reason of injury or damage to persons (including loss of life) or property which may arise or be claimed to have arisen as a result of, or otherwise arising out of the Easement Property or the use of the Premises by Grantee and/or Grantee's invitees, guests, mortgagees, agents, purchasers, Customers, tenants, employees or licensees, unless caused by the negligence, act or omission of Grantor, or Grantor's invitees, guests, mortgagees, agents, purchasers, tenants, employees or licensees. Specifically, but without limitation, Grantee hereby agrees to indemnify and save Grantor harmless from and against any and all loss, damages, claims, demands, liability or expenses, including reasonably attorneys' fees and costs, by reason of injury or damage to persons (including loss of life) which may arise or claim to have arisen as a result of the location and the operation of the Easement Equipment upon the Premises (unless caused by the negligence, act or omission of Grantor, or Grantor's invitees, guests, mortgagees, agents, purchasers, tenants, employees or licensees).

(c) The occurrence of any one of the following shall be a default by Grantee and Grantor (as applicable) hereunder ("Event of Default"). Upon the occurrence of an Event of Default, after the expiration of all notice and graced periods referred to herein, the non-defaulting party can terminate this Agreement by delivering written notice thereof to the defaulting party:

(i) Any amount due hereunder is not paid within thirty (30) days of written demand therefore.

(ii) Any covenant hereunder is not fully performed following thirty (30) days' written notice to the non-performing party; provided, however, in the event such covenant is of the nature that it cannot be fully performed within said 30-day period, the non-performing party shall have such additional time as is necessary so long as it is using reasonable efforts to perform such covenant.

(d) Each party shall give the other prompt written notice of the following:

(i) It admits in writing its inability to pay its debts or makes a general assignment for the benefit of creditors; or

(ii) It commences any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors; or

(iii) If any involuntary case, proceeding or other action commenced against it which seeks to have an order for relief entered against it, as debtor, or seeks reorganization, arrangement, adjustment, supervision, control, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, (i) fails to obtain a dismissal of such case, proceeding or other action within sixty (60) days of its commencement, or (ii) converts the case from one chapter of the Federal Bankruptcy Code to another chapter, or (iii) is the subject of an order for relief, or through legal proceedings which is not vacated within sixty (60) days from the date thereof; or

(iv) It has a trustee, receiver, custodian or other similar official appointed for or take possession of all or any part of the Premises or any other of its property or has any court take jurisdiction of any other of its property which remains undismissed for a period of sixty (60) days.

11. **Holding Over by Grantee.** Should Grantee or any assignee, sublessee or licensee of Grantee hold over the Easement Property, or any part thereof after the expiration of the Term, unless otherwise agreed in writing, such holdover shall constitute and be construed as a leasehold tenancy from month-to-month only, but otherwise upon the same terms and conditions set forth herein.

12. **Inspection.** Grantor shall have the right at any time to enter the Easement Property for the purpose of inspecting or making repairs to the same, and to show the Premises to prospective or existing mortgagees, purchasers, tenants, occupants or licensees of any part of the Premises. Grantor also has the right to use the Premises for any purpose that does not interfere with Grantee's authorized use. Grantee shall also permit Grantor or its agents or representatives at all hours, upon reasonable notice to Grantee, to have access to the Easement Equipment to (i) inspect the Easement Equipment to verify adherence to the approved plans thereof, and (ii) inspect Grantee's compliance with the terms and provisions of the Agreement and applicable laws, ordinances, rules and regulations. Except as otherwise provided in this Agreement, Grantor may not, however, inspect the Easement Equipment without a representative of Grantee present. Grantor recognizes that the Easement Equipment contains sensitive equipment that may only be accessed by trained, qualified individuals.

