

**CITY OF SAN DIEGO
CONSENT TO MEDIAFLO SUBLEASE AND AGREEMENT**

THIS CITY OF SAN DIEGO CONSENT TO MEDIAFLO SUBLEASE AND AGREEMENT ("Consent") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), AMERICAN TOWERS, INC., a Delaware corporation (California Secretary of State Corporation No. C1990232, "AMERICAN"), and MEDIAFLO USA, INC., a Delaware corporation ("MEDIAFLO"), to be effective as of the date of execution by CITY (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney, as follows:

RECITALS

- A. AMERICAN TOWER, L.P., a Delaware limited partnership ("ORIGINAL LESSEE"), and CITY entered into to that certain CITY OF SAN DIEGO LEASE AGREEMENT (the "Master Lease") filed in the Office of the San Diego City Clerk on December 5, 2005, as Document No. RR-301101, attached hereto as **Exhibit A: Master Lease**, under which the ORIGINAL LESSEE leased from CITY that certain real property known as a portion of "Mount Woodson," and more particularly described in the Master Lease (the "Master Lease Property").
- B. ORIGINAL LESSEE assigned its rights and obligations under the Master Lease to AMERICAN TOWERS, INC., a Delaware corporation (California Secretary of State Corporation No. C1990232, "AMERICAN") pursuant to that certain CALIFORNIA ASSIGNMENT AND ASSUMPTION OF LEASE, Mt. Woodson, CA – 8009,8636, 8064, 8136, 8137, 8138 (the "Assignment") dated November 19, 2007, by and between ORIGINAL LESSEE and AMERICAN.
- C. AMERICAN wishes to enter into a LEASE AGREEMENT (the "MEDIAFLO Sublease") in form and substance as attached hereto as **Exhibit B: MEDIAFLO Sublease**, whereby AMERICAN intends to lease to MEDIAFLO that certain portion of the Master Lease Property (the "MEDIAFLO Site") described in **Exhibit C: MEDIAFLO Site Description**, attached hereto.
- D. Master Lease section 4.2, Assignment, Subletting and Licensing, requires that any sublease of any part of the Master Lease Property must have the prior written consent of CITY'S City Manager (currently deemed to mean "the Mayor or his or her designee," pursuant to Article XV of the San Diego City Charter).
- E. AMERICAN has requested CITY'S consent to the proposed sublease transaction with MEDIAFLO, as contemplated by the MEDIAFLO Sublease.
- F. CITY will consent to the MEDIAFLO Sublease under the terms and conditions of this Consent.

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

1. Subordination. The MEDIAFLO Sublease is and shall be subordinate to the Master Lease, as may be amended from time to time, and this Consent. CITY shall not be bound by any term or condition in the MEDIAFLO Sublease which in any way conflicts with CITY'S rights or would otherwise result in increasing CITY'S obligations under the Master Lease. Any conflict between the Master Lease and the MEDIAFLO Sublease shall be construed or resolved in favor of the Master Lease. AMERICAN shall deliver to MEDIAFLO a copy of each, if any, amendment to the Master Lease.
2. MEDIAFLO'S Acknowledgement. MEDIAFLO acknowledges and agrees that its rights and obligations under the MEDIAFLO Sublease shall be subject and subordinate to the terms and conditions of the Master Lease, as may be amended from time to time, and this Consent. MEDIAFLO shall keep and perform all covenants, conditions, and provisions of the Master Lease which are applicable to the rights acquired under the MEDIAFLO Sublease and this Consent.
3. Master Lease Amendment. As a condition to CITY'S approval of any sublease, Master Lease section 4.2 Assignment and Subletting, allows CITY to require that the Master Lease be revised to comply with current, standard CITY lease requirements. As a condition to CITY'S approval of this Consent, and by agreement, CITY and AMERICAN shall execute and deliver a FIRST AMENDMENT TO CITY OF SAN DIEGO LEASE AGREEMENT, substantially in the form attached hereto as **Exhibit D: First Amendment to Master Lease**.
4. Site Access Fee. CITY'S current City Council Policy 700-10 requires MEDIAFLO to pay to CITY a one-time site access fee (the "Site Access Fee") in the amount of Forty-Five Thousand Three Hundred Twenty-Eight Dollars (\$45,328), due and payable in full upon execution of this Consent. However, the site-access-fee requirement is currently under review and may be eliminated. Therefore, MEDIAFLO shall not be required to pay the Site Access Fee unless CITY'S City Council fails to eliminate the site-access-fee requirement under Council Policy 700-10 within 12 months after the Effective Date, in which case the Site Access Fee shall become immediately due and payable.
5. Competent Management. Throughout the term of the MEDIAFLO Sublease, MEDIAFLO shall provide competent management of the MEDIAFLO Site to CITY'S satisfaction. For purposes of this section, "competent management" shall mean demonstrated ability in the management and operation of a wireless communication facility and related activities in a fiscally responsible manner and in accordance with industry standards.
6. Improvements/Alterations. No major structural or architectural design alterations to the improvements, structures, or installations of the MEDIAFLO Site or the Master Lease Property shall be made without CITY'S prior written approval. This Consent shall not be deemed to grant CITY'S approval of improvements or alterations as required by Master Lease section 6.4, Improvements/Alterations.

7. Approvals & Permits. MEDIAFLO shall obtain any and all necessary authorizations, approvals, and permits required to establish, maintain, operate, and remove its wireless communication facility on the MEDIAFLO Site, including without limitation CITY'S interference protection requirements, as required under the Master Lease.
8. Compliance with Law. MEDIAFLO shall, at its sole cost and expense, comply with all laws and the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the MEDIAFLO Site and MEDIAFLO'S use of the MEDIAFLO Site and the Master Lease Property.
9. Subsequent Assignment and Subletting. MEDIAFLO shall not assign the MEDIAFLO Sublease or sublet any part of the MEDIAFLO Site without CITY'S prior written consent.
10. AMERICAN Indemnification. AMERICAN shall protect, defend, indemnify, and hold CITY, its elected officials, officers, representatives, agents and employees, harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to AMERICAN'S officers, employees, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with this Consent or the MEDIAFLO Sublease and MEDIAFLO'S occupancy, use, development, or maintenance of the MEDIAFLO Site and the Master Lease Property, and all expenses of investigating and defending against same, including without limitation attorney fees and costs; provided, however, that AMERICAN'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, AMERICAN shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.
11. MEDIAFLO Indemnification. MEDIAFLO shall protect, defend, indemnify, and hold CITY, its elected officials, officers, representatives, agents and employees, harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to MEDIAFLO'S officers, employees, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with this Consent or the MEDIAFLO Sublease and MEDIAFLO'S occupancy, use, development, or maintenance of the MEDIAFLO Site and the Master Lease Property, and all expenses of investigating and defending against same, including without limitation attorney fees and costs; provided, however, that MEDIAFLO'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this

indemnification, MEDIAFLO shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.

12. Insurance. Upon execution of this Consent, MEDIAFLO shall deliver to CITY current certificates of insurance for:

- 1) Commercial General Liability Insurance, providing coverage for bodily injury, including death, personal injury, and property damage with limits of at least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars (\$4,000,000);
- 2) Automobile Liability Insurance, providing coverage for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated on the Master Lease Property. Coverage shall be written on *ISO form CA 00 01 12 90*, or a substitute form providing equivalent liability coverage; and
- 3) Workers' Compensation Insurance, as required by the laws of the State of California for all of MEDIAFLO'S employees who are subject to the MEDIAFLO Sublease, with Employers' Liability coverage with a limit of at least One Million Dollars (\$1,000,000).

12.1 Additional Insureds. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials, officers, employees, representatives, and agents" shall be named as additional insureds in all policies.

12.2 Primary & Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY. The policies shall be kept in force for the duration of the term of the MEDIAFLO Sublease and any extended use. The certificate(s) of insurance shall be filed with CITY'S Real Estate Assets Department.

12.3 Qualified Insurer(s). All insurance required by the terms of this Consent must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to CITY. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet CITY requirements.

12.4 Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of MEDIAFLO and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.

12.5 Continuity of Coverage. All policies shall be in effect on or before the first day of the Term, except "course of construction fire insurance" shall be in force on

commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. At least thirty (30) days prior to the expiration of each insurance policy, MEDIAFLO shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of the MEDIAFLO Sublease.

12.6 Modification. To assure protection from and against the kind and extent of risk existing on the Master Lease Property, CITY, at its discretion, may require the revision of amounts and coverage at any time during the term of the MEDIAFLO Sublease by giving MEDIAFLO thirty (30) days prior written notice. MEDIAFLO shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY'S reasonable re-evaluation of risk levels related to MEDIAFLO'S use of the Master Lease Property.

12.7 Accident Reports. MEDIAFLO shall immediately report to CITY any accident causing property damage or injury to persons on the Master Lease Property. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

12.8 Causes of Loss - Special Form Property Insurance. MEDIAFLO shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all insurable property on the Master Lease Property in an amount to cover 100 percent (100%) of the replacement cost. MEDIAFLO shall deliver to CITY a certificate of such insurance.

13. Notices. Notices shall be given as provided in the Master Lease. Notices to MEDIAFLO shall be addressed to:

MEDIAFLO USA, INC.
5775 Morehouse Drive
San Diego, CA 92121

14. Waiver. CITY'S failure to insist upon the strict performance of any of AMERICAN'S or MEDIAFLO'S obligations under this Consent, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. The property constituting the MEDIAFLO Site is publicly-owned and held in trust for the benefit of CITY'S citizens. CITY'S failure to discover a breach of any obligation of this Consent or take prompt action to require the cure of any such breach shall not result in an equitable estoppel, but CITY may at any and all times require the cure of any such breach when discovered.

15. Written Agreement. This Consent contains the complete agreement between the parties. Each party hereto represents and warrants that there are no promises, representations, agreements, warranties or inducements, either expressed orally or implied, except as set forth herein. This Consent shall not be modified except by a writing signed by the parties.

16. Partial Invalidity. If any term, covenant, condition, or provision of this Consent is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.
17. Governing Law. This Consent shall be governed, construed, and enforced in accordance with the laws of the State of California.
18. Survival. Any obligation which accrues under this Consent prior to its expiration or termination shall survive such expiration or termination.
19. Legal Proceedings. In the event of any controversy, claim, or dispute relating to this Consent, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses thereof, including without limitation attorney fees and costs. The “prevailing party” shall be the party who obtains substantially the result sought, whether by settlement, dismissal, or judgment.
20. Authority. Each individual executing this Consent on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Consent on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity’s articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Consent is binding upon such person or entity in accordance with its terms. Each person executing this Consent on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

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21. CITY'S Consent. Subject to the terms and conditions of this Consent, CITY hereby consents to the MEDIAFLO Sublease.

