

Item 6.13
8/7/00

SITE LEASE AGREEMENT

August THIS SITE LEASE AGREEMENT ("Lease"), made this 7th day of August, 2000, between the City of Bloomington, 2215 West Old Shakopee Road, Bloomington, Minnesota 55431, a Minnesota municipal corporation ("Landlord" or "City"), and APT Minneapolis, Inc., and its affiliates and successors, Voice Stream Wireless Corp., 3650 - 131st Avenue S.E., Suite 200, Bellevue, WA 98006, a corporation organized and existing under the laws of the state of Delaware ("Tenant").

FOR GOOD AND VALUABLE CONSIDERATION, the parties agree as follows:

1. Lease Premises. Subject to the terms and conditions of this Lease, and the conditions adopted by the City Council, attached hereto as Exhibit E, Landlord hereby leases to Tenant and Tenant leases from Landlord a portion of Landlord's property located at 7201 West 83rd Street, Bloomington, Minnesota 55438, County of Hennepin, State of Minnesota, legally described in Exhibit A attached hereto, subject to any and all existing easements and a portion of the Water Tower located in Reynolds Park in the Hyland area, or other structures ("Structure"), as more particularly shown in Exhibit B attached hereto, on which up to twelve (12) directional antennas, connecting cables and appurtenances will be attached and located, the exact location of each to be reasonably approved by Landlord's Director of Public Works, together with non-exclusive easements required to run utility lines and cables, and a non-exclusive easement across Landlord's property for access and access rights in or upon the Landlord's property described on Exhibit B attached hereto ("Leased Premises").

2. Rent.
 - a. Amount, Adjustments. As considered for this Lease, Tenant shall pay Landlord an annual rent in the amount of Fifteen Thousand Three Hundred Thirteen and NO/100 DOLLARS (\$15,313.00) for the initial year, which shall be increased each year on January 1, by seven percent (7%) of the previous year's annual rent.

 - b. Time of Payment, Taxes. The annual rental shall be paid in two (2) semi-annual installments on January 1, and July 1, provided that for the first semi-annual period of the first year, the rental shall be pro rated through the end of such period and shall be paid to Landlord at such time as installation of Tenant's equipment and improvements on the Leased Premises are completed and all conditions precedent in accordance with Exhibit "C" are met. Tenant shall have sixty (60) days from the date hereof to satisfy or waive the conditions contained in Exhibit C. In addition to the annual rental, Tenant agrees to timely pay its pro rata share of any taxes or payment(s) in lieu of taxes directly attributable to the installation of Tenant's improvements upon the Leased Premises.

3. Governmental Approval Contingency.

a. Tenant Application. Tenant's right to use the Leased Premises is expressly made contingent upon its obtaining all the certificates, permits, zoning and other approvals that may be required by any federal, state, or local authority. This shall include the interference and engineering study specified in subparagraph 3(b) below on the Structure to be conducted at Tenant's expense. Landlord shall cooperate with Tenant in its efforts to obtain and retain such approvals and shall take no action which would adversely affect the status of the Leased Premises with respect to the Tenant's proposed use thereof.

b. Interference and Engineering Study. Before obtaining a building permit, Tenant must pay for the reasonable cost of (i) a radio frequency interference study carried out by an independent and qualified professional selected by the Landlord showing that Tenant's intended use will not interfere with any existing communications facilities; (ii) that Tenant's equipment, including antennas, mounts or transmission lines shall be in the same horizontal plane as the Landlord's equipment, and that Tenant shall not use the Landlord's transmission line conduits, chases or raceways to install or store its equipment; and (iii) an engineering study showing that the structure is able to support the Tenant's Antenna Facilities, as defined in subparagraph 5(b), without materially adversely affecting the Landlord's use of the Structure. If the study finds that there is a potential for interference that cannot be reasonably remedied or materially adversely affecting the Landlord's use of the Structure. If the study finds that there is a potential for interference that cannot be reasonably remedied or materially adversely affects the Structure, Landlord may terminate this Lease immediately.

(1) Tenant agrees to pay for the reasonable cost of a qualified engineering consultant retained by the Landlord to provide plan review, field inspection of the construction phase and a written report indicating approval of the entire project. The focus of said inspection(s) will be to the future maintenance and operation of the structure due to the presence of Tenant's equipment. If the inspection(s) determine that future maintenance and operation of the Structure may be materially adversely affected, and cannot be reasonably remedied, Landlord may terminate this Lease immediately.