13. **Non-Disturbance.** During the term of this Agreement, Grantor will not grant any other easement, lease, license, or other similar interest with respect to the Premises for any of the uses contemplated in paragraphs 1 or 6 herein, or any other easement or lease to any party if such easement or lease would in any way effect or interfere with Grantee's radio/communications equipment and/or antennas. Grantee is utilizing the Easement Property for the purpose of transmitting and receiving telecommunication signals from the Easement Property. Grantor and Grantee recognize that the purpose behind this Easement Agreement would be frustrated if the telecommunications signals were partially or totally blocked, if an obstruction were built that would cause interference with such transmission, or if access and/or utilities to and from the Easement Property were partially and/or completely inhibited. Grantor, for itself, its successors and assigns, hereby agrees to use reasonable efforts to prevent the occurrence of any of the foregoing to the extent caused by a condition located on the Premises, and shall promptly undertake any remedial action necessary to do so.

14. **Access and Utilities.** Grantee shall procure, at Grantee's sole expense, any services necessary to operate the Easement Equipment and the Easement Property, including but not limited to electric, telephone, gas, water, sewer, and any other utility connections. Grantee shall arrange to install and pay for a separate metering and main breaker for the Easement Equipment. All such installations shall take place and utilize existing routes within the Structure, provided Grantee shall be permitted to expand and/or augment such routes to the extent the same does not unreasonably interfere with Grantor's use of the Premises. In connection therewith, and restricted as set forth above and elsewhere in this Agreement, Grantor hereby grants and conveys unto Grantee and its Customers a non-exclusive easement over, across, through, and upon the Premises, or other property now or hereafter owned or controlled by Grantor, for, without limitation, ingress and egress to and from the Structure and Easement Property during Grantor's normal business hours, which shall be deemed to be between 8:00 am and 6:00 pm, Monday through Friday, and 9:00 am and 1:00 pm on Saturday, exclusive of holidays, as well as for the installation, location, and maintenance of utility connections, including electric, telephone, gas, water, sewer, and any other utility connection. Prior to accessing the Easement Property, Grantee shall use reasonable efforts to provide advance notice to Grantor; provided, however, in the event of an emergency, or if the giving of notice is not practical, prior notice shall not be required and Grantee shall be permitted access to the Premises at all times as described in this paragraph provided Grantee promptly thereafter provides written notice to Grantor of its access thereto. This easement, and the rights granted herein, shall be partially assignable by Grantee to any public or private utility company to further effect this provision, provided the same does not materially adversely affect Grantor's intended use of the Premises. Without limiting the generality of the foregoing, such access shall include, without limitation, access to existing roads, driveways, parking lots, and other similar areas, and passage to and through the Premises, as is necessary to provide reasonable ingress and egress to and from the Easement Property, as well as required utility connections therefor. Grantor further covenants and agrees that it shall utilize its best efforts to provide, maintain and facilitate such access, as required herein.

15. **Grantee's Mortgagees' Continuation Rights.**

a. **Grantee's Right to Mortgage.** Grantor consents to the granting by Grantee of a lien and security interest in Grantee's interest in this Easement Agreement and the Easement Property and all of Grantee's personal property and fixtures attached to the Easement Property described herein, and further more consents to the

exercise by Grantee's mortgagee of its rights of foreclosure with respect to its lien and security interest. Grantor agrees to recognize Grantee's mortgagee as Grantee hereunder upon any such exercise by Grantor's mortgagee of its rights of foreclosure.

b. Copies of Notice and Right to Cure. At the same time provided to Grantee, Grantor hereby agrees to give Grantee's mortgagee copies of any written notice sent by Grantor to Grantee of any breach or default of the terms of this Easement Agreement at such address as is specified in writing by Grantee's mortgagee to Grantor. Grantor further agrees that no default under this Easement Agreement shall be deemed to have occurred unless such notice to Grantor's mortgagee is also given and that, in the event of any such breach or default under the terms of the Easement Agreement, Grantee's mortgagee shall have the right, to the same extent, for the same period and with the same effect, as Grantee plus an additional thirty (30) days after any applicable grace period to cure or correct any such default whether the same shall consist of the failure to pay rent or the failure to perform, and Grantor agrees to accept such payment or performance on the part of Grantee's mortgagee as though the same had been made or performed by Grantee. Grantor agrees that it shall not exercise its right to terminate this Easement Agreement or any of its other rights under this Easement Agreement upon breach or default of the terms of this Easement Agreement without so affording Grantee's mortgagee the foregoing notice and periods to cure any default or breach under this Easement Agreement.