IN WITNESS WHEREOF, this Consent is executed to be effective as of the Effective Date.

Date: _____

AMERICAN TOWERS, INC., a Delaware corporation
(California Secretary of State Corporation No.
C1990232)

BY: _____

Name: _____

Title: _____

Date: _____

MEDIAFLO USA, INC., a Delaware corporation

BY: _____

Name: _____

Title: _____

Date: 1/7/08

THE CITY OF SAN DIEGO, a California municipal corporation

BY: _____

Name: **James F. Barwick, CCIM**

Title: **Director, Real Estate Assets**

APPROVED AS TO FORM AND LEGALITY:

Date: 1/23/08

MICHAEL J. AGUIRRE, City Attorney

BY: _____

Name: BRUCE LADWIG

Title: CHIEF DEPUTY CITY ATTORNEY

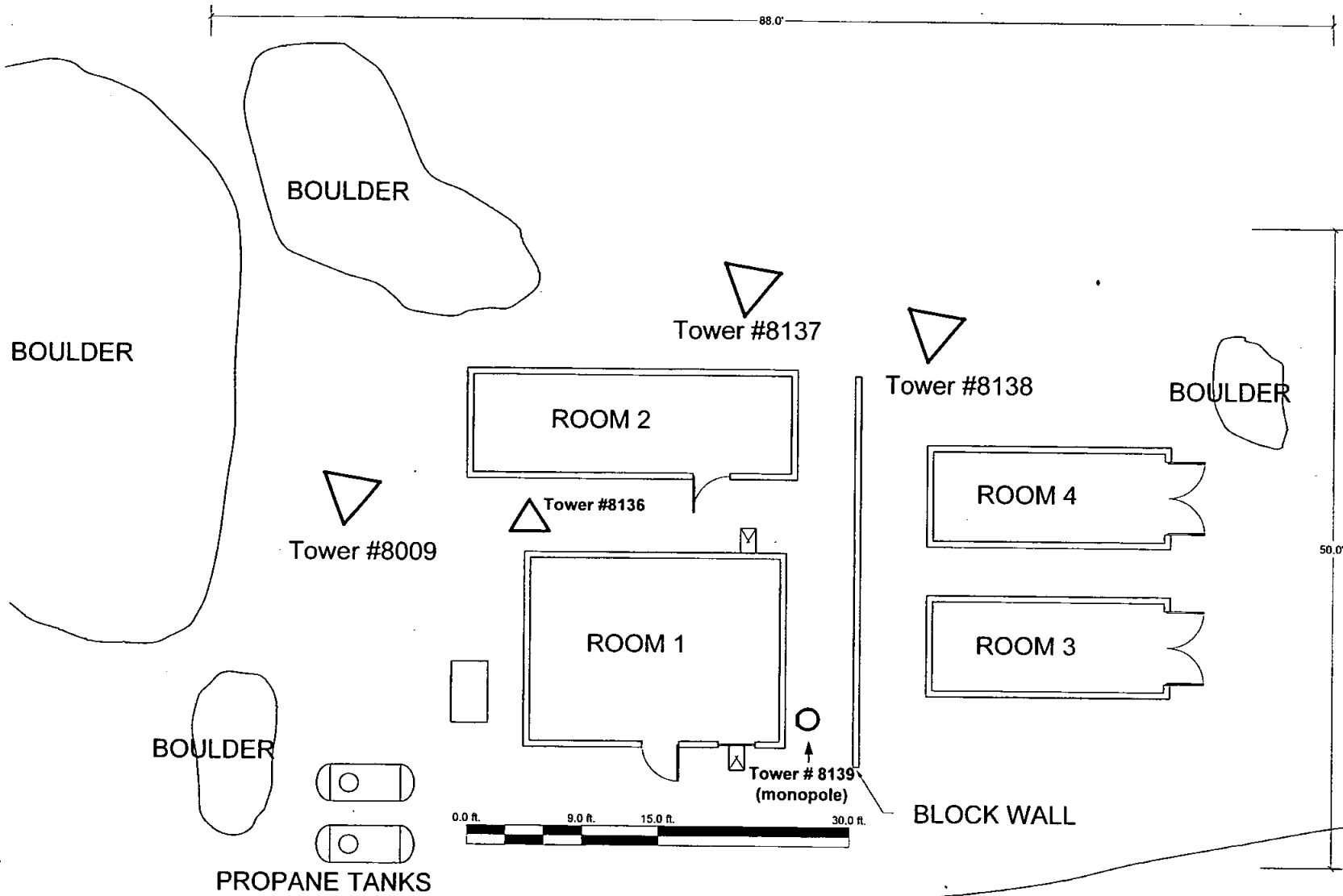
EXHIBIT A: Master Lease



EXHIBIT B: MEDIAFLO Site Description

AL

A



American Tower Corporation 		WOODSON MT. #1 T4, CA			
		COMPOUND LAYOUT PLAN			
SIZE	DATE	DWG NO	REV		
B	08/05/03	8138	2		
SCALE	1"=20'	SHEET	1 of 1		

EXHIBIT C: MEDIAFLO Sublease

ML

[Handwritten signature]

ATC SITE NAME / NUMBER: Woodson, Mt #1 T4, CA / 81C
 CUSTOMER SITE NAME/ NUMBER: MFTS-San Diego-003

LEASE AGREEMENT
 ATC Contract No: _____

This LEASE AGREEMENT ("Lease") made this _____ day _____, 20____, ("Effective Date") by and between American Towers, Inc., a Delaware corporation, with a place of business at 10 Presidential Way, Woburn, MA 01801 ("Lessor") and MediaFLO USA, Inc., a Delaware corporation, with a place of business at 5775 Morehouse Drive, San Diego, CA 92121 ("Lessee"). The attached Terms and Conditions are incorporated herein by this reference.

TOWER SITE INFORMATION:

Site Name: Woodson, Mt #1 T4, CA
 Site Number: 8138
 Address and/or location of Tower Site: Ramona, California 92065
 Coordinates: Lat. 33-0-33.15 N - Long. 116-58-20.17 W

NOTICE & EMERGENCY CONTACTS:

- Lessee's local emergency contact (name and number): MediaFLO NOC (858) 845-6387.
- Lessor's local emergency contact (name and number): Network Operations Communications Center (800) 830-3365.
- Notices to Lessee shall be sent to the address above to the attention of Director, Operations, with a Copy To: MediaFLO USA, Inc. Legal.
- Notices to Lessor shall be sent to the address above to the attention of Contracts Manager.
- Lessor's Remittance Address: American Towers, Inc., P. O. Box 751760, Charlotte, NC 28275-1760, Attn: Property Management

APPROVED USE OF TOWER SITE BY LESSEE:

Transmitting frequencies: 716-722 MHz Receiving frequencies: 14 GHz

Antenna mount height on tower: (See Exhibit A for specific location description)

All other permitted use of the Tower Site including, without limitation, Lessee's Approved Equipment (as defined in Section 1 herein), frequencies, channels and the identification and location of the Leased Premises (as defined in Section 1 herein) at the Tower Site are described in Exhibits A and B, are incorporated herein by reference and made a part hereof.

FEES & TERM

The "Monthly Lease Fee" shall be Four Thousand Two Hundred and 00/100 Dollars (\$4,200.00), adjusted on the anniversary of the Commencement Date of this Lease and on each anniversary thereafter during the Initial Term and during any Renewal Terms by the "Annual Escalator". The Annual Escalator shall be three and one-half percent (3.5%).

The "Site Inspection Fee" shall be: Intentionally Omitted.

Initial Term: The "Initial Term" of this Lease shall be seven (7) years beginning on the Commencement Date. Subject to Section 1, the "Commencement Date" shall be defined as the earlier of: (i) the commencement of installation of Lessee's Equipment, which shall be provided in Lessee's construction schedule to be provided to Lessor in advance; or (ii) one (1) year after the Effective Date, whichever occurs first. In the event Lessee's construction schedule fails to clearly identify a construction start date, the commencement of installation shall be deemed to be the date upon which Lessor issues a Notice to Proceed (NTP), in accordance with the provisions of Section 9 herein. Notwithstanding anything to the contrary, in the event that Lessee is unable to obtain any permit, approval and/or authorization required for the installation of Lessee's Approved Equipment prior to Lessee's construction start date, Lessee shall notify Lessor, in writing, no later than ten (10) days prior to said construction date of its desire to modify the construction start date and Lessor and Lessee shall negotiate in good faith an extension of the initially provided construction start date. Further, Lessee shall not be responsible for any payments of the Monthly Lease Fee accrued between the initial construction start date and the revised construction start date.

Renewal Terms: The "Renewal Terms" of this Lease shall be four (4) additional periods of five (5) years each. The Initial Term and any Renewal Terms shall hereinafter be referred to collectively as the "Term".

Electricity for operation of Approved Equipment is to be provided by (check one):

- ☐ Lessor at the monthly rate of \$_____, adjusted annually by the Annual Escalator and subject to Sections 3 & 5 OR
- ☐ Lessor, with such being included in the Monthly Lease Fee and subject to Sections 3 & 5, OR
- ☒ Lessee, at its sole expense.

OTHER PROVISIONS:

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

- a) If, for any reason, any governmental authority should fail to issue, extend or renew a license, permit or approval to Lessee to use the Tower for Lessee's Permitted Uses due to no fault or act (or failure to act) on the part of Lessee, or should prohibit the use of the Tower for such purposes so that the purpose of this Lease is substantially frustrated or should impose conditions for approval of any permit which is commercially unreasonable and for which Lessee can provide documentation to Lessor of said conditions and for which the parties cannot in good faith reach agreement necessary to fulfill the conditions of the permit, then and in those events this Lease shall terminate upon

ATC SITE NAME / NUMBER: Woodson, MT #1 T1, CA / 8138
CUSTOMER SITE NAME/ NUMBER: MFTS-San Diego-003

Lessee providing Lessor with thirty (30) days written notice of its intent to so terminate and, subject to the requirement that Lessee must pay the Monthly Lease Fee until such time as Lessee's Property is removed from the Leased Premises upon expiration or earlier termination of this Lease, neither party shall have any further obligations to the other hereunder. In the event that such failure to acquire, or loss of, such license, permit or approval has occurred due to the fault or act (or failure to act) on the part of Lessee, then Lessee shall not be relieved of its obligations to make the Monthly Lease Fee payments hereunder until such time as this Lease is terminated in accordance with its terms.

