

'04 MAY 6 AM 10:43

Vol M04 Page 27708

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Return to:
Subcarrier Communications, Inc.
139 White Oak Lane
Old Bridge NJ 08857
732-607-2828

State of Oregon, County of Klamath
Recorded 05/06/2004 10:43 a m
Vol M04 Pg 27708-17
Linda Smith, County Clerk
Fee \$ 66.00 # of Pgs 10

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

THIS ASSIGNMENT AND ASSUMPTION OF GROUND LEASE ("Assignment") is made and entered into as of this 31st day of March 2004 ("Transfer Date") by SBA PROPERTIES, INC., a Florida corporation, having an address at 5900 Broken Sound Parkway, NW, Boca Raton, Florida 33487, Attn.: Thomas P. Hunt, Senior Vice President and General Counsel, Fax Number (561) 997-0343 ("Assignor"), to SUBCARRIER COMMUNICATIONS, INC., a New Jersey corporation, having an address at 139 White Oak Lane, Old Bridge, NJ 08857, Attn.: John Paleski, Fax Number 732-607-1390 ("Assignee").

Preliminary Statement:

On the 8th day of August, 2000, Stan and Rene Russell, individuals ("Ground Lessor"), as lessor, and Mericom Development Corporation, a Delaware corporation ("Mericom"), as lessee, entered into that certain Site Ground Lease Agreement, as amended ("Ground Lease") for that certain parcel of real property ("Real Property") located in the County of Klamath, State of Oregon, which Real Property is more particularly described in the Ground Lease on Exhibit "A" attached hereto. The Ground Lease was subsequently assigned to Assignor on February 12, 2001 by that certain Assignment and Assumption of Ground Lease.

Pursuant to that certain Letter Agreement dated as of January 29, 2004, by and between Assignor and Assignee ("Purchase Agreement"), Assignor has, among other things, agreed to assign all its right, title and interest in and to the Ground Lease to Assignee and to sell and convey to Assignee all improvements thereon, including all communications towers or monopoles on the Real Property. All terms used but not defined herein shall have the meaning ascribed thereto in the Purchase Agreement.

In consideration of the mutual covenants contained in this Assignment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. ASSIGNMENT. As of the Transfer Date, Assignor hereby assigns and transfers all of its right, title, claim and interest in, to and under the Ground Lease to Assignee and its successors and assigns and Assignor hereby grants and releases unto Assignee, its successors and assigns forever, the improvements and appurtenant property located on or relating to the Real Property to the extent deemed realty (the "Additional Property"). Assignee, as of the Transfer Date, hereby accepts the foregoing assignment of the Ground Lease and assumes all of the Assignor's obligations under the Ground Lease which arise or relate to the period after the Transfer Date. Notwithstanding anything to the contrary, to the fullest extent permitted by law, the Ground Lease and Additional Property, are being transferred in an "AS-IS" condition and "WITH

Matsen Butte
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ALL FAULTS" and specifically and expressly without any warranties, representations or guarantees, either express or implied, of any kind, nature or type whatsoever from or on behalf of Assignor, including without limitation, any implied warranties of habitability, merchantability or fitness for a particular purpose, all of which are hereby disclaimed by Assignor.

2. ATTORNEYS FEES AND COSTS. In the event of any litigation or arbitration between Assignor and Assignee arising out of this Assignment, the prevailing party will be entitled to recover all expenses and costs incurred in connection therewith, including reasonable attorneys' fees and costs.

3. BINDING EFFECT. This Assignment will be binding on and inure to the benefit of the parties herein, their heirs, executors, administrators, successors-in-interest and assigns.

4. GOVERNING LAW. This Assignment will be governed by and construed in accordance with the internal laws of the State of Florida without regard to principles of conflicts of laws.

5. COUNTERPARTS. This Assignment may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

THIS ASSIGNMENT has been executed by Assignor and Assignee on the Transfer Date.


Witnesses:


Print Name: Robert Caple


Print Name: Jennifer Osarby

ASSIGNOR:


SBA PROPERTIES, INC., a Florida corporation


By: 
Thomas P. Hunt
Senior Vice President

ASSIGNEE:

SUBCARRIER COMMUNICATIONS, INC.


