

TOWER SITE LEASE AGREEMENT

THIS TOWER SITE LEASE AGREEMENT ("Lease") is made and entered into this 7th day of 2016 (the "Effective Date"), by and between City of Peoria, an Illinois municipal corporation, (hereinafter "Lessor"), and Rocket Communications Corp., an Illinois corporation (hereinafter referred to as "Rocket").

WHEREAS, Lessor owns and operates a control room and antennae in and on the building located at (hereinafter referred to as the "Property") located at the address commonly known as 123 S.W. Jefferson Avenue, Peoria, Illinois (hereinafter "the Property") in the County of Peoria.

WHEREAS, Rocket desires to provide communication services in the area by leasing access to, space on and electricity with (when applicable) Lessor's Antenna Facility.

WHEREAS, Lessor desires to allow designated space for Rocket's equipment on its Antenna Facility and to insure Rocket's equipment and activities do not interfere with Lessor's daily operations and maintenance.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements under this Lease, Lessor and Rocket hereby agree as follows:

1. **Leased Premises.** Subject to the terms and conditions of this Lease, Lessor hereby leases to Rocket and Rocket leases from Lessor, space on the ~~top of the~~ Antenna Facility for the mounting and operation of Rocket's communications equipment, space in Lessor's equipment control room at the Property ~~at the base of the Antennae~~ for equipment enclosures and power systems, and space between the Antenna Facility and the equipment control room for cabling between the communications equipment and enclosures together with easements for ingress, egress and utilities, including fiber optics, during the initial term and any renewal terms, as those terms are hereinafter defined. These leased spaces on the Antenna Facility and equipment control room are hereby referred to as the "Leased Premises".
2. **Use.** Lessor hereby grants Rocket the non-exclusive right to install, operate, maintain and remove communications equipment, appurtenances, enclosures, power systems, cabling, network equipment, and related equipment ("Equipment") on the Leased Premises.
3. **Materials and Labor.** All costs and labor associated with installation, maintenance and operation of the Equipment shall be the responsibility of Rocket and shall be considered to be an integral part of this Lease. Any personal property owned by Rocket, including Equipment, shall remain the exclusive property of Rocket. A description of the Equipment shall be located on a designated space on the Leased Premises, and the Equipment shall be marked and labeled as "owned by" Rocket. Rocket shall maintain Equipment on or attached to the Leased Premises in a safe condition and in good repair so as not to conflict with the use of the surrounding premises by Lessor.
4. **Legal Compliance.** Rocket may use the Leased Premises for the transmission and reception of radio communication signals in such frequencies as may be permitted by or assigned to Rocket by the Federal Communications Commission ("FCC") and for the operation of related equipment in accordance with all federal, state, local laws and regulations.
5. **Electricity Usage.**
 - a. Lessor shall provide two (2) 20-amp circuit, located- at the Leased Premises in the Lessor's equipment control room, of un-metered electrical power to Rocket for the operation of the Equipment. If the requested 20-amp circuits do not currently exist in the Lessor's equipment control room, the Lessor shall have them installed at Rocket's expense.
6. **Interference.**
 - a. Rocket shall operate its Equipment in a manner that will not cause radio frequency interference with any of the Lessor's communications equipment which may be located on the Leased Premises. Prior to execution of this Lease, Lessor shall notify Rocket in writing of the existence and nature of this communications equipment and shall provide sufficient data to Rocket as to the usage and frequencies of operation of said equipment to allow Rocket to eliminate interference as

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provided herein. Rocket shall be responsible for curing such interference caused by Rocket's Equipment. In the event that such interference cannot be eliminated or rectified to Lessor's satisfaction within twenty-four (24) of the receipt of notice by Rocket from Lessor of the existence of radio interference ("**Interference Notice**"), Lessor will require the party causing the radio interference to disconnect utility service to their equipment until such time as the interference can be eliminated or rectified to Lessor's satisfaction. If said interference cannot be eliminated or rectified within sixty (60) days of the Interference Notice to Lessor's satisfaction, Rocket may, at its sole discretion, terminate this Lease as provided herein. Lessor and Lessee agree that Interference Notice is considered adequate when delivered via electronic mail and/or phone call from the Manager of Lessor's Emergency Communications Center or his/her designee.

