



**TOWN OF LEDYARD
CONNECTICUT
TOWN COUNCIL**

Chairman Terry Jones

741 Colonel Ledyard Highway
Ledyard, CT 06339-1551
(860) 464-3203
FAX (860) 464-1485
E-Mail Address:
council@town.ledyard.ct.us

March 4, 2011

Mr. Michael Cherry, Chairman
Town of Ledyard
Planning Commission
5 Whippoorwill Drive
Gales Ferry, Connecticut 06335

Dear Mr. Cherry:

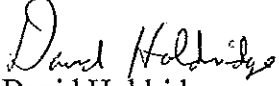
The Town Council will be considering a lease agreement with Message Center Management Inc., (MCM) to manage the placement of antennas on the Ledyard Center Water Tower.

This is essentially a lease of Town owned property, therefore, we ask for a review of the attached proposal by the Planning Commission.

We look forward to receiving the Planning Commission's input and guidance.

Thank you.

Sincerely,


David Holdridge
Committee Chairman
Community Services Committee

Attachment

cc: Planning/Development Director

~~The information in this document is CONFIDENTIAL and PROPRIETARY and may not be disclosed without written permission of Message Center Management, Inc.~~

LICENSE AGREEMENT

DRAFT

AGREEMENT, made this ____ day of _____ 2010, by and between:
TOWN OF LEDYARD, maintaining an office at 741 Colonel Ledyard Highway, Ledyard, CT 06339, (hereinafter referred to as the "Owner")

and;

MESSAGE CENTER MANAGEMENT, INC., a corporation organized in the state of Delaware, maintaining an office at 40 Woodland Street, Hartford, Connecticut 06105 (hereinafter referred to as "MCM").

~~WHEREAS, Owner is the owner of a one hundred and thirty-five foot (135') water tower (hereinafter referred to as the "Tower") on a certain parcel of property located at 11 Fairway Drive, Ledyard, CT (hereinafter referred to as the "Property") as more particularly described in the legal description attached hereto and made a part hereof as Exhibit A. MCM desires to lease the Tower and a portion of the Property containing approximately two thousand five hundred (2,500) square feet (Tower and leased portion of Property together are hereinafter referred to as the "Site");~~

~~WHEREAS, Owner wishes to allow MCM to install an equipment shelter adjacent to the Tower on a certain portion of that Property (herein after referred to as the "Shelter"). The Tower and the Shelter (collectively hereinafter referred to as at the "Site"), as more particularly described in Exhibit B attached hereto and made a part hereof;~~

~~WHEREAS, MCM desires to obtain an exclusive license to use the Site, as more particularly described in this Agreement, in furtherance of the installation of communications equipment and devices;~~

~~WHEREAS, Owner wishes to grant such an exclusive license to MCM;~~

~~NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, and other valuable considerations, receipt of which is hereby acknowledged, the parties hereto agree as follows:~~

1. REPRESENTATIONS AND WARRANTIES:

a) The Owner Represents and Warrants that:

i) It is a municipal corporation having its territorial limits within the County of New London, State of Connecticut, organized in accordance with the laws of Connecticut and duly authorized to do business in Connecticut.

ii) It has the full legal right and power and all authority and approvals required to execute and deliver this Agreement and to perform fully its obligations hereunder.

iii) This Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of the Owner in accordance with its terms.

iv) ~~No~~ Any consent, authorization, or approval of or filing of registration with any governmental or regulatory authority or any other person or entity is required in connection with the execution, delivery, and performance of this Agreement by the Owner or for the use of the Site for the purposes described herein will be made prior to the execution of this License Agreement.

v) The execution, delivery, and performance of this Agreement by the Owner will not:

a) violate any statute, law, rule or regulation or any order, writ, or injunction of any court or governmental authority to which the Owner is subject to or by which any of its assets may be bound; or

b) violate, conflict with or constitute a default (or give risk to any right of termination, cancellation or acceleration) under any agreement or restriction of any kind to which the Owner is a party or by which any of its assets may be bound.

