

SITE LICENSE AGREEMENT

This SITE LICENSE AGREEMENT ("**Agreement**") is made and entered into upon the full execution of this Agreement ("**Effective Date**") by and between TriStar Investors, Inc., a Delaware corporation ("**Licensor**") and the City and County of San Francisco, a municipal corporation ("**Licensee**"), acting through its Public Utilities Commission ("**SFPUC**"). The Licensor and Licensee are at times referred to hereinafter collectively as the "**Parties**" or individually as a "**Party**".

WITNESSETH

WHEREAS, Licensor, either directly or through its subsidiary, owns or has leased, licensed, acquired an easement, or otherwise obtained the right to use certain real property located at 2201 Blue Gum Avenue, Modesto, California 95351 ("**Property**"), which Property is more particularly described on **Exhibit "A"** attached hereto and made a part hereof; and

WHEREAS, Licensor operates on the Property a communications tower (the "**Tower**") and associated ground facilities; and

WHEREAS, Licensee desires to license from Licensor, and Licensor desires to license to Licensee, the non-exclusive rights to operate on the Property a communication facility for Licensee's own use without sublease rights, together with non-exclusive access and utility easements thereto.

AGREEMENT

NOW THEREFORE, in consideration of the mutual agreements herein contained, and intending to be legally bound hereby, Licensor and Licensee hereby agree and covenant to and with each other as follows:

1. **RECITALS.** The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

2. **PREMISES.** Licensor licenses to Licensee certain ground space on the Property and certain space on the Tower (collectively "**Premises**"), which Premises is more particularly described on **Exhibit "B"** attached hereto and made a part hereof, together with non-exclusive access and utility easements thereto. Licensee shall also have a nonexclusive license for the installation on the Property of wires, cables, conduit, an ice bridge, fasteners and other appurtenances necessary for the installation, maintenance and operation of Licensee's antennas and equipment. Licensor shall maintain the Property, including access to the Premises, in good, safe condition and repair. Without limiting the foregoing, Licensor shall maintain the Tower in good, structurally sound condition.

3. **TERM.** The term of this Agreement shall be for five (5) years ("**Initial Term**") and shall commence upon the earlier of one hundred eighty (180) days following the full execution of this Agreement or the commencement of Licensee's installation of Licensee's Facilities (as defined in **Section 5**) on the Premises ("**Commencement Date**"). Licensee shall have the right to extend the term for four (4) successive five (5) year periods ("**Renewal Terms**") upon the same covenants, terms and conditions set forth herein, except for rent increases in accordance with the terms herein. This Agreement shall be automatically extended for each successive Renewal Term unless Licensee provides written notice to Licensor of Licensee's intention not to renew this Agreement at least ninety (90) days prior to the expiration

of the then current Initial Term or Renewal Term. The Initial Term and all Renewal Terms are collectively referred to hereinafter collectively as the “**Term**”.

4. **RENT.** Licensee shall pay to Licensors, or to such other party as Licensors may direct, rent in the amount of Eighteen Thousand Six Hundred Dollars (\$18,600.00) per year (“**Rent**”), which Rent shall be paid in annual installments, in advance, commencing on the Commencement Date and thereafter on or before the first day of each calendar month during the Term, which Rent shall increase annually by three percent (3%). Notwithstanding the foregoing, if and to the extent that Licensee is delayed in commencing or completing installation of Licensee’s Facilities or in obtaining any required FCC license or approval due to (i) Licensors’ failure to timely respond to Licensee’s request for information required for the completion of Licensee’s plans and specifications, as required in **Section 5**, (ii) Licensors’ failure to respond within three (3) business days to reasonable inquiries from Licensee or Licensee’s contractor regarding construction of Licensee’s Facilities, or (iii) any changes requested by Licensors to the Licensee’s Facilities described in Exhibit C (each, a “**Licensors Delay**”), then, commencing on the Commencement Date, Rent shall be abated one day for each day of Licensors Delay. Rent for any partial calendar month at the beginning or end of the Term shall be prorated.