c. Grantor's Obligation to Subordinate. Grantor hereby (i) agrees to subordinate any lien or security interest which it may have which arises by law or pursuant to this Easement Agreement to the lien and security interest of Grantee's mortgagee in the collateral securing all indebtedness at any time owed by Grantee to its mortgagee (the "Grantee Collateral"), and (ii) furthermore agrees that upon an event of default under the loan documents between Grantee and its mortgagee or this Easement Agreement, Grantee's mortgagee shall be fully entitled to exercise its rights against the Grantee Collateral prior to the exercise by Grantor of any rights which it may have therein, including but not limited to entry upon the Easement Property and removal of the Grantee Collateral, free and clear of Grantor's lien and security interest.

d. No Obligation. Grantor acknowledges that nothing contained herein shall be deemed or construed to obligate Grantee's mortgagee to take any action hereunder, or to perform or discharge any obligation, duty or liability of Grantor under this Easement Agreement.

16. Grantor's Mortgagees' Continuation Rights.

a. Grantor's Right to Mortgage. Grantee consents to the granting by Grantor of a lien and security interest in Grantor's interest in the Premises and all of Grantor's personal property and fixtures attached to the Premises, and further more consents to the exercise by Grantor's mortgagee of its rights of foreclosure with respect to its lien and security interest. Grantee agrees to recognize Grantor's mortgagee as Grantor hereunder upon any such exercise by Grantor's mortgagee of its rights of foreclosure.

c. Grantee's Obligation to Subordinate. Grantee hereby (i) agrees to subordinate any lien or security interest which it may have which arises by law or pursuant to this Easement Agreement to the lien and security interest of Grantor's mortgagee in the collateral securing all indebtedness at any time owed by Grantor to its mortgagee (the "Grantor Collateral"), and (ii) furthermore agrees that upon an event of default under the loan documents between Grantor and its mortgagee or this Easement Agreement, Grantor's mortgagee shall be fully entitled to exercise its rights against the Grantor Collateral prior to the exercise by Grantor of any rights which it may have therein.

d. No Obligation. Grantee acknowledges that nothing contained herein shall be deemed or construed to obligate Grantor's mortgagee to take any action hereunder, or to perform or discharge any obligation, duty or liability of Grantor under this Easement Agreement.

17. **Notice and Payments.** Any notice, document or payment required or permitted to be delivered or remitted hereunder or by law shall be deemed to be delivered or remitted, whether actually received or not, when deposited in the United States mail, postage prepaid, certified or registered, return receipt requested, addressed to the parties hereto at the respective addresses set out below, or at such other address as they shall have theretofore specified by written notice delivered in accordance herewith:

Grantor: Hamilton Housing Partners LLC  
2901 Bee Caves Road  
Austin, Texas 78749  
Attention: William Lee  
Fax No: (512) 327-1458

With a copy to: Locke Liddell & Sapp LLP  
100 Congress Avenue  
Suite 300  
Austin, TX 78701  
Attention: Cynthia L. Bast, Esq.  
Fax No: (512) 305-4800

Grantee: Covenant Hamilton Housing LLC  
2901 Bee Caves Road  
Austin, Texas 78749  
Attention: William Lee  
Fax No: (512) 327-1458

With a copy to: Locke Liddell & Sapp LLP  
100 Congress Avenue  
Suite 300  
Austin, TX 78701  
Attention: Cynthia L. Bast, Esq.  
Fax No: (512) 305-4800

18. **Force Majeure.** The time for performance by Grantor or Grantee of any term, provision, or covenant of this Agreement shall be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, labor or supply shortages, material or labor restrictions by governmental authority, litigation, injunctions, lack of access to required utilities, and any other cause not within the control of Grantor or Grantee, as the case may be.

19. **Recording.** This Easement Agreement shall be recorded at Grantor or Grantee's option.