(2) Tenant agrees to allow periodic inspection(s) of the project during the construction phase to ensure compliance with all approved plans and specifications, AWWA and OSHA Standards, and the Uniform Building Code. In particular, inspection(s) will focus upon coating removal, welding and remedial priming and coating replacement at proper ambient temperature and humidity.

c. Non-Approval. In the event that any application necessary under subparagraph 3(a) above is finally rejected or any certificate, permit, license, or approval issued to Tenant is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority so that Tenant, in its sole discretion, will be unable to use the Leased Premises for its intended purposes, or if an interference or engineering study, whether conducted pursuant to subparagraph 3(b) above or otherwise, should indicate, in

Tenant's sole discretion, that the Leased Premises are unsatisfactory for Tenant's intended use, Tenant shall have the right to terminate this Lease. Notice of Tenant's exercise of its right to terminate shall be given to Landlord in writing by certified mail, return receipt requested, and shall be effective upon receipt of such notice by Landlord as evidenced by the return receipt. Except as required under subparagraph 12(d) below, upon such termination, this Lease shall become null and void and the parties shall have no further obligations to each other.

4. Term and Renewals. The "Initial Term" of this Lease shall commence on the date in the first paragraph of this Lease ("Effective Date") and end on December 31 of the fifth calendar year of the Lease. Subject to the terms and conditions of this Lease, Tenant shall have the right to extend this Lease for two (2) additional five (5) year renewal periods ("Renewal Term") commencing on January 1 following the expiration date of the Initial Term or of any subsequent Renewal Term. This Lease shall be automatically renewed for each successive Renewal Term unless Tenant sends written notice of non-renewal to Landlord no later than ninety (90) days prior to the expiration of the Initial Term or any Renewal Term, such notice provided in accordance with paragraph 20 of this Lease.

5. Tenant's Use.

a. User Priority. Tenant agrees that the following priorities of use, in descending order, shall apply in the event of communication interference while this Lease is in effect:

- (1) Landlord;
- (2) Public safety agencies, including law enforcement, fire, and ambulance services that are not part of the Landlord;
- (3) Other governmental agencies where use is not related to public safety; and
- (4) Tenant and other Government-regulated entities whose antennae offer a service to the general public for a fee in a manner similar to a public utility, such as long distance and cellular telephone, not including radio or television broadcasters.

b. Purposes. Tenant shall use the Leased Premises only for the purpose of installing, maintaining, and operating a Landlord-approved (which approval shall not be unreasonably withheld or delayed) communications antenna facility, equipment, cabinets and an accessory building, and uses incidental thereto for providing radio and wireless telecommunication services which Tenant is legally authorized to provide to the public. Landlord grants Tenant the right to enter upon Landlord's property to conduct Tenant's technical engineering studies prior to installation of Tenant's Antenna Facilities (as hereinafter defined) on the Leased Premises. This use shall be non-exclusive, and Landlord specifically reserves the right to allow Landlord's property, except the Leased

Premises, to be used by other parties and to make additions, deletions, or modifications to its own facilities on the Leased Premises. Tenant's communications antenna facility shall consist of antennas at a Landlord-approved location (which approval shall not be unreasonably withheld or delayed), along with cables and appurtenances connected to an accessory building or cabinets located on the Leased Premises ("Antenna Facilities"). Tenant shall comply with all applicable ordinances, statutes and regulations of local, state and federal government agencies.

c. Construction. Tenant may erect and operate an antenna array in accordance with its approved application attached as Exhibit B. If Tenant seeks to increase the number of antennas, it must first pay the reasonable cost for an evaluation carried out by a qualified professional retained by Landlord demonstrating that (i) each additional antenna will not interfere with existing antennas or with proposed antennas with a higher priority, and that (ii) any Structure can structurally support the additional antennas. The cost of each evaluation must be paid by the Tenant within thirty (30) days after receiving written notice of the cost. Landlord must consent to installation of additional antennas; such consent will not be unreasonably withheld or delayed, subject to the findings of the interference study required by paragraph 3(b).

