

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is made this 12th day of September, 1997, by and between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic, (hereinafter designated "LICENSOR") and APC REALTY AND EQUIPMENT COMPANY, LLC, a Delaware limited liability company, (hereafter designated "LICENSEE").

WITNESSETH

NOW, THEREFORE, for and in consideration of the rents hereinafter reserved and other good and valuable agreements and covenants as hereinafter contained, LICENSOR and LICENSEE agree as follows:

1. (a) LICENSOR hereby grants to LICENSEE a license to occupy and use, subject to all of the terms and conditions hereof, space for a communications facility consisting of the equipment listed in Section 5 hereof ("Equipment") to be installed on the roof of the Fire Control Tower at the Public Safety Training Academy at 10025 Darnestown Road located in Montgomery County, Maryland, and more particularly described on Exhibit A attached hereto and made a part hereof ("Property"). The relative location of the Equipment on the Property is shown on Exhibit B attached hereto and made a part hereof ("Premises"). LICENSEE shall have the right of ingress and egress to the Property to install and maintain utility wires, pipes, cables, conduits or other connections for use of its Equipment.

(b) At LICENSEE'S sole cost and expense and with minimal disruption to LICENSOR, LICENSEE may install, erect, maintain and operate the Equipment and supporting structures thereto on the Premises. In connection therewith, LICENSEE may complete all work necessary to prepare, maintain and alter the Premises for operation of the Equipment, including but not limited to installation of transmission lines and appurtenances. Notwithstanding its affixation to the Premises, title to the Equipment and all structures, transmission lines, cables, wires and conduits associated therewith shall remain with LICENSEE. LICENSEE may remove all or part of the Equipment at its sole expense on or before the expiration or earlier termination of this Agreement and shall make any necessary repairs to the Premises, wear and tear excepted, caused by such removal.

(c) In the event any public utility is unable to provide cabling to the Premises within existing utility owned right of ways, LICENSOR shall work with LICENSEE to designate a location on the Property under LICENSOR'S control, but outside the Premises which may be used to provide utility services to the Premises.

2. After completion of installation of the Equipment on the Premises, LICENSEE shall have an as-built drawing of the Premises made and said drawing shall then replace Exhibit B which shall be attached hereto and made a part hereof. Cost for such work shall be borne by the LICENSEE.

3. (a) This Agreement shall be for the term of five (5) years ("Initial Term") commencing on the date (the "Commencement Date") which is the last to occur of:

(i) The first day of the calendar month following LICENSEE'S receipt of the last of the necessary local, state and federal approvals, licenses and permits so as to permit construction and/or installation of equipment on and use of the Premises for all of the purposes permitted by this Agreement (such approvals, licenses and permits are hereinafter collectively called the ("APPROVALS")); or

(ii) The first day of the calendar month following LICENSEE'S commencement of construction pursuant to this Agreement which date shall be no later than six (6) months from the date of LICENSOR'S signature on this Agreement.

(b) This Agreement may be renewed by mutual agreement of the LICENSOR and the LICENSEE for two (2) additional five (5) year terms ("Renewal Terms"), provided that the parties hereto reach an agreement no later than three (3) calendar months prior to the end of the Initial Term or the then current Renewal Term on the terms of this Agreement for the next five (5) year term, which agreement is subject to a determination by the County that it can grant such extensions in accordance with Executive Regulation 67-91 AM (Disposition of Real Property). Both parties agree that they will negotiate said agreement in good faith and that the renegotiated license fee shall be based on a reasonable determination of the fair market value for substantially similar licenses in the Washington, DC, and Maryland areas.

(c) The annual license fee ("License Fee") for the Premises for the first Agreement year shall be Eighteen Thousand Dollars (\$18,000.00) to be paid in equal monthly installments in the amount of Fifteen Hundred Dollars (\$1,500.00) ("License Fee") without set off or deduction or demand for payment and is payable in advance and shall be payable to Montgomery County, Maryland, Department of Finance, Revenue Division, 101 Monroe Street, Rockville, Maryland 20850, or to such other place as the LICENSOR may, from time to time, designate in writing at least thirty (30) days in advance of any fee payment date. The first month's License Fee shall be paid on the Commencement Date and thereafter paid in advance on the first day of each month, partial months to be prorated. At the beginning of the second Agreement Year and at the beginning of every Agreement Year thereafter during the Initial Term, the then current annual License Fee shall be increased by three percent (3%) over the preceding annual License Fee. Any License Fee payment or portion thereof received later than ten (10) days from the date when it becomes due and payable shall be subject to a late fee of five percent (5%) of the fee payment in question. Should LICENSEE'S failure to pay continue for more than thirty (30) calendar days after a monthly payment becomes due and payable, LICENSOR shall have the right to terminate this Agreement for default, and pursue any other legal remedies available to LICENSOR under the laws of the State of Maryland.