iv) It is the owner of the Property.

b) MCM Represents and Warrants that:

i) It is a corporation organized in accordance with the laws of the State of Delaware and duly authorized as a foreign corporation doing business in Connecticut.

ii) It has the full legal right and power and all authority and approvals required to execute and deliver this Agreement and to perform fully its obligations hereunder.

iii) This Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of MCM in accordance with its terms.

iv) No consent, authorization, or approval of or filing of registration with any governmental or regulatory authority or any other person or entity is required in connection with the execution, delivery, and performance of this Agreement by MCM.

v) The execution, delivery, and performance of this Agreement by MCM will not:

a) violate any statute, law, rule or regulation or any order, writ, or injunction of any court or governmental authority to which MCM is subject to or by which any of its assets may be bound; or

b) violate, conflict with or constitute a default (or give risk to any right of termination, cancellation or acceleration) under any agreement or restriction of any kind to which MCM is a party or by which any of its assets may be bound.

d) MCM hereby holds harmless the Owner, for any damage caused to MCM'S equipment or Sub-Licensee's its Equipment by the electrical system at the Site. In no event shall Owner have any liability whatsoever due to any power outages.

6. **SUBLICENSES AND SUB-LICENSEE INSTALLATIONS:**

a) MCM will submit to the Owner all new Sub-License Agreements related to the Site for the Owner's review and written approval, which approval shall not be unreasonably withheld. In the event the Owner does not act upon the request for approval within ~~thirty fourteen (30+4)~~ days, such inaction shall be deemed an approval by the Owner and no further approval shall be required by Owner. Should the Owner disapprove the Sub-License Agreement, the Owner shall provide MCM with specified reasons for the basis of the disapproval. In the event of disapproval, MCM may submit a different or amended Sub-License Agreement to address the reasons for such disapproval.

b) Space at the Site will be allocated by MCM to Sub-Licensees. Such space will be made secure. Owner and MCM shall provide access to power facilities. All antenna and transmission line installations will be made exclusively by an MCM-approved contractor at the sole cost and expense of the Sub-Licensee. All services billed to Sub-Licensee for said installation will be retained by MCM.

c) All plans for Sub-Licensee installations or modifications to the Site shall be submitted to the Owner for review and approval, and such approval shall not be unreasonably withheld. In the event the Owner does not act upon the written request within ~~thirtyfourteen (30+4)~~ days of submittal, such inaction shall be deemed approval by the Owner, and no further approval shall be required by Owner. Any minor equipment modifications or change out of equipment for like equipment will not require an amendment to this the Sub-License Agreement.

d) MCM shall provide Owner with written notice of a proposed Sub-License Agreement (the "**Sub-License Notice**") attached hereto and made a part hereof as **Exhibit D**.

7. **ACCESS:** Authorized representatives of MCM and the Sub-Licensees shall be allowed access to the Site during normal business hours and upon emergency basis twenty-four (24) hours per day. MCM shall provide to the Owner a list of all persons who are authorized by MCM or the Sub-Licensees to have access to the Site. MCM will establish procedures enabling Sub-Licensees to enjoy twenty-four (24) hour a day access, while at the same time assuring the Site's normal security.

8. **INSURANCE:**

a) MCM will carry, in full force and effect during the term of this Agreement, its own liability, personal property and worker's compensation insurance policy covering its business, equipment and personnel. The policy of insurance shall be issued by a company authorized to do business in the state where the Site is located, and shall be in a minimum amount of \$1,000,000.00. MCM shall furnish the Owner with a certificate evidencing that such insurance is in full effect and the policy shall obligate the insurance company to notify the Owner not less than thirty (30) days prior to the termination thereof or prior to any change in coverage thereunder. Such policies shall name the Owner as an additional insured,

b) MCM will require Sub-Licensees and Sub-Licensees' contractors to carry, in full force and effect during the term of any Sub-License Agreement at the Site, general liability insurance including personal property, bodily injury and worker's compensation. The policy of insurance shall be issued by a company authorized to do business in the state where the individual Site is located, and shall be in a minimum amount of \$1,000,000.00. Said policies shall name MCM and the Owner as additional insured. The Sub-Licensees will be required to provide certificates to MCM evidencing that such insurance is in full force and effect and the policy shall obligate the insurance company to notify the Owner and MCM not less than thirty (30) days prior to the termination thereof.