d. Operation. Tenant shall have the right, at its sole cost and expense, to operate and maintain the Antenna Facilities on the Leased Premises in accordance with good engineering practices and with all applicable FCC rules and regulations. Tenant's installation of all Antenna Facilities shall be done according to plans approved by Landlord, which approval shall not be unreasonably withheld or delayed. Any damage done by Tenant, its employees or agents to the Leased Premises or other Landlord property including the Structure during installation or during operations, shall be repaired at Tenant's expense within thirty (30) days after notification of damage. The Antenna Facilities shall remain the exclusive property of the Tenant, unless otherwise provided in this Lease.

e. Maintenance, Improvement Expenses. All modifications to the Leased Premises and all improvements made for Tenant's benefit shall be at the Tenant's expense and such improvements, including antenna, facilities and equipment, shall be maintained in a good state of repair, at least equal to the standard of maintenance of the Landlord's facilities on or adjacent to the Leased Premises, and secured by Tenant. If Tenant's Antenna Facilities are mounted on the Structure, they shall at all times be painted at Tenant's expense the same color as the Structure.

f. Replacements. Before the Tenant may update or replace the Antenna Facilities, Tenant must notify and provide a detailed proposal to Landlord. Tenant shall submit to Landlord a detailed proposal for any such replacement facilities and any other information reasonably requested by Landlord of such requested update or replacement, including, but not limited to, a technical study carried out at Tenant's expense. Landlord may not unreasonably withhold or delay approval.

g. Drawings. Tenant shall provide Landlord with as-built drawings of the equipment and improvements installed on the Leased Premises, which show the actual location of all Antenna Facilities. Said drawings shall be accompanied by a complete and detailed inventory of all equipment, personal property, and Antenna Facilities actually placed on the Leased Premises.

h. No Interference. Tenant shall, at its own expense, maintain any equipment on or attached to the Leased Premises in a safe condition, in good repair and in a manner reasonably suitable to Landlord so as not to conflict with the use of the surrounding premises by Landlord. Tenant shall not unreasonably interfere with the operations of any prior tenant using the Structure and shall not interfere with the working use of the water storage facilities thereon or to be placed thereon by Landlord.

i. Access. Tenant, at all times during this Lease, shall have exclusive access to its Antenna Facilities located on the Leased Premises. Tenant shall have exclusive access at any time to the Antenna Facilities which are not located on the Structure. Tenant shall have access to the Structure only with the approval of Landlord. Tenant shall request access to the Structure twenty-four (24) hours in advance, except in an emergency (in which case Tenant shall notify the Bloomington Water Treatment Plant), and Landlord's approval thereof shall not be unreasonably withheld or delayed. In the event it is necessary for Tenant to have access to the Structure at some time other than the normal working hours of Landlord, Landlord may charge Tenant for whatever reasonable expense, including reasonable employees' wages, that Landlord may incur in providing such access to Tenant.

j. Payment of Utilities. Tenant shall separately meter charges for the consumption of electricity and other utilities associated with its use of the Leased Premises and shall promptly pay all costs associated therewith. Tenant agrees to contract with the local electrical utility provider for a separate electrical power source feed to the Structure.

6. Emergency Facilities. In the event of a natural or manmade disaster, in order to protect the health, welfare, and safety of the community, Tenant may erect additional Antenna Facilities and install additional equipment on a temporary basis on the Leased Premises to assure continuation of service. Such temporary operation shall not exceed ninety (90) days unless Tenant obtains written approval from the Landlord.

7. Additional Maintenance Expenses. Upon notice from Landlord, Tenant shall promptly pay to Landlord all reasonable additional Landlord expenses incurred in maintaining the Leased Premises, including painting of the Structure that are directly caused by Tenant's occupancy of the Leased Premises.

8. Additional Buildings. Tenant acknowledges that Landlord may permit additional buildings to be constructed on the property described in Exhibit A. At such time as this may occur, Tenant will permit said buildings to be placed immediately adjacent to Tenant's building and will allow "attachments" to its building so as to give the

appearance that all buildings are a connected facility. Said attachments will be made at no cost to Tenant, will not compromise the structural integrity of Tenant's building, and will not unreasonably interfere with the operation and maintenance of Tenant's Antenna Facilities.