20. **Attorney's Fees.** If there is any legal action or proceeding between Grantor or Grantee arising from or based on this Agreement, the unsuccessful party to such action or proceeding shall pay to the prevailing party all costs and expenses, including reasonable attorney's fees and disbursements, incurred by such prevailing party in such action or proceeding and in any appeal in connection therewith. If such prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorney's fees and disbursements shall be included in and as a part of such judgment.

21. **Zoning.** Grantor hereby covenants and agrees that Grantor shall use its best efforts to maintain, operate, and repair the Structure in compliance with all applicable zoning, building, and/or construction rules and regulations, restrictive covenants, and/or other setback requirements.

22. **Rule Against Perpetuities.** If the rule against perpetuities or any other rule of law would invalidate this Easement or any portion or provision hereof or would limit the time during which this entire Easement or any portion or provision hereof shall be effective due to the potential failure of an interest in property created herein to vest within a particular time, then each such interest in property shall be effective only from the date hereof until the passing of twenty (20) years after the death of the last survivor of the members of Congress of the United States of America (including the House of Representatives and the Senate) representing the state in which the Easement Property is located who are serving on the date hereof, but each such interest in property shall be extinguished after such time, and all other interests in property created herein and all other provisions hereof shall remain valid and effective without modification.

23. **Liens.** Grantee shall keep the Premises free from any mechanic's, materialmen's or similar liens in connection with any work on or respecting the Premises which occur by or through Grantee or its Customers, and shall indemnify and hold Grantor harmless from and against any claims, liabilities, judgments, or costs (including reasonable attorneys' fees through appeal) arising out of the same or in connection therewith. Grantee will remove any such lien (or transfer same to bond) within ten (10) days after written notice by Grantor, and if Grantee fails to do so Grantor may pay the amount necessary to remove such lien or encumbrance, without being responsible for investigating the validity thereof, and the amount so paid will be deemed an additional charge to be paid by Grantee hereunder upon demand.

24. **Estoppel Certificate.** Grantor and Grantee shall from time to time, within ten (10) days after written request from the other, execute, acknowledge and deliver a statement (i) certifying that this Agreement is unmodified and in full force and effect or, if modified, stating the nature of such modification and certifying that this Agreement as so modified, is in full force and effect (or if this Agreement is claimed not to be in force and effect, specifying the ground therefor) and such other matters as either party may reasonably request.

25. **Grantee's Insurance.**

a. Grantee shall maintain the following insurance, in such form and with such carriers as are reasonably acceptable to Grantor, and shall provide Grantor with proof of such insurance as follows: general liability insurance with coverage of not less than \$3,000,000 per occurrence, for claims for bodily injury or death or property damage.

b. Grantee shall, within thirty (30) days following Grantee's occupancy and upon written request thereafter, furnish to Grantor certificates insurance evidencing the requirements under this section.

c. To the extent allowable under the laws and regulations governing insurance within the State of Texas, Grantor and Grantee each release the other and their respective agents and employees from all liability to each other, or anyone claiming through or under them, by way of subrogation or otherwise, for any bodily injury to or death or loss or damage to Premises caused by or resulting from risks insured against under this Agreement, pursuant to insurance policies required to be carried by the parties, or insurance policies which are in force at the time of the injury or death or loss or damage regardless of whether the negligence of the other party caused such loss. The provisions of this section shall survive the expiration or termination of this Agreement. Each party will provide satisfactory evidence recognizing this waiver of subrogation.