c) The Owner shall keep the improvements now existing or hereafter erected at the Property insured against loss by fire hazards included within the term "extended coverage", and such other hazards as deemed prudent for such properties and in such amounts so as to prevent co-insurance. The policy of insurance shall be issued by a company authorized to do business in the state where the individual Site is located. Owner shall provide a certificate to MCM evidencing that such insurance is in full force and effect and the policy shall obligate the insurance company to notify MCM not less than thirty (30) days prior to the termination thereof or prior to any change in coverage thereunder.

d) The Owner and MCM agree to have included in their insurance policies a waiver of the insurer's right of subrogation against the Owner or any additional insured during the Term, or if such waiver should be unobtainable or unenforceable, (i) an agreement that such policies shall not be invalidated if the insured waives the right of recovery against the party responsible for a casualty covered by the policy before the casualty; or (ii) any other form of permission for the release of the Owner or any additional insured. The limits of such insurance shall, however, not limit any liability of any Sub-Licensee hereunder.

e) Upon the execution of this Agreement, and at least thirty (30) days prior to the expiration of such policies, the Owner and MCM shall exchange certificates of insurance evidencing the above insurance policies.

9. DAMAGE AND REPAIR: The Owner shall keep the Site, including the buildings and structures being utilized by Sub-Licensees' to house equipment on the Site, in good repair and shall not commit waste or deterioration. If structures on the Site are damaged or destroyed, the Owner shall repair and/or replace said damaged or destroyed structures. Any damage caused by MCM shall be MCM's sole responsibility to repair. Any damage caused by Sub-Licensee(s) shall be Sub-Licensee's sole responsibility to repair. MCM shall incorporate a provision into each Sub-Licensee Agreement that states that damages caused by Sub-Licensee(s) shall be Sub-Licensee's sole responsibility to repair.

10. CONDEMNATION:

a) In the event that a condemnation proceeding is initiated against the Site, or any substantial part thereof, so as to preclude the use of the Site as an installation of communication equipment and devices, and a taking by any condemning authority occurs, then, in that event, the Owner shall send written notice to MCM of such taking, and MCM may, at its option, terminate this Agreement.

b) MCM hereby waives any right to make a claim for the value of its interest in the Site taken in any condemnation proceeding and assigns any claim to the Owner. Nothing in this Agreement shall be deemed to prevent MCM from claiming from the condemning authority compensation for the taking of MCM's own tangible property and damage for MCM's loss of business, business interruption or removal and relocation and compensation for any special value of MCM's rights under this Agreement.

11. INDEMNIFICATION: Each party (the "First Party") shall indemnify and hold the other party hereto (the "Indemnified Party") harmless from and against any damage (including costs, reasonable fees of counsel and expenses reasonably incurred) or loss suffered by the Indemnified Party by reason of any wrongful act or omission to act, or breach of any of the material terms, covenants or representations of this Agreement by, the First Party. The parties warrant and represent to each other that no third person has been involved in this transaction and no one is entitled to any commission or fee in respect hereof. The First Party shall indemnify and hold the Indemnified Party hereto harmless from and against any claim by any third person for any commission, brokerage fee, finder's fee or other payment alleged to be due as a result of the transactions contemplated by this Agreement based upon any alleged agreement between such third person and the First Party.