9. Defense and Indemnification.

a. General. Tenant agrees to defend, indemnify and hold harmless Landlord and its elected officials, employees, agents and representatives from and against any and all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorneys' fees, and other costs and expenses of litigation which may be asserted against or incurred by Landlord or for which Landlord may be liable in the performance of this Lease except to the extent caused by the negligence, willful, misconduct, or other fault of Landlord. Tenant shall defend all claims arising out of the installation, operation, use, maintenance, repair, removal, or presence of Tenant's Antenna Facilities, equipment and related facilities on the Leased Premises.

Landlord agrees to defend and hold harmless Tenant, its officers, employees, agents, and representatives from and against any and all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorneys' fees and other costs and expenses of litigation which may be asserted against or incurred by Tenant or for which Tenant may be liable in the performance of this Lease, except to the extent caused by the negligence, willful misconduct, or other fault of Tenant. Landlord shall defend all claims arising out of the operation, use, maintenance, repair, or Landlord's property by Landlord, and its elected officials, officers, employees, agents, and representatives.

b. Hazardous Materials. Without limiting the scope of subparagraph 9(a) above, Tenant will be solely responsible for and will defend, indemnify, and hold Landlord, its agents, and employees harmless from and against any and all claims, costs, and liabilities, including reasonable attorneys' fees and costs, arising out of or in connection with the cleanup or restoration of the Leased Premises associated with the Tenant's use of Hazardous Materials. This defense and indemnification shall not apply to claims, costs, and liabilities arising from Landlord's negligence or willful misconduct. For the purposes of this Lease, "Hazardous Materials" shall be interpreted broadly and specifically includes, without limitation, asbestos, fuel, batteries or any hazardous substance, waste, or materials as defined in any Federal, State, or local environmental or safety law or regulations including, but not limited to, CERCLA.

c. Tenant's Warranty. Tenant represents and warrants that its use of the Leased Premises will not generate and Tenant will not store or dispose of on the Leased Premises, nor transport to or over the Leased Premises, any Hazardous Materials, unless Tenant specifically informs Landlord thereof in writing twenty-four (24) hours prior to such storage, disposal or transport, or otherwise as soon as Tenant becomes aware of the existence of Hazardous Materials on the Leased Premises. The obligations of this paragraph 9 shall survive the expiration or other termination of this lease.

d. Landlord's Warranty. Landlord represents and warrants that it is not aware of the existence of any Hazardous Materials on the Leased Premises, the Structure, or the real estate upon which the Structure is situated. The obligations of this paragraph 9 shall survive the expiration or other termination of this Lease.

10. Insurance.

a. Workers' Compensation. The Tenant must maintain Workers' Compensation insurance in compliance all applicable statutes. The policy shall also provide Employer's Liability coverage with limits of not less than \$500,000 Bodily Injury each accident, \$500,000 Bodily Injury by disease, policy limit, and \$500,000 Bodily Injury by disease, each employee.

b. General Liability. The Tenant must maintain an occurrence form Commercial General Liability Coverage. Such coverage shall provide for third party bodily injury and property damage arising out of the use, maintenance or operation of the Leased Premises and Antenna Facilities.

The Tenant must maintain aforementioned Commercial General Liability Coverage with limits of liability of not less than \$1,000,000 each occurrence; \$1,000,000 personal and advertising injury; \$2,000,000 general aggregate, and \$2,000,000 products and completed operations aggregate. These limits may be satisfied by the Commercial General Liability Coverage or in combination with an Umbrella or Excess Liability Policy, provided coverage afforded by the Umbrella or Excess Policy is no less than the underlying Commercial General Liability Coverages.

c. Automobile Liability. The Tenant must carry Commercial Automobile liability coverage. Coverage shall afford total combined single limits in the amount of \$1,000,000 per accident. The liability limits may be afforded under the Commercial Automobile Liability Policy, or in combination with an Umbrella or Excess Liability Policy provided coverage afforded by the Umbrella or Excess Policy is no less than the underlying Commercial Auto Liability Coverage.

Coverage shall be provided for third party bodily injury and property damage arising out of the ownership, use, maintenance or operation of all owned, non-owned and hired automobiles.