5. **PERMITTED USE.** Licensee may utilize the Premises for the sole purpose of constructing, maintaining and operating a communication facility. Licensee may maintain or install at the Premises that personal property described on **Exhibit “C”** attached hereto and made a part hereof (“**Licensee’s Facilities**”). Licensors and Licensee shall reasonably coordinate and cooperate to facilitate Licensee’s preparation of drawings and specifications for Licensee’s Facilities and obtaining necessary FCC approval, at no cost to Licensors. Licensors shall promptly provide to Licensee, no later than ten (10) business days after Licensee’s request, any information in Licensors’ possession and reasonably required by Licensee to complete such plans and specifications or FCC license process. At Licensors’ request, Licensee shall deliver the completed plans and specifications and a copy of the FCC license to Licensors for Licensors’ file. Licensee shall not install any additional Licensee’s Facilities beyond those described in **Exhibit C**, modify existing Licensee’s Facilities, or perform any maintenance on Licensee’s Facilities without the prior written consent of Licensors, except that consent shall not be required for Licensee to perform maintenance on any ground-based Licensee’s Facilities. To the extent that Licensee desires to install additional Licensee’s Facilities, modify existing Licensee’s Facilities and/or perform any maintenance on Licensee’s Facilities requiring Licensors’ consent, Licensee shall provide a written request to Licensors detailing such proposed work and Licensors shall respond within ten (10) business days of the receipt of such request. All of Licensee’s installation, modification, maintenance and removal of Licensee’s Facilities shall be performed at Licensee’s sole cost and in a good and workmanlike manner. Licensee, Licensee’s employees and agents shall have the right to enter and access the Premises at any time, twenty-four (24) hours a day, seven (7) days a week. Licensee will maintain the Premises and Licensee’s Facilities in a good condition, reasonable wear and tear excepted, in full compliance with all applicable federal, state and local laws and regulations. Licensors will maintain the Property, excluding the Premises and Licensee’s Facilities, in good condition, reasonable wear and tear excepted, in full compliance with all applicable federal, state and local laws and regulations.

Licensee understands that the Licensors desires to attract additional tenants to the Property. Licensee also understands Licensors may have existing tenants sharing the facility and Licensee agrees to reasonably cooperate with these tenants to resolve any issues of interference in an equitable fashion and in accordance with applicable laws and regulations. Licensee acknowledges that all fees, payments and rents payable for the use or occupancy of the Property by any party belong to Licensors. Licensee shall not sublease, sublicense or otherwise grant the use of any part of the Premises to any other party in any manner, except as provided in **Section 14** and except that Licensee may retain qualified contractors to install, repair or maintain the Licensee’s Facilities approved by Licensors.

6. UTILITIES. Licensee shall have the right to install utilities within the Property, at Licensee's sole cost and expense, to service the Premises. Licensors shall cooperate with Licensee in the acquisition of utilities at no cost to Licensors. Licensee shall install a 120/240 volt 60 amp meter frame for power used by Licensee on the Premises. In the event separate meters are not installed, Licensee shall pay the periodic charges for all utilities attributable to Licensee's use within thirty (30) days after receipt of invoice accompanied by reasonable back-up documentation.

7. TAXES ON LICENSEE'S FACILITIES. Licensee shall timely pay any taxes assessed on or attributable to Licensee's Facilities. To the extent that Licensee fails to pay such taxes before delinquency, Licensors shall, following delivery of notice to Licensee, have the right but not the obligation to pay such taxes on behalf of Licensee and Licensee shall reimburse Licensors for the full amount of such sums paid within ten (10) business days of Licensee's receipt of an invoice from Licensors.

8. TAXES ON PROPERTY. To the extent that Licensors incur any real or personal property taxes on the Property and/or the Tower, Licensors shall timely pay such taxes and Licensee shall reimburse Licensors for Licensee's pro rata share of such taxes within ten (10) business days of Licensee's receipt of an invoice from Licensors, which pro rata share shall be calculated based on a broadband installation at a single centerline being weighted three times the share of each microwave dish, satellite radio or similar installation, Licensee's share not to exceed one-third (1/3) of Licensors's total incurred real or personal taxes on the Property and/or the Tower. By way of example, if the Property is assessed such that \$1,000.00 in taxes is owed for a year and the tenants on the Tower are Licensee with a broadband installation at a single centerline, two additional broadband carriers and one satellite radio company, Licensee's pro rata share would be \$300.00.

9. TERMINATION. Except as otherwise provided herein, this Agreement may be terminated without further liability as follows:

(a) immediately upon written notice by either Party upon a default of any covenant or term hereof by the other Party, which default is not cured within ten (10) business days of receipt of notice for any monetary default and thirty (30) days for any non-monetary default, or such longer period as may be reasonably necessary to cure a non-monetary default provided a cure is commenced within thirty (30) days of receipt of notice of such default and diligently pursued thereafter;

(b) immediately upon written notice if Licensee, despite good faith efforts, is unable to obtain within twenty months after the Effective Date or maintain all necessary governmental approvals for the installation and operation of Licensee's Facilities and is unable to cure such failure within thirty days after receipt of notice from Licensors;

(c) as set forth in **Section 20** in the event of damage to or destruction of the Tower or impairment of access thereto; and

(d) as set forth in **Section 21** in the event that there is a taking under the power or threat of eminent domain.