- b) Notwithstanding anything to the contrary in this Lease, this Lease shall automatically be terminated and become null and void with no further obligation by either party hereto if a structural analysis of the Tower Site completed after the execution of this Lease by either party but before the Commencement Date indicates that the Tower Site is not suitable for Lessor's Approved Equipment unless Lessor and Lessee mutually agree that structural modifications or repairs shall be made to the Tower Site on mutually agreeable terms.
- c) Lessor and Lessee agree and acknowledge that this Lease is contingent upon a satisfactory Shared Site Interference Study.
- d) Lessor and Lessee agree and acknowledge that Lessee, in conjunction with this Lease, is leasing ground space from Lessor at the Tower Site known as Lessor Site 8009 - Woodson, MT #1 T1, CA on the Terms and Conditions of this Lease (the "Ancillary Site"). In the event that this Lease or Lessee's right to use the Ancillary Site is terminated or expires in accordance with the terms and conditions hereof, this Lease shall automatically terminate with no further obligation, liability or action required by either party.
- e) Lessor and Lessee agree and acknowledge that this Lease is contingent upon the ground lessor's consent.
- f) Lessor and Lessee agree and acknowledge that as a requirement for the installation of equipment on this Tower Site, the City of San Diego ("City") must provide their written consent. Accordingly, Lessor and Lessee entered into Consent to License Agreement with the City of San Diego (the "Consent"). In the event of inconsistency or discrepancy between the terms and conditions of the Consent and this Agreement as they relate specifically and solely to the contractual obligations between Lessor and Lessee regarding consent for assignment and indemnification, the terms and conditions of this Agreement shall control as between Lessor and Lessee. Notwithstanding the foregoing, any and all terms, conditions or obligations contained in the Consent are still applicable as between Lessee and the City.

ATC SITE NAME / NUMBER: Woodson, MI #1 T4, CA / 8138
CUSTOMER SITE NAME / NUMBER: MFTS-San Diego-003

IN WITNESS WHEREOF, the Parties, each in consideration of the mutual covenants contained herein, and for other good and valuable consideration, intending to be legally bound, have caused this Lease to be executed by their duly authorized representatives as of the Effective Date first above-written; provided, however, that this Lease shall not become effective as to either Party until executed by both Parties.

LESSOR

American Towers, Inc., a Delaware corporation,
a wholly owned subsidiary of American Tower Corporation,
a Delaware corporation

LESSEE

MediaFLO USA, Inc., a Delaware corporation

By: _____

Print Name: Richard Rossi

Its: Director, Contract Management

Date: _____

By: _____

Print Name: ARTHUR J. JONES

Its: VP, FINANCE

Date: JANUARY 17, 2008

ATC SITE NAME / NUMBER: Woodson, MI #1 T4, CA / 8138
 CUSTOMER SITE NAME / NUMBER: MFTS-San Diego-003

TERMS AND CONDITIONS

1. **GRANT OF LEASE.** Lessor hereby agrees to Lease to Lessee space for the housing, installation and operation of the communications equipment specifically described in Exhibit A attached hereto ("Approved Equipment") with the location of such Approved Equipment being more specifically described in Exhibits A and B ("Leased Premises") at the communications tower, antenna structure or rooftop facility described in the Tower Site Information section on page 1 ("Tower Site"). All Approved Equipment shall be and remain Lessee's personal property. Lessor shall maintain the communication facility located on the Tower Site in good condition and in a manner which will not disturb Lessee's reasonable use of the Leased Premises. Lessee shall also have a right to: (i) install and maintain wires, cables, conduits and pipes either within, over, under or along the Tower Site; and (ii) to use any specific right of way for access to the Tower Site, each at locations mutually agreed upon by Lessor and Lessee. In the event any public utility is unable to use the existing right-of-way, Lessor agrees to grant an additional right-of-way at the Tower Site either to Lessee or to the public utility at no cost to Lessee to the extent permitted under the Ground Lease at a location acceptable to the Lessor. Lessee shall be solely and directly responsible for any and all damage or loss that results from the installation of any cables or utility wires by Lessee or any company or person retained by Lessee (including a public utility company), including, without limitation, any damage or loss that results from the accidental cutting of utility wires or cables of any other party operating at the Tower Site. Lessee shall notify Lessor no less than five (5) days prior to the date upon which Lessee intends to commence any construction or installation at the Tower Site, together with a construction schedule, so as to provide Lessor with an opportunity to be present during any such installation or construction. In addition to the foregoing, Lessee shall notify Lessor of the actual date of Lessee's commencement of any installation or construction at the Tower Site no more than sixty (60) days following such commencement. Lessee's right to cure under this Lease shall be applicable to a failure to deliver timely written notice of such commencement notice. Lessor shall provide Lessee with one set of keys and/or codes to access the Tower Site so that Lessee shall have the right of access to the Leased Premises 24 hours per day, 7 days per week, to the extent permitted under the Ground Lease. Lessee shall be responsible for ensuring that Lessor has, at all times, a complete and accurate written list of all employees and agents of Lessee who have been provided the access codes to the Tower Site.
2. **EXHIBITS.** Within sixty (60) days following the commencement of the installation of the Approved Equipment, Lessee shall provide Lessor with as-built drawings or construction drawings of the Approved Equipment as installed in both hard copy and electronic form ("Construction Drawings"), such Construction Drawings shall include the location of any shelters, cabinets, grounding rings, cables, and utility lines associated with Lessee's use of the Tower Site. Upon receipt, Lessor shall insert hereto the Construction Drawings as Exhibit C. In the event that Lessee fails to deliver the Construction Drawings as required by this section, Lessor may cause such Construction Drawings to be prepared on behalf of Lessee and Lessor shall assess a fee for the cost of such Construction Drawings, which upon invoice shall become due and payable in Net 30 days. In the event of inconsistency or discrepancy between (a) Exhibit A and Exhibit B hereto, Exhibit A shall govern, and (b) between Exhibit A (with respect to Approved Equipment and antenna locations) together with Exhibit B (with respect to ground space installation locations) and Exhibit C hereto, Exhibits A and B shall govern, notwithstanding any approval or signature by Lessor or its employees. Any such material inconsistency or discrepancy between Exhibits A, B and C as set forth in the foregoing sentence shall be deemed a material default by Lessee hereunder.
3. **LEASE FEES; TAXES; ASSESSMENTS.** The Monthly Lease Fee, as adjusted by the applicable Annual Escalator, shall be payable in advance on the first day of each calendar month beginning upon the Commencement Date. If the Commencement Date is not the first day of a calendar month, the Monthly Lease Fee for the first partial month shall be prorated on a daily basis. The Monthly Lease Fee for any last partial month in the term of this Lease shall also be prorated on a daily basis. Lessee shall be solely responsible for all utility charges directly attributable to the Approved Equipment, except as otherwise provided on page 1 of this Lease. Lessor shall be responsible for the payment of any applicable taxes or governmental assessments against the Tower Site or personal property and improvements thereon owned and maintained by Lessor. Lessee shall be responsible for the payment of any applicable taxes, fees or governmental assessments against any equipment, personal property and/or improvements owned, leased or operated by Lessee or directly associated with Lessee's use of the Leased Premises. All payments due under this Lease shall be made to Lessor at c/o American Tower Corporation, Dept. 5305, P.O. Box 30000, Hartford, CT, 06150-5305 or such other address as Lessor may notify Lessee of in writing and/or upon such invoice. All payments due under this Lease shall be rounded up to the nearest whole dollar amount.
4. **TERM.** The Initial Term of this Lease shall be as specified on page 1. This Lease shall automatically be renewed upon the same terms and conditions as stated herein for the Renewal Terms, if any, also stated on page 1 unless Lessee gives Lessor ninety (90) days written notice of termination prior to the expiration of the then-current term. Within sixty (60) days of expiration, cancellation or termination of this Lease for any reason, Lessee shall: (i) remove the Approved Equipment and any other property of Lessee from the Leased Premises at Lessee's sole risk, cost, and expense; (ii) deliver the Leased Premises in substantially the same and in as good a condition as received (ordinary wear, tear, fire damage and casualty and approved alterations and improvements excepted); and (iii) repair any damage caused by the removal of the Approved Equipment within ten (10) business days of the occurrence of such damage.
5. **COMMON EXPENSES.** Lessee shall reimburse Lessor for Lessee's pro-rata share of costs and expenses incurred by Lessor for the maintenance, and repair of common facilities at the Tower Site including, without limitation, normal wear and tear to fences, gates, access roads, and the tower structure. Notwithstanding the foregoing, the cost and expenses

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associated with any damage which is directly attributable to the acts or omissions of Lessee or Lessee's contractors shall be borne solely by Lessee. Lessee shall not be required to pay any share of costs or expenses incurred to replace part or all of the tower structure or any of its components. In the event that Lessor also leases space within a building or shelter owned by the Lessor on the Tower Site, Lessee shall also reimburse Lessor for its pro-rata share of all common expenses incurred for the operation, and routine maintenance, and repair associated with such building or shelter, including, without limitation, the physical structure of the building, HVAC system, and common utility expenses. In the event that Lessee is connected to a generator or back-up power supply owned by the Lessor, Lessee shall also reimburse Lessor for its pro-rata share of all expenses incurred for the operation, routine maintenance and repair associated with such generator, including, without limitation, fuel expenses. For the purposes of this section, a "pro-rata share" of costs and expenses shall be determined based on the number of Lessees using the Tower Site on the first day of the month in which an invoice is mailed to Lessee. Lessee shall reimburse Lessor for common expenses within thirty (30) days following receipt of an invoice from Lessor. Notwithstanding anything to the contrary, in no event shall Lessee's pro-rata share exceed one (1) month of the then-current Lease Fee for any given calendar year. Lessor and/or Lessee shall be responsible for the utility costs associated with the operation of Lessee's Approved equipment as set forth on page 1; provided, however, that (a) in no event shall Lessor provide Lessee with telephone service; and (b) in the event that Lessor provides access to electricity or utilities to Lessee for a fixed fee or inclusive in the Monthly Lease Fee, Lessor reserves the right to reasonably increase such fees based on any change in equipment or increased power requirements by Lessee.