Print Name: Susan Lott


Print Name: Eileen Rae

By: 
John Paleski
President

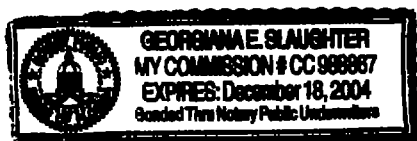
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STATE OF FLORIDA

)
) ss.
)

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 31st day of March, 2004, by Thomas P. Hunt, Senior Vice President of SBA Properties, Inc., a Florida corporation, on behalf of the corporation. The above-named individual is personally known to me or has produced _____ as identification.



Georgina E. Slaughter
Print Name: _____
Commission Number: _____
Commission Expires: _____

(NOTARIAL SEAL)

ASSIGNEE:

SUBCARRIER COMMUNICATIONS, INC., a
New Jersey corporation

Susan Lott
Print Name: Susan Lott
Eileen Rae
Print Name: Eileen Rae

By: [Signature]
John Paleski
President

State of New Jersey, County of Middlesex ss:

I certify that on _____, 2004, John Paleski personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person signed, sealed and delivered the attached document as president of the corporation named in this document;
- (b) the proper corporate seal was affixed; and
- (c) this document was signed, and made by the corporation as its voluntary act and deed by virtue of authority from its Board of Directors.

Signed and sworn to before me on _____, 2004.

Ann P. McCaffrey
(Name and Title)

Matsen Butte
OR05137-S

ANN P. McCAFFREY
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 5, 2005

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Exhibit "A"

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OR 5137-S

08/01/88
Recording prepared by
and when recorded
return to: C. E. Blonder
SBA Towers Inc., Legal Department
2424 North Federal Highway, Suite 451
Boca Raton, Florida 33431
1-800-487-7483 EXT. 323

**MEMORANDUM OF SITE GROUND
LEASE AGREEMENT**

Grantor - Stan Russell, and Rene Russell, h/w, residing in LaPine, Oregon

Grantee - Mericom Development corporation, Delaware corporation

**Property Location - S18 T23S R10E TL1100 - APN R-2310-00000-01100-000
City of Gilchrist, County of Kalamath, State of Oregon**

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39678

This Instrument was prepared by & after recording
returned to: Catherine E. Blonder
SBA Towers, Inc. Legal Department, Suite 451
2424 North Federal Highway
Boca Raton, FL 33431
Ph: 1-800-487-7483 ext. 323

MEMORANDUM OF SITE GROUND LEASE AGREEMENT

Document Title:

1. Memorandum of Site Ground Lease Agreement

Reference Number(s) of Documents assigned or released: None

Grantor(s) (Last name first, then first name and initials):

1. Russell, Stan
2. Russell, Rene

Grantee:

1. Mericom Development Corporation, a Delaware corporation

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

S18 T23S R10E TL1100

☒ Full legal is on "Exhibit A" of document.

Assessor's Property Tax Parcel Number

2310-00000-01100-000

This Memorandum of Agreement is entered into on this 8 day of August, 2000, by Stan Russell and Rene Russell, husband and wife, (hereinafter referred to as "Lessor") and Mericom Development Corporation, a Delaware Corporation, with an office at 20472 Crescent Bay Drive, Ste 104, Lake Forest, CA 92630 (hereinafter referred to as "Lessee").

1. Lessor and Lessee entered into a Site Ground Lease Agreement ("Agreement") on the ___ day of August 2000, for any purpose or activity related to or connected with the provision of communication services, including, but not limited to, the erection, maintenance and operation of telecommunication facilities, of installing, operating and maintaining a radio communications facility and other improvements. See the Agreement for particulars of all of the terms and conditions of the Agreement which are hereby made a part hereof as though fully and completely herein set out in full.

2. The term of the Agreement (the "Initial Term") is for Five (5) years commencing not later than twelve (12) months from full execution of the Agreement or the start of construction, whichever first occurs ("Commencement Date"), and terminating on the fifth (5th) anniversary of the Commencement Date. The term of the Agreement will be automatically renewed for Five (5) additional terms (each a "Renewal Term") of Five (5) years each, unless

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Lessee provides Lessor notice of intention not to renew not less than 90 days prior to the expiration of the Initial Term or any Renewal Term.

3. The real property ("Property") which is the subject of the Agreement is described as attached in Exhibit A.

The portion of the Property being leased to Lessee (the "Premises") is described as attached in Exhibit B.