In the event this Agreement is terminated for any reason other than Licensors's default and Licensee desires to attach equipment to a replacement site, Licensee shall consider in good faith any potential replacement site on a parcel of land owned or controlled by Licensors and if such a site meets Licensee's requirements, in Licensee's sole judgment, the Parties shall enter into an agreement for such replacement site under terms

equivalent to those provided herein, with the rent thereunder to be equivalent to the rent that would have continued herein if this Agreement had not been terminated.

10. INSURANCE; WAIVER OF SUBROGATION. At all times during the Term, Licensor shall keep the Tower (excluding the land upon which it is located) insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage and other perils customarily covered under a cause of loss special form property insurance policy in an amount equal to the lesser of (i) \$250,000.00 (which amount shall be increased from time to time to the extent that Licensor carries a greater amount of insurance on a majority of other sites in its portfolio) or (ii) one hundred percent (100%) of the full insurance replacement value (replacement cost new, including, debris removal and demolition) thereof. Licensor shall, upon request by Licensee, provide to Licensee a certificate of insurance issued by the insurance carrier, evidencing the insurance required above. Licensor shall provide Licensee with thirty (30) days prior written notice of cancellation, reduction of coverage or other modification of such insurance. Licensor hereby waives any rights against Licensee for loss or damage to the Premises or any other part of the Property, to the extent covered by Licensor's property insurance.

In addition, Licensor, at no cost to Licensee, shall procure and keep in effect at all times during the Term insurance as follows: (a) Commercial general liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form property damage, fire damage legal liability (of not less than Fifty Thousand Dollars (\$50,000)), personal injury, products and completed operations, and explosion, collapse and underground (XCU); and (b) Worker's Compensation Insurance with Employer's Liability Limits not less than One Million Dollars (\$1,000,000) each accident. Licensor shall provide Licensee with thirty (30) days' prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage.

Notwithstanding anything to the contrary contained herein, Licensor hereby waives any right of recovery against Licensee for any loss or damage sustained by Licensor with respect to the Tower or the Premises or Licensor's ground improvements, or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of Licensee, to the extent such loss or damage is covered by insurance which Licensor is required to purchase under this Agreement or is otherwise actually recovered from valid and collectible insurance covering Licensor. Licensor agrees to obtain a waiver of subrogation endorsement from each insurance carrier issuing policies relative to the Tower or the Premises; provided, Licensor's failure to do so shall not affect the above waiver.

Licensor acknowledges that Licensee maintains a program of self-insurance and agrees that Licensee shall not be required to carry any insurance with respect to this Lease. Licensee assumes the risk of damage to any of Licensee's Facilities, except for damage caused by Licensor or its agents, employees or contractors.

11. MUTUAL INDEMNIFICATION. Licensor and Licensee shall each, as the "**Indemnifying Party**", indemnify, defend and hold the other (the "**Indemnified Party**") and its employees and agents harmless against any and all costs (including without limitation reasonable attorney fees), liabilities, damages, losses, penalties and claims of liability or loss (collectively "**Claims**") caused by or arising out of (i) the breach of any representation, warranty or covenant of such Indemnifying Party set forth herein, or (ii) the use and/or occupancy of the Property or the Premises by the Indemnifying Party or its employees, agents or contractors, except to the extent arising from the negligence or intentional misconduct of the Indemnified Party or its employees, agents or contractors. In any action or proceeding brought against the Indemnified Party by reason of any Claim indemnified by the Indemnifying Party hereunder, the Indemnifying Party may, at its sole option, elect to defend such Claim by attorneys selected by the Indemnifying Party. The Indemnifying Party shall have the right to control

the defense and to determine the settlement or compromise of any action or proceeding, provided that the Indemnified Party shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. The foregoing indemnity shall survive any termination or expiration of this Agreement.

12. INTERFERENCE. Licensee shall operate at the Premises in a manner that complies with all noninterference rules of the Federal Communications Commission and will not cause interference to any equipment existing on the Property as of the date of installation or modification of Licensee's Facilities provided such existing equipment is being operated in accordance with the applicable license and applicable laws and regulations. In the event that Licensee causes such interference, Licensee shall promptly take all steps necessary to eliminate such interference in accordance with applicable laws and regulations. Subject to preexisting rights and the provisions of this Section, Licensor will not permit the installation of any future equipment on the Property that results in unreasonable technical interference problems with Licensee's then existing Licensee's Facilities. If such interference with Licensee's operations occurs, Licensee shall notify Licensor in writing, and Licensor shall have a reasonable period to correct such interference.