The Commercial Automobile Policy shall include at least statutory personal injury protection, uninsured motorists and under-insured motorists coverages.

d. Tenant Property Insurance. The Tenant must keep in force for the duration of the Lease a policy covering damages to its property at the Leased Premises. The amount of coverage shall be sufficient to replace the damaged property, loss of use and comply with any ordinance or law requirements.

e. Hazardous Materials Coverage. Tenant must carry sufficient coverage, to the reasonable satisfaction of Landlord, for damage caused by Hazardous Materials.

f. Landlord's Insurance. Landlord shall maintain Commercial General Liability insurance insuring Landlord against liability for personal injury, death or damage arising out of Landlord's ownership, use or management of the Leased Premises or Structure by Landlord, its employees or agents, with combined single limits of not less than \$1,000,000. Landlord shall also maintain fire and extended coverage insurance insuring the Structure for its full insurable value (subject to reasonable deductibles).

Landlord may elect to self-insure such coverages. If Landlord is self-insured, Landlord shall provide Tenant with acceptable certification that Landlord is financially responsible for all self-insured costs with respect to the insurance coverages required herein. Acceptable certification of self insurance is either (a) a letter from the Landlord stating that it is financially responsible for all self insured cost, or (b) a certificate from the Landlord's excess insurance carrier showing the insurance carrier's "point of attachment" and stating that the deductible (or self insured retention) is fully absorbed by the named insured. Landlord hereby represents that it is insured through the League of Minnesota Cities Insurance Trust. This policy provides Comprehensive General Liability coverage of \$600,000/\$600,000, with a \$100,000 deductible and Property Loss coverage totaling \$60,469,500 with a \$10,000 deductible. Landlord has created a self-insurance fund with an excess of \$1,000,000.

g. Adjustment to Insurance Coverage Limits. Tenant agrees to periodically review and adjust insurance coverage limits in accordance with then-current market and industry standards during the Initial Term and Renewal Terms.

h. Additional Insured – Certificate of Insurance. The Tenant shall provide, prior to tenancy, evidence of the required insurance in the form of a Certificate of Insurance issued by a company mutually agreed to both Landlord and Tenant, licensed to do business in the State of Minnesota, which includes all coverages required in this paragraph 10. Tenant will name the Landlord as an Additional Insured on the Commercial General Liability and Commercial Automobile Liability Policies. The Certificate(s) shall also provide the coverage may not be canceled without thirty (30) days prior written notice to the Landlord.

i. Waiver of Claims, Subrogation. Landlord hereby releases Tenant from any and all liability or responsibility to Landlord or anyone claiming through or under it by way of subrogation or otherwise for any loss or damage that may occur to the Leased Premises or any improvements thereto, or the Structure or any improvements thereto, or any property of such party therein, by reason of fire or any other cause which could be insured against under the terms of standard fire and extended coverage (all risk) insurance policies, regardless of cause or origin including fault or negligence of the other party hereto, or anyone for whom such party may be responsible. Landlord shall cause any insurance policy obtained by it to provide that the insurer waives all right of recovery by way of subrogation against Tenant hereto in connection with damage covered by such

policy. The releases in this subparagraph will be effective whether or not the loss was actually covered by insurance. Tenant agrees that all insurance policies required herein shall contain a waiver of Subrogation in favor of the Landlord to the extent required under subparagraph 9(a).

11. Damage or Destruction. If the Leased Premises is destroyed or damaged, so as, in Tenant's judgment, to hinder its effective use of the Antenna Facilities, Tenant may elect to terminate this Lease upon thirty (30) days' written notice to Landlord. In the event Tenant elects to terminate the Lease, Tenant shall be entitled to reimbursement of prepaid rent covering the period subsequent to the date of damage to or destruction of the Leased Premises.

12. Lease Termination.

a. Events of Termination. Except as otherwise provided herein, this Lease may be terminated by either party upon sixty (60) days' written notice to the other party as follows:

(i) By either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default to the other party (without, however, limiting any other rights of the parties pursuant to any other provisions hereof);

(ii) By Tenant for cause if it is unable to obtain or maintain any license, permit or other governmental approval necessary for the construction and/or operation of the Antenna Facilities or Tenant's business;

(iii) By Tenant for cause if the Leased Premises is or becomes unacceptable for technological reasons under the Tenant's Antenna Facilities, design or engineering specifications or the communications systems to which the Antenna Facilities belong;

(iv) By Landlord if its City Council decides for any reason to develop the Leased Premises and/or discontinue use of the Structure for all purposes;