12. ARBITRATION:

a) All controversies relating to, in connection with or arising out of this Agreement, its modification, making or authority or obligations of the signatories hereto, and whether involving the principals, agents, brokers, or others who actually subscribe hereto, shall be settled by binding arbitration in accordance with the Rules of Arbitration of the American Arbitration Association. The Arbitration Proceeding shall be heard by one arbitrator and under the "Rules of Commercial Arbitration" as they exist at the effective date of this Agreement (including provisions as to payment of fees and expenses). Arbitration shall be held in the State of Connecticut. All notices of judicial service shall be made as required by the aforesaid rules.

13. FORCE MAJEURE: If by any reasons of force majeure either party is unable in whole or in part to carry out its obligations hereto, said party shall not be deemed in violation of default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; acts of public enemies; orders of any kind of Government of the United States of America of any of its departments, agencies, political subdivisions, or officials, or any civil or military authority, insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; volcanic activity; storms of extraordinary force; floods; washouts; droughts; civil disturbances; explosions; disruptions to equipment's manufacturing process, including labor strikes and lockouts, beyond the control of either party; the inability of the equipment manufacturer to deliver equipment ordered by either party in a timely manner due to reasons beyond the control of the party.

14. COMPLIANCE WITH LAWS:

a) Throughout the term of this Agreement, MCM, at its sole cost and expense, shall comply with all applicable laws, rules and regulations of all federal, state and municipal authorities, agencies and departments thereof, including the FCC and the FAA, (and the Connecticut Siting Council, if applicable) having jurisdiction over MCM's activities in connection with the Site as stated in Paragraph 3 herein.

b) Throughout the term of this Agreement, except for those activities for which MCM agrees to undertake pursuant to Paragraph 3 herein, the Owner shall comply, at its sole cost and expense, with all applicable laws, rules and regulations of all federal, state and municipal authorities, agencies and departments thereof, having jurisdiction over the Site.

15. TERM:

a) It is expressly understood that all rights granted to MCM Licensee under this Agreement are irrevocable until this Agreement expires or sooner terminates as provided herein. This Agreement shall commence on the date of full execution and continue in full force and effect for a period of ten (10) years (hereinafter referred to as the "Initial Term"), pursuant to the following terms and conditions:

b) The Owner shall have the right to terminate this Agreement at the completion of the Forty-Eighth month of the Initial Term of this Agreement, and upon the Owner's written notice to MCM, if MCM has not been able to procure a Sub-License Agreement with a Sub-Licensee and/or MCM is not in the process of submitting any permitting applications, and upon the Owner's written notice to MCM, provided:

i) Owner provides MCM with sixty (60) days prior written notice of the termination date; and

ii) there are no Sub-License Agreements under negotiation. Notwithstanding the foregoing, in the event MCM is in the process of negotiating a Sub-License Agreement pursuant to this Agreement, MCM shall provide Owner with a valid Sub-Licensee application, and this Agreement shall be in full force and effect extended in good faith for at least the period of time necessary to complete the negotiations and execution of such Sub-License Agreement. Upon full execution of such License Agreement, this Agreement to continue in full force and effect thereafter.

c) Within thirty (30) days of MCM's receipt of the Owner's notice to terminate pursuant to Paragraph 15, section b) above, MCM shall provide a list of prospective Sub-Licensees under consideration, together with dates of prospective Sub-Licensees' interest in the Site. The Owner agrees that if within one (1) year of the termination of this Agreement, Owner enters into a written rental agreement (i.e. license, sub-license, lease agreement and/or sub-lease agreement) with any telecommunications provider that is included in MCM's list of prospective Sub-Licensees, Owner shall compensate MCM pursuant to the terms of this Agreement.

d) In the event any Sub-License Agreement brought to and recommended to the Owner by MCM is denied, refused or rejected by Owner and the Site remains vacant during the Initial Term, the Owner may not terminate this Agreement pursuant to Paragraph 15, section b) above.