13. ASSIGNMENT BY LICENSOR. Licensor may assign, sublease or otherwise transfer or pledge all or any part of the Property and/or this Agreement, provided that any such assignment shall be under and subject to this Agreement and Licensee's rights hereunder.

14. ASSIGNMENT BY LICENSEE. Licensee may not assign, sublease, sublicense or otherwise transfer or pledge all or any part of its interest in this Agreement or in the Premises without the prior written consent of Licensor, such consent to assignments or transfers in whole not to be unreasonably withheld, conditioned or delayed, except that Licensee may assign its interest upon written notice to Licensor to Licensee's parent company, any subsidiary or affiliate, or to any entity which acquires all or substantially all of Licensee's assets in the market defined by the Federal Communications Commission in which the Property is located.

15. NOTICES. All notices, requests, and demands (collectively, "notice") hereunder shall be in writing and shall be given by posting with a nationally or regionally recognized next-business day courier service, by personal delivery, or by posting by registered or certified mail, return receipt requested, to the addresses of Licensor and Licensee as follows:

Licensor: For day-to-day operations:
Jimmy Taylor
6032 Burgundy Rd.
Dallas, TX 75230
Telephone No.: (713) 203-8531

For all other notices:
TriStar Investors, Inc.
Whitehall Towers, 3rd Floor
470 Streets Run Rd.
Pittsburgh, PA 15236
Telephone No.: (412) 882-4630

Licensee: SFPUC Hetch Hetchy Water and Power Maintenance Engineering
Attention: Chief Engineer and Communications Manager
One Lakeshore Drive

Moccasin, CA 95347

with a copy to: SFPUC Real Estate Services
Re: Modesto 2 Site License Agreement
525 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

and: SFPUC Hetch Hetchy Water and Power
Attention: Accounts Payable
One Lakeshore Drive
PO Box 160
Moccasin, CA 95347

Telephone or fax numbers, if any, are provided herein for convenience of communication and are not sufficient methods for delivering notices. Correctly addressed notices sent by a method that provides confirmation of delivery or attempted delivery shall be deemed received on the earliest of confirmed delivery, confirmed rejected delivery or confirmed attempted delivery. Either Party may change its notice address by providing notice as set forth herein.

16. ENVIRONMENTAL. Neither Licensors nor Licensee will introduce or use any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation ("Hazardous Materials") on, under or about the Property or the Premises in violation of any applicable law or regulation. Licensors and Licensee shall each indemnify, defend and hold the other Party harmless from and against any and all demands, claims, enforcement actions, costs and expenses, including reasonable attorneys' fees, arising out of the presence of Hazardous Materials upon or affecting the Property or the Premises and caused by the indemnifying Party. The foregoing indemnity shall survive any termination of this Agreement.

17. ESTOPPEL CERTIFICATE. Each Party shall, within ten (10) business days after request by the other Party, execute and deliver to the requesting Party, or the Party designated by requesting Party, a statement certifying (i) that this Agreement is unmodified and in full force and effect (or, if there have been modifications, stating the modifications and that the modified Agreement is in full force and effect); (ii) whether either Party is in default in performance of any of its obligations under this Agreement, and, if so, specifying each such default; and (iii) any other information reasonably requested concerning this Agreement.

18. MEMORANDUM OF SITE LICENSE; RECORDING. Upon the request of either Party, Licensors and Licensee shall fully execute a memorandum of site license evidencing Licensee's rights hereunder. Either Party may thereafter record such memorandum of site license at its sole expense.

19. SUCCESSORS. This Agreement and the covenants contained herein shall run with the land, and shall be binding upon the respective parties and their respective successors, heirs, executors, administrators and assigns.

20. DAMAGE OR DESTRUCTION

(a) Damage Repairable Within Repair Period. In the event of damage to the Premises or the Property by any cause and provided Licensors elects to rebuild or repair such damage, Licensors shall rebuild or repair the same without delay, provided that such repairs can be made under applicable laws within sixty (60) days after Licensors obtains all necessary permits for such repairs but not

later than two hundred ten (210) days after the date of such damage (the “**Repair Period**”). In such event, this Agreement shall remain in full force and effect, except that Licensee shall be entitled to an abatement of Rent while the repairs are being made. Such abatement in Rent shall be based on the extent to which the damage and the making of the repairs interfere with Licensee’s access to or use of the License Area or Premises. Licensors’ repairs shall not include, and the Rent shall not be abated as a result of, any damage by fire or other cause to Licensee’s Facilities. To the extent that Licensors elect to make repairs such that any other tenant of the Tower can continue to operate therefrom, Licensors shall also repair the Premises for Licensee’s use.

(b) Damage Not Repaired or Repairable Within Repair Period. Within twenty (20) days after the date Licensors learn of such damage, Licensors shall notify Licensee (i) whether or not, in Licensors’ reasonable judgment made in good faith, such repairs can be made within the Repair Period, and (ii) if Licensors elect to rebuild or repair such damage (“**No Repair Notice**”) (“**Repair Period Notice**”). If Licensors reasonably determines that the repairs cannot be made within the Repair Period and/or if Licensors elect not to rebuild or repair such damage, then either party hereto may, by written notice to the other given within sixty (60) days after the date of such damage, terminate this Agreement as of the date specified in such notice, which date shall be not less than sixty (60) nor more than ninety (90) days after the Repair Period Notice is given by Licensors. In case of termination, the Rent shall be reduced by a proportionate amount based on the extent to which such damage interferes with the conduct of Licensee’s business in the Premises, and Licensee shall pay such reduced Rent up to the date of termination. Licensors shall refund to Licensee any Rent previously paid for any period of time after such date of termination. If Licensors elect to terminate this Agreement pursuant to this paragraph and within three years thereafter rebuilds or repairs the damage, Licensee shall have the option to enter into a new site rental agreement with Licensors for the same or substantially similar space in the restored Premises on the same terms and conditions as this Agreement. If neither party elects to terminate pursuant to this paragraph, Licensors shall rebuild or repair the damage and rent shall be abated until the rebuild or repairs are completed as provided above.

(c) Licensee’s Temporary Facilities. During the period of any repair or rebuilding provided for hereunder, Licensee shall have the right, at its sole expense, to bring onto the Property (provided sufficient space is available) in a location mutually acceptable to Licensee and Licensors and to operate a portable generator and/or mobile Communications Property and telescopic antennae or tower (collectively “**Temporary Communications System**”) in order to provide for continuous service to Licensee’s customers during such period. Neither the placement nor use of such generator or equipment shall interfere with Licensors’ operations or business in the Property or, if Licensors has elected to repair or rebuild the Premises or the Property as provided above, with such repair or reconstruction. Notwithstanding the foregoing, Licensee, in its sole discretion, shall have the right to terminate this Agreement upon thirty (30) days advance written notice if Licensee is unable to operate such portable generator or mobile Communication Property on the Property during any period of repair or rebuilding provided for hereunder as a result of Licensors’ failure to provide a mutually acceptable location for such equipment.

(d) Damage by Flood or Earthquake. Notwithstanding the foregoing, in the event the Premises are damaged or destroyed by reason of flood or earthquake, and such damage or destruction is not fully covered by insurance proceeds payable under the insurance policies Licensors carries (excluding any deductible, for which Licensors shall be responsible), Licensors may terminate this Agreement by written notice to Licensee within thirty (30) days of the date Licensors receives written notice that such damage is not covered by insurance. Such notice from Licensors shall include adequate written evidence of the denial of insurance coverage. If Licensors does not elect to terminate this

Agreement as provided above, this Agreement shall remain in full force and effect, and Licensors shall repair and restore the Premises as provided above.

(e) Damage During Last Six Months. If at any time during the last six (6) months of the Term of this Agreement there is substantial damage, Licensors or Licensees may, at the respective option of each, terminate this Agreement as of the date such damage occurred by giving written notice to the other party of its election to do so within thirty (30) days after the date of such damage. The parties hereto understand and agree that the provisions of this Section are intended to govern fully the rights and obligations of the parties in the event of damage or destruction, and Licensee and Licensors each hereby waives and releases the provisions of Section 1932, subdivision 2, and Section 1933, subdivision 4, of the Civil Code of California (when hirer may terminate the hiring) or under any similar law, statute or ordinance now or hereafter in effect.

21. EMINENT DOMAIN

(a) Partial or Total Permanent Taking. If all or any part of the Premises or access thereto shall be taken as a result of the exercise of the power of eminent domain or any transfer in lieu thereof, this Agreement shall terminate as to the part so taken as of the date of taking. In the case of a partial taking, Licensee shall have the right to terminate this Agreement as to the balance of the Premises by written notice to Licensors within thirty (30) days after such date. In the event of a partial taking of the Premises which does not result in a termination of this Agreement, the Rent and additional charges thereafter to be paid shall not be reduced, except that the Rent shall be equitably reduced to the extent that such taking requires Licensee to cease to use certain elevations on the Tower and Licensors cannot provide reasonable equivalent space on the Tower.

If any material part of the Property shall be taken as a result of the exercise of the power of eminent domain or any transfer in lieu thereof, Licensors shall have the right to terminate this Agreement by written notice to Licensee within thirty (30) days of the date of the taking.

(b) Award. In the event of any taking, Licensors shall be entitled to any award that may be paid or made in connection therewith. Licensee shall have no claim against Licensors for the value of any unexpired term of this Agreement or otherwise except that Licensee may claim any portion of the award that is specifically allocable to Licensee's relocation expenses or the interruption of or damage to Licensee's business or loss or damage to Licensee's Facilities.

(c) Temporary Takings. Notwithstanding the foregoing, if a taking occurs with respect to all or any portion of the Premises for less than ninety (90) days, this Agreement shall remain unaffected thereby, and Licensee shall continue to perform all of the terms, conditions and covenants of this Agreement, except that Licensee shall be entitled to an abatement in Rent to the extent that its use of the Premises as a communications site is materially impaired. In the event of any such temporary taking, Licensee shall be entitled to receive that portion of any award which represents compensation for the use or occupancy of the Premises during the Term up to the total Rent and additional charges owing by Licensee for the period of the taking, and Licensors shall be entitled to receive the balance of any award.

(d) Waiver of Code of Civil Procedure Sections. The parties understand and agree that the foregoing provisions of this Section are intended to govern fully the rights and obligations of the parties in the event of a taking. Licensee and Licensors each hereby waives and releases any right to terminate this Agreement in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure (partial termination of lease and Court order terminating lease, respectively) or under any similar law, statute or ordinance now or hereafter in effect.

22. MISCELLANEOUS.

(a) This Agreement, including all Exhibits attached hereto, constitutes the entire agreement and understanding of Licensor and Licensee with respect to the subject matter of this Agreement, and supersedes all offers, negotiations and any other written or verbal agreements concerning the subject matter of this Agreement, and any amendments to this Agreement must be in writing and executed by both Parties;

(b) this Agreement is governed by the laws of the state in which the Property is located and the City's Charter;

(c) if any term of this Agreement is found to be void, invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed modified to the minimum extent necessary to be operative, valid and enforceable to most closely reflect the intent of the Parties as expressed herein, or if such modification is not practicable, such provision shall be deemed deleted from this Agreement, and the other provisions of this Agreement shall remain in full force and effect;

(d) the section headings of this Agreement have been inserted for convenience of reference only, and shall in no way modify or restrict the terms of this Agreement;

(e) each Party represents and warrants to the other that it has the legal right and authority to execute this Agreement and all ancillary documents, and the execution and delivery thereof has been duly authorized by all requisite action;

(f) if either Licensor or Licensee files an action for the enforcement or breach of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs, (and for purposes of this Agreement, reasonable attorneys' fees of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney);

(g) City's standard contract clauses set forth in attached **Exhibit D** are incorporated into this Agreement (notwithstanding anything to the contrary therein, all obligations regarding third party contracts and operations shall apply only to contracts and operations relating exclusively to the Premises and not to the remainder of the Property);

(h) the exhibits referenced in and attached to this Agreement are incorporated herein and made a part hereof; and

(i) this Agreement may be executed in any number of counterparts, each of which shall, when executed, be deemed to be an original and all of which shall be deemed to be one and the same instrument.

[Signatures on the next page.]

IN WITNESS WHEREOF, and intending to be legally bound, Licensors and Licensees have executed this Agreement.

LICENSOR:

TriStar Investors, Inc.,
a Delaware corporation

LICENSEE:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
John P. Lemmon
Vice President and General Counsel

Date: _____

By: _____
Harlan L. Kelly, Jr.
General Manager
San Francisco Public Utilities Commission

Date: _____

EXHIBIT "A"

The Property

That parcel more particularly defined as the Premises in that certain Ground Lease Agreement dated December 15, 2010, as evidenced by that certain Memorandum of Lease recorded as Document # 2011-0012111-00 in the records of Stanislaus County, California, being a portion of that certain parent tract defined hereafter:

THE FOLLOWING DESCRIBED PROPERTY IN THE STATE OF CALIFORNIA, COUNTY OF STANISLAUS:

ALL THAT PORTION OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 9 EAST, M.D.B. & M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 19, SAID CORNER BEING ON THE CENTER LINE OF 40.00 FOOT WIDE BLUE GUM AVENUE; THENCE SOUTH 89° 16' 43" EAST ON THE EAST-WEST INTERIOR QUARTER LINE THROUGH SAID SECTION 19, A DISTANCE OF 397.81 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 0° 43' 18" EAST 30.00 FEET; THENCE NORTH 89° 16' 43" WEST 253.55 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 88° 06' 38"; THENCE NORTHWESTERLY ON THE ARC OF SAID CURVE 153.78 FEET; THENCE NORTH 1° 10' 05" WEST 115.93 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 85° 14' 36", AND FROM WHICH POINT THE CENTER OF SAID CURVE BEARS NORTH 5° 55' 29" WEST; THENCE NORTHEASTERLY ON THE ARC OF SAID CURVE 267.80 FEET; THENCE NORTH 1° 10' 05" WEST 285.62 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 138° 01' 09"; THENCE NORTHEASTERLY ON THE ARC OF SAID CURVE 60.22 FEET SOUTHWESTERLY FROM, AND PARALLEL WITH SAID RIGHT-OF-WAY LINE, 913.50 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 40.00 FEET AND A CENTRAL ANGLE OF 133° 52' 13" THENCE SOUTHWESTERLY ON THE ARC OF SAID CURVE 93.46 FEET; THENCE SOUTH 0° 43' 17" WEST 30.00 FEET TO THE EAST-WEST INTERIOR QUARTER LINE THROUGH SAID SECTION 19, ON THE CENTER LINE 40.00 FOOT WIDE BLUE GUM AVENUE; THENCE NORTH 89° 16' 43" WEST ON SAID INTERIOR LINE, 461.96 FEET TO THE POINT OF BEGINNING.

ALL THAT PORTION OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 8 EAST, M.D.B. & M. DESCRIBED AS FOLLOWS: COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 24, SAID CORNER BEING ON THE CENTER LINE OF 40.00 FOOT WIDE BLUE GUM AVENUE; THENCE SOUTH 89° 25' 04" WEST ON THE EAST-WEST INTERIOR QUARTER LINE THROUGH SAID SECTION 24, ALSO BEING ON THE CENTER LINE OF BLUE GUM AVENUE 401.73 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE SOUTH 89° 25' 04" WEST 1567.80 FEET TO THE SOUTHEAST CORNER OF THE LANDS DESCRIBED IN ASSEMBLY BILL NO. 542 OF 1970 LEGISLATURE AS BEING RESERVED BY THE STATE OF CALIFORNIA; THENCE NORTH 0° 35' 03" WEST ON THE EAST LINE OF SAID DESCRIBED LANDS 1306.36 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 89° 24' 57" WEST ON THE NORTH LINE OF SAID LANDS 1009.23 FEET TO THE NORTHWEST

CORNER THEREOF; THENCE NORTH $0^{\circ} 35' 03''$ WEST ON THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID LANDS 1344.93 FEET TO THE NORTH LINE OF SAID SECTION 24; THENCE NORTH $89^{\circ} 20' 00''$ EAST ON SAID NORTH LINE 343.86 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 24; THENCE CONTINUE ON SAID NORTH LINE, NORTH $89^{\circ} 18' 48''$ EAST 1105.04 FEET TO A POINT WHICH IS 100.00 FEET SOUTHWESTERLY, BY RIGHT ANGLE MEASUREMENT, FROM THE SOUTHWESTERLY LINE OF THE SOUTHERN PACIFIC RAILROAD RIGHT-OF-WAY LINE; THENCE SOUTH $43^{\circ} 08' 56''$ EAST, 100.00 FEET SOUTHWESTERLY FROM AND PARALLEL WITH SAID RIGHT-OF-WAY LINE 1888.54 FEET; THENCE LEAVING SAID PARALLEL LINE, SOUTH $1^{\circ} 10' 05''$ EAST, 820.00 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 180.00 FEET AND A CENTRAL ANGLE OF $85^{\circ} 14' 36''$; THENCE SOUTHEASTERLY ON THE ARC OF SAID CURVE, 267.80 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 25.00 FEET, AND A CENTRAL ANGLE OF $85^{\circ} 14' 36''$ AND FROM WHICH POINT THE CENTER OF SAID CURVE BEARS SOUTH $3^{\circ} 35' 19''$ WEST, THENCE SOUTHEASTERLY ON THE ARC OF SAID CURVE 37.19 FEET; THENCE SOUTH $10^{\circ} 10' 05''$ EAST 109.55 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF $90^{\circ} 35' 09''$; THENCE SOUTHWESTERLY ON THE ARC OF SAID CURVE, 158.10 FEET; THENCE SOUTH $89^{\circ} 25' 04''$ WEST, 30.00 FEET NORTHERLY FROM AND PARALLEL WITH THE EAST-WEST INTERIOR QUARTER LINE THROUGH SAID SECTION 24, A DISTANCE OF 248.87 FEET; THENCE SOUTH $0^{\circ} 34' 56''$ EAST 30.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT “B”