4. Lessor has granted to Lessee, if required by Lessee, easements across the Property for access to install, repair and maintain guy wires, guy anchors and guy enclosures ("Azimuth Easements"). Such Azimuth Easements shall encompass that area of the Property, the width and length of which shall be sufficient for the construction of Lessee Facilities, as that term is defined in the Agreement. The right of access to the Azimuth Easements includes the right by Lessee to clear any underbrush or vegetation adjacent to the Azimuth Easements which may block access to the Azimuth Easements.

5. The Azimuth Easements granted in the Agreement run with the Property and are appurtenant to and for the benefit of the Premises and are coterminous with the Agreement. Lessor may not use nor permit its employees, agents, successors, assigns, or future lessees to use the Property in any manner which interferes with Lessee's use of the Azimuth Easements. The benefits and obligations of the Azimuth Easements are covenants running with the Property and inure to and are binding upon the successors, assigns and heirs of the parties.

6. This Memorandum of Site Ground Lease Agreement is prepared for the purpose of recordation and it in no way modifies the Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the date first set forth above.

LESSOR:

Stan Russell and Rene Russell, husband and wife

By: [Signature]
Name: Stan Russell
Title: owner
Date: 8/8/00

By: Rene Russell
Name: Rene Russell
Title: owner
Date: 8/8/00

LESSEE:

Mericom Development Corporation, a
Delaware Corporation

By: [Signature]
Name: Darryl L. Klein
Title: Sr. V.P.
Date: 12.1.00

STATE OF OREGON)
) ss.
 COUNTY OF KLAMATH)

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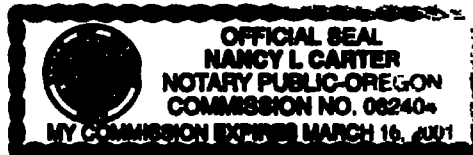
On this day personally appeared before me Stan Russell, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he/she signed the same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 8 day of August, 2000.

Nancy L. Carter

NOTARY PUBLIC in and for the State of Oregon,
 My Commission Expires: 3-16-2001

STATE OF OREGON)
) ss.
 COUNTY OF KLAMATH)



On this day personally appeared before me Rene Russell, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he/she signed the same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 8 day of August, 2000.

Nancy L. Carter

NOTARY PUBLIC in and for the State of Oregon,
 My Commission Expires: 3-16-2001



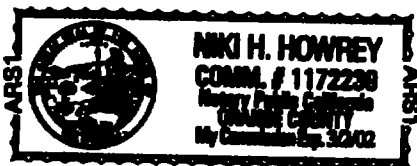
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STATE OF CALIFORNIA
County of ORANGE) ss.

On this 1 day of ~~August~~ ^{DECEMBER}, 2000, before me, the undersigned, a Notary Public in and for the State of CALIFORNIA, duly commissioned and sworn, personally appeared Terry Klein, to me known to be the Sr. Vice President of Mericom Development Corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that (s)he is authorized to execute the same instrument on behalf of the corporation.

Witness my hand and official seal hereto affixed the day and year first above written.



Niki H. Howrey
NOTARY PUBLIC in and for the State of
CALIFORNIA
My Commission Expires: MARCH 2, 2002

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EXHIBIT "A"

COMMUNICATIONS LEASE SITE:

Communications Lease Site:

A 100 foot by 100 foot tract of land lying within that property described in instrument number M99-43217 of the Deed Records of Klamath County, Oregon and more particularly described as follows:

Beginning at a 5/8 inch iron rod with a yellow plastic cap marked "LAND MARK PLS 2287" at the northeast corner of a communications lease site from which the East One-Quarter Corner of Section 18, Township 23 South, Range 10 East, Willamette Meridian, Klamath County, Oregon bears North 87°22'58" East 1587.67 feet; thence South 100.00 feet to a 5/8 inch iron rod with a yellow plastic cap marked "LAND MARK PLS 2287"; thence West 100.00 feet to a 5/8 inch iron rod with a yellow plastic cap marked "LAND MARK PLS 2287"; thence North 100.00 feet to a 5/8 inch iron rod with a yellow plastic cap marked "LAND MARK PLS 2287"; thence East 100.00 feet to the Point of Beginning and containing 10,000 square feet more or less.