26. **Miscellaneous.**

a. **No Waiver.** No waiver of any breach or default under this Agreement shall be deemed to be a waiver of any preceding or subsequent breach or default. Failure of either party to insist on strict performance of any of the conditions, covenants, terms or provisions of this Agreement or to exercise any of its rights hereunder shall not waive such rights, but such party shall have the right to enforce such rights at any time and take such action as might be lawful or authorized hereunder, either in law or in equity. The receipt of any sum paid by Grantee to Grantor after a breach of this Agreement shall not be deemed a waiver of such breach unless expressly set forth in

writing. Lien rights of either party hereto are subject and subordinate to the rights of permitted mortgagees hereunder.

b. Entire Understanding. This Agreement, as amended, constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. Each party acknowledges that no warranties, representations or understandings of any kind other than those set forth herein, have been made to induce the execution of this Agreement by said party, and each party acknowledges that it has not executed this Agreement in reliance on any warranty, representation or understanding not contained herein. Any amendments to this Agreement must be in writing and executed by both parties.

c. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of Grantor, and shall be binding upon and inure to the benefit of Grantee, its successors, and, to the extent assignment may be approved or permitted by Grantor hereunder, Grantee's assigns.

d. Texas Law. All of the terms of this Agreement shall be construed according to the laws of the State of Texas, without reference to the choice of law provisions thereof.

e. Hazardous Substances. Neither Grantor nor Grantee shall bring onto or permit to be brought onto the Premises any Hazardous Substances, except for those contained in back-up power batteries (e.g. lead-acid batteries) and properly stored, reasonable quantities of common materials used in telecommunications operations, nor shall Grantee have the right to perform any soil boring tests or other environmental testing without the Grantor's prior written consent first obtained. Grantee shall handle, store and dispose of all Hazardous Substances it brings onto or permits to be brought onto the Premises in accordance with all federal, state, and local laws and regulations.

Without limiting the foregoing, neither Grantor nor Grantee shall dump, flush or in any way introduce any Hazardous Substances into the sewerage, drainage or other waste disposal system serving the Premises or the Premises. Grantor or Grantee, as applicable, shall promptly notify the other in writing of any incidents in the Premises or the Premises which might require the filing of a notice under any applicable Laws, including, without limitation, any federal, state or municipal environmental law or regulation. "Hazardous Substances" means any substance, chemical, pollutant, or waste that is presently identified as hazardous, toxic or dangerous under any applicable federal, state or local law or regulation and specifically includes but is not limited to asbestos and asbestos containing materials, polychlorinated biphenyl's (PCBs) and petroleum or other fuels (including crude oil or any portion or derivative thereof).

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the day and year first above written.

WITNESSES:

GRANTEE:

COVENANT HAMILTON HOUSING LLC,  
a Texas limited liability company

Name: \_\_\_\_\_

By: 

Name: William C. Steel

Its: President

Taxpayer Identification No. 74-2877141



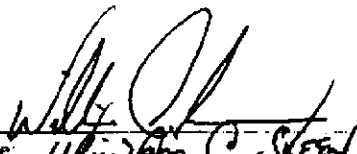
Name: \_\_\_\_\_

GRANTOR:

HAMILTON HOUSING PARTNERS, LTD.,  
a Texas limited partnership

By: COVENANT HAMILTON HOUSING  
LLC, a Texas limited liability company,  
its general partner

Name: \_\_\_\_\_

By:   
Name: William C. Stein  
Its: President  
Taxpayer Identification No. 74-2877141

Name: \_\_\_\_\_

0954 681

STATE OF TEXAS

COUNTY OF WEBB

This instrument was acknowledged before me on August 17, 2000, by William C. Skeen,  
President of Covenant Hamilton Housing LLC, a Texas limited liability company, on behalf of  
said limited liability company.



Maria Monica Martinez  
Signature of Notary

STATE OF TEXAS

COUNTY OF WEBB

This instrument was acknowledged before me on August 17, 2000, by William C. Skeen,  
President of Covenant Hamilton Housing LLC, a Texas limited liability company, general  
partner of Hamilton Housing Partners, Ltd., a Texas limited partnership, on behalf of said limited partnership and  
said limited liability company.

S E A L



Maria Monica Martinez  
Signature of Notary

0954 682

**EXHIBIT "A"**

Lots One (1) and Ten (10), and the West 35.55 feet (W. 35.55') of Lots Two (2) and Nine (9), Block Seventy-three (73), Western Division of the City of Laredo, Webb County, Texas; being more fully described by metes and bounds in Deed recorded in Volume 333, Page 93, Deed Records of Webb County, Texas, save and except those portions of Lots 1 & 2 described in Deeds dated December 12, 1991, and October 9, 1992, recorded in Volume 1527, Page 134 and Volume 64, Page 420, Real Property Records and Official Public Records, respectively.