(v) By Landlord if an independent engineer engaged by Landlord determines that the Structure is structurally unsound, including, but not limited to, consideration of age of the Structure, damage or destruction of all or part of the Structure on the Leased Premises from any source or factors relating to condition of the Leased Premises; or

(vi) By Landlord if it determines that a potential user with a higher priority under subparagraph 5(a) above cannot find another adequate location, or the Antenna Facilities unreasonably interfere with another user with a higher priority, regardless of whether or not such an interference was predicted in the initial interference study that was part of the application process;

(vii) By Landlord if it determines that Tenant has failed to comply with applicable ordinances or state or federal law, or any conditions attached to government approvals granted thereunder, after a public hearing before the Landlord's Council, provided that Tenant shall have thirty (30) days from the date of written notice in which to cure the condition described in this subparagraph 12(a)(vii).

b. Notice of Termination. In accordance with paragraph 20, the parties shall give notice of termination in writing by certified mail, return receipt requested. Such notice shall be effective upon receipt as evidenced by the return receipt. All rentals paid for the Lease prior to said termination date shall be retained by Landlord.

c. Tenant's Liability for Early Termination. If Tenant terminates this Lease other than for cause or of right as provided in this Lease, Tenant shall pay to Landlord as liquidated damages for early termination, 100% of the annual rent for the year in which Tenant terminates ("Liquidated Damages"), unless Tenant terminates during the last year of any term under paragraph 4 and Tenant has paid the annual rental for that year. Such payment of Liquidated Damages is in addition to the rental payments required by this Lease.

d. Site Restoration. In the event that this Lease is terminated or not renewed, Tenant shall have sixty (60) days from the termination or expiration date to remove its Antenna Facilities and related equipment from the Leased Premises, repair the site and restore the surface of the Structure. Upon the commencement of this Lease, Tenant shall deposit with Landlord the sum of \$5,000, which principal shall be fully refunded to Tenant upon the timely removal of the Antennas Facilities and related equipment, the repair of the site and the restoration of the Structure surface to the reasonable satisfaction of the Landlord. Landlord shall retain any interest earnings on such deposit of \$5,000 during the term of this Lease. In the event that Tenant's Antenna Facilities and related equipment are not removed to the reasonable satisfaction of the Landlord then Landlord may retain the \$5,000 deposit, including any interest earned thereon, and Tenant's Antenna Facilities and related equipment shall be deemed abandoned and become the property of the Landlord, and Tenant shall have no further rights or obligations thereto.

13. Limitation of Landlord's Liability. If Landlord terminates this Lease other than as of right as provided in this Lease, or Landlord causes interruption of the business of Tenant or for any other Landlord breach of this Lease, Landlord's liability for damages to Tenant shall be limited to the actual and direct costs of equipment removal, relocation or repair and shall specifically exclude any recovery for value of the business of Tenant as a going concern, future expectation of profits, loss of business or profit or related damages to Tenant, provided that such actions of Landlord are not willful.

14. Temporary Interruptions of Service. If Landlord determines that continued operation of the Antenna Facilities would cause or contribute to an immediate threat to public health and/or safety (except for any issues associated with human exposure to radio frequency emissions, which is regulated by the federal government), Landlord may

order Tenant to discontinue its operation. Tenant shall immediately comply with such an order. Service shall be discontinued only for the period that the immediate threat exists. If Landlord does not give prior notice to Tenant, Landlord shall notify Tenant as soon as possible after its action and give its reason for taking the action. Landlord shall not be liable to Tenant or any other party for any interruption in Tenant's service or interference with Tenant's operation of its Antenna Facilities, except as may be caused by the negligence or willful misconduct of the Landlord, its employees or agents. If the discontinuance extends for a period greater than three (3) days, either consecutively or cumulatively, Tenant shall have the right to terminate this Lease within its sole discretion for cause and without payment of Liquidated Damages.

