

TeleGuam Holdings LLC
624 N. Marine Drive
Tamuning, Guam 96913



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:)	DOCKET NUMBER _____
GPA POLE ATTACHMENTS)	FORMAL COMPLAINT
)	
)	

TeleGuam Holdings LLC hereby files this Formal Complaint pursuant to Rule 12(a) and 13 of the Guam Public Utilities Commission's Rules for Practice and Procedure.

1. Complainant: TeleGuam Holdings LLC dba GTA
624 North Marine Drive
Tamuning, Guam 96913
2. Respondent: Guam Power Authority
P.O. Box 2977
Hagatna, Guam 96932-2977
3. This Complaint is made alleging that the Guam Power Authority is assessing rates or charges for pole attachments without a formal tariff in violation of 12 GCA 12109 and 12015(a).
4. This Complaint further alleges that the Guam Power Authority is charging rates for pole attachments that are unreasonably discriminatory in that some entities are being charged far more than others for pole attachments in violation of 12 GCA 12014 and 12015(a).
5. Pole attachments are wires, cables, antennas or other equipment usually owned by a private company that is attached to a pole owned by GPA.

3. Whenever Licensee shall desire to place equipment on any of said poles, Licensee shall make written application to Licenser for permission to do so, in the number of copies and in the form from time to time prescribed by Licenser. If said application is approved, permission to place the equipment described in said application on the pole or poles therein identified shall be granted by Licenser by signing one copy of said application in the place provided thereon for that purpose and returning said copy to Licensee.

4. Upon receiving said signed copy of said application, but not before, Licensee shall have the right to install, maintain and use its equipment described in said application on the pole or poles identified therein; provided, however, that before commencing any such installation, Licensee shall notify Licenser of the time when it proposes to do said work sufficiently in advance thereof so that Licenser may arrange to have its representative present when such work is performed.

5. Licensee shall not have the right to place, nor shall it place, any additional equipment on any pole used by it thereunder without first making application for and receiving permission to do so, all as prescribed in paragraph numbered three (3) hereof, nor shall Licensee change the position of any equipment on any pole thereunder without Licenser's prior written approval.

6. (a) Licensee shall, at its own sole risk and expense, place and maintain said equipment on said poles (i) in a safe condition and in thorough repair, (ii) in a manner suitable to Licenser and so as not to conflict or interfere with the working use of said poles by Licenser or others using the said poles, or with the working use of facilities of Licenser or others on or from time to time placed on said poles, and (iii) in conformity with such requirements and specifications as Licenser shall from time to time prescribe and all laws and regulations of the Government of Guam.

(b) Licensee shall complete the installation of its equipment on the pole or poles covered by each approved individual application within such time limit as Licenser shall designate on said application for such installation; and in the event Licensee should fail to complete the installation of its equipment on said pole or poles within said prescribed time limit, the permission granted by Licenser to place said equipment on said pole or poles shall thereby automatically be revoked and Licensee shall not have the right to place said equipment on said

pole or poles without first reapplying for the receiving permission to do so, all as prescribed in paragraph numbered two (2) hereof.

7. (a) If in the judgment of Licensor, the accommodations of any of Licensee's equipment necessitates the rearrangement of facilities on an existing pole or the replacement of an existing pole, Licensor will indicate on said application the necessary changes and the estimated cost thereof and return it to Licensee; and if Licensee still desires to use said pole or such replacing pole and returns the application marked to so indicate, Licensor will make such pole replacement if required, and Licensor will make, and will request other licensees, if any, of said existing facility to make such rearrangements or transfers of said existing facilities as may be required, all at the sole risk and expense of Licensee, and Licensee, on demand, will reimburse Licensor and each such other owner for the entire expense to be incurred by each of them. Licensor shall not be responsible to Licensee for any loss sustained by Licensee by reason of the failure of any such other owner to make such rearrangements or transfers.

(b) If in the Licensor's judgment, Licensee's existing equipment on any pole interferes with or prevents the placing of any additional facilities thereon required by Licensor or by any other owner of facilities on said poles, and if said additional facilities could be placed on said pole by removing Licensee's equipment therefrom, or by rearranging the existing facilities (excluding rearrangement of Licensee's equipment alone) thereon, Licensor may notify Licensee of the rearrangements of existing facilities or pole replacement and transfers of existing facilities required in order to continue the accommodation of Licensee's equipment, together with an estimate of the cost of making any such changes, and if Licensee desires to continue to maintain its equipment on said pole or such replacing pole and so notifies Licensor, Licensor will make such pole replacement if required, and Licensor will make, and will request other owners, if any, of said existing facilities to make, such rearrangements or transfers of said existing facilities, all the sole risk and expense of Licensee, and Licensee, on demand, will reimburse Licensor and each other owner for the entire expense thereby incurred by each of them. Licensor shall not be responsible to Licensee for any loss sustained by Licensee by reason of the failure of any such other owner to make such rearrangements or transfers. If Licensee does not so notify Licensor, Licensee shall remove its equipment from such pole within thirty (30) days from such notification from Licensor.

8. If Licensee should require equipment in a location upon any public thoroughfare or other public or private property, and Licensor shall not have poles so located as to fulfill Licensee's requirements, Licensee shall notify Licensor of its need for such pole in order that Licensor may determine whether it wishes to place poles in such location. If Licensor is willing to erect poles in such location adequate to care for the service requirements of the parties hereto, Licensor shall so notify Licensee and thereupon Licensee shall make application under this agreement for permission to place its equipment thereon. Upon receipt of said application, Licensor shall proceed to erect said pole facilities. Licensor shall erect said pole facilities within a period of ninety (90) days after receipt of application therefor, unless Licensee agrees to a longer period, dependent upon availability of materials.

9. In order to keep the number of poles on public thoroughfares and elsewhere to a practicable minimum, Licensee agrees not to erect any pole of its own in or near any location where Licensor is willing to accommodate Licensee's equipment or to provide a pole adequate to accommodate Licensee's equipment. Licensee further agrees not to erect any pole of its own near an existing pole until Licensor has notified Licensee that it is unwilling to accommodate Licensee's equipment; and not to erect any poles of its own where no poles exist until Licensor has notified Licensee that Licensor does not desire to erect poles in such location.

10. Nothing in this agreement shall be construed to obligate Licensor to grant Licensee permission to use any particular pole or poles. If such permission is refused, Licensee is free to make any other arrangement it may wish to provide for its equipment at the location in question; and in the construction and maintenance of pole lines required therefor, Licensee agrees to install or construct said equipment on plans and specifications previously approved by Licensor.

11. (a) In general, in those cases where the anchorage requirements of Licensee and Licensor are coincident, the strains of Licensee's equipment and of Licensor's facilities on said poles shall be held by the same guys and anchors; however, in individual cases when in Licensor's judgment such procedure is desirable, Licensee, at its own sole risk and expense, shall provide, own and maintain separate guys or anchors, or both, to hold the strains of its equipment on said poles.

(b) In those cases where existing guying facilities are inadequate to hold Licensee's strains and separate guying facilities are not desired or if guying facilities being used by Licensee should be inadequate to hold additional strains of Licensor and any other owner or owners of facilities on said poles, or any of them, resulting from the placing of additional facilities on said poles and said guying facilities would have been adequate to hold the additional strains if Licensee's strains were removed therefrom, Licensor shall cause the existing guying facilities at the sole risk and expense of Licensee, and Licensee, on demand, will reimburse Licensor for the entire expense thereby incurred.

12. Licensor reserves to itself and to each other owner of facilities on said poles the right to maintain said poles and to operate their facilities thereon in such a manner as will best enable them to fulfill their own service requirements, and neither licensor nor any said other owner shall be liable to Licensee for any interruption to Licensee's service or for any interference with the operation of Licensee's equipment arising in any manner from the use of said poles and the facilities thereon by Licensor and each said other owner.

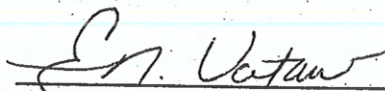
13. Licensee will obtain from public authorities and private owners of real property any and all franchises, permits, licenses or grants necessary for the lawful exercise of the permission granted by any application approved thereunder; and licensee shall submit to Licensor evidence of compliance with the foregoing requirements prior to or at the time of making application for permission to place said equipment on said pole or poles. Should Licensee, by decree, order, judgment or in any other manner without limitation, lose its franchise or right to operate in any given area then, and in that event, this contract may be terminated under the provisions of paragraph twenty-five (25) and paragraph twenty-nine (29) herein.

14. Licensee shall at any time, at its own sole risk and expense, upon notice from Licensor, relocate, replace or renew said equipment or transfer it to replacing poles, or perform any other work in connection with said equipment that may be required by Licensor; provided, however that in cases of emergency, Licensor may, at Licensee's sole risk and expense, relocate, replace or renew said equipment, transfer it to replacing poles or perform any other task in connection with said equipment that may be required in the maintenance, replacement, removal or relocation of said poles or the facilities thereon, or which may be placed thereon, or for the

6. Attached hereto as Exhibits 1, 2, 3, 4 and 5 are copies of pole attachment contracts between GPA and MCV, Guam Cell nka Docomo, IT&E, Data Management Resources and GTA.
7. Attached hereto as Exhibits 6, 7, 8 and 9 are copies of letters from GPA to MCV, IT&E, Guam Cell nka Docomo and Data Management Resources detailing the number of pole attachments each company has on GPA poles.
8. Attached hereto as Exhibits 10, 11, 12 and 13 are copies of bills from GPA to MCV, ITE, Guam Cell nka Docomo and Data Management Resources for pole attachment charges and electricity charges.
9. The attachments, taken together, show that GPA is charging different rates for pole attachments to different customers and is therefore unreasonably discriminating between customers.

WHEREFORE, GTA requests that the Guam PUC open a docket on this matter and establish a uniform and non-discriminatory tariff for the placement of pole attachments upon GPA power poles.

TELEGUAM HOLDINGS, LLC



ERIC N. VOTAW
Vice President - Regulatory

Exhibit 1

RENTAL AGREEMENT

The GUAM POWER AUTHORITY, a public corporation, and autonomous instrumentality of the Government of Guam, hereinafter called Licensor, and ISLAND WIRELESS CABLE, a Guam corporation, hereinafter called Licensee, mutually agree that the following terms and conditions shall govern Licensee's use of such of Licensor's electric utility poles located in the Territory of Guam, as Licensor may, upon application, permit Licensee to use in the conduct of Licensee's business of furnishing a coaxial cable casting system:

WITNESSETH:

1. Licensee's use of said poles shall be confined to supporting those cables and appurtenances, together with associated messenger cables, guy wires, anchors and other appurtenances, all hereinafter called "equipment", which Licensor has given Licensee written permission to install: and said equipment shall be used only for the purpose of operating and erecting a coaxial cable system or other electrical conductor and equipment used to transmit television and audio signals to the homes and business locations of Licensee's subscribers.

2. Whenever any pole about to be used under the provisions of this contract is insufficient in size or strength to accommodate thereon and for the proposed immediate additional attachments, or where additional poles are required to accommodate immediate additional attachments of the Licensee, the Licensor shall add or replace said pole with a new pole of such size and strength and make such other changes in the Licensor's existing pole line as the new conditions may require.

The cost of adding or replacing said poles shall be paid for by the Licensee as follows:

Replacements

- (1) The cost of removal of the existing pole, plus
- (2) The cost of transferring existing electrical attachments, plus
- (3) Any difference in cost of the new pole in place and the cost of a 40' Class 5 pole, if a pole taller or stronger than a 40' Class 5 is required to accommodate the proposed immediate Licensee's attachments.

service needs of Licensor or any other owner of facilities thereon, and Licensee, on demand, will reimburse Licensor for the entire expense thereby incurred.

15. Licensee may at any time remove its equipment from any of said poles and, in each such case, Licensee shall immediately give Licensor written notice of such removal in the number of copies and in the form from time to time prescribed by Licensor. Removal of said equipment from any pole shall constitute a termination of Licensee's right to use such pole. The Licensee shall not be entitled to any refund due to the voluntary removal of its equipment from any pole or poles.

16. For the privilege of placing and maintaining said equipment on said poles, Licensee shall pay to Licensor the sum of Six dollars (\$6.00) per pole per year for each pole to which Licensee attachments are made; provided, however, during the first year of this agreement a minimum charge will be collected of Three Thousand dollars (\$3,000.00) payable in advance, if less than Five Hundred (500) attachments are made during the first year. Additional payment shall be made at the prescribed rate per pole per year each month during the first year as new attachment are added.

Should this payment rate set forth in paragraph sixteen (16) be modified, the following formula shall be used:

- | | |
|--------------|--|
| Pole Life | - 20 years |
| CRF | - Capital Recovery Factor determined from Standard Tables for 20 year life. |
| Per Cent | - Interest Rate paid on Licensor's most recently sold revenue bond issue. |
| Cost of Pole | - The total cost of pole, including setting and travel time, fringe benefits, overhead, engineering and equipment charges. |
| I. Cost | - IWC share of maintenance cost per pole |

Formula:

$$\text{MONTHLY PAYMENT PER ATTACHMENT} = \frac{[\text{Cost (CRF at \%)} + \text{I. Cost}]}{6} / 12$$

The use of six (6) as a divisor assumes share of pole chargeable to IWC to be one-sixth (1/6).

EXAMPLE: For June 1973 to May 1976

$$\text{MONTHLY PAYMENT PER ATTACHMENT} = \frac{[\$211.07 (.0879) + 0.33]}{6} / 12$$

MONTHLY PAYMENT = $\$3.42 / 12 = \0.285 Per Pole

17. On the 1st of each month, each party, acting in cooperation with the other, shall ascertain and tabulate the total number of the Licensor's poles to which the Licensee is attached and the Licensee shall make payment within thirty (30) days after the bill has been rendered. No rental shall be paid by the licensee for the use of any pole of the Licensor where use consists only in attaching guys hereto, or in attaching thereto wires and cables of the Licensee for the purpose of providing clearance between such wires or cables and the Licensor's wire and cables and from the ground, but not for the purpose of supporting said wires and cables.

Licensee further agrees to pay interest of one percent (1%) per month on all bills not paid when due from the due date until paid.

18. No use, however extended, of any said poles under this Agreement shall create or vest in Licensee any ownership or property rights therein, but Licensee's rights therein shall be and remain a mere License, which as to any particular pole or poles which are no longer required for Licensor's services, or the use of such poles will interfere with Licensor's services, may be terminated at any time by Licensor upon thirty (30) days. Nothing herein contained shall be construed to compel Licensee to maintain any particular pole or poles for a period longer than demanded by its own service requirements.

19. Licensee shall exercise special precautions to avoid Licensee's causing damage to the facilities of Licensor and others supported on said poles; and Licensee shall assure all responsibility for any and all loss from such damage. Licensee shall make an immediate report of the occurrence of any such damage to the owner of the damaged facilities and shall, on demand, reimburse said owner for the entire expense incurred in making repairs.

20. Licensor shall have the right to inspect each new installation of Licensee's equipment on and in the vicinity of said poles and to make periodic inspections, semi-annually oftener as plant conditions may warrant, of such Licensee's plant as it deems necessary. Such inspection, made or not, shall not relieve Licensee of any responsibility, obligation or liability assumed under this Agreement.

21. In furtherance of the purposes of laws, rules and regulations relating to the security of communications, espionage, sabotage and subversive activities, Licensee shall:

(a) File with the Licensor a list of the names of all of Licensee's employees, agents and contractors who will have occasion to perform work on or about said poles, and shall file supplemental lists thereof whosoever changes in such personnel are made.

(b) Provide suitable identification to each such employee, agent and contractor.

(c) Cause each such employee, agent and contractor to observe faithfully and to comply strictly with all general security rules which Licensor reasonably may find necessary or advisable in the premises.

(d) Not assign any work on or about said poles to any such employee, agent or contractor who in the judgment of competent authority is a bad security risk.

22. Licensee covenants and agrees not to provide service to any subscriber without obtaining a signed contract from said subscriber containing a provision substantially as follows:

"Subscriber understands that in providing television antenna service (Licensee) is making use of poles owned by the Guam Power Authority, and that the continued use of these poles is in no way guaranteed. In the event the continued use of such poles is denied to (Licensee) for any reason, (Licensee) will make every reasonable effort to provide service over alternate routes. Subscriber agrees he will make no claim nor undertake action against the Guam Power Authority, its successors and assigns, if the service to be provided by (Licensee) thereunder is interrupted or discontinued."

The form of Licensee's contract with its subscribers shall be subject to approval by Licensor with respect to the inclusion of this provision.

23. Licensee shall indemnify and hold harmless and defend Licensor and other owners of an interest in or of facilities on said poles, and each of them, and their respective heirs, administrators, executors, successors and assigns, against and from any and all claims, demands, causes of action, damages, costs or liabilities, in law or in equity, of every kind and nature whatsoever, directly or proximately resulting from or caused by (a) the installation, maintenance, use or removal of said equipment on or from said poles, or (b) any interruption, discontinuance, or interference with Licensee's service to any of its subscribers occasioned or claimed to have been occasioned by any action of Licensor or each other such owner, or any two or more of them,

pursuant to or consistent with this Agreement; and Licensee shall, upon demand and at its own sole risk and expense, defend any and all suits, actions or other legal proceedings which may be brought or instituted by third persons against Licensor, or any other such owner, or any two or more of them, or their respective heirs, administrators, executors, successors or assigns, on any such claim, demand or cause of action; and shall pay and satisfy any judgment or decree which may be rendered against Licensor, or any other such owner, or any two or more of them, or their respective heirs, administrators, executors, successors, or assigns, in any such suit, action or other legal proceeding; and further, Licensee shall reimburse Licensor and each other such owner for any and all legal expense incurred by each of them in connection therewith.

24. Throughout the life of this Agreement, Licensee shall maintain in full force and effect with a carrier or carriers selected by Licensee and satisfactory to Licensor:

- (a) Compensation Insurance in compliance with all Workmen's Compensation Insurance and Safety Laws of the Island of Guam and amendments thereto;
- (b) Bodily Injury Liability Insurance with limits of \$500,000 each person, and \$1,000,000 each occurrence;
- (c) Property Damage Liability Insurance with limits of \$100,000 each accident; and
- (d) Performance Bond in the amount of \$50,000 to insure the Licensee's contractual obligations will be carried out (see paragraph 25) over the entire life of the Contract.

The insurance described in (b) and (c) above shall name Licensor as a coinsured and shall also provide contractual liability coverage satisfactory to Licensor with respect to liability assumed by Licensee under the provisions of paragraph twenty-three (23) hereof, and the payment of any sums which may become due to Licensor for rental, inspections or for work performed for the benefit of Licensee under this Agreement, including the removal of attachments upon termination of this Agreement, by any of its provisions. Written proof of compliance with the requirements of this paragraph, numbered twenty-four (24), shall be filed with and approved by Licensor's attorney prior to the installation of any said equipment upon said poles and prior to the expiration of each policy year thereafter.

25. If Licensee should default in its obligations under this Agreement, or if Licensee should default in any other of its obligations under this Agreement and such default shall continue for thirty (30) days after written notice thereof, Licensor may, by a written notice to

Licensee, forthwith terminate this Agreement or forthwith terminate any or all permits granted by it hereunder, and Licensee shall remove its equipment from the poles to which said termination applies within thirty (30) days from such notification.

In the event of dissolution of Licensee's company for any cause requiring the removal of the cable and appurtenances, the Licensee's Performance Bond shall provide funds for the removal of the Licensee's equipment.

26. If Licensee should default in the removal of its equipment from any pole within the time allowed for such removal or should default in the performance of any other work which it is obligated to do under this Agreement, Licensor may elect to do such work at Licensee's sole risk and expense, and Licensee, on demand, will reimburse Licensor for the entire expense thereby incurred.

27. If Licensor or any other owner or owners of any interest in or of facilities on said poles should bring any suit, action or other legal proceeding against Licensee, it or they shall be entitled to recover, in addition to any judgment or decree for costs, such reasonable attorney fees as it or they may have incurred in such suit, action or other legal proceeding.

28. The failure of Licensor to enforce any provision of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision by the same shall nevertheless be and remain if full force and effect.

29. All amounts payable by Licensee to Licensor or others under the provisions of this Agreement shall, unless otherwise specified, be payable within thirty (30) days after presentation of bills therefor. Nonpayment of any such amount when due shall constitute a default of this Agreement.

30. Nothing herein contained shall be construed as affecting any rights or privileges previously conferred by Licensor, by contract or otherwise, upon others to use any poles covered by this Agreement. The privilege herein granted to Licensee shall at all times be subject to any such existing contracts and arrangements, and to any pole rental contract that may be negotiated with Public Utility Agency of Guam or its successor or the United States Navy.

31. This Contract is for a period of fifteen (15) years from date hereof, except that the payment rate applicable hereunder and specified in paragraph sixteen (16) hereof, shall be subject to joint review and adjustment after three (3) years from date hereof, and after the sixth, ninth

and twelfth years hereof. Should this Contract not be renewed after its expiration, the provisions of the parties with respect to all attachments maintained thereafter.

Any termination of this Agreement in whole or part shall not release Licensee from any liability or obligation hereunder, whether of indemnity or otherwise, which may have accrued or which may be accruing or which arises out of any claim that may have accrued or may be accruing at the time of termination.

32. Licensee shall not assign, transfer or sublet any privilege granted to it hereunder without the prior consent in writing of Licensor, but otherwise this Agreement shall inure to the benefit of and be binding upon the respective heirs, administrators, executors, successors, and assigns of the parties hereto. An assignment, transfer or subletting in violation of this section shall be void.

33. Whenever in this Agreement notice is provided or required to be given by either party hereto to the other, such notice shall be in writing and transmitted by United States Mail or be personal delivery to Licensor at Post Office Box 2977, Agana, Guam, 96910, or to Licensee at its office located at P.O. Box 24728, GMF, 609621, as the case may be, or to such other address as either party hereto may, from time to time, designate for that purpose in writing.

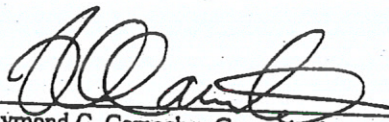
34. It is understood and agreed that this Agreement extends to the Licensee no exclusive rights or privileges in any form whatsoever.

Dated: 8/19/94

ATTEST:

GUAM POWER AUTHORITY

By


Raymond C. Camacho, General Manager

ATTEST

ISLAND WIRELESS CABLE

By

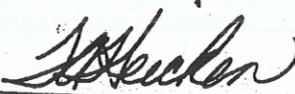

Tom Heicken, Chief Financial Officer

Exhibit 2

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RENTAL AGREEMENT

The GUAM POWER AUTHORITY, a public corporation and autonomous instrumentality of the Government of Guam, hereinafter called Licensor, and GuamCell Communications, a Guam corporation, hereinafter called Licensee, mutually agree that the following terms and conditions shall govern Licensee's use of such of Licensor's electric utility poles located in the Territory of Guam, as Licensor may, upon application, permit Licensee to use in the conduct of Licensee's business of furnishing a CDMA Cellular Phone System.

WITNESSETH:

1. Licensee's use of said poles shall be confined to supporting those cables, antenna, electronic equipment, and appurtenances, together with associated messenger cables, guy wires, anchors and other appurtenances, all hereinafter called "equipment", which Licensor has given Licensee written permission to install and said equipment shall be used only for the purpose of operating and erecting a CDMA system or other electrical conductor and equipment used to transmit radio, television, data and audio signals to the Licensee's subscribers.
2. Whenever any pole about to be used under the provisions of this contract is insufficient in size or strength to accommodate additional attachments, or where additional poles are required to accommodate additional attachments of the Licensee, the Licensee shall provide design drawings for Licensor's approval. If approval is granted, Licensee shall then make application accompanied by approved design drawings and the Licensor shall make changes in the Licensor's existing pole line as the new conditions may require. Licensee shall pay for all costs associated with this work. Upon prior review and approval by the Licensor, the Licensee shall add or replace said pole with a new pole of such size and strength and make such other changes in the Licensor's existing pole line as the new conditions may require.

The full cost of adding or replacing said poles shall be paid for by the Licensee as follows:

- (1) The cost or removal of the existing pole, plus
- (2) The cost of transferring existing electrical attachments, plus
- (3) The cost of the new pole, plus
- (4) All labor and installation costs

3. Whenever Licensee shall desire to place equipment on any of said poles, Licensee shall make written application to Licensor for permission to do so, in the number of copies and in the form from time to time prescribed by Licensor. If said application is approved, permission to place the equipment described in said application on the pole or poles therein identified shall be granted by Licensor by signing one copy of said application in the place provided thereon for that purpose and returning said copy to Licensee.
4. Upon receiving said signed copy of said application, but not before, Licensee shall have the right to install, maintain and use its equipment described in said application on the pole or poles identified therein; provided, however, that before commencing any such installation, Licensee shall notify Licensor of the time when it proposes to do said work sufficiently in advance thereof so that Licensor may arrange to have its representative present when such work is performed.
5. Licensee shall not have the right to place, nor shall it place, any additional equipment on any pole used by it thereunder without first making application for and receiving permission to do so, all as prescribed in paragraph numbered three (3) hereof, nor shall Licensee change the position of any equipment on any pole thereunder without Licensor's prior written approval.
6. (a) Licensee shall, at its own sole risk and expense, place and maintain said equipment on said poles ((i) in a safe condition and in thorough repair, (ii) in a manner suitable to Licensor and so as not to conflict or interfere with the working use of said poles by Licensor or others using the said poles, or with the working use of facilities of Licensor or others on said poles, and (iii) in conformity with such requirements and specifications as Licensor shall from time to time prescribe and all laws and regulations of the Government of Guam.

(b) Licensee shall complete the installation of its equipment on the pole or poles covered by each approved individual application within such time limit as Licensor shall designate on said application for such installation; and in the event

Licensee should fail to complete the installation of its equipment on said pole or poles within said prescribed time limit, the permission granted by Licensor to place said equipment on said pole or poles shall thereby automatically be revoked and Licensee shall not have the right to place said equipment on said pole or poles without first reapplying for and receiving permission to do so, all as prescribed in paragraph numbered three (3) hereof

7. (a) If in the judgement of Licensor, the accommodations of any of Licensee's equipment necessitates the rearrangement of facilities on an existing pole or the replacement of an existing pole, Licensor will indicate on said application the necessary changes and the estimated cost thereof and return it to Licensee; and if Licensee still desires to use said pole or such replacing pole and returns the application marked to so indicate, Licensor will make such pole replacement if required, and Licensor will make, and will request other Licensees, if any, of said existing facility to make such rearrangements or transfers of said existing facilities as may be required, all at the sole risk and expense of Licensee, and Licensee, on demand, will reimburse Licensor and each such other owner for the entire expenses to be incurred by each of them. Licensor shall not be responsible to Licensee for any loss sustained by Licensee by reason of the failure of any such other owner to make such rearrangements or transfers.

(b) If in the Licensor's judgement, Licensee's existing equipment on any pole interferes with or prevents the placing of any additional facilities thereon required by Licensor or by any other owner of facilities on said poles, and if said additional facilities could be placed on said pole by removing Licensee's equipment therefrom, or by rearranging the existing facilities (excluding rearrangement of Licensee's equipment alone) thereon, Licensor may notify Licensee of the rearrangements of existing facilities or pole replacement and transfers of existing facilities required in order to continue the accommodation of Licensee's equipment, together with an estimate of the cost of making any such changes, and if Licensee desires to continue to maintain its equipment on said pole or such replacing pole and so notifies Licensor, Licensor will make such pole replacement if required, and

Licenser will make, and will request other owners, if any, of said existing facilities to make such rearrangements or transfers of said existing facilities, all the sole risk and expense of Licensee, and Licensee, on demand, will reimburse Licenser and each other owner for the entire expense thereby incurred by each of them. Licenser shall not be responsible to Licensee for any loss sustained by Licensee by reason of the failure of any such other owner to make such rearrangements or transfers. If Licensee does not so notify Licenser, Licensee shall remove its equipment from such pole within thirty (30) days from such notification from Licenser.

8. If Licensee should require equipment in a location upon any public thoroughfare or other public or private property, and Licenser shall not have poles so located as to fulfill Licensee's requirements, Licensee shall notify Licenser of its need for such poles. Licenser may determine whether it wishes to place poles in such location. If Licenser is willing to erect poles in such location adequate to care for the service requirements of the parties hereto, Licenser shall so notify Licensee and thereupon Licensee shall make application under this agreement for permission to place its equipment thereon. Upon receipt of said application, Licenser shall proceed to erect said pole facilities at Licensee's cost.

9. In order to keep the number of poles on public thoroughfares and elsewhere to a practicable minimum, Licensee agrees not to erect any pole of its own in or near any location where Licenser is willing to accommodate Licensee's equipment or to provide a pole adequate to accommodate Licensee's equipment. Licensee further agrees not to erect any pole of its own near an existing pole until Licenser has notified Licensee that it is unwilling to accommodate Licensee's equipment; and not to erect any poles of its own where no poles exist until Licenser has notified Licensee that Licenser does not desire to erect poles in such location.

10. Nothing in this agreement shall be construed to obligate Licenser to grant Licensee permission to use any particular pole or poles. If such permission is refused, Licensee is free to make any other arrangement it may wish to provide for its

equipment at the location in question; and in the construction and maintenance of pole lines required, Licensee agrees to install or construct said equipment on plans and specifications previously approved by Licensor.

11. (a) In general, in those cases where the anchorage requirements of Licensee and Licensor are coincident, the strains of Licensee's equipment and of Licensor's facilities on said poles shall be held by the same guys and anchors; however, in individual cases when in Licensor's judgment such procedure is desirable, Licensee, at its own sole risk and expense, shall provide, own and maintain separate guys or anchors, or both, to hold the strains of its equipment on said poles.

(b) In those cases where existing guying facilities are inadequate to hold Licensee's strains and separate guying facilities are not desired or if guying facilities being used by Licensee should be inadequate to hold additional strains of Licensor and any other owner or owners of facilities on said poles, or any of them, resulting from the placing of additional facilities on said poles and said guying facilities would have been adequate to hold the additional strains if Licensee's strains were removed therefrom, any use of the existing guying facilities shall be at the sole risk and expense of the Licensee, and Licensee, on demand, will reimburse Licensor for any expense or cost incurred in relation thereto.

12. Licensor reserves to itself and to each other owner of facilities on said poles the right to maintain said poles and to operate their facilities thereon in such a manner as will best enable them to fulfill their own service requirements, and neither Licensor nor any said other owner shall be liable to Licensee for any interruption to Licensee's service or for any interference with the operation of Licensee's equipment arising in any manner from the use of said poles and the facilities thereon by Licensor and each said other owner.

13. Licensee will obtain from public authorities and private owners of real property any and all franchises, permits, licenses or grants necessary for the lawful exercise of the permission granted by any application approved thereunder, and Licensee shall submit to Licensor evidence of compliance with the foregoing requirements prior to or at the time of making application for permission to place said equipment on said pole or poles. Should Licensee, by decree,

order, judgement or in any other manner without limitation, lose its franchise or right to operate in any given area then, and in the event, this contract may be terminated under the provisions of paragraph twenty-four (24) herein.

14. Licensee shall at any time, at its own sole risk and expense, upon notice from Licensor, relocate, replace or renew said equipment or transfer it to replacing poles, or perform any other work in connection with said equipment that may be required by Licensor within the time frame given by the Licensor; provided, however that in cases of emergency, Licensor may, at Licensee's sole risk and expense, relocate, replace or renew said equipment, transfer it to replacing poles or perform any other task in connection with said equipment that may be required in the maintenance, replacement, removal or relocation of said poles or the facilities thereon, or which may be placed thereon, or for the service needs of Licensor or any other owner of facilities thereon, and Licensee, on demand, will reimburse Licensor for the entire expense thereby incurred.

15. Licensee may at any time remove its equipment from any of said poles and, in each such case, Licensee shall immediately give Licensor written notice of such removal in the number of copies and in the form from time to time prescribed by Licensor. Removal of said equipment from any pole should constitute a termination of Licensee's right to use such pole. The Licensee shall not be entitled to any refund due to the voluntary removal of its equipment from any pole or poles.

16. For the privilege of placing and maintaining said equipment on said poles, Licensee shall pay to Licensor the sum as agreed and set forth on Exhibit A for each pole to which Licensee attachments are made.

"However, Licensor and Licensee specifically acknowledge that the Guam Power Authority intends to adopt a uniform policy with regard to the use of GPA poles and uniform charges for such use. Additionally, Licensee acknowledges that GPA will evaluate every six months from the execution of this agreement the flat rate charge for power consumption of the power supply units installed by Licensee. Licensee agrees that, at such time as the Guam Power Authority adopts its pole fee policy or adjusts the flat rate for consumption of Licensee's power supply units, Licensee will pay the amount for each pole in addition to the flat rate charge for power consumption as set by GPA. In the event that Licensee does not agree to the amounts or terms adopted in the GPA Policy or in the adjustment of the flat rate charge, this Pole Attachment Agreement shall automatically terminate."

17. On the 1st of each month, each party, acting in cooperation with the other, shall ascertain and tabulate the total number of the Licenser's poles to which the Licensee is attached and the Licensee shall make payment within thirty (30) days after the bill has been rendered. No rental shall be paid by the Licensee for the use of any pole of the Licenser where use consists only in attaching guys thereto.

Licensee further agrees to pay interest of one percent (1%) per month on all bills not paid when due from the due date until paid.

18. No use, however extended, of any said poles under this Agreement shall create or vest in Licensee any ownership or property rights therein, but Licensee's rights therein shall be and remain a mere License, which as to any particular pole or poles which are no longer required for Licenser's services, or the use of such poles will interfere with Licenser's services, may be terminated at any time by Licenser upon thirty (30) days notice. Nothing herein contained shall be construed to compel Licensee to maintain any particular pole or poles for a period longer than demanded by its own service requirements.

19. Licensee shall exercise special precautions to avoid Licensee's causing damage to the facilities of Licenser and others supported on said poles; and Licensee shall assume all responsibility for any and all loss from such damage. Licensee shall make an immediate report of the occurrence of any such damage to the owner of the damaged facilities and shall, on demand, reimburse said owner for the entire expense incurred in making repairs.

20. Licenser shall have the right to inspect each new installation of Licensee's equipment on and in the vicinity of said poles and to make periodic inspections, semi-annually or more often as plant conditions may warrant, or such Licensee's plant as it deems necessary. Such inspection, made or not, shall not relieve Licensee of any responsibility, obligation or liability assumed under this Agreement.

21. In furtherance of the purposes of laws, rules and regulations relating to the security of communications, espionage, sabotage and subversive activities, Licensee shall:

- (a) File with the Licenser a list of the names of all of Licensee's employees, agents and contractors who will have occasion to perform work on or about said poles, and shall file supplemental lists thereof whenever changes in such personnel are made.

- (b) Provide suitable identification to each such employee, agent and contractor.
- (c) Cause each such employee, agent and contractor to observe faithfully and to comply strictly with all general security rules which Licensor reasonably may find necessary or advisable in the premises.
- (d) Not assign any work on or about said poles to any such employee, agent or contractor who in the judgement of competent authority is a bad security risk.

22. Licensee shall indemnify and hold harmless and defend Licensor and other owners with an interest in or of facilities on said poles, and each of them, and their respective heirs, administrators, executors, successors and assigns, against and from any and all claims, demands, causes of action, damages, costs or liabilities, in law or in equity, of every kind and nature whatsoever, directly or approximately resulting from or caused by (a) the installation, maintenance, use or removal of said equipment on or from said poles, or (b) any interruption, discontinuance, or interference with Licensee's service to any of its subscribers occasioned or claimed to have been occasioned by any action of Licensor or each other such owner, or any two or more of them, pursuant to or consistent with this Agreement, and Licensee shall, upon demand and at its own sole risk and expense, defend any and all suits, actions or other legal proceedings which may be brought or instituted by third persons against Licensor, or any other such owner, or any two or more of them, or their respective heirs, administrators, executors, successors or assigns, on any such claim, demand or cause or action; and shall pay and satisfy any judgement or decree which maybe rendered against Licensor, or any other such owner, or any two or more of them, or their respective heirs, administrators executors successors, or assigns, in any such suit, action or other legal proceeding; and further Licensee shall reimburse Licensor and each other such owner for any and all legal expenses incurred by each of them in connection therewith.

23. Throughout the life of this Agreement, Licensee shall maintain in full force and effect with a carrier or carriers selected by Licensee and satisfactory to Licensor:

- (a) Compensation Insurance in compliance with all Workmen's Compensation Insurance and Safety Laws of the Island of Guam and amendments thereto;

- (b) Bodily Injury Liability Insurance with limits of \$500,000 each person, and \$1,000 each occurrence;
- (c) Property Damage Liability Insurance with limits of \$100,000 each accident; and
- (d) Performance Bond in the amount of \$50,000 to insure the Licensee's contractual obligations will be carried out (see paragraph 25) over the entire life of the contract.

The insurance described in (b) and (c) above shall name Licensor as a co-insured and shall also provide contractual liability coverage satisfactory to Licensor with respect to liability assured by Licensee under the provisions of paragraph twenty-two (22) hereof, and the payment of any sums which may become due to Licensor for rental, inspections or for work performed for the benefit of Licensee under this Agreement, including the removal of attachments upon termination of this Agreement, by any of its provisions. Written proof of compliance with the requirements of this paragraph, numbered twenty-three (23), shall be filed with and approved by Licensor's attorney prior to the installation of any said equipment upon said poles and prior to the expiration of each policy year thereafter.

24. If Licensee should be default in its obligations under this Agreement, or if Licensee should default in any other of its obligations under this Agreement and such default shall continue for thirty (30) days after written notice thereof, Licensor may, by a written notice to Licensee, forthwith terminate this Agreement or forthwith terminate any or all permits granted by it hereunder, and Licensee shall remove its equipment from the poles to which said termination applies within thirty (30) days from such notification.

In the event of dissolution of Licensee's company for any cause requiring the removal of the cable and appurtenances, the Licensee's Performance Bond shall provide funds for the removal of the Licensee's equipment.

25. If Licensee should default in the removal of its equipment from any pole within the time allowed for such removal or should default in the performance of any other work which it is obligated to do under this Agreement, Licensor may elect to do such work at Licensee's sole risk and expense, and Licensee, on demand, will reimburse Licensor for the entire expense thereby incurred.

26. If Licensor or any other owner or owners of any interest in or of facilities on said poles should bring any suit, action or other legal proceeding against Licensee, it or they shall be entitled to recover, in addition to any judgment or decree for costs, such reasonable attorney fees as it or they may have incurred in such suit, action or other legal proceeding.
27. The failure of Licensor to enforce any provision of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision by this Agreement. This Agreement shall nevertheless be and remain in full force and effect.
28. All amounts payable by Licensee to Licensor or others under the provisions of this Agreement shall, unless otherwise specified, be payable within thirty (30) days after presentation of bills thereof. Nonpayment of any such amount when due shall constitute a default of this Agreement.
29. Nothing herein contained shall be construed as affecting any rights or privileges previously conferred by Licensor, by contract or otherwise, upon others to use any poles covered by this Agreement. The privilege herein granted to Licensee shall at all times be subject to any such existing contracts and arrangements, and to any pole rental contract that may be negotiated with the Guam Power Authority or its successor.
30. This Contract is for a period of five (5) years from date hereof, subject to the provisions of paragraph sixteen (16) herein. The contract may be extended for two additional five (5) year terms upon the mutual agreement of the parties. The rates established by GPA in accordance with paragraph sixteen (16) shall increase by a minimum of ten (10%) percent for each subsequent five (5) year term after the initial term.

However, the payment rate applicable hereunder shall be subject to joint review and adjustment upon the completion of each five (5) year term. Should this contract not be renewed after its expiration, it shall be the responsibility of the Licensee to remove all attachments immediately.

Any termination of this Agreement in whole or part shall not release Licensee from any liability or obligation hereunder, whether of indemnity or otherwise, which may have accrued or which may be accruing or which arises out of any claim that may have accrued or maybe accruing at the time of termination.

31. In the event that the Government of Guam, through Legislation, Administrative Rule or Regulation, Executive Order, or any other means, seeks to impose a tax, use tax, payment in lieu of taxes, assessment, charge, or payment of any sum upon the Guam Power Authority for use of power poles and/or any other government facilities or infrastructure, the parties shall immediately commence negotiations concerning an appropriate additional payment to be made by GuamCell Communications for use of GPA power poles. In the event that the Licensor and Licensee do not agree in writing as to the appropriate additional charge, if any, for each pole to be paid by Licensee, within sixty (60) days after such tax, charge, payment, assessment or amount is imposed upon GPA, this License Agreement shall be automatically terminated and the parties shall proceed in accordance with the termination procedure set forth in the Agreement.

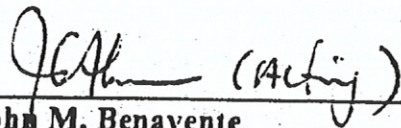
32. Licensee shall not assign, transfer or sublet any privilege granted to it hereunder without the prior consent in writing of Licensor, but otherwise this Agreement shall inure to the benefit of and be binding upon the respective heirs, administrators, executors, successors, and assigns of the parties hereto. An assignment, transfer or subletting in violation of this section shall be void.

33. Whenever in this Agreement notice is provided or required to be given by either party hereto to the other, such notice shall be in writing and transmitted by United States Mail or by personal delivery to Licensor at Post Office Box 2977, Hagatna, Guam 96932, or to Licensee at its office located at 219 S. Marine Dr. Ste. 206, Tamuning, Guam 96913, as the case may be, or to such other address as either party hereto may, from time to time, designate for that purpose in writing.

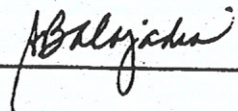
34. It is understood and agreed that this Agreement extends to the Licensee no exclusive rights or privileges in any form whatsoever.

IN WITNESS THEREOF, both parties signed and dated below have entered into this Agreement.

GUAM POWER AUTHORITY

 (Acting)

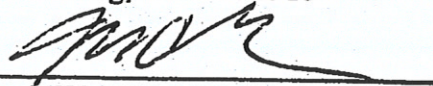
For John M. Benavente
General Manager
Dated: 4/12/04



Witnessed
Dated: 4/12/04

GuamCell Communications

219 S. Marine Dr. Ste. 206
Tamuning, Guam 96913



Mark W. Chamberlin, President
Dated: 3-4-04

GPA AND GUAMCELL RENTAL AGREEMENT

ATTACHMENT A

For the privilege of placing and maintaining CDMA antenna equipment on said poles, a lump sum payment of four thousand eight hundred dollars (\$4,800.00) payable in advance, will be made to GPA for the first year of this agreement. Guamcell proposes to install a minimum of eight sites for the first year. Additional payment shall be made at the prescribed rate per pole, per year each month during the first year as new attachments are added.

Guamcell agrees to a flat rate charge of forty-five dollars (\$45) per month and ten dollars (\$10) per month, per pole attachments. The flat rate charge is based on the equipment's power consumption for the month. Attached is the technical data on consumption of the antenna's power supply. Furthermore, Guamcell agrees that GPA will re-evaluate flat rate charges every six months and adjusted if necessary.

Exhibit 3

RENTAL AGREEMENT

The GUAM POWER AUTHORITY, a public corporation and autonomous instrumentality of the Government of Guam, hereinafter called Licensor, and IT&E OVERSEAS, INC., a Guam corporation, hereinafter called Licensee, mutually agree that the following terms and conditions shall govern Licensee's use of such of Licensor's electric utility poles located in the Territory of Guam, as Licensor may, upon application, permit Licensee to use in the conduct of Licensee's business of furnishing a Broadband Commercial Mobile Radio Service ("CMRS"):

WITNESSETH:

1. Licensee's use of said poles shall be confined to supporting those cables, antenna, electronic equipment, and appurtenances, together with associated messenger cables, guy wires, anchors and other appurtenances, all hereinafter call "equipment", which Licensor has given Licensee written permission to install and said equipment shall be used only for the purpose of operating and erecting a CMRS system or other electrical conductor and equipment used to transmit radio, television, data and audio signals to the Licensee's subscribers.
2. Whenever any pole about to be used under the provisions of this contract is insufficient in size or strength to accommodate thereon and for the proposed immediate additional attachments, or where additional poles are required to accommodate immediate additional attachments of the Licensee, the Licensee shall add or replace said pole with a new pole of such size and strength and make such other changes in the Licensor's existing pole line as the new conditions may require. However, any right of Licensee to add or replace poles, or to make other changes, shall be subject to the prior

review and approval by Licensor, in accordance with all other provisions of this agreement.

The cost of adding or replacing said poles shall be paid for by the Licensee as follows:

Replacements

- (1) The cost or removal of the existing pole, plus
- (2) The cost of transferring existing electrical attachments, plus
- (3) Any difference in cost of the new pole in place and the cost of a 40' Class 5 pole, if a pole taller or stronger than a 40' Class 5 is required to accommodate the proposed immediate Licensee's attachments.

3. Whenever Licensee shall desire to place equipment on any of said poles, Licensee shall make written application to Licensor for permission to do so, in the number of copies and in the form from time to time prescribed by Licensor. If said application is approved, permission to place the equipment described in said application on the pole or poles therein identified shall be granted by Licensor by signing one copy of said application in the place provided thereon for that purpose and returning said copy to Licensee.

4. Upon receiving said signed copy of said application, but not before, Licensee shall have the right to install, maintain and use its equipment described in said application on the pole or poles identified therein; provided, however, that before commencing any such installation, Licensee shall notify Licensor of the time when it

proposes to do said work sufficiently in advance thereof so that Licensor may arrange to have its representative present when such work is performed.

5. Licensee shall not have the right to place, nor shall it place, any additional equipment on any pole used by it thereunder without first making application for and receiving permission to do so, all as prescribed in paragraph numbered three (3) hereof, nor shall Licensee change the position of any equipment on any pole thereunder without Licensor's prior written approval.

6. (a) Licensee shall, at its own sole risk and expense, place and maintain said equipment on said poles (i) in a safe condition and in thorough repair, (ii) in a manner suitable to Licensor and so as not to conflict or interfere with the working use of said poles by Licensor or others using the said poles, or with the working use of facilities of Licensor or others on or from time to time placed on said poles, and (iii) in conformity with such requirements and specifications as Licensor shall from time to time prescribe and all laws and regulations of the Government of Guam.

(b) Licensee shall complete the installation of its equipment on the pole or poles covered by each approved individual application within such time limit as Licensor shall designate on said application for such installation; and in the event Licensee should fail to complete the installation of its equipment on said pole or poles within said prescribed time limit, the permission granted by Licensor to place said equipment on said pole or poles shall thereby automatically be revoked and Licensee shall not have the right to place said equipment on said pole or poles without first reapplying for the receiving permission to do so, all as prescribed in paragraph numbered two (2) hereof.

7. (a) If in the judgment of Licensor, the accommodations of any of Licensee's equipment necessitates the rearrangement of facilities on an existing pole or the replacement of an existing pole, Licensor will indicate on said application the necessary changes and the estimated cost thereof and return it to Licensee; and if Licensee still desires to use said pole or such replacing pole and returns the application marked to so indicate, Licensor will make such pole replacement if required, and Licensor will make, and will request other licensees, if any, of said existing facility to make such rearrangements or transfers of said existing facilities as may be required, all at the sole risk and expense of Licensee, and Licensee, on demand, will reimburse Licensor and each such other owner for the entire expense to be incurred by each of them. Licensor shall not be responsible to Licensee for any loss sustained by Licensee by reason of the failure or any such other owner to make such rearrangements or transfers.

(b) If the Licensor's judgment, Licensee's existing equipment on any pole interferes with or prevents the placing of any additional facilities thereon required by Licensor or by any other owner of facilities on said poles, and if said additional facilities could be placed on said pole by removing Licensee's equipment therefrom, or by rearranging the existing facilities (excluding rearrangement of Licensee's equipment alone) thereon, Licensor may notify Licensee of the rearrangements of existing facilities or pole replacement and transfers of existing facilities required in order to continue the accommodation of Licensee's equipment, together with an estimate of the cost of making any such changes, and if Licensee desires to continue to maintain its equipment on said pole or such replacing pole and so notifies Licensor, Licensor will make such pole replacement if required, and Licensor will make, and will request other owners, if any, of

said existing facilities to make, such rearrangements or transfers of said existing facilities, all the sole risk and expense of Licensee, and Licensee, on demand, will reimburse Licensor and each other owner for the entire expense thereby incurred by each of them. Licensor shall not be responsible to Licensee for any loss sustained by Licensee by reason of the failure of any such other owner to make such rearrangements or transfers. If Licensee does not so notify Licensor, Licensee shall remove its equipment from such pole within thirty (30) days from such notification from Licensor.

8. If Licensee should require equipment in a location upon any public thoroughfare or other public or private property, and Licensor shall not have poles so located as to fulfill Licensee's requirements, Licensee shall notify Licensor of its need for such pole in order that Licensor may determine whether it wishes to place poles in such location. If Licensor is willing to erect poles in such location adequate to care for the service requirements of the parties hereto, Licensor shall so notify Licensee and thereupon Licensee shall make application under this agreement for permission to place its equipment thereon. Upon receipt of said application, Licensor shall proceed to erect said pole facilities. Licensor shall erect said pole facilities within a period of ninety (90) days after receipt of application therefor, unless Licensee agrees to a longer period, dependent upon availability of materials.

9. In order to keep the number of poles on public thoroughfares and elsewhere to a practicable minimum, Licensee agrees not to erect any pole of its own in or near any location where Licensor is willing to accommodate Licensee's equipment or to provide a pole adequate to accommodate Licensee's equipment. Licensee further agrees not to erect any pole of its own near an existing pole until Licensor has notified

Licensee that it is unwilling to accommodate Licensee's equipment; and not to erect any poles of its own where no poles exist until Licensor has notified Licensee that Licensor does not desire to erect poles in such location.

10. Nothing in this agreement shall be construed to obligate Licensor to grant Licensee permission to use any particular pole or poles. If such permission is refused, Licensee is free to make any other arrangement it may wish to provide for its equipment at the location in question; and in the construction and maintenance of pole lines required therefor, Licensee agrees to install or construct said equipment on plans and specifications previously approved by Licensor.

11. (a) In general, in those cases where the anchorage requirements of Licensee and Licensor are coincident, the strains of Licensee's equipment and of Licensor's facilities on said poles shall be held by the same guys and anchors; however, in individual cases when in Licensor's judgment such procedure is desirable, Licensee, at its own sole risk and expense, shall provide, own and maintain separate guys or anchors, or both, to hold the strains of its equipment on said poles.

(b) In those cases where existing guying facilities are inadequate to hold Licensee's strains and separate guying facilities are not desired or if guying facilities being used by Licensee should be inadequate to hold additional strains of Licensor and any other owner or owners of facilities on said poles, or any of them, resulting from the placing of additional facilities on said poles and said guying facilities would have been adequate to hold the additional strains if Licensee's strains were removed therefrom, Licensor shall cause the existing guying facilities at the sole risk and expense of

Licensee, and Licensee, on demand, will reimburse Licensor for the entire expense thereby incurred.

12. Licensor reserves to itself and to each other owner of facilities on said poles the right to maintain said poles and to operate their facilities thereon in such a manner as will best enable them to fulfill their own service requirements, and neither licensor nor any said other owner shall be liable to Licensee for any interruption to Licensee's service or for any interference with the operation of Licensee's equipment arising in any manner from the use of said poles and the facilities thereon by Licensor and each said other owner.

13. Licensee will obtain from public authorities and private owners of real property any and all franchises, permits, licenses or grants necessary for the lawful exercise of the permission granted by any application approved thereunder, and Licensee shall submit to Licensor evidence of compliance with the foregoing requirements prior to or at the time of making application for permission to place said equipment on said pole or poles. Should Licensee, by decree, order, judgment or in any other manner without limitation, lose its franchise or right to operate in any given area then, and in that event, this contract may be terminated under the provisions of paragraph twenty-five (25) and paragraph twenty-nine (29) herein.

14. Licensee shall at any time, at its own sole risk and expense, upon notice from Licensor, relocate, replace or renew said equipment or transfer it to replacing poles, or perform any other work in connection with said equipment that may be required by Licensor, provided, however that in cases of emergency, Licensor may, at Licensee's sole risk and expense, relocate, replace or renew said equipment, transfer it to replacing poles

or perform any other task in connection with said equipment that may be required in the maintenance, replacement, removal or relocation of said poles or the facilities thereon, or which may be placed thereon, or for the service needs of Licensor or any other owner of facilities thereon, and Licensee, on demand, will reimburse Licensor for the entire expense thereby incurred.

15. Licensee may at any time remove its equipment from any of said poles and, in each such case, Licensee shall immediately give Licensor written notice of such removal in number of copies and in the form from time to time prescribed by Licensor. Removal of said equipment from any pole shall constitute a termination of Licensee's right to use such pole. The Licensee shall not be entitled to any refund due to the voluntary removal of its equipment from any pole or poles.

16. For the privilege of placing and maintaining said equipment on said poles, Licensee shall pay to Licensor the sum as agreed and set forth on Exhibit A for each pole to which Licensee attachments are made; provided, however, during the first year of this agreement a minimum charge will be collected of Six Thousand dollars (\$6,000.00) payable in advance. Additional payment shall be made at the prescribed rate per pole per year each month during the first year as new attachments are added.

17. On the 1st of each month, each party, acting in cooperation with the other, shall ascertain and tabulate the total number of the Licensor's poles to which the Licensee is attached and the Licensee shall make payment within thirty (30) days after the bill has been rendered. No rental shall be paid by the licensee for the use of any pole of the Licensor where use consists only in attaching guys thereto, or in attaching thereto wires and cables of the Licensee for the purpose of providing clearance between such wires or

cables and the Licensor's wire and cables and from the ground, but not for the purpose of supporting said wires and cables.

Licensee further agrees to pay interest of one percent (1%) per month on all bills not paid when due from the due date until paid.

18. No use, however extended, of any said poles under this Agreement shall create or vest in Licensee any ownership or property rights therein, but Licensee's rights therein shall be and remain a mere License, which as to any particular pole or poles which are no longer required for Licensor's services, or the use of such poles will interfere with Licensor's services, may be terminated at any time by Licensor upon thirty (30) days. Nothing herein contained shall be construed to compel Licensee to maintain any particular pole or poles for a period longer than demanded by its own service requirements.

19. Licensee shall exercise special precautions to avoid Licensee's causing damage to the facilities of Licensor and others supported on said poles; and Licensee shall assume all responsibility for any and all loss from such damage. Licensee shall make an immediate report of the occurrence of any such damage to the owner of the damaged facilities and shall, on demand, reimburse said owner for the entire expense incurred in making repairs.

20. Licensor shall have the right to inspect each new installation of Licensee's equipment on and in the vicinity of said poles and to make periodic inspections, semi-annually oftener as plant conditions may warrant, or such Licensee's plant as it deems necessary. Such inspection, made or not, shall not relieve Licensee of any responsibility, obligation or liability assumed under this Agreement.

21. In furtherance of the purposes of laws, rules and regulations relating to the security of communications, espionage, sabotage and subversive activities, Licensee shall:

(a) File with the Licenser a list of the names of all of Licensee's employees, agents and contractors who will have occasion to perform work on or about said poles, and shall file supplemental lists thereof whosoever changes in such personnel are made.

(b) Provide suitable identification to each such employee, agent and contractor.

(c) Cause each such employee, agent and contractor to observe faithfully and to comply strictly with all general security rules which Licenser reasonably may find necessary or advisable in the premises.

(d) Not assign any work on or about said poles to any such employer, agent or contractor who in the judgment of competent authority is a bad security risk.

22. RESERVE.

23. Licensee shall indemnify and hold harmless and defend Licenser and other owners of an interest in or of facilities on said poles, and each of them, and their respective heirs, administrators, executors, successors and assigns, against and from any and all claims, demands, causes of action, damages, costs or liabilities, in law or in equity, of every kind and nature whatsoever, directly or proximately resulting from or caused by (a) the installation, maintenance, use or removal of said equipment on or from said poles, or (b) any interruption, discontinuance, or interference with Licensee's service to any of its subscribers occasioned or claimed to have been occasioned by any action of Licenser or each other such owner, or any two or more of them, pursuant to or consistent

with this Agreement, and Licensee shall, upon demand and at its own sole risk and expense, defend any and all suits, actions or other legal proceedings which may be brought or instituted by third persons against Licensor, or any other such owner, or any two or more of them, or their respective heirs, administrators, executors, successors or assigns, on any such claim, demand or cause or action; and shall pay and satisfy any judgment or decree which may be rendered against Licensor, or any other such owner, or any two or more of them, or their respective heirs, administrators, executors, successors, or assigns, in any such suit, action or other legal proceeding, and further, Licensee shall reimburse Licensor and each other such owner for any and all legal expense incurred by each of them in connection therewith.

24. Throughout the life of this Agreement, Licensee shall maintain in full force and effect with a carrier or carriers selected by Licensee and satisfactory to Licensor:

- (a) Compensation Insurance in compliance with all Workmen's Compensation Insurance and Safety Laws of the Island of Guam and amendments thereto;
- (b) Bodily Injury Liability Insurance with limits of \$500,000 each person, and \$1,000,000 each occurrence;
- (c) Property Damage Liability Insurance with limits of \$100,000 each accident; and
- (d) Performance Bond in the amount of \$50,000 to insure the Licensee's contractual obligations will be carried out (see paragraph 25) over the entire life Contract.

The insurance described in (b) and (c) above shall name Licensor as a coinsured and shall also provide contractual liability coverage satisfactory to Licensor with respect to liability assured by Licensee under the provisions of paragraph twenty-three (23)

hereof, and the payment of any sums which may become due to Licensor for rental, inspections or for work performed for the benefit of Licensee under this Agreement, including the removal of attachments upon termination of this Agreement, by any of its provisions. Written proof of compliance with the requirements of this paragraph, numbered twenty-four (24), shall be filed with and approved by Licensor's attorney prior to the installation of any said equipment upon said poles and prior to the expiration of each policy year thereafter.

25. If Licensee should be default in its obligations under this Agreement, or if Licensee should default in any other of its obligations under this Agreement and such default shall continue for thirty (30) days after written notice thereof, Licensor may, by a written notice to Licensee, forthwith terminate this Agreement or forthwith terminate any or all permits granted by it hereunder, and Licensee shall remove its equipment from the poles to which said termination applies within thirty (30) days from such notification.

In the event of dissolution of Licensee's company for any cause requiring the removal of the cable and appurtenances, the Licensee's Performance Bond shall provide funds for the removal of the Licensee's equipment.

26. If Licensee should default in the removal of its equipment from any pole within the time allowed for such removal or should default in the performance of any other work which it is obligated to do under this Agreement, Licensor may elect to do such work at Licensee's sole risk and expense, and Licensee, on demand, will reimburse Licensor for the entire expense thereby incurred.

27. If Licensor or any other owner or owners of any interest in or of facilities on said poles should bring any suit, action or other legal proceeding against Licensee, it

or they shall be entitled to recover, in addition to any judgment or decree for costs, such reasonable attorney fees as it or they may have incurred in such suit, action or other legal proceeding.

28. The failure of Licensor to enforce any provision of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision by the same shall nevertheless be and remain in full force and effect.

29. All amounts payable by Licensee to Licensor or others under the provisions of this Agreement shall, unless otherwise specified, be payable within thirty (30) days after presentation of bills thereof. Nonpayment of any such amount when due shall constitute a default of this Agreement.

30. Nothing herein contained shall be construed as affecting any rights or privileges previously conferred by Licensor, by contract or otherwise, upon others to use any poles covered by this Agreement. The privilege herein granted to Licensee shall at all times be subject to any such existing contracts and arrangements, and to any pole rental contract that may be negotiated with Guam Power Authority or its successor or the United States Navy.

31. The Contract is for a period of five (5) years from date hereof. The contract may be extended for two additional five (5) year terms upon the mutual agreement of the parties. In accordance with Exhibit "A" attached hereto, the rates specified thereunder shall increase by a minimum of ten (10%) percent for each subsequent five (5) year term after the initial term. However, the payment rate applicable hereunder shall be subject to joint review and adjustment upon the completion of each

five (5) year term. Should this contract not be renewed after its expiration, it shall be the responsibility of the Licensee to remove all attachments immediately.

Any termination of this Agreement in whole or part shall not release Licensee from any liability or obligation hereunder, whether or indemnity or otherwise, which may have accrued or which may be accruing or which arises out of any claim that may have accrued or may be accruing at the time of termination.

32. In the event that the Government of Guam, through Legislation, Administrative Rule or Regulation, Executive Order, or any other means, seeks to impose a tax, use tax, payment in lieu of taxes, assessment, charge, or payment of any sum upon the Guam Power Authority for use of power poles and/or any other government facilities or infrastructure, the parties shall immediately commence negotiations concerning an appropriate additional payment to be made by IT & E for use of GPA power poles. In the event that the Licensor and Licensee do not agree in writing as to the appropriate additional charge, if any, for each pole to be paid by Licensee, within sixty (60) days after such tax, charge, payment, assessment or amount is imposed upon GPA, this License Agreement shall be automatically terminated and the parties shall proceed in accordance with the termination procedure set forth in the Agreement.

33. Licensee shall not assign, transfer or sublet any privilege granted to it hereunder without the prior consent in writing of Licensor, but otherwise this Agreement shall inure to the benefit of and be binding upon the respective heirs, administrators, executors, successors, and assigns of the parties hereto. An assignment, transfer or subletting in violation of this section shall be void.

34. Whenever in this Agreement notice is provided or required to be given by either party hereto to the other, such notice shall be in writing and transmitted by United States Mail or by personal delivery to Licensor at Post Office Box 2977, Agana, Guam

96910, or to Licensee at its office located at Post Office Box 24881, GMF, Guam 96921, as the case may be, or to such other address as either party hereto may, from time to time, designate for that purpose in writing.

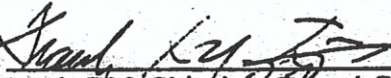
35. It is understood and agreed that this Agreement extends to the Licensee no exclusive rights or privileges in any form whatsoever.

Dated: November 16, 1999

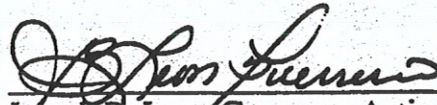
ATTEST:

GUAM POWER AUTHORITY

By:



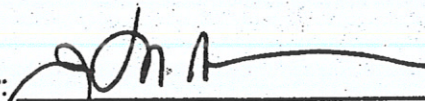
Frank S.N. Shimizu, Board Chairman


Joseph B. Leon Guerrero, Acting General
Manager

ATTEST:

IT&E OVERSEAS, INC.

By:


John M. Borlas, President

EXTENSION OF RENTAL AGREEMENT

REFERENCE is hereby made to a rental agreement (the "Rental Agreement") dated November 16, 1999, by and between the Guam Power Authority, a public corporation and autonomous instrumentality of the Government of Guam, as Licensor, and IT&E Overseas, Inc., a Guam corporation, as Licensee (collectively, the "Parties"), pursuant to which the Parties agreed to the use of Licensor's electric utility poles located in the Territory of Guam by Licensee in the conduct of Licensee's business of furnishing Wireless Service. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Rental Agreement.

As provided in paragraph 31 of the Rental Agreement, Licensor and Licensee hereby agree as follows:

1. The Contract shall be extended for an additional five (5) year term, commencing on November 16, 2004 (the "Extension Period"). All provisions of the Contract shall remain in full force and effect during the Extension Period, except as set forth in the following paragraph 2.

2. During the Extension Period, the rates specified on Exhibit A of the Rental Agreement shall be increased so that the Lease Rate during the Extension Period shall be:

- a. \$11.00 per pole per month if GPA furnishes the poles, or
- b. \$5.50 per pole per month if IT&E furnishes the poles and deeds it back to GPA.

EXECUTED as of the 3rd day of March, 2004.

ATTEST:

JB IT&E OVERSEAS, INC.

By: [Signature]
John M. Borlas, President

GUAM POWER AUTHORITY

By: [Signature]
John Benavente, General Manager

CONSOLIDATED COMMISSION
ON UTILITIES

By: [Signature]
Simon Sanchez, hereunto duly authorized