ACCESS and UTILITY EASEMENT:

A 15.00 foot wide strip of land, 7.50 feet on both sides of the following described centerline, for the purpose of access and utilities over and across that property described in instrument number M99-43217 of the Deed Records of Klamath County, Oregon, and more particularly described as follows:

Beginning at a point on the centerline of State Highway 97 from which the East One-Quarter Corner of Section 18, Township 23 South, Range 10 East, Willamette Meridian, Klamath County, Oregon bears North 89°22'14" East 3148.05 feet; thence South 67°08'37" East 105.49 feet; thence North 89°12'09" East 413.01 feet; thence North 88°15'20" East 1000.11 feet; thence South 0°02'57" East 33.16 feet to a point on the north boundary of a communications lease site and there terminating, said point being East 50.00 feet from the northwest corner of said lease site.

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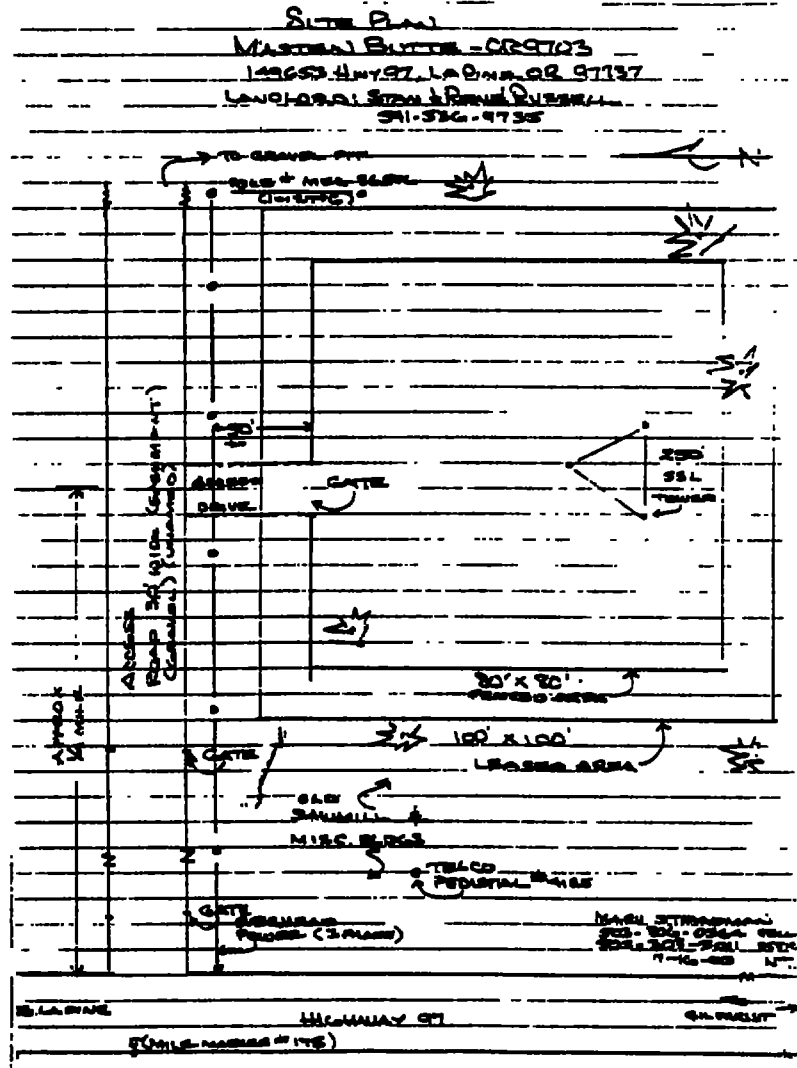
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EXHIBIT B

DESCRIPTION OF PREMISES

to the Agreement dated August 8th, 2000, by and between Stan Russell and Rene Russell, husband and wife, as Lessor, and Mericom Development Corporation, a Delaware Corporation, as Lessee.

The Premises are described and/or depicted as follows:



Notes:

1. This Exhibit may be replaced by a land survey of the Premises once it is received by Lessee.
2. Setback of the Premises from the Property's boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.

Lessor Initials SMR. RK
 Mericom Development Corporation Initials MAK

Site I.D.#: OR9703 Masten Butte

State of Oregon, County of Klamath
 Recorded 08/08/01 at 8:24 a.m.
 In Vol. M01 Page 39677
 Linda Smith,
 County Clerk Fee\$ 51⁰⁰