(d) LICENSOR'S Tax Identification Number is 30001235

4. Upon the expiration or earlier termination of this Agreement, the LICENSEE shall promptly remove all of its equipment and facilities from the Property and Premises, vacate and discontinue its use of the same and shall hand over the same to LICENSOR for LICENSOR'S sole use and benefit. If LICENSEE fails to remove its equipment from the Property and Premises, the LICENSOR may remove the equipment and charge the LICENSEE for the cost of such removal.

5. LICENSEE shall use the Premises for the purpose of constructing, maintaining and operating a "Communications Facility" consisting of up to nine (9) panel antennas, and enough ground space, approximately (15' x 20') or three hundred (300 sq. ft.) to house base station

equipment cabinets and related ancillary wires, pipes, cables, conduits and other connections. All work on the Premises and improvements thereto shall be at LICENSEE'S expense, and subject to review and approval of LICENSOR, which approval shall not be unreasonably withheld. LICENSEE will maintain the Premises in good condition. It is understood and agreed that LICENSEE'S ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the APPROVALS, which will permit LICENSEE'S use of the Premises as set forth herein. LICENSOR shall cooperate with LICENSEE in its effort to obtain such APPROVALS. In the event that any of such applications should be finally rejected or any APPROVAL issued to LICENSEE is canceled, expires, lapses or is otherwise withdrawn or terminated by government authority, or if LICENSEE in its sole discretion will be unable to use the Premises for its intended purposes, or the LICENSEE'S Vice President determines that the Premises is no longer compatible for its intended use, LICENSEE shall have the right to terminate this Agreement. Notice of the LICENSEE'S exercise of its right to terminate shall be given to LICENSOR in writing by certified mail, return receipt requested, and shall be effective ninety (90) days from the date LICENSOR receives such notice as evidenced by the return receipt. All compensation paid to said termination date shall be retained by the LICENSOR. Upon such termination, this Agreement shall become null and void and the parties shall have no further obligations, including the payment of money to each other, other than those obligations specifically included herein that survive the termination of this Agreement.

6. LICENSEE shall indemnify, defend and hold LICENSOR harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the terms of this Agreement, including the use and occupancy of the Premises by the LICENSEE, its servants or agents, and deriving from LICENSEE'S obligations hereunder, excepting, however, such claims or damages as may be due to or caused by the negligent acts of the LICENSOR, or its servants or agents.

7. LICENSEE shall obtain and maintain during the term of this Agreement, and until all of LICENSEE'S obligations which survive termination of this Agreement have been completed, a policy of public liability insurance with limits of Five Hundred Thousand Dollars (\$500,000.00) for bodily injury or death to one person, Five Hundred Thousand Dollars (\$500,000.00) for property damage, One Million Dollars (\$1,000,000.00) aggregate. LICENSOR agrees that the LICENSEE may self insure against any loss or damage which would be covered by a comprehensive general public liability insurance policy, provided that LICENSEE files certificates of self insurance with LICENSOR.

8. LICENSEE, upon expiration or termination of this Agreement, either by lapse of time or otherwise, shall peaceably surrender to LICENSOR the Premises in good condition

9. It is agreed and understood that this Agreement contains all agreements, promises and understandings between the LICENSOR and LICENSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either the LICENSOR or LICENSEE in any dispute, controversy or proceedings at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing and signed by the parties.

10. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Maryland.

11. This Agreement may not be sold, assigned or transferred at any time by LICENSEE without the prior written consent of LICENSOR which will not be unreasonably withheld, delayed or conditioned, except LICENSEE may sell, assign or transfer this Agreement without LICENSOR'S

prior written consent to LICENSEE'S principal, affiliates or subsidiaries of its principal or an assignee of LICENSEE'S FCC license. LICENSEE must give written notice to LICENSOR of such sale, assignment, or transfer at least sixty (60) days prior to its occurrence.

12. All notices hereunder must be in writing and shall be deemed validly given if hand delivered to the other party or if sent by certified mail, return receipt requested, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

LICENSOR:

Montgomery County
Division of Real Estate Management
110 North Washington Street
Rockville, Maryland 20850

LICENSEE:

APC Realty and Equipment Company, LLC
6905 Rockledge Drive, Suite 100
Bethesda, Maryland 20817
Attention: Legal Counsel

13. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the parties hereto.

14. LICENSEE agrees to comply with the non-discrimination in employment policies in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code 1994, as amended, as well as all other applicable state and federal laws and regulations regarding employment discrimination. The LICENSEE assures the LICENSOR that, in accordance with applicable law, it does not and agrees that it will not discriminate in any manner on the basis of age, color, creed, national origin, race, religious belief, sexual preference or disability.