e) Provided this Agreement is in full force and effect, this Agreement shall automatically be extended for MCM shall have the right to extend this Agreement for Two (2) additional periods of Ten (10) years each, unless MCM shall provides written notice of its intent not to extend this Agreement to Owner six (6) months prior to the expiration of the Initial Term or any current Extension Term (as defined below). Each additional period shall be referred to as the "Extension Term". The first Extension Term shall commence on the date immediately

following the originally fixed expiration date of the Initial Term. The second Extension Term shall commence on the date immediately following the fixed expiration date of the first Extension Term. The terms and conditions of this Agreement shall apply during the Initial Term and any Extension Term. The Initial Term and each Extension Term are (hereinafter collectively referred to as the "Term").

f) Prior to the completion of the final Extension Term, the Owner and MCM shall in good faith negotiate ~~have the option~~ to add additional Extension Terms to the Term of this Agreement. The Owner hereby agrees and acknowledges that if the Owner and MCM elect not to add any additional Extension Terms to this Agreement then:

i) The Owner shall pay to MCM an amount equal to forty percent (40 %) of the full balance of all the GCR payments that shall become due and payable by all Existing Sub-Licensees (as defined below) at the Site or any portion thereof over the remaining term and all extension periods of their Sub-Licenses (hereinafter called the "**Anticipated GCR**"), notwithstanding the termination or expiration of this Agreement prior to the end of such remaining term or extension and renewal periods. An Existing Sub-Licensee is any Sub-Licensee (including their respective related parties, successors and assigns) with a Sub-License in effect as of the expiration date of the final Extension Term. For the purposes of calculating the Anticipated GCR, the parties shall assume that all extension and renewal periods in all Existing Sub-License Agreements (as defined below) shall be exercised. An Existing Sub-License Agreement is any Sub-License in effect as of the expiration date of the final Extension Term. The payment under this subsection (i) will be paid by the Owner to MCM within fifteen (15) days of the expiration date of the final Extension Term; and

ii) Notwithstanding the prior termination or expiration of this Agreement, the Owner shall pay to MCM an amount equal to forty percent (40 %) of all GCR payments received subsequent to the termination or expiration of this Agreement from (a) each Existing Sub-Licensee for any renewal (other than by exercise of an extension or renewal provision in an Existing Sub-License) of an Existing Sub-License Agreement, (b) each Existing Sub-Licensee at the Site or portion thereof with respect to any new Sub-License Agreement at the Site; and/or (c) each and every party that becomes a Sub-Licensee (including any related parties or successors and assigns of such Sub-Licensee) at the Site or portion thereof following the expiration date of the final Extension Term if MCM was either the procuring cause of the relationship or introduced such party to the Owner. The payments under this subsection (ii) shall be paid within thirty (30) days of the date Owner receives such payments.

16. ASSIGNMENT:

a) This Agreement and the rights and duties of each party hereunder shall not be assignable without the prior written consent of the other party and such assignment shall not be unreasonably withheld by either party provided that each party may assign this Agreement to any party under common ownership with the assigning party and shall assign this Agreement to any party acquiring all or substantially all of the assets of the assigning party. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the personal representatives, successors and permitted assigns or lessees of the parties hereto.

b) The Owner shall provide MCM with notice at least ten (10) days prior to any sale or transfer of the Owner's interest in the Property. This Agreement shall run with the Property and the buyer or transferee shall be subject to all of the obligations of the Owner under this Agreement. The Owner shall continue to

remain liable hereunder unless the Owner obtains for MCM a valid written agreement in recordable form of the buyer or transferee to be bound by the provision of this Agreement on and after the date of such transfer. Notwithstanding the foregoing, Owner shall continue to remain liable hereunder for all accrued liability, if any, up to the date of such sale or transfer, unless MCM consents to release the Owner from such liability.