15. Tenant Interference.

a. With Structure. Tenant shall not interfere with Landlord's use of the Structure and agrees to cease all such actions which unreasonably and materially interfere with Landlord's use thereof no later than three (3) business days after a receipt of written notice of the interference from Landlord. In the event that Tenant's cessation of action is material to Tenant's use of the Leased Premises and such cessation frustrates Tenant's use of the Leased Premises, within Tenant's sole discretion, Tenant shall have the immediate right to terminate this Lease for cause and without payment of Liquidated Damages.

b. With Higher Priority Users. If Tenant's Antenna Facilities cause impermissible interference with higher priority users as set forth in subparagraph 5(a), Tenant shall take all measures necessary and pay all costs to correct and eliminate the interference. If the interference cannot be eliminated within 48 hours after receiving Landlord's written notice of the interference has been eliminated. If the interference cannot be eliminated within thirty (30) days after Tenant received Landlord's written notice, Landlord may at its option terminate this Lease immediately without paying liquidated damages to Tenant.

c. Interference Study – New Occupants. Upon written notice by Landlord that it has a bona fide request from any other party to lease an area including or in close proximity to the Leased Premises ("Leased Premises Area"), Tenant agrees to provide Landlord within fifteen (15) days the radio frequencies currently in operation or anticipated by Tenant to be operated in the future of each transmitter and receiver installed and operational on the Leased Premises at the time of such request. Landlord may then have an independent, registered professional engineer of Landlord's choosing perform the necessary interference studies to determine if the new applicant's frequencies will cause harmful radio interference to Tenant. Landlord shall require the new applicant to pay for such interference studies.

d. Interference – New Occupants. Landlord agrees that it will not grant a future lease in the Leased Premises Area to any party who is of equal or lower priority to Tenant, if such party's use is reasonably anticipated to interfere with Tenant's operation of its Antenna Facilities. Landlord agrees further that any future lease of the Leased

Premises Area will prohibit a user of equal or lower priority from interfering with Tenant's Antenna Facilities. Landlord agrees that it will require any subsequent occupants of the Leased Premises Area of equal or lower priority to Tenant to provide Tenant these same assurances against interference. Landlord shall have the obligation to eliminate any interference with the operations of Tenant caused by such subsequent occupants. If such interference is not eliminated, Tenant shall have the right to terminate this Lease for cause without termination fee or seek injunctive relieve against the interfering occupant, at Tenant's expense.

16. Assignment. This Lease, or rights thereunder, may not be sold, assigned, or transferred at any time by tenant except to Tenant's affiliates. As to other parties, this Lease may not be sold, assigned, or transferred without the written consent of the Landlord, such consent not to be unreasonably withheld or delayed. For purposes of this paragraph, and "affiliate" means an entity that controls, is controlled by or under common control with Tenant. Landlord hereby consents to the assignment by Tenant of its rights under this Lease as collateral to any entity which provides financing for the purchase of the equipment to be installed at the Lease Premises.

17. Condemnation. In the event the whole of the Leased Premises is taken by eminent domain, this Lease shall terminate as of the date title to the Leased Premises vests in the condemning authority. In the event a portion of the Leased Premises is taken by eminent domain, either party shall have the right to terminate this Lease as of the said date of title transfer, by giving thirty (30) days written notice to the other party. In the event of any taking under the power of eminent domain, Tenant shall not be entitled to any portion of the reward paid for the taking, and the Landlord shall receive full amount of such award. Tenant hereby expressly waives any right or claim to any portion thereof. Although all damages, whether awarded as compensation for diminution in value of the leasehold or to the fee of the Leased Premises, shall belong to Landlord, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant on account of any and all damage to Tenant's business and any costs or expenses incurred by Tenant in moving/removing its equipment, personal property, Antenna Facilities and leasehold improvements.

18. Disputes. Any claim, controversy or dispute arising out of this Lease not resolved within ten (10) days following notice of the dispute, shall be submitted first and promptly to mediation. Each party shall bear its own costs of mediation. The mediation shall be conducted through the Mediation Center, 1821 University Avenue, St. Paul, Minnesota. The parties hereto shall decide whether mediation shall be binding or non-binding. If the parties cannot reach agreement, mediation shall be non-binding. In the event mediation is unsuccessful, either party may exercise its legal or equitable remedies and may commence such action prior to the expiration of the applicable statute of limitations.

19. Enforcement and Attorneys' Fees. In the event that either party to this Lease shall bring a claim to enforce any rights hereunder, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees incurred as a result of such claim.