0954 683

EXHIBIT "B"

(EASEMENT PROPERTY)

Being a 11232.91 square foot easement on the 12<sup>th</sup> Floor and 7<sup>th</sup> Floor roof of the Hamilton Hotel for a Communications Antennae and being partly out of Lot 10, Lot 9, and Lot 1, Block 73, Western Division of the City of Laredo and conveyed by deed to Hamilton Hotel Company, as recorded in Volume 333, Page 93, Deed Records, Webb County, Texas, and being more particularly described by metes and bounds as follows to wit:

Beginning at the 7<sup>th</sup> story roof Northwest building corner of said Hamilton Hotel, situated in said Lot 10, from which a cut "X" found at the Northwest corner of said Lot 10, bears, North 41 degrees, 49 minutes, 32 seconds West, 7.65 feet, for the northwest corner hereof;

Thence, along the North 7<sup>th</sup> story roof line, North 89 degrees, 36 minutes, 29 seconds East, 76.18 feet, from which a cut "X" found at the Northeast corner of said Lot 10, bears, North 60 degrees, 34 minutes, 47 seconds East, 11.75 feet, for the Northeast corner hereof;

Thence, along the East 7<sup>th</sup> story roof line, South 00 degrees, 02 minutes, 49 seconds West, 46.25 feet, to a building corner for an exterior corner hereof;

Thence along a South 7<sup>th</sup> story roof line, South 89 degrees, 36 minutes, 29 seconds West, 30.00 feet, to a building corner for an interior corner hereof;

Thence, along a East 7<sup>th</sup> story roof line, South 00 degrees, 02 minutes, 49 seconds West, 38.45 feet, to a building corner which meets the 12<sup>th</sup> story roof line, for an interior corner hereof;

Thence, with a North 12<sup>th</sup> story roof line, South 89 degrees, 57 minutes, 11 seconds East, 2.10 feet, to a building corner for an exterior corner hereof;

Thence, with a East 12<sup>th</sup> story roof line, South 00 degrees, 02 minutes, 49 seconds West, 119.19 feet, to a point on a North line of a tract of land conveyed by deed to Oscar Garcia, Sr., as recorded in Volume 64, Page 460, Deed Records, Webb County, Texas, for an exterior corner hereof;

Thence, with a North line of said Garcia tract, South 89 degrees, 46 minutes, 30 seconds West, 2.00 feet, to a building corner for an interior corner hereof;

Thence, with a West line of said Garcia tract, South 00 degrees, 13 minutes, 30 seconds East, 5.40 feet, to a point on the South 12<sup>th</sup> story roof line for an exterior corner hereof;

Thence, with the South 12<sup>th</sup> story roof line, South 89 degrees, 27 minutes, 19 seconds West, 36.98 feet, to a building corner for an exterior corner hereof;

Thence, with a West 12<sup>th</sup> story roof line, North 02 degrees, 04 minutes, 44 seconds West, 4.75 feet, to a building corner for an interior corner hereof;

Thence, with a South 12<sup>th</sup> story roof line, North 89 degrees, 52 minutes, 30 seconds West, 10.94 feet, to

a building corner, from which a cut "X" found at the Southwest corner of said Lot 1, bears, South 22 degrees, 28 minutes, 20 seconds West, 13.34 feet, for an exterior corner hereof;

Thence, with the West 12<sup>th</sup> story roof line North 00 degrees, 00 minutes, 30 seconds West, 204.54 feet, to the Point of Beginning and containing 11232.91 square feet of land, more or less,

Basis of Bearings: The east line of Block 128 taken as due North.