6. **RIGHT TO BID ON INSTALL WORK.** Intentionally omitted.
7. **SITE INSPECTION:** Intentionally omitted.
8. **LABELING.** Lessee shall identify its equipment and equipment cabinets (unless such cabinet is located in a building owned by Lessee) with labels permanently affixed thereto and stating Lessee's name, contact phone number, and installation date. Lessee's coaxial cables shall be labeled at both the top and bottom of the tower structure. Should Lessee fail to label its equipment within ten (10) business days of receipt of written notice from Lessor, Lessor may label Lessee's equipment and assess against Lessee a fee not to exceed Five Hundred Dollars (\$500.00), which upon thirty (30) days after receipt of invoice shall become immediately due and payable.
9. **WORK; ALTERATIONS; STRUCTURAL ANALYSIS & MODIFICATIONS.** Lessee agrees that all of Lessee's property to be installed upon the Tower Site and all frequencies utilized by Lessee pursuant to this Lease will be in exact accordance with that specified in Exhibit A attached hereto. Lessee shall submit to Lessor detailed plans and specifications accurately describing all aspects of the proposed work to be performed including, without limitation, weight and wind load requirements and power supply requirements and evidence that Lessee has obtained all approvals, permits and consents required by, and has otherwise complied with, all legal requirements applicable to the performance of the Work. Lessee agrees that it will not install or make any alterations or additions to the Approved Equipment without the prior written consent of Lessor, hereinafter referred to as a Notice to Proceed (NTP), to be obtained in all cases. An amendment to Exhibit A to this Lease shall be prepared to reflect each addition or modification to Lessor's equipment from time to time to which Lessor has given its written consent. Any and all work at the Tower Site shall be performed in accordance with the foregoing standards and by qualified contractors approved of in advance by Lessor (which approval of contractors shall not be unreasonably withheld, except as otherwise provided in the following sentence). Lessor reserves the right, in its sole discretion, to refuse to permit any person or company to climb any tower structure at the Tower Site. Such contractors shall have valid and current worker's compensation and general liability insurance certificates on file with Lessor, naming Lessor as an additional insured and which otherwise satisfy the insurance coverage requirements described in Section 14 of this Lease. At its sole election, Lessor may, in its sole but reasonable judgment, perform or cause to be performed a structural analysis to determine the availability of capacity at the Tower Site for the installation or modification of any Approved Equipment and/or additional equipment at the Leased Premises by Lessee. Nothing herein shall prevent Lessee from performing such analysis for its own account; *provided, however, that Lessor shall approve such vendor in Lessor's sole discretion and Lessee shall provide a complete copy of any structural analysis that it performs to Lessor at no cost to Lessor no more than thirty (30) days following the completion of that analysis.* In the event a structural analysis is performed after the execution of this Lease by Lessor but prior to the installation of Lessee's Approved Equipment, and such analysis indicates that the existing tower structure can not structurally accommodate the proposed installation of Lessee's Approved Equipment thereon, Lessor or Lessee may terminate this Lease upon written notice at any time prior to the commencement of Lessee's installation. With respect to any permitted structural modifications to the Tower or upgrade of utilities by Lessee that are approved by Lessor, Lessor reserves the right to simultaneously upgrade the tower structure or utilities in excess of the modification required to accommodate Lessee's Approved Equipment in order to increase capacity ("Excess Upgrade"); provided, however, that Lessor shall be solely responsible for the costs associated with such Excess Upgrade. In the event that Lessee's Approved Equipment is located within ten (10) feet of another Lessee's Approved Equipment and/or if Lessee's Effective Radiated Power is or becomes greater than 500 watts, prior to any Lessee-requested subsequent installations or subsequent modifications, Lessor may elect to perform a shared site interference study ("SSIS") and Lessee shall pay Lessor a fee of one thousand Dollars (\$1,000.00) per study. This fee shall be payable thirty (30) days after Lessee's receipt of written notice from Lessor explaining the determination by Lessor that a SSIS is required. Lessor's performance of the SSIS shall in no way constitute a warranty or representation from Lessor that Lessee's proposed operations from the Tower Site will not suffer or cause interference with other users, but shall merely be a customary report intended to assist in the prevention of potential interference.

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10. RF INTERFERENCE.

(a) *Interference with a Pre-Existing Use.* Lessee's use of the Tower Site and its operation of all of its Approved Equipment thereon (including any subsequent modification or alteration thereto) shall be conducted in a manner that does not interfere electrically, or in any other manner whatsoever with any then pre-existing use of the Tower Site by Lessor or other users of the Tower Site ("Pre-Existing Use"). In the event that any Pre-Existing Use experiences interference allegedly caused by Lessee or Lessee's Approved Equipment (including any subsequent modification or alteration thereto), Lessee shall be notified in writing of such interference and Lessee shall power down its equipment and/or cease operations in order to correct and eliminate such interference within seventy-two (72) hours after Lessee's receipt of such notice. If Lessee does not cease all interfering operation proven to be from Lessee's Approved Equipment within such seventy-two (72) hour period, Lessor shall have the right to disconnect Lessee's Equipment until such time as Lessee can affect repairs to the interfering Approved Equipment. If Lessee is unable to eliminate the interference, or reduce it to a level reasonably acceptable to the affected user of the Pre-Existing Use, within a period of forty-five (45) days following such initial notice (provided that during such forty-five (45) day period, Lessee may operate its equipment intermittently during off-peak hours for testing purposes only), then Lessor may, in addition to any other rights it may have for Lessee's breach hereof, terminate this Lease. In the event that Lessee is notified of any interference experienced by a Pre-Existing Use on the Tower Site alleged to be caused by Lessee's operations thereon, Lessee shall be obligated to perform whatever commercially reasonable actions are necessary, at Lessee's sole cost and expense, to eliminate such interference and shall not be released from its obligation to continue to pay the Monthly Lessee Fee during any period that Lessee can not operate from the Tower Site pursuant to this Section 10.

(b) *Interference by a Subsequent Use.* Lessor agrees that Lessor and Lessor's tenants' use of the Tower Site whose equipment is installed or modified subsequent to the Lessee's then-current operation of Lessee's Approved Equipment thereon ("Subsequent Use") shall not, interfere with Lessee's then-current permitted operations. In the event that Lessee experiences interference caused by any Subsequent Use, Lessee shall notify Lessor of such interference and Lessor shall, or shall cause the operator of the interfering Subsequent Use, to power down its equipment and/or cease operations in order to correct and eliminate such interference within seventy-two (72) hours after Lessor's receipt of such notice. If such Subsequent Use is unable to operate without causing such interference, or if such interference is not reduced to a level acceptable to Lessee, within a period of thirty (30) days (provided that during such 30 day period the Subsequent Use may be operated intermittently during off-peak hours for testing purposes only), then Lessee may, in addition to any other rights it may have for Lessor's breach hereof, terminate this Lease. In the event that Lessor is notified of any interference experienced by Lessee alleged to be caused by a Subsequent Use on the Tower Site, Lessor shall be obligated to perform (or cause to be performed) whatever actions are commercially reasonable and necessary, at no cost or expense to Lessor, to eliminate such interference.

(c) *Interference with Lighting and Building Systems and Building Tenants.* In no event shall Lessee's use of the Tower Site or operation of any of its equipment thereon be conducted in a manner that interferes with Lessor's lighting system located on any of the towers, building systems, or, in the event that Lessee's equipment is installed on the rooftop of a building, with equipment of any kind used by building tenants who are not tenants of the Lessor.

(d) *No Illegal, Unpermitted Use or Unlicensed Frequency Protection.* Notwithstanding anything to the contrary herein, Lessee shall not illegally transmit on any frequency, transmit on a channel or frequency not specified in Exhibit A attached hereto, operate at variance from the specifications in its FCC license or the FCC's rules governing Lessee's operation of its Approved Equipment, and Lessor shall not provide any protection to Lessee from interference from parties who are not Lessor's tenants at the Tower Site. Nothing in this Section 10 shall be deemed or interpreted to provide any protection to Lessee from any form of interference from any person in the event that Lessee is operating on any unlicensed frequency spectrum or pursuant to FCC Part 15.

11. **SITE RULES AND REGULATIONS.** Lessee agrees to comply with the reasonable rules and regulations established from time to time at the Tower Site by Lessor in its discretion, which may be modified by Lessor from time to time upon receipt by Lessee of such revised rules and regulations or in accordance with Lessor's obligations under the Ground Lease. Such rules and regulations will not unreasonably interfere with Lessee's normal business operations.

12. **CASUALTY; CONDEMNATION.** For purposes of this Lease it shall be deemed a Casualty Event, if the Leased Premises or the Tower Site is destroyed or condemned, in whole or part, whether by eminent domain or otherwise. In the event that the Leased Premises or the Tower Site is wholly destroyed or condemned, whether by eminent domain or otherwise, this Lease shall terminate without further liability to either Party except for payment of the Monthly Lease Fees due up to the time of such destruction or condemnation. If the Leased Premises are partially destroyed or condemned and are usable by Lessee for its purposes, then Lessor shall, within ninety (90) days (which shall be extended for any commercially reasonable delays directly caused by governmental action or inaction), repair the Leased Premises or the Tower Site with a reasonable reduction of the Monthly Lease Fee to Lessee during the period of repair. In the event that the site repair or reconstruction has not commenced within sixty (60) days following such Casualty Event, Lessee may terminate this Lease upon written notice to Lessor prior to the commencement of any such repair or reconstruction of the Tower Site. If the Leased Premises or the Tower Site is partially destroyed or condemned and, in Lessee's reasonable judgment, are unusable by Lessee, the Monthly Lease Fee shall abate in full during any period of time that Lessee is unable to operate Lessee's Equipment on the Leased Premises or the Tower Site. Lessee may also elect to terminate this Lease as of the date of such partial destruction or condemnation by so notifying Lessor within sixty (60) days following the date of such partial destruction or condemnation. If, however, any such partial destruction or condemnation occurs within three (3) months prior to termination of this Lease, either Party may terminate this Lease

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without further liability except for payment of the Monthly Lease Fees up to the time of such destruction or condemnation. Any Monthly Lease Fees prepaid by Lessee shall be returned to it as part of the operation of this section.