20. Notices. All notices hereunder must be in writing and shall be deemed validly given 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):

If to Landlord, to:

City of Bloomington
Attn: City Manager and City Attorney
2215 West Old Shakopee Road
Bloomington, Minnesota 55431

If to Tenant, to:

American Portable Telecom, Inc.
(Voice Stream Wireless Corp.)
3650 – 131st Avenue S.E., Suite 200
Bellevue, WA 98006

With a copy to:

APT Minneapolis, Inc.
8000 West 78th Street
Suite 400
Minneapolis, Minnesota 55439
Attn: Real Estate Manager

21. Authority. Landlord represents and warrants that Landlord has full authority to enter into and sign this Lease and has good and marketable title to Landlord's property.

22. Binding Effect. This Lease shall run with the Leased Premises. This Lease shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto.

23. Complete Lease; Amendments. This Lease supersedes all prior discussions and negotiations and contains all agreements and understandings between the Landlord and Tenant. This Lease may only be amended in writing signed by all parties. Exhibits A through D are incorporated into this Lease by reference.

24. Governing Law. This Lease shall be construed in accordance with the laws of the State of Minnesota.

25. Severability. If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.

26. Counterparts. This Lease may be signed in counterparts by the parties hereto.
27. Memorandum. Landlord shall contemporaneously herewith execute and acknowledge and deliver to Tenant for recording a Memorandum of this Agreement ("Memorandum") in the form of Exhibit ("D").
28. Broker Representation. Tenant represents that they have not been represented by a real estate broker or other listing agent in this transaction for purposes of commission, fee or other payment to such broker or any other leasing agent claiming to have represented Tenant. If Landlord is represented by broker or listing agent, Landlord is responsible for all commission, fee or other payment to such agent.
29. Cooperation. The Landlord hereby agrees to cooperate with Tenant and its authorized representatives regarding any reasonable requests made subsequent to execution of this Lease, to correct any clerical errors contained in this Lease and to provide any and all additional documentation deemed necessary by Tenant to effectuate the transaction contemplated by this Lease. The Landlord further agrees that "to cooperate" as used in this Lease includes but is not limited to, the agreement by the Landlord to execute or re-execute any documents that Tenant reasonably deems necessary and desirable to carry out the intent of this Lease.

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

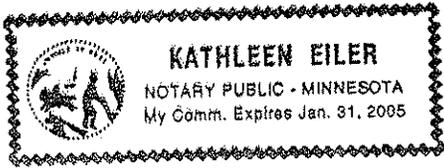
		LANDLORD: CITY OF BLOOMINGTON
Dated: <u>8-14-00</u>	By: <u>[Signature]</u>	Mayor
Dated: <u>8-14-00</u>	By: <u>[Signature]</u>	City Manager

Reviewed and approved by the City Attorney.

[Signature]
City Attorney

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 14th day of August, 2000, by Gene Winstead and Mark E. Bernhardt Mayor and City Manager, respectively, of the City of Bloomington, a Minnesota municipal corporation on behalf of the municipal corporation.



Kathleen Eiler
Notary Public

TENANT: APT MINNEAPOLIS, INC., a
Delaware Corporation

Dated: 8/4/00

By: [Signature]

Its: _____
GREG CISEWSKI
REGIONAL VP OF OPS. AND DEV.

Illinois
STATE OF MINNESOTA)
) SS
Cook
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 4th day of August, 2000, by Greg Cisewski, the Reg. VP Ops Engineering of APT Minneapolis, Inc., a Delaware corporation, on behalf of the corporation.



Elizabeth Erbes
Notary Public

SITE ID #: _____
SITE NAME: Reynolds Park Water Tower

EXHIBIT "A"
TO
SITE LEASE AGREEMENT

LEGAL DESCRIPTION OF LANDLORD'S PROPERTY:

Outlot F, Kingslee Heights Second Addition
And
Parks 2, Autumn Chace, City of Bloomington

It is agreed by Landlord and Tenant that the precise legal description for the Landlord's property will be corrected, if necessary, and that the correct legal description may be placed on this Exhibit A by Tenant.

SITE ID #: _____
SITE NAME: Reynolds Park Water Tower

EXHIBIT "C"
TO
SITE LEASE AGREEMENT

Conditions Precedent

1. All permits from all local land use jurisdictions for the intended use.
2. FCC authorization to utilize Landlord's property for the intended use.
3. APT's technical reports must establish to its exclusive satisfaction that the Leased Premises is capable of being suitably engineered to accomplish APT's Intended use.