The Premises

1. Ground space suitable for an outdoor cabinet approximately 30" x 30" x 7' to be installed and maintained by Licensee on a concrete pad approximately 3' x 6'
2. Space on the Tower suitable for the following antennas:
 - One six-foot (6') diameter dish antenna, 130' elevation, 259.88 true azimuth
 - One four-foot (4') diameter dish antenna, 130' elevation, 55.57 true azimuth

EXHIBIT “C”

The Licensee’s Facilities

1. Outdoor cabinet approximately 30" x 30" x 7' to be installed and maintained by Licensee on a concrete pad approximately 3' x 6'
2. The following antennas to be installed by Licensee’s contractor on the Tower:
 - One six-foot (6') diameter dish antenna
 - One four-foot (4') diameter dish antenna

EXHIBIT “D”

City’s Standard Contract Provisions

1. Disclosure. The City's Sunshine Ordinance (San Francisco Administrative Code Chapter 67) and the State Public Records Law (Government Code Section 6250 et seq.) apply to this Agreement and any and all records, information, and materials submitted to the City in connection with this Agreement. Accordingly, any and all such records, information and materials may be subject to public disclosure in accordance with the City’s Sunshine Ordinance and the State Public Records Law. Licensor hereby authorizes the City to disclose any records, information and materials submitted to the City in connection with this Agreement.

2. Non-Liability of City Officials, Employees and Agents. Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to Licensor, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Licensor, its successors and assigns, or for any obligation of City under this Agreement.

3. Conflict of Interest. Through its execution of this Agreement, Licensor acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Licensor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Licensor further acknowledges that the prohibition on contributions applies to each Licensor; each member of Licensor's board of directors, and Licensor’s chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Licensor; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Licensor. Additionally, Licensor acknowledges that Licensor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Licensor further agrees to provide to City the name of each person, entity or committee described above.

4. Notification of Limitations on Contributions. Through its execution of this Agreement, Licensor acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Licensor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Licensor further acknowledges that the prohibition on

contributions applies to each Licensor; each member of Licensor's board of directors, and Licensor's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Licensor; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Licensor. Additionally, Licensor acknowledges that Licensor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Licensor further agrees to provide to City the name of each person, entity or committee described above.

5. City's Charter. This Agreement shall be subject to the budgetary and fiscal provisions of City's Charter. There shall be no obligation for the payment of money by City or SFPUC under this Agreement unless City's Controller first certifies, pursuant to Section 3.105 of City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. If sufficient funds for the payment of the compensation and any other payments required under this Agreement are not appropriated, then SFPUC may terminate this Agreement, without penalty, liability or expense of any kind to SFPUC, as of the last date on which sufficient funds are appropriated.

6. Prevailing Wages for Construction Work. Licensor agrees that any person performing labor in the construction of any improvements to the Premises which Licensor provides under this Agreement shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco County. Licensor shall include, in any contract for construction of such improvements to the Premises, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Licensor shall require any contractor to provide, and shall deliver to City every two weeks during any construction period, certified payroll reports with respect to all persons performing labor in the construction of any improvements to the Premises.

7. Non-Discrimination in City Contracts and Benefits Ordinance.

(a) Covenant Not to Discriminate. In the performance of this Agreement, Licensor agrees not to discriminate against any employee of Licensor, any City employee working with Licensor, or any applicant for employment with Licensor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) Contracts. Licensor shall include in all contracts relating to the Premises a non discrimination clause applicable to such contractor in substantially the form of subsection (a) above. In addition, Licensor shall incorporate by reference in all contracts relating to the Premises the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all contractors to comply with such provisions. Licensor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) Non-Discrimination in Benefits. Licensor does not as of the date of this Agreement and will not during the Term, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for the City, or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership

discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Condition to Agreement. As a condition to this Agreement, Licensor shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission (the “HRC”). Licensor hereby represents that prior to execution of this Agreement, (i) Licensor executed and submitted to the HRC Form HRC-12B-101 with supporting documentation, and (ii) the HRC approved such form.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non discrimination by parties contracting for the lease of property to City are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Licensor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Licensor understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Licensor and/or deducted from any payments due Licensor.