13. **COMPLIANCE WITH LAWS.** Lessor is responsible for ensuring that the tower structure at the Tower Site is operated in compliance with all governmental lighting and marking requirements and all other applicable laws, rules and regulations. Lessor shall indemnify and defend Lessee from and against any loss, cost, or expense sustained or incurred by Lessee as a result of Lessor's failure to comply with duly issued governmental regulations relating to tower lighting and marking. Notwithstanding anything to the contrary in the Lease, Lessee shall at all times comply with all applicable laws and ordinances and all rules and regulations of municipal, state and federal governmental authorities relating to the installation, maintenance, location, use, operation, and removal of the Approved Equipment and other alterations or improvements authorized pursuant to the provisions of this Lease.
14. **INDEMNIFICATION; INSURANCE.** Each Party shall, to the fullest extent permitted by law, indemnify, defend and hold harmless the other Party, its respective Affiliates, and their respective directors, employees, officers, shareholders, successors and assigns against all third party claims and resulting losses, reasonable costs and expenses (including reasonable attorney's fees), liabilities and damages (subject to the limitations set forth in Section 15 of this Lease) arising from: (i) the negligence, willful misconduct or strict liability of such Party, or its agents, employees, representatives, contractors; or (ii) any material breach by such Party of any provision of this Lease; provided, however, that the Party seeking indemnification must take all commercially reasonable steps to mitigate any loss, costs, expenses, fees, liabilities or damages arising from any claims giving rise to a claim for indemnity hereunder. Neither Party shall have an obligation to indemnify as provided above unless the Party seeking indemnification hereunder provides prompt written notice to the other Party of any such claim and allows the other Party to control the defense and/or settlement of such claim. The Party seeking indemnification hereunder and its counsel may nevertheless participate in such proceedings at its own expense but not control such proceedings, negotiations or defense as counsel of record. The Party seeking indemnification hereunder shall not admit any liability, settle, compromise, pay or discharge any such claim without the prior written consent of the other Party, which will not be unreasonably withheld or delayed. In addition to the foregoing, Lessee shall indemnify Lessor for all reasonable costs and expenses (including reasonable attorney's fees) associated with commercially reasonable actions taken by Lessor to resolve any interference caused by Lessee or Lessee's Approved Equipment pursuant to Section 10(a), (c), and (d); provided, however, that Lessor must take all commercially reasonable steps to mitigate any such costs, expenses and fees associated with such actions. Neither Party shall be responsible or liable to the other for any damage arising from any claim to the extent attributable to any acts or omissions of other tenants at the Tower Site. Additionally, Lessor and Lessee shall keep in full force and effect, during the term of this Lease and the term of any Lease, insurance coverage in accordance with Exhibit E attached hereto. Notwithstanding anything to the contrary, Lessor may provide all or some of the insurance coverage limits required herein through an umbrella policy.
15. **WAIVER OF CERTAIN DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS LEASE, EACH PARTY HEREBY WAIVES THE RIGHT TO RECOVER INCIDENTAL, SPECIAL, CONSEQUENTIAL (INCLUDING LOST PROFITS), PUNITIVE, EXEMPLARY AND SIMILAR DAMAGES AND THE MULTIPLIED PORTION OF ANY DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE.**
16. **NOTICES.** Any required or permitted notice or demand shall be made by certified mail, postage prepaid or via nationally recognized overnight courier service addressed to the other Party at the address set forth on page 1. Either Party may modify, add, or delete notice addresses from time to time by notice given in accordance with this section. Any notice or demand shall be deemed to have been given or made at the time it is deposited in a United States Post Office or with a private overnight courier service.
17. **ASSIGNMENT; SUBLEASING.** Lessee may assign this Lease as a whole with Lessor's prior written consent which shall not unreasonably withheld; provided, however, that Lessor's consent will not be required for an assignment to any person or entity which is controlled by, controlling or under common control with Lessee ("Affiliates"). For these purposes, "control" means ownership, directly or indirectly, of 50% or more of the voting stock, equity or beneficial interest or a general partner of any partnership. Notwithstanding the foregoing or any other provision contained in this Lease Agreement to the contrary, Lessee shall not be deemed to have assigned Lessee's interest in this Lease Agreement as a result of an internal financial restructuring of Lessee for a bona fide business purpose, including without limitation any sale, conveyance, or other transfer of, or grant of a security interest in any shares of Lessee's stock, the merger of Lessee into or with another entity, or any issuance, sale or transfer of an interest in Lessee's capital stock, or a withdrawal or change, whether voluntary, involuntary or by operation of law, of a shareholder or shareholders of Lessee or if Lessee is divested from its parent company or engages in an initial public offering ("IPO"). In no event may Lessee sublet, sublease, or permit any other similar use of the Tower Site or Leased Premises by any other party. In no event may Lessee duplex or combine signals or grant any shared use rights for itself or others. In the event of a permitted assignment hereunder, Lessee shall be relieved of any of its obligations under this Lease arising on or after the effective date of such permitted assignment. Any permitted assignee shall expressly assume, and become bound by, all of Lessee's obligations under this Lease. Lessor may freely assign, transfer, or sublease this Lease and, in such event, Lessor shall be relieved of all of its obligations under this Lease from and after the date of such assignment.

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transfer, or sublease. The covenants and conditions of this Lease shall be binding upon the heirs, successors, executors, administrators and permitted assigns of both parties.

18. **QUIET ENJOYMENT.** Lessor covenants and agrees that, upon Lessee's paying the Monthly Lease Fee and observing and performing all of the terms, covenants and conditions to be observed and performed by Lessee under this Lease, Lessee shall be entitled to quiet enjoyment of the Leased Premises during the term of this Lease. At Lessee's request, Lessor shall obtain for the benefit of Lessee a reasonable Non-Disturbance Agreement using commercially reasonable efforts from any future mortgagee(s) or holder(s) of a deed of trust confirming that Lessee's right to quiet enjoyment of the Leased Premises during the term of this Lease shall not be disturbed, so long as Lessee is not in default under this Lease.
19. **SUBORDINATION TO GROUND LEASE.** The Parties acknowledge and agree that in the event Lessor's rights in the Leased Premises and/or any part of the Tower Site is derived in whole or part pursuant to an underlying lease, sublease, permit, easement or other right of use agreement ("Ground Lease"), all terms, conditions and covenants contained in this Lease shall be specifically subject to and subordinate to the terms and conditions of an applicable Ground Lease. In the event that any of the provisions of the Ground Lease are in conflict with any of the provisions of this Lease (other than those provisions relating to the length of term, termination rights or financial consideration), the terms of the Ground Lease shall control. Further, Lessee agrees to be bound by such Ground Lease as applicable to the access and occupancy of the Leased Premises. Lessor warrants and agrees that it will not take any action with respect to the Ground Lease as then in effect which will cause the Ground Lease to be prematurely terminated during the Term of this Lease. Lessor hereby warrants and agrees that it shall exercise any existing renewal option available to it pursuant to the Ground Lease during the term of this Lease. Prior to signature of this Lease, Lessor shall provide a copy of any applicable Ground Lease with the economic terms and other terms that Lessor deems reasonably confidential redacted, unless prohibited by the terms of such Ground Lease.
20. **DEFAULT.** Either Party shall have twenty (20) days after receipt (or refusal to accept delivery, which refusal shall be deemed receipt for the purposes hereof) of written notice from the other Party to cure any monetary default (provided, however, that if Lessee fails to make any payment of the Monthly Lease Fee when due and cures such default three (3) times within any twelve (12) month period, then any further failure within the same twelve (12) month period shall be an automatic default with no cure period) and, except as otherwise provided in this Lease with respect to RF interference, labeling and Construction Drawings, thirty (30) days after receipt of written notice from the other Party to cure any non-monetary default. Except with respect to RF interference so long as the Party charged with the default diligently pursues a cure during the prescribed time period, that Party shall be given additional time reasonably necessary to cure the default. If subsequent to the foregoing requisite periods of time, there continues to be an event of default, the non-defaulting Party may terminate this Lease upon written notice to the defaulting Party and may institute any other available proceedings at law or in equity to recover damages from the defaulting Party.
21. **COLLECTIONS.** Lessee shall pay all reasonable attorney's fees, court costs, and other items of cost or expense reasonably incurred by Lessor in recovering the Monthly Lease Fee. No endorsement or statement on any check or letter accompanying a check for payment of any monies due and payable under the terms of this Lease shall be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to its right to recover the balance of such monies or to pursue any other remedy provided by law or in this Lease. Lessor shall accept any such partial payment for the account of Lessee. Lessee shall be assessed a late payment fee equal to one and one quarter percent (1.25%) of the then-current Monthly Lease Fee for any payment or reimbursement due to Lessor under this Lease which is overdue by thirty (30) days or more and such fee shall be assessed for each thirty (30) day period thereafter that any such amount (or portion thereof) remains unpaid.
22. **GOVERNMENTAL APPROVALS; PERMITS.** In the event that any governmental permit, approval or authorization required for Lessor's use of, operation of, or right to lease space to Lessee at the Tower Site is terminated or withdrawn by any governmental authority or third party as part of any governmental, regulatory, or legal proceeding, Lessor may terminate this Lease. In the event that Lessor does not terminate this Lease, Lessee may elect to install or continue to operate its equipment at its sole cost and risk. Lessee understands and agrees that, in the event of a governmental or legal order requiring the removal of Lessee's equipment from the tower or removal of the tower structure or any structural modification required to accommodate Lessee's Approved Equipment, Lessee shall do so promptly at its sole cost and expense. Lessor shall cooperate with Lessee in Lessee's efforts to obtain any permits or other approvals that may be necessary for Lessee's installation and operation of the Approved Equipment provided, however such cooperation shall be subject to the foregoing: (a) Lessor shall not be required to expend any funds or undertake any liability or obligation in connection with such cooperation; (b) Lessor reserves the right to obtain such required approvals or permits on Lessee's behalf, at Lessee's sole cost and expense; and (c) in no event may Lessee encourage, suggest, participate in or permit the imposition of any restrictions or additional obligations whatsoever on the Tower Site or Lessor's current or future use or ability to lease space at the Tower Site as part of or in exchange for obtaining any such approval or permit. In the event that Lessee's shelter or cabinets are installed above a third-party or Lessor-owned shelter or building, Lessor shall be solely responsible for obtaining any required consents or permits in connection with such shelter or cabinet installation.
23. **REPLACEMENT OF TOWER.** Lessor reserves the right, in its sole discretion, to replace or rebuild the tower structure or the top of the tower. In such event, Lessor shall provide Lessee with space at the Tower Site deemed suitable by

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Lessee, in its sole discretion, to allow Lessee to continue to operate the Approved Equipment in a similar manner during the construction period. Lessor shall be solely responsible for the costs associated with removing and re-installing the Approved Equipment. Lessor also expressly reserves the right to erect one or more towers on the Tower Site, subject to Lessor's obligations to Lessee under this Lease. Lessee shall also have the right to establish a temporary facility on the Tower Site to provide such services as Lessee deems necessary during any such construction by Lessor so long as adequate space is then available. The location of such temporary facilities shall be subject to Lessor's approval. Notwithstanding any term or provision to the contrary, Lessor shall make all commercially reasonable efforts to provide Lessee with reasonable advance notice of such relocation.

24. **GOVERNING LAW.** This Lease shall be governed by the laws of the state in which the Tower Site is located, with the exception of its choice of laws provisions. If any provision of this Lease is found invalid or unenforceable under judicial decree or decision, the remaining provisions of this Lease shall remain in full force and effect. Any approval, consent, decision, or election to be made or given by a Party may be made or given in such Party's sole judgment and discretion, unless a different standard (such as reasonableness or good faith) is provided for explicitly.
25. **EXCUSABLE DELAYS.** If either Party is unable due to causes beyond its reasonable control to carry out its obligations under this Lease in whole or in part and if such Party gives written notice and full details of an excusable delay (including, without limitation, a *force majeure* event) to the other as soon as practicable after the occurrence of the event, then the obligations of the affected Party will be suspended to the extent reasonably required as a result of such event. *Excusable Delay* means an event that is not within the reasonable control of the affected Party, including, without limitation, war, riots, civil insurrection or acts of a common enemy, fire, flood, strikes or other labor difficulty, acts of civil or military authority, including governmental laws, orders, actions, inactions or regulations, embargo.

MISCELLANEOUS.

- a. The offer of lease expressed in this Lease shall automatically expire and become void if not accepted and executed by Lessee and such acceptance received by Lessor within sixty (60) days from the Effective Date.
- b. Upon Lessor's written request, Lessee shall within thirty (30) days furnish Lessor with complete and accurate information in response to any commercially reasonable request by Lessor for information about any of the Approved Equipment or utilities utilized by Lessee at any Tower Site or any of the channels and frequencies utilized by Lessee thereon.
- c. Lessor hereby warrants and represents that Lessor holds the real property or leasehold interest in the affected Tower Site and that Lessor has the full power to execute this Lease.
- d. Either Lessor or Lessee may be referred to herein as a "Party" and both Lessor and Lessee together may be referred to herein as the "Parties".
- e. At the sole election of Lessor, in the event that Lessee and Lessor enter into a master tower space lease agreement ("New Lease") which is applicable to this Tower Site during the Initial Term or any Renewal Term of the Lease, Lessor may give notice to Lessee that this Lease is terminated ("Termination Date") and Lessee and Lessor shall execute a New Lease for Lessee's Approved Equipment listed on Exhibit A hereto within forty-five (45) days following such notice. Such New Lease shall specify that the commencement date is the Termination Date. If the New Lease has pre-determined monthly lease fee rates and/or annual escalator rates that conflict with the Monthly Lease Fee and/or the Annual Escalator listed on page 1 of this Lease, then the lease fee rate and/or the Annual Escalator rate in the Lease shall govern.
- f. Within thirty (30) days of a request therefore, Lessor shall execute a Memorandum of Lease provided by Lessee if said document correctly reflects the terms and conditions of the agreement in recordable form for recording in the recorder's office for the jurisdiction in which the Site is located. Upon the termination or expiration of this Lease, Lessee shall upon the request of Lessor deliver a release of any instruments of record evidencing such Lease within sixty (60) days.
- g. Notwithstanding the expiration or earlier termination of the Lease, Sections 14, 15, 20 and 21 shall survive the expiration or earlier termination of the Lease.
- h. No waiver of any of the provisions of this Lease shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless expressly agreed to in writing by the affected Party.
- i. This Lease constitutes the entire agreement of the Parties hereto concerning the subject matter hereof and shall supersede all prior offers, negotiations and Leases, whether written or oral.
- j. No revision of the Lease shall be valid unless made in writing and signed by authorized representatives of both Parties.
- k. Except as to the terms disclosed in a memorandum of lease, the parties hereto shall keep the terms and conditions of this Agreement confidential and shall not disclose the same to any third party (except lenders, Affiliates, governmental agencies or fiduciaries) unless the other party fails to object to such disclosure within thirty (30) days of notice thereof.

ATTACHED EXHIBITS:

Exhibit A: List of Approved Equipment and location of the Tower Site.

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

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Exhibit C: As-Built Drawings or Construction Drawings to be attached within 60 days after commencement of installation or construction in accordance with Section 2.

Exhibit D: Intentionally Omitted

Exhibit E: Insurance.

Exhibit F: Copy of Master/Ground Lease

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Exhibit A
Approved Equipment and Tower Site Location

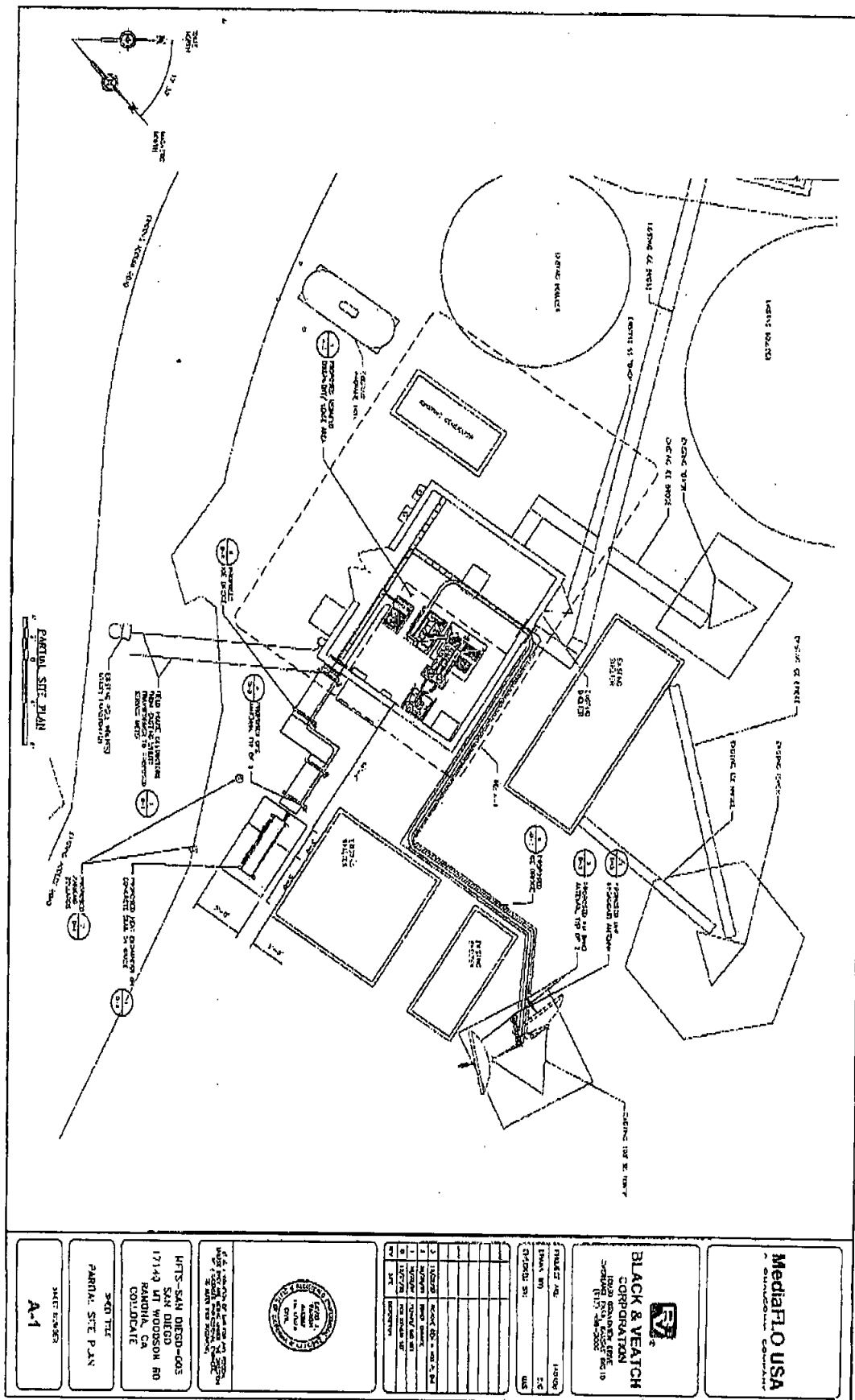
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ATC SITE NAME / NUMBER: Woodson, MI #1 T4, CA / 8138
CUSTOMER SITE NAME/ NUMBER: MFTS-San Diego-003

Exhibit B

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

Lessee shall not commence installation until Lessor has approved in writing said drawing and attached it hereto.



B-3

MediaFLO USA
A BLACK & VEATCH COMPANY



BLACK & VEATCH
CORPORATION
3000 N. 17th Street, Suite 100
Phoenix, AZ 85016
(602) 441-2000

PROJECT NO. 140000
SHEET NO. 1-6
DATE: 1/23/08

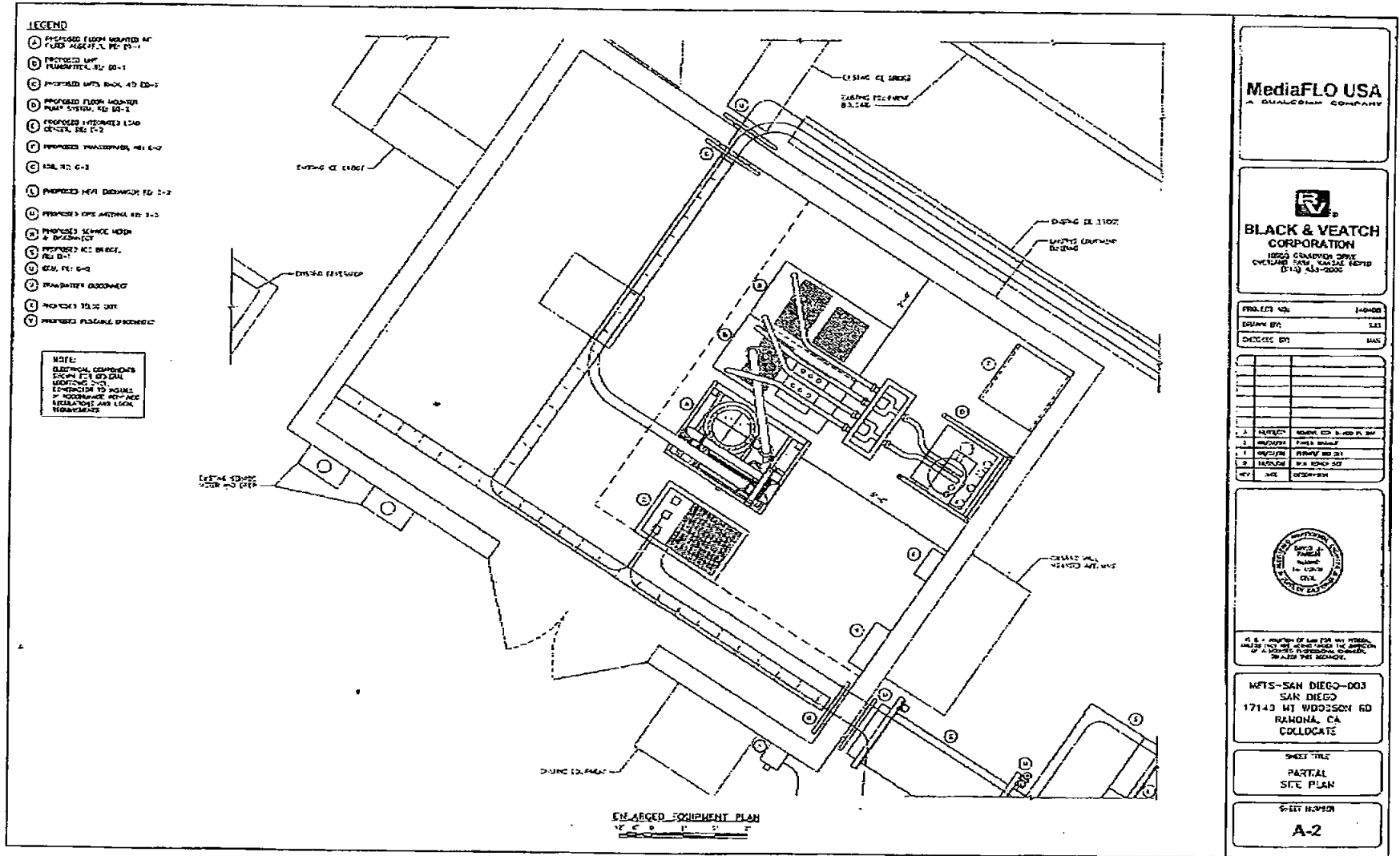
NO.	DESCRIPTION	DATE	BY	CHECKED
1	ISSUED FOR CONSTRUCTION	1/23/08	J. L. [Signature]	[Signature]
2	ISSUED FOR CONSTRUCTION	1/23/08	J. L. [Signature]	[Signature]
3	ISSUED FOR CONSTRUCTION	1/23/08	J. L. [Signature]	[Signature]
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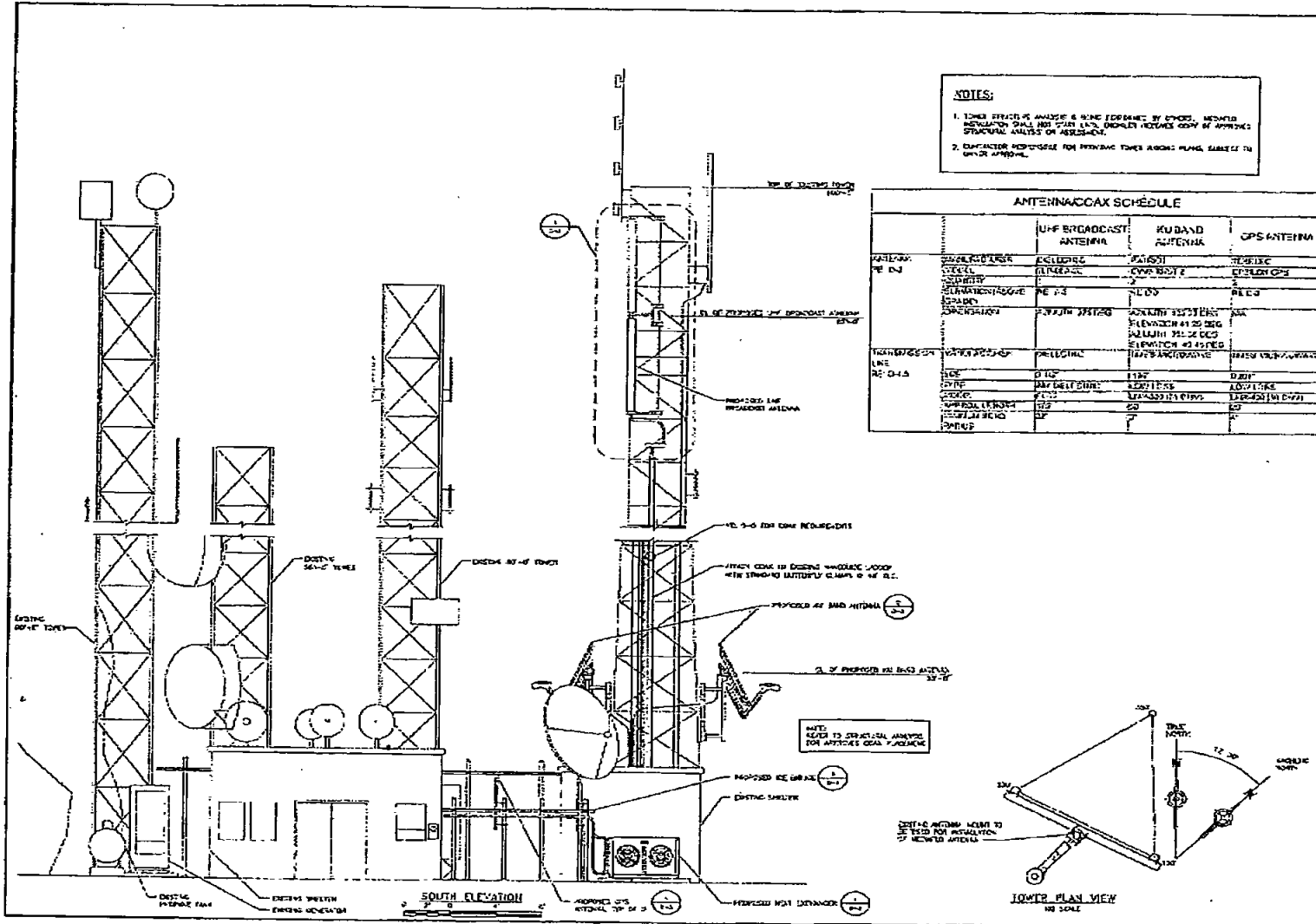


LHTS-SAN DIEGO-003
17143 MT WOODSON RD
BANDON, CA
COLDWATER

SCALE TITLE
PARTIAL SITE PLAN

A-1





MediaFLO USA
A QUALCOMM COMPANY



BLACK & VEATCH
CORPORATION

10500 CANTONMENT RD
OVERLAND PARK, KANSAS 66210
(913) 439-2077

FILE NO: 14-00000

SPACE DT	3.0
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DELETED BY: 445

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2	12/24/73	W. J. JONES & SONS, Inc.
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1	DATE	TIME
2		

1	20/02/20	20/02/20
2	20/02/20	20/02/20

DATE	BY	IDENTIFICATION
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IT IS A VIOLATION OF LAW FOR ANY PERSON
 OTHER THAN THE ACTING CHIEF OF POLICE
 OF A LOCALITY MENTIONED HEREIN
 TO SIGN THIS RECEIPT.

NFTS-SAN DIEGO-003
SAN DIEGO
17140 MT WOODSON RD
RAHONA, CA
COLLOCATE

SHEET TITLE
EXTERIOR
ELEVATIONS

INLET NUMBER
A-3



BLACK & VEATCH
CORPORATION
10750 SPOONER DRIVE
OVERLAND PARK, KANSAS 66210
(913) 426-2200

PROJECT NO:	1-40-728
BLANK 775	505
CHECKED BY:	WAS

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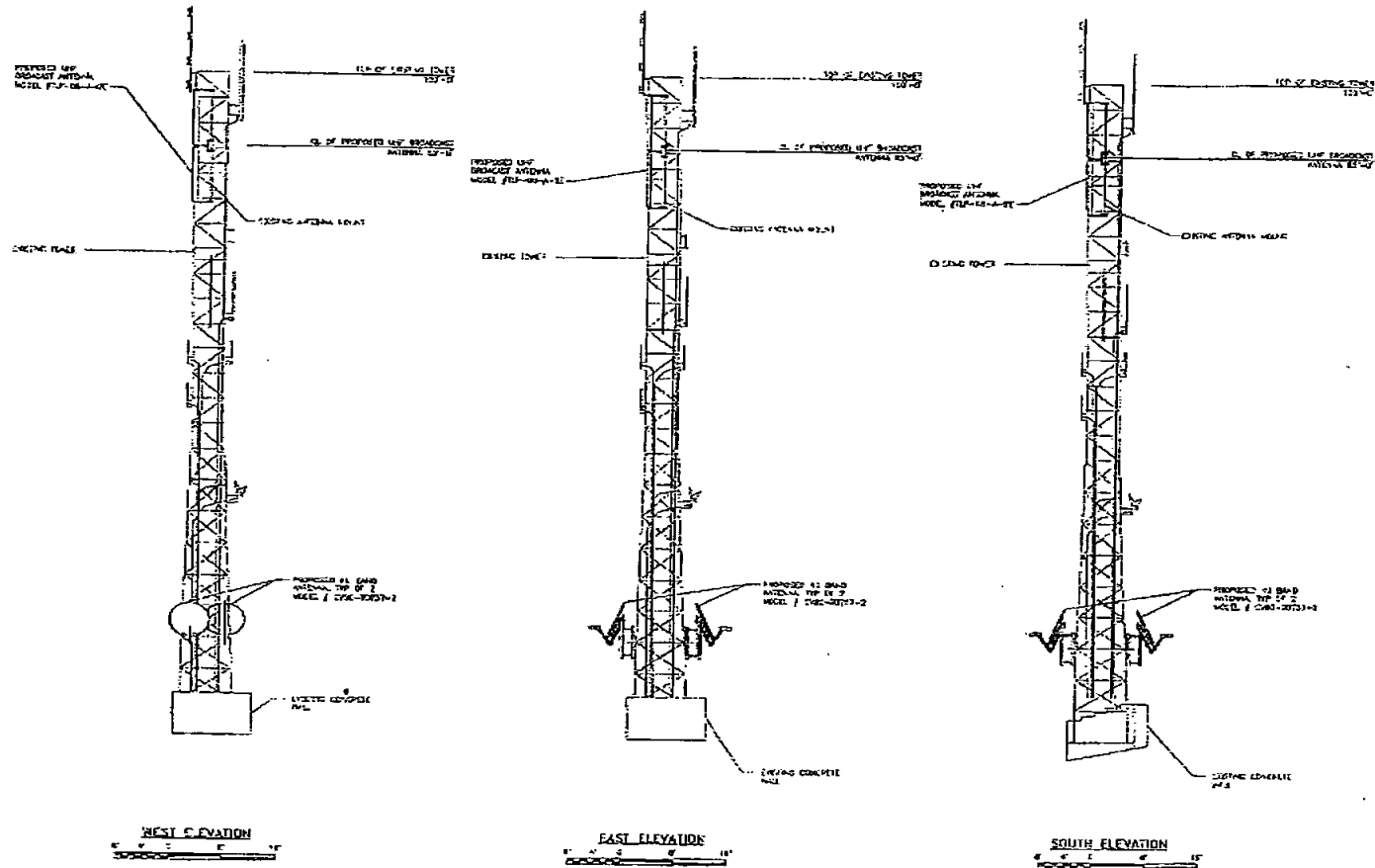
IT IS A VIOLATION OF LAW FOR ANY STRAIN
VALLEY NOT BE ACTIVE IN THE FIELD OF RESEARCH
IN A SCIENTIFIC PROFESSIONAL DOMAIN
IN 1971 THE RESEARCH

WFTS-SAN DIEGO-CO3
SAN DIEGO
17140 MC WOODSON RD
BAYDRA, CA
92024

SHEET 211
EXTERIOR
ELEVATIONS

SPICY H. 4204

A-3A



ATC SITE NAME / NUMBER: Woodson, MI #1 T4, CA / 8138
CUSTOMER SITE NAME / NUMBER: MFTS-San Diego-003

Exhibit C
As Built Drawings or Construction Drawings

To be attached hereto within 60 days of the date after commencement of installation or construction of Lessee's Approved Equipment at the Tower Site.

ATO SITE NAME / NUMBER: Woodson, AK #1 T4, CA / 8138
CUSTOMER SITE NAME / NUMBER: MPT3-San Diego-003

Exhibit D
Intentionally Omitted

ATC SITE NAME / NUMBER: Woodson, Mt #1 T4, CA / B138
CUSTOMER SITE NAME / NUMBER: MFTS-San Diego-003

Exhibit E Insurance

A. LESSOR shall maintain in full force during the term of this Lease the following insurance:

1. Worker's Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of \$500,000.00 per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Property Damage), the limits of liability of which shall not be less than \$1,000,000.00 per occurrence.
3. An umbrella policy of not less than Five Million Dollars (\$5,000,000.00).

The above insurance shall provide that LESSEE will receive not less than 30 days written notice prior to any cancellation of, or material change in coverage. The insurance specified in this Item A shall contain a waiver of subrogation against LESSEE and shall name LESSEE as an additional insured, and shall be primary over any insurance coverage in favor of LESSEE but only with respect to and to the extent of the insured liabilities assumed by LESSOR under this Lease and shall contain a standard cross-liability endorsement.

B. LESSEE shall maintain in full force during the term of this Lease, and shall cause all contractors or subcontractors performing Work on any Leased Site prior to the commencement of any such Work on behalf of Lessee, the following insurance:

1. Worker's Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of \$500,000.00 per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Property Damage), the limits of liability of which shall not be less than \$1,000,000.00 per occurrence.
3. An umbrella policy of not less than Five Million Dollars (\$5,000,000.00).

The above insurance shall provide that LESSOR will receive not less than 30 days written notice prior to any cancellation of, or material change in coverage. The insurance specified in this Item B shall contain a waiver of subrogation against LESSOR and shall name LESSOR as additional insured, and shall be primary over any insurance coverage in favor of LESSOR but only with respect to and to the extent of the insured liabilities assumed by LESSEE under this Lease and shall contain a standard cross-liability endorsement.

C. Notwithstanding the foregoing insurance requirements, (a) the insolvency, bankruptcy, or failure of any insurance company carrying insurance for either party, or failure of any such insurance company to pay claims accruing, shall not be held to waive any of the provisions of this Lease or relieve either party from any obligations under this Lease, and (b) the Lessor reserves the right, from time to time, to increase the required liability limits described above in Items A and/or B in accordance with then-current customary insurance requirements in the tower industry nationally.

ATC SITE NAME / NUMBER: Woodson, MI #1 T4, CA / 8138
CUSTOMER SITE NAME / NUMBER: MPT3-San Diego-003

EXHIBIT F
GROUNDMASTER LEASE

(Attach GroundMaster Lease Here)

CONSENT TO LICENSE AGREEMENT

The City of San Diego, a municipal corporation ("CITY"), as LESSOR under that certain Lease Agreement entered into with American Tower, L.P., a Delaware Limited Partnership ("Lessee") and filed in the Office of the City Clerk as Document R-301101 (the "Master Lease"), consents to that certain License Agreement between the above LESSEE and Cricket ("LICENSEE") to be executed subsequent to the execution of this Consent to License Agreement (the "License Agreement"). The License Agreement shall be subordinate to the Master Lease in all respects. The CITY is merely approving the LICENSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the License Agreement. The CITY is not bound by any term or condition in the License Agreement which in any way conflicts with or is additional to the provisions of the Master Lease.

This consent is subject to the following conditions:

ASSIGNMENT AND SUBLICENSING: LICENSEE shall not assign the License Agreement or sublicense the premises or any part thereof without the prior written consent of LESSEE and the City of San Diego. An assignment by operation of law shall automatically terminate the Sublicense.

HOLD HARMLESS: LICENSEE shall assume the defense of, indemnify and hold harmless LESSEE and CITY from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the licensed premises, the condition of the premises or from any act or omission of LICENSEE, his agents and invitees; provided, however, LICENSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its agents, officers, or employees.

INSURANCE: LICENSEE shall be insured by an insurance carrier acceptable to the LESSEE and CITY against loss from public liability arising from the use or condition of or operation conducted on the licensed premises. Minimum coverage shall be two million dollars (\$2,000,000) COMBINED SINGLE LIMIT LIABILITY. An insurance certificate evidencing such policy of insurance shall be filed with CITY and shall name the City of San Diego, its elected officials, officers, representatives, agents, and employees as additional insureds by separate endorsement. The policy shall specify that the policy may not be terminated, altered or canceled without thirty (30) days prior written notice to CITY by the insurance company.

LEGAL PROCEEDINGS: Should it become necessary for LESSEE or CITY to commence legal proceedings to collect rent, to recover possession or enforce any other provision of this consent, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorney fees.

SUBORDINATION: The License Agreement is in effect a sublease of a portion of the premises covered by the Master Lease. The License Agreement is subject to and subordinate to the covenants and conditions of the Master Lease.

CITY:
THE CITY OF SAN DIEGO

Dated 11/8/06

By [Signature]
Real Estate Assets Director

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. AGUIRRE, City Attorney

Dated 12-1-06

By [Signature]
Deputy City Attorney

Dated 10-17-06

LESSEE:
American Tower, L.P.,
a Delaware Limited Partnership

By [Signature]
Richard Rossi
Its: Director, Contract Management

Dated 10/25/06

LICENSSEE:
Cricket Communications

By [Signature]
Its: Director Launch - San Diego

CONSENT TO LICENSE AGREEMENT

The City of San Diego, a municipal corporation ("CITY"), as LESSOR under that certain Lease Agreement entered into with American Tower, LP, a Delaware limited partnership ("Lessee") and filed in the Office of the City Clerk as Document R-301101 (the "Master Lease"), consents to that certain License Agreement between the above LESSEE and Cricket Communications Inc., a Delaware corporation ("LICENSEE") to be executed subsequent to the execution of this Consent to License Agreement (the "License Agreement"). The License Agreement shall be subordinate to the Master Lease in all respects. The CITY is merely approving the LICENSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the License Agreement. The CITY is not bound by any term or condition in the License Agreement which in any way conflicts with or is additional to the provisions of the Master Lease.

This consent is subject to the following conditions:

ASSIGNMENT AND SUBLICENSING: LICENSEE shall not assign the License Agreement or sublicense the premises or any part thereof without the prior written consent of LESSEE and the City of San Diego. An assignment by operation of law shall automatically terminate the Sublicense.

HOLD HARMLESS: LICENSEE shall assume the defense of, indemnify and hold harmless LESSEE and CITY from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the licensed premises, the condition of the premises or from any act or omission of LICENSEE, his agents and invitees; provided, however, LICENSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its agents, officers, or employees.

INSURANCE: LICENSEE shall be insured by an insurance carrier acceptable to the LESSEE and CITY against loss from public liability arising from the use or condition of or operation conducted on the licensed premises. Minimum coverage shall be two million dollars (\$2,000,000) COMBINED SINGLE LIMIT LIABILITY. An insurance certificate evidencing such policy of insurance shall be filed with CITY and shall name the City of San Diego, its elected officials, officers, representatives, agents, and employees as additional insureds by separate endorsement. The policy shall specify that the policy may not be terminated, altered or canceled without thirty (30) days prior written notice to CITY by the insurance company.

LEGAL PROCEEDINGS: Should it become necessary for LESSEE or CITY to commence legal proceedings to collect rent, to recover possession or enforce any other provision of this consent, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorney fees.

SUBORDINATION: The License Agreement is in effect a sublease of a portion of the premises covered by the Master Lease. The License Agreement is subject to and subordinate to the covenants and conditions of the Master Lease.

CITY:
THE CITY OF SAN DIEGO

Dated 3/21/06

By Michael F. Boyle
Michael F. Boyle, Acting Director
Real Estate Assets Department

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. AGUIRRE, City Attorney

Dated 3/22/06

By Morton Papp
Deputy City Attorney Morton Papp

Dated 12-15-05

LESSEE:
AMERICAN TOWER, L.P.,
A Delaware limited partnership
By: ATC GP, Inc.
Its sole member

By: [Signature]
Its: VICE PRESIDENT
YANNIS KACHENIS

Dated _____

LICENSSEE:
Cricket Communications Inc., a Delaware
corporation

By: [Signature]
Its: Amy Maggard Jones
Site Development Manager
12/5/05