0954 685

EXHIBIT "C"

1. Deed of Trust dated November 30, 1998, filed for record in the Office of the County Clerk of Webb County, Texas, on December 10, 1998, and recorded in Volume 711, Page 217, *et seq.*, of the Real Property Records of Webb County, Texas, from Hamilton Housing Partners, Ltd., to Timothy Taylor, Esq., Trustee, securing the payment of one certain promissory note of even date therewith in the principal amount of \$800,000.00, payable to the order of RCC Credit Facility, L.L.C., as therein provided; said note and liens securing same last assigned to International Bank of Commerce, by Assignment of Deed of Trust, dated July 1, 1999, filed for record in the Office of the County Clerk of Webb County, Texas, on July 8, 1999, recorded in Volume 792, Pages 526, *et seq.*, of the Real Property Records of Webb County, Texas.
2. Deed of Trust, Assignment of Rents, Security Agreement and Financing Statement dated March 30, 1999, recorded in Volume 792, Page 537, *et seq.*, of the Real Property Records of Webb County, Texas, from Hamilton Housing Partners, Ltd., to Alberto De Llano, Trustee, securing the payment of one certain promissory note of even date therewith in the principal amount of \$2,800,000.00, payable to the order of International Bank of Commerce, as therein provided.
3. Contractor's Subordination Agreement dated March 30, 1999, executed by Hamilton Housing Partners, Ltd., Faulkner Construction, Inc. D/B/A Faulkner Construction, Co., and International Bank of Commerce, recorded in Volume 792, Pages 529-536, *et seq.*, of the Real Property Records of Webb County, Texas.
4. Security Interest granted to International Bank of Commerce Secured Party, by Hamilton Housing Partners, Ltd. Debtor, as reflected by Financing Statement (UCC-1) recorded in Volume 792, Pages 586, -589, *et seq.*, of the Real Property Records of Webb County, Texas.
5. Deed of Trust dated March 30, 1999, recorded in Volume 792, Page 549, *et seq.*, of the Real Property Records of Webb County, Texas on July 8, 1999, from Hamilton Housing Partners, Ltd., to Florencio Pena, III, Trustee, securing the payment of one certain promissory note of even date therewith in the principal amount of \$1,700,000.00, payable to the order of City of Laredo, as therein provided.
6. Subordination Agreement dated March 30, 1999, filed for record on July 8, 1999, and recorded in Volume 792, Pages 571, *et seq.*, in the Real Property Records of Webb County, Texas.
7. Central Power and Light Company Easements as forth in Volume 115, Page 463, *et seq.*, and Volume 109, Page 6, *et seq.*, both of the Real Property Records of Webb County, Texas.
8. Boundary Agreement by and between Hamilton Hotel Corporation, and Oscar G. Garcia, *et al*, recorded in Volume 1040, Page 281, *et seq.*, of the Real Property Records of Webb County, Texas.

9. Subject to all existing party walls as evidenced by Deed dated December 12, 1991, recorded in Volume 1527, Page 134, *et seq.*, of the Real Property Records of Webb County, Texas.
10. Short Form Lease between The Hamilton Apartment Company, and Kwik Wash Laundries, Inc., recorded in Volume 1199, Page 212, of the Real Property Records of Webb County, Texas.
11. Right of First Refusal Agreement recorded in Volume 792, Page 575, *et seq.*, of the Real Property Records of Webb County, Texas.

0954 687

DOC#: 705526  
 Recorded  
 01/20/2000 10:13AM LIT  
 Signed: \_\_\_\_\_  
 HENRY FLORES  
 COUNTY CLERK  
 Fee Amount: \$49.00

RETURN TO:  
NEEL TITLE CORP.  
1202 WELBY COURT  
LAREDO, TEXAS 78041

6f#000 65282-R12

STATE OF TEXAS  
COUNTY OF WEBB

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS  
FILED ON THE DATE AND AT THE TIME STAMPED  
HEREON BY ME AND WAS ONLY RECORDED IN THE  
VOLUME AND PAGE OF THE OFFICIAL PUBLIC  
RECORDS OF WEBB COUNTY, TEXAS AS STAMPED  
HEREON BY ME.



*Henry J. Brown*

COUNTY CLERK  
WEBB COUNTY TEXAS