17. RIGHT OF FIRST REFUSAL:— The Owner herein grants a right of first refusal to acquire the Property in favor of MCM or MCM's designee as follows: The Owner shall not sell the Property during the Term of this Agreement or within one (1) year following the expiration or other termination of this Agreement without offering the Property for sale to the MCM or its designee on the same terms and conditions as set forth in a bona fide third party offer to purchase the Property (the "Offer"). MCM or its designee must execute an agreement relating to the sale of the Property within thirty (30) days after receipt of the Owner's notice of the terms and conditions of the Offer. If MCM does not execute a purchase agreement to buy the Property within thirty (30) days of its receipt of Owner's notice of said Offer, then MCM's right of first refusal shall be deemed to have been waived and Owner shall thereafter have the right to sell the Property to a third party within one hundred twenty (120) days of Owner's notice to MCM of said offer on the same terms and conditions as set forth in the notice to MCM of the Offer. If the Owner agrees to change the economic terms and conditions from those contained in the Offer, the Owner shall be obligated to first offer such revised terms to MCM pursuant to a new notice of the Offer. The terms, conditions and covenants of the above mentioned rights of MCM to purchase the Property shall be deemed to be real covenants running with the Property.

a) If Owner elects during the Term to (i) assign, sell or otherwise transfer all or any portion of Owner's rights or interests in, under or to this Agreement or (ii) grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by MCM, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, with or without an assignment of this Agreement to such third party, MCM shall have the right of first refusal to meet any bona fide offer of sale or transfer on the same terms and conditions of such offer. If MCM fails to meet such bona fide offer within thirty (30) days after written notice thereof from Owner, Owner may assign, sell its rights in, under or to this Agreement or grant the easement or interest in the Property, or portion thereof, as the case may be, to such third person in accordance with the terms and conditions of such third party offer. If Owner changes the economic terms and conditions from those contained in the original Offer, sent to MCM, then Owner shall be obligated to offer such revised terms to MCM pursuant to a new offer. In addition, MCM's rights to purchase the Owner's rights or interests in, under or to this Agreement as set forth in this Paragraph 16 shall be binding upon each and every subsequent owner, buyer and/or transferee of the Property.

b) Should Owner, at any time during the Term decide (i) to assign, sell or transfer all or any part of the Owner's rights or interests in, under or to this Agreement to a purchaser other than MCM, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by MCM, or a larger portion thereof, for the purposes of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize MCM's rights hereunder under the terms of this Agreement. To the extent that Owner grants to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by MCM for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, Owner shall assign this Agreement to said third party. Owner shall not

be released from its obligations to MCM under this Agreement, and MCM shall have the right to look to Owner and the third party for full performance of this Agreement.

18. ENVIRONMENTAL INDEMNITY: The term "Hazardous Substance" shall mean any hazardous, toxic or dangerous waste, substance or material defined (specifically including petroleum products whether or not defined) as such in the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Super-Lien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, now or at any time hereafter in effect (collectively the "Environmental Laws").

a. The Owner hereby agrees to defend, indemnify and hold MCM harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind and nature, paid, incurred or suffered by, or asserted against, MCM for, with respect to, or as a direct or indirect result of any of the following, caused by Owner:

i) The presence on or under or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from, the Site (including any structures on the Site) or any portion thereof of any Hazardous Substance (including without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any of the Environmental Laws); or

ii) Any lien against the Site or any portion thereof or any interest or estate therein, created, permitted or imposed by the Environmental Laws, or for any actual or asserted liability or obligation of the Owner under the Environmental Laws.

b. MCM hereby agrees to defend, indemnify and hold Owner harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind and nature, paid, incurred or suffered by, or asserted against, Owner for, with respect to, or as a direct or indirect result of any of the following, caused by MCM:

i) The presence on or under or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Site (including any structures on the Site) or any portion thereof of any Hazardous Substances (including without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any of the Environmental Laws) or;

ii) Any lien against the Site or any portion thereof or any interest or estate therein, created, