

DIXIE COMMUNICATIONS TOWER SITE AGREEMENT

Site ID: Rocky Point

DIXIE COMMUNICATIONS ROCKY POINT TOWER SITE AGREEMENT

1. Premises and Use. Lessor leases to Lessee, the site described below: *[Check appropriate boxes]*

- Land consisting of approximately _____ square feet upon which Lessee will construct its
- Equipment base station and its antenna structure;
- Building interior space consisting of approximately _____ square feet;
- Building exterior space for attachment of antennas;
- Building exterior space for placement of base station equipment;
- Tower antenna Space
- Space required for cable runs to connect Facility equipment and antennas,

in the location(s) (“Site”) shown on Exhibit A, together with a non-exclusive easement for reasonable access thereto and to the appropriate, in the discretion of Lessee, source of electric and telephone facilities. The Site will be used by Lessee for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, communications service system facility, including, without limitation, antenna equipment, cable wiring, back-up power sources (including generators and fuel storage tanks), related fixtures and, if applicable to the Site, an antenna structure. Lessee will use the Site in a manner which will not unreasonably disturb the occupancy of Lessor’s other tenants. Lessee will have unrestricted access to the Site 24 hours per day, 7 days per week.

2. Term. The term of this Agreement (the “Initial Term”) is _____ years, commencing on date both Lessee and Lessor have executed this Agreement. This Agreement will be automatically renewed for _____ additional term (a “Renewal Term”) of _____ years, unless Lessee provides Lessor of its notice of intention not to renew 60 days to the expiration of the Initial Term or any Renewal Term.

3. Rent. Rent (as hereinafter defined) will commence upon the Construction start date and/or installation of Lessee’s Antenna Facilities, (the “Rent Commencement Date”). Thereafter, the annual rent of \$ _____ will be paid in equal monthly installments in advance. Rent for each Renewal Term will be the annual rent in effect for the final year of the Initial Term or prior renewals Term, and the case may be, increased by Five percent (5 %). Rent payments will be sent to the address beneath Lessor’s signature or Zions Bank Account as directed by the Lessor. All of Lessee’s monetary obligations set forth in this Agreement are conditioned upon Lessee’s receipt of an accurate and executed W-9 Form from Lessor.

4. Title and Quiet Possession. Lessor represents and agrees (a) that it is the Lessor of the Site; (b) that it has the right to enter into this Agreement; (c) that the person signing this Agreement has the authority to sign; (d) that Lessee is entitled to access to the Site at all times and to the quiet possession of the Site throughout the Initial Term and each Renewal Term so long as Lessee is not in default beyond the expiration of any cure period; (e) that Lessor shall not have unsupervised access to the Site or to the equipment; and (f) that Lessor will upon sale or transfer of the underlying property, provide an assignment letter to Lessee that instructs Lessee to make future rent payments to the transferee. Lessor further agrees to defend, indemnify and assume all liability for failure to provide Lessee with proper transfer information or required documentation pertaining to subsequent Lessor.

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5. Assignment/Subletting. Lessee shall not have the right to sublease and/or assign its rights under this Agreement without notice to and consent of Lessor.

6. Notices All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested or sent by recognized overnight carrier to the addresses specified below. Notices, requests, demands and other communications may also be given by facsimile transmission, provided that notice is concurrently given by one of the above methods. Communication by electronic or computerized mail shall not be accepted as effective notice under this Agreement. Notices to Lessee must be sent to the address shown underneath lessee's signature. Notices to Lessor must be sent to the address shown underneath Lessor's signature.

7. Improvements. Lessee may, at its expense, make such improvements on the Site, as it deems necessary from time to time, for the operation of the facility. Upon termination or expiration of this Agreement, Lessee shall remove its equipment and improvements and will restore the Site to substantially the condition existing on the Commencement Date, except for ordinary wear and tear and casualty loss.

8. Compliance with Laws. Lessor represents that Lessor's property (including the Site), and all improvements located thereon, are in substantial compliance with building, life/safety, disability and other laws, codes and regulations of applicable governmental authorities. Lessee will substantially comply with all applicable laws relating to its possession and use of the Site.

9. Interference. Lessee will resolve technical interference problems with other equipment located at the Site on the Commencement Date or any equipment that becomes attached to the Site at any future date when Lessee desires to add additional equipment to the Site. Subsequent User's: Lessor will not permit or suffer the installation of any future equipment, which (a) results in technical interference problems with Lessee's then existing equipment or (b) encroaches onto the Site. (c) shall not permit the use of any portion of Lessor's Property by any subsequent user's following installation of Lessee's Facilities in a way which materially interferes with the rights of Lessee hereunder.

10. Utilities. Lessor represents that utilities adequate for Lessee's use of the Site are available. Lessee will pay for all utilities used by it at the Site. Lessor will cooperate with Lessee in Lessee's efforts to obtain utilities from any location provided by Lessor or the servicing utility, including signing any easement or other instrument reasonably required by the utility company.

11. Termination. Lessee may terminate this Agreement at any time by 60 day notice to Lessor without further liability if Lessor does not obtain all permits or other approvals (collectively, "approval") required from any governmental authority, quasi governmental authority or any easements required from any third party to operate the PCS, or if any such approval is canceled, expires or is withdrawn or terminated, or if Lessor fails to have proper Lessorship of the Site or authority to enter into this Agreement, or if Lessee, for any other reason including technical, regulatory and business reasons, in its sole discretion, determines to terminate this Agreement. Upon termination, all prepaid rent will be retained by Lessor unless such termination is due to Lessor's failure of proper Lessorship or authority, or such termination is a result of Lessor's default.

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12. Default. If either party is in default under this Agreement for a period of (a) 15 days following receipt of notice from the non-defaulting party with respect to a default which may be cured solely by the payment of money, or (b) 30 days following receipt of notice from the non-defaulting party with respect to a default which may not be cured solely by the payment of money, then, in either event, the non-defaulting party may pursue any remedies available to it against the defaulting party under applicable law, including, but not limited to, the right to terminate this Agreement. If the non-monetary default may not reasonably be cured within a 30-day period, this Agreement may not be terminated if the defaulting party commences action to cure the default within such 30-day period and proceeds with due diligence to fully cure the default.

13. Indemnity. Lessor and Lessee each indemnifies the other against and holds the other harmless from any and all costs (including reasonable attorneys' fees) and claims of liability or loss which arise out of the Lessorship, use and/or occupancy of the Site by the indemnifying party. This indemnity does not apply to any claims arising from the sole negligence or intentional misconduct of the indemnified party. The indemnity obligations under this Paragraph will survive termination of this Agreement.

14. Hazardous Substances. Lessor represents that it has no knowledge of any substance, chemical or waste (collectively, "substance") on the Site that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Lessee will not introduce or use any such substance on the Site in violation of any applicable law.

15. Subordination and Non-Disturbance. This Agreement is subordinate to any mortgage or deed of trust now of record against the Site. However, promptly after the Agreement is fully executed, Lessor will use diligent efforts to obtain a non-disturbance agreement reasonably acceptable to Lessee from the holder of any such mortgage or deed of trust.

16. Taxes. Lessee will be responsible for payment of all personal property taxes assessed directly upon and arising solely from its use of the communications facility on the Site. Lessee will pay to Lessor any increase in real property taxes attributable solely to any improvements to the Site made by Lessee within 60 days after receipt of satisfactory documentation indicating calculation of Lessee's share of such real estate taxes and payment of the real estate taxes by Lessor. Lessor will pay when due all other real estate taxes and assessments attributable to the property of Lessor of which the Site is a part and will provide Lessee with proof of such payments.

17. Insurance. Lessee will procure and maintain commercial general liability insurance, with limits of not less than One Million Dollars combined single limit per occurrence for bodily injury and property damage liability, with a certificate of insurance to be furnished to Lessor within 30 days of written request. Such policy will provide that cancellation will not occur without at least 15 days prior written notice to Lessor. Each party hereby waives its right of recovery against the other for any property loss or damage covered by any insurance policies maintained by the waiving party. Each party will cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery against the other party in connection with any property loss or damage covered by such policy.

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18. Maintenance. Lessee will be responsible for repairing and maintaining the tower site and facility and any other improvements installed by Lessee at the Site in a proper operating and reasonably safe condition; provided, however if any such repair or maintenance is required due to the acts of Lessor, its agents or employees, Lessor shall reimburse Lessee for the reasonable costs incurred by Lessee to restore the damaged areas to the condition which existed immediately prior thereto. Lessor will maintain and repair all other portions of the property of which the Site is a part in a proper operating and reasonably safe condition.

19. Miscellaneous. (a) This Agreement applies to and binds the heirs, successors, executors, administrators and assigns of the parties to this Agreement, including any successor by merger or sale of assets; (b) this Agreement is governed by the laws of the state in which the Site is located; (c) If requested by Lessee, Lessor agrees promptly to execute and deliver to Lessee a recordable Memorandum of this Agreement in the form of Exhibit B; (d) this Agreement (including the Exhibits) constitutes the entire agreement between the parties and supersedes all prior written and verbal agreements, representations, promises or understandings between the parties. Any amendments to this Agreement must be in writing and executed by both parties; (e) if any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, will not be affected and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law; and (f) the prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Agreement is entitled to receive its reasonable attorneys' fees and other reasonable enforcement costs and expenses from the non-prevailing party.

20. Non-Binding Until Fully Executed. This Agreement is for discussion purposes only and does not constitute a formal offer by either party. This Agreement is not and shall not be binding on either party until and unless it is fully executed by both parties.

21 Authority. Each party hereby represents and warrants to the other that the undersigned person is duly authorized to execute this Lease Agreement by and on behalf of such party.

The following Exhibits are attached to and made a part of this Agreement: Exhibits A (Site Description), B (Memorandum of Site Agreement) and .

LESSOR:

LESSEE:

Russell R. Bateman dba Dixie Communications

By: _____

By: _____

Name: Russell R. Bateman
Title: Owner
Address: 459 East 700 South
Saint George, Utah 84770-4016
Date: _____

Title: _____
Address: _____

Date: _____

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EXHIBIT A

Site Description

Site situated in the City of Saint George, County of Washington, State of Utah commonly described as follows:

SERIAL NO: SG-5-3-3-4301 2 ACRES

Beginning at Northwest Corner of the Southwest 1/4 of the Northwest 1/4 Section 3, Township 43 South, Range 15 West, SLB&M, and running thence North 89°21'09" East, along the North Line thereof, 417.8 feet; thence South 0°57'10" East 208.9 feet; thence South 89°21'09" West 417.8 feet to a point on the West Line of said Section 3; thence North 0°57'10" West, along said West line, 208.9 feet to the Point of Beginning.

Longitude: 37-04-38.71 N Altitude: 113-31-52.54 W Elevation 2779

Sketch of Site: To be added once drawings are approved and signed off by Lessor.

Note: Lessor and Lessee may, at Lessee's option, replace this Exhibit with an exhibit setting forth the legal description of the property on which the Site is located and/or an as-built drawing depicting the Site.

*[Use this Exhibit A for Tower Site Agreement, Memorandum of Tower Site Agreement, Option Agreement and Memorandum of Option Agreement.]

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EXHIBIT B

Memorandum of Site Agreement

This memorandum evidences that a lease was made and entered into by a written Tower Site Agreement dated _____ between Russell R. Bateman dba Dixie Communications ("Lessor") and _____ ("Lessee").

Such Agreement provides in part that Lessor leases to Lessee a certain site ("Site") located at 2585 East 1800 South City of Saint . George, County of Washington, State of Utah within the property of Lessor which is described in Exhibit A attached hereto, with grant of easement for unrestricted rights of access thereto and to electric and telephone facilities for a term of ____ years commencing on, _____ , which term is subject to _____ additional, _____ year extension periods by Lessee.

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

LESSOR:

LESSEE:

Russell R. Bateman
dba Dixie Communications

By: _____

Name: Russell R. Bateman

Name: _____

Title: Owner

Title: _____

Address: 459 East 700 South

Address: _____

Saint George, Utah 84770-4016

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ACKNOWLEDGMENT

STATE OF _____)

ss.

COUNTY OF _____)

On _____ before me, _____, a Notary Public personally

appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledge to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____.

STATE OF _____)

ss.

COUNTY OF _____)

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On _____ before me, _____, a Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledge to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____.