- b. Rocket's Equipment shall not interfere with any first responder radios and communications equipment, if any, located on or near the Leased Premises, including but not limited to police and fire radios, and 911 communications equipment. Rocket shall eliminate any such interference within twelve (12) hours or less, after receiving notice of the same from Lessor. If Rocket is unable to eliminate such interference within twelve (12) hours after receiving notice, it shall disable its Equipment from broadcasting until it can eliminate said interference to the Lessor's satisfaction. If Rocket determines, in its sole discretion, that it cannot eliminate said interference using reasonable commercial means, it may terminate this Lease with notice to Lessor, according to the termination provisions of this Lease.
 - c. Rocket shall not interfere with the working use of the Antennae. If for any reason Rocket's use of the Leased Premises interferes with these operations, Lessor shall notify Rocket of the interference and Rocket shall use its best efforts to resolve the interference within a reasonable time and as necessary to stop said interference. If Rocket determines, in its sole discretion, that it cannot eliminate said interference using reasonable commercial means, it may terminate this Lease with notice to Lessor, according to the termination provisions of this Lease.
 - d. Lessor agrees to require an interference study of any additional communications equipment proposed to be implemented on Antennae by any other provider of communication services, whether wireless Internet or otherwise. Rocket will verify that such equipment does not interfere with Rocket's operations. Rocket shall not be responsible for any costs or expenses associated with the interference study and shall be reimbursed for any expenses incurred by Rocket as required for the interference study. Said reimbursement shall be remitted to Lessor or Rocket by the owner/operator of the proposed new equipment unless Rocket, Lessor, and any other interested party mutually agree otherwise in writing. Lessor shall not allow the placement of any additional communications equipment on or near the Antennae which is found to interfere with Rocket's operations during the term of this Lease or any renewals thereof unless Lessor, Rocket, and/or the owner/operator of any additional equipment agree otherwise in writing.
7. **Initial Term.** The initial term of this Lease shall be for a period of 10 years commencing on the Effective Date (hereinafter referred to as the "Initial Term").
 8. **Renewal Terms.** At the discretion of Lessor, Rocket shall have the right to extend this Lease for an additional three (3) terms of five (5) years each (hereinafter each referred to as a "**Renewal Term**"). Each Renewal Term shall be on the same terms and conditions as set forth in this Lease. This Lease shall renew for the next Renewal Term upon written notification being delivered to Lessor at least six (6) months prior to the expiration of the Lease term, unless either party notifies the other of its intentions not to renew the Lease at least six (6) months prior to the expiration of the current term.
 9. **Monthly Rent.** Rocket will pay to Lessor as rent for the Leased Premises, without notice or demand, as follows (hereinafter "**Rent**"):
 - a. Rocket shall pay Lessor a sum of \$2400.00 annually. The sum shall be paid annually payment due on the execution date of this Lease Agreement. On the anniversary of the execution of this Lease Agreement for each year of any renewal terms, Rocket's annual payment shall increase by 3% of the amount paid in the previous year.
 - b. On the anniversary of the execution of this Lease Agreement, in each year of the remaining four (4) years of the initial term and each additional year of any renewal terms, Rocket's monthly lease

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payment shall increase by 3% of the amount paid in the month previous to the date of the anniversary.

40. **Access to Leased Premises.** Rocket, at all times during the term of this Lease, shall have access twenty-four (24) hours per day and seven (7) days per week to the Leased Premises, without limitation, to install, operate, maintain, and remove Equipment and other personal property of Rocket. Rocket shall give twelve hours prior notice to Lessor of any Rocket personnel entering the Lessor's equipment control room for any reason unless the entry is for purposes of addressing an emergency situation. Said notice shall give the date and approximate time of intended entry, as well as the name of the Rocket personnel who will be entering the premises. In emergency situations, Rocket shall have the right to immediate ingress and egress, but within twenty-four hours of entry, Rocket shall notify Lessor of the nature of the emergency and the name of the personnel who entered the Leased Premises prior to the entry and upon leaving the Leased Premises.
11. **Utilities.** Lessor shall provide electricity to Rocket for operation of Equipment. The provision of electricity to Rocket shall be included in the Rent and shall be at no extra cost to Rocket.
- a. At Rocket's discretion, and with the prior written approval of Lessor, Rocket may arrange at any time during the Initial Term or Renewal Terms for utilities necessary for the operation of Equipment to be provided to the Leased Premises directly from such providers. Rocket shall be billed directly for the use of such services, and shall promptly pay the same when due. All costs associated with any such utility services Rocket arranges for under this paragraph shall be borne by Rocket.
- ~~b. Lessor shall indemnify and reimburse Rocket for any and all utility costs derived from the Lessor's use, not related to the Equipment or services provided by Rocket, that Rocket otherwise incurs.~~
12. **Structural Changes.** The Equipment shall not be directly, permanently attached or welded to the Antennae. If welded attachments, such as equipment mounts, are approved by Lessor, Rocket shall meet the installation guidelines provided by Lessor or its maintenance company. Rocket shall not be responsible for any harm, damage, negligence or other expense relating to the installation of the Equipment, and the Lessor shall indemnify and hold Rocket harmless for the same, if the installation is shown to meet the installation guidelines and requirements as provided by Lessor or its authorized representative.
13. **Antennae Maintenance.** Rocket recognizes that the primary function of the Antennae is to provide for Lessor's equipment and transmission of its emergency communications ~~and its customers~~. Rocket understands that Lessor may find it necessary from time to time to interrupt Rocket's use of the Leased Premises for maintenance of the Antennae. Lessor shall provide Rocket with at least thirty (30) days prior written notice of non-emergency maintenance, including the expected duration of the maintenance activities (hereinafter "**Maintenance Period**") and Rocket shall, at its sole option and discretion, be either (i) given an opportunity to temporarily move its equipment as appropriate so as to not interfere with the maintenance yet still provide communication services or (ii) assume the risk associated with the maintenance and leave the Equipment in place.
- a. Rocket may terminate this Lease upon notice to Lessor if the Maintenance Period is (or is anticipated to last) longer than thirty (30) days, according to the termination provisions of this Agreement. Rocket acknowledges and agrees that it shall have no rights to relocate its equipment on or in any part of the location that is not under direct control and ownership of the Lessor.
- b. Rocket, at its sole cost and expense, may use a temporary transmission site on the Leased Premises at a location sufficient to meet Rocket's coverage or engineering needs, with thirty (30) days notice to Lessor, so long as the temporary transmission site is under the direct control and ownership of the Lessor.
14. **Conditions Precedent.** Rocket's obligation to perform under this Lease for the initial implementation of Equipment or for future upgrades required to continue operations shall be subject to and conditioned upon:

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- a. Rocket securing appropriate and necessary approvals for Rocket's intended use of the Leased Premises, as well as any future regulations and requirements, from the Federal Communications Commission and any other federal, state, or local regulatory authority having jurisdiction over Rocket's proposed use of the Leased Premises.
 - b. Rocket may conduct radio frequency propagation studies ("RF Studies") on the Leased Premises at any time. RF Studies must yield results that (i) meet Rocket's requirements, in its sole and absolute discretion, and (ii) demonstrate the operation of the Equipment will not disrupt or interfere with any program of the Lessor or local communities in the Anticipated Coverage Area.
 - c. Rocket's inability to successfully satisfy these conditions or the occurrence of any other event which effectively prohibits Rocket's intended use of the Leased Premises shall relieve Rocket from any obligation to perform under this Lease and shall entitle Rocket to restitution of any unearned rental payments which have been paid to Lessor.
15. **Lease Termination.** Except as otherwise provided herein, this Lease may be terminated without any penalty or further liability upon written notice as follows:
- a. By either party upon a default of any covenant or term hereof by the other party which default is not cured within sixty (60) days of receipt of written notice of default; provided, that if the defaulting party commences efforts to cure the default within such period, the non-defaulting party shall no longer be entitled to declare a default.
 - b. By Lessor by giving Rocket six (6) months written notice that the Leased Premises is going to be abandoned or relocated.
 - c. By Rocket by giving Lessor six (6) months written notice the use of the Leased Premises is unacceptable for technical reasons including Property being unacceptable as part of the Rocket's network design or failing RF Studies.

Upon termination as permitted hereunder, neither party shall have any further rights or obligations arising hereunder, except Rocket shall have the duty to remove its Equipment, and the parties shall have those rights and obligations that are to survive the termination of this Lease.

16. **Damage or Destruction.** If the Leased Premise in use by Rocket is destroyed or damaged so as to hinder the effective use of Leased Premise in Rocket's sole discretion and absolute judgment, Rocket may elect to terminate this Lease as of the date of the damage or destruction by so notifying Lessor. In such event, all rights and obligations of Rocket to Lessor shall cease as of the date of the damage or destruction, and Rocket shall be entitled to the reimbursement of any rent prepaid by Rocket.
17. **No Waiver.** In the event that either party fails to enforce any obligation of the other party under this Lease when performance is due, such delay or failure to enforce shall not constitute a waiver of its right to seek full performance at any future time.
18. **Notice.** Notice under this Lease shall be given in writing, U.S. Mail, postage pre-paid and addressed as noted below, and shall be effective three (3) days after the date upon which notice is given:

Lessor: For City of Peoria:
 Manager
 Emergency Communications Center
 City of Peoria
 542 S.W. Adams St.
 Peoria, IL 61602
 E-Mail: dtuttle@peoriagov.org

and

Jason Meeks
Facilities Manager

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City of Peoria
3505 N. Dries Lane
Peoria, IL 61604
E-Mail: jmeeks@peoriagov.org

Rocket: Joshua A. Powell
President
Rocket Communications Corp.
8709 W. Pfeiffer Rd.
Mapleton, IL 61547
E-Mail: joshua.powell@rocketcommtech.com

19. **Indemnification.** Each party agrees to indemnify, defend and hold harmless the other party from any liability arising from any third-party suits or causes of action brought against the indemnified party as it relates to the indemnifying party's negligence . Nothing in this Lease shall be interpreted to convey indemnification for intentional, reckless or illegal acts committed by the indemnified party or its agents, nor for any activity not relating to this Lease.
20. **Force Majeure.** Both parties agree not to hold the other responsible for failure to perform hereunder this Lease due to strikes, civil disturbances, fire, earthquake, Acts of God, or other causes beyond that party's
21. **Removal.** Upon termination of this Lease, Rocket will remove all Equipment and personal property owned by Rocket or its representatives or affiliates at the sole cost and expense of Rocket within fourteen (14) days of the date of termination.
22. **Assignment.** Rocket may not assign the Lease or sublease the Leased Premises without the prior written consent of the Lessor, said consent may not be unreasonably withheld or delayed; however, Rocket may assign the Lease, without consent of Lessor, to its parent, subsidiary or affiliate or any entity that acquires 51% or more of its assets or membership interest. Lessor may assign the Lease subject to the assignee assuming all of Lessor's obligations hereunder this Lease.
23. **Relocation.** Lessor is not allowed to relocate Equipment without Rocket's prior written consent, and if given, such relocation shall be at Lessor's expense.
24. **Miscellaneous Provisions.**
- a. Lessor warrants that it has full right, power, and authority to execute this Lease.
 - b. The provisions of this Lease shall run with the Leased Premises and shall bind and inure to the benefit of the parties hereto and their heirs, legal representatives, successors and assigns.
 - c. This Lease contains the entire agreement and understanding of the parties with respect to any matter mentioned herein and supersedes any prior oral or written agreements.
 - d. This Lease may be amended in writing only, signed by the parties in interest at the time of such amendment.
 - e. No waiver by either party of any provision hereof shall be deemed a waiver of any other provision or of any prior or subsequent breach or any provision hereof.
 - f. If any term or provision of this Lease is held to be invalid or unenforceable, such invalidity or unenforceability shall not be construed to affect any other provision of this Lease and the remaining provision shall be enforceable in accordance with their terms.
 - g. Lessor agrees to cooperate with Rocket in executing any documents necessary to protect Rocket's rights under this Lease or Rocket's use of the Leased Premises and to take any further action which Rocket may reasonably require as to affect the intent of this Lease.
 - h. The substantially prevailing party in any litigation arising hereunder shall be entitled to its

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reasonable attorney's fees and court costs, including appeals, if any.

- i. Each party agrees to furnish to the other, within ten (10) days after request, such truthful estoppel information as the other may reasonably request.
- j. This Lease shall be governed by and construed in accordance with the laws of the State of Illinois. Any claim or dispute between the parties that arises in whole or in part from this Lease shall be decided exclusively by a court of competent jurisdiction located in Peoria County, Illinois.
- k. The parties acknowledge and agree that the state and federal courts located in the State of Illinois are the proper venue for any litigation arising out this Lease Agreement; that Illinois law shall govern any disputes regarding this Agreement; and further, they acknowledge and agree that those same courts shall be considered courts of competent jurisdiction should any dispute arise.

IN WITNESS WHEREOF, Lessor and Rocket have executed this Tower Site Lease Agreement as of the Effective Date.

WITNESSES:

Beth Ball
 City Clerk

Lessor:

[Signature]

By:

Patrick Orick

Its:

City Manager

WITNESSES:

Rocket Communications Corp:

[Signature]

By: Joshua A. Powell

Its: President