15. LICENSEE represents that it has not retained anyone to solicit or secure this Agreement from LICENSOR upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for bona fide employees or bona fide established commercial, selling or leasing agencies maintained by the LICENSEE for the purpose of securing business or an attorney rendering professional legal service consistent with applicable canons of ethics.

16. LICENSEE understands that unless authorized under Section 11B-52 or Chapter 19A of the Montgomery County Code 1994, as amended, it is unlawful for any person transacting business with LICENSOR to employ a public employee for employment contemporaneous with his or her public employment.

17. It is expressly understood that the LICENSOR shall not be construed or held to be a partner or associate of the LICENSEE'S in the conduct of LICENSEE'S business; it being expressly understood that the relationship between the parties hereto is and shall remain at all times that of LICENSOR and LICENSEE.

18. The LICENSEE shall attach and energize its antenna in such a manner that the reception and transmission signals of LICENSOR or its SUBLICENSEE'S preexisting this Agreement are not interfered with or degraded. If any such interference occurs and is not corrected by LICENSEE within twenty-four (24) hours after written notification, the LICENSOR shall have the right to shut down the interfering equipment until the interference is corrected. LICENSOR shall not be held responsible for any interference to LICENSEE'S equipment or operations, provided LICENSOR exercises due care and complies with this Agreement.

19. The LICENSEE agrees to arrange for and to pay all of the costs of providing separate metering for all utilities which serve their operations on the Property. LICENSEE must pay the costs that any utility charges for the services provided to the LICENSEE for its operations on the Property.

20. LICENSEE shall be considered in default of this Agreement upon the occurrence of any of the following:

(a) Failure to perform any term, covenant or condition of this Agreement and the continuance thereof for thirty (30) days after written notice from LICENSOR specifying said failure.

(b) The abandonment of the Premises by the LICENSEE for more than ninety (90) continuous days.

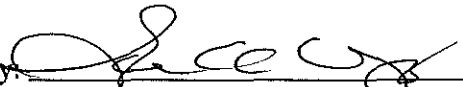
In the event that the LICENSEE shall be found in default and shall fail to cure the default after notice given as set forth hereinabove, then the LICENSEE'S right to the Premises shall automatically be revoked.

21. The LICENSOR shall have the right to terminate this Agreement in whole or in part, upon the giving of two hundred seventy (270) days notice, whenever the Chief Administrative Officer shall determine that termination of the Agreement is in the best interest of the LICENSOR. Termination hereunder shall be effected by delivery to LICENSEE of a written notice of termination two hundred seventy (270) days prior to the date upon which termination shall become effective.

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IN WITNESS WHEREOF, the parties hereto have set their hand and affixed their respective seals the day and year first above written.

LICENSOR
Montgomery County, Maryland

By: 
GORDON AOYAGI, SENIOR ASSISTANT
CHIEF ADMINISTRATIVE OFFICER

Date: Sept 12, 1997

Witness: Bethanne Nessel

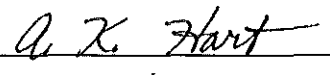
LICENSEE
APC Realty and Equipment Company, LLC

By: 
SCOTT SCHELLE
CHIEF EXECUTIVE OFFICER

Date: August 26, 1997

Witness: Amy Murray

APPROVED AS TO FORM AND
LEGALITY
OFFICE OF THE COUNTY ATTORNEY

By: 

Date: 9/5/97

RECOMMENDED:

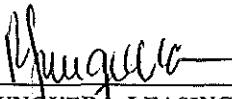
By: 
REY JUNQUERA, LEASING MANAGER
DIVISION OF FACILITIES SERVICES

EXHIBIT A
Property

1. The street address of the Property is:

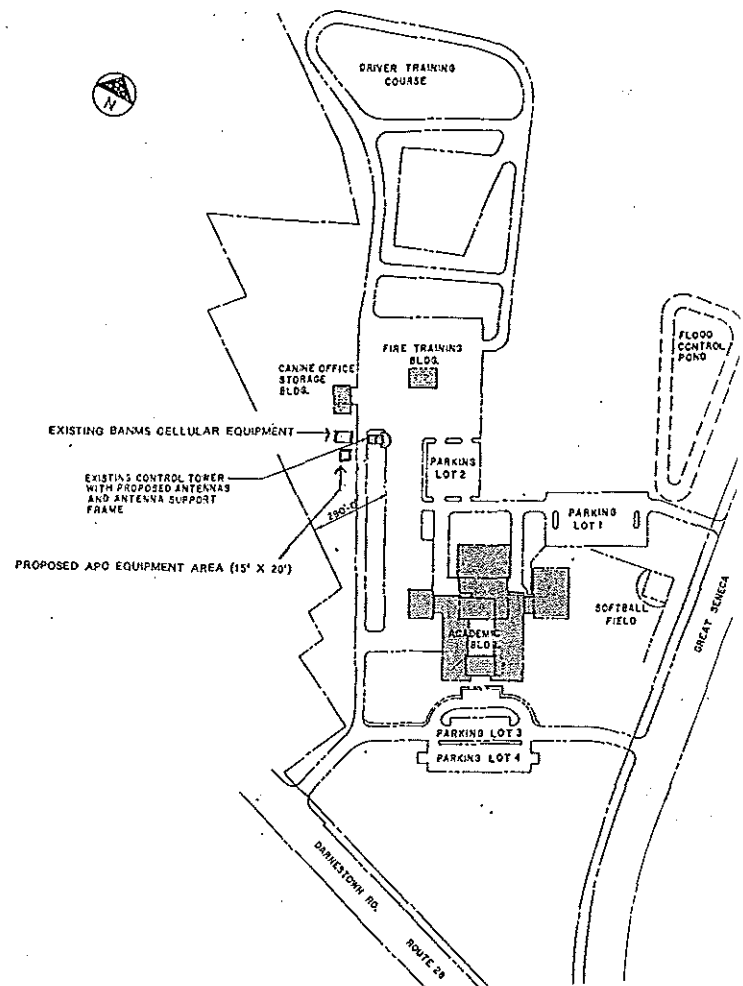
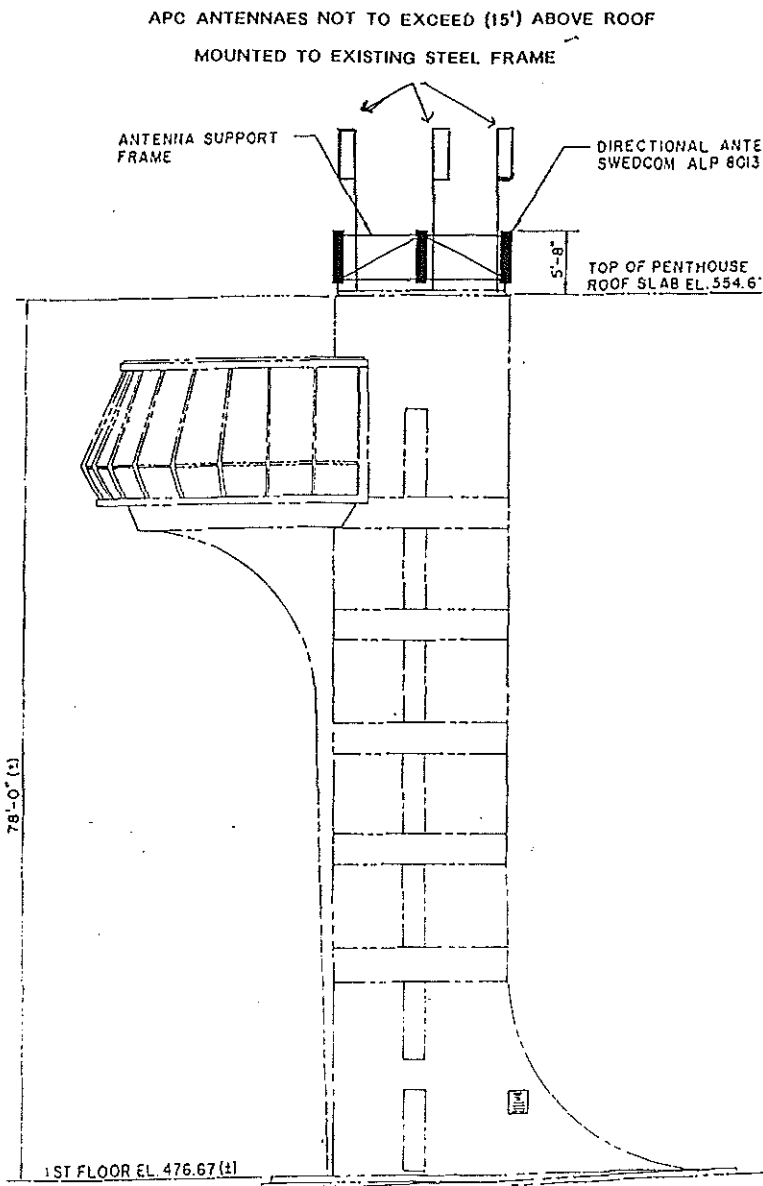
10025 Darnestown Road, Montgomery County
Rockville, Maryland

2. The Assessor's Parcel Number is: P 925

INITIALS <i>CW</i>

EXHIBIT B Premises

The Premises shall consist of ground space on the property and antenna space on the Tower sufficient to accommodate the Equipment as depicted below:



INITIALS
<i>W</i>

[Note: Antenna and equipment cabinet location is subject to change pending RF engineering review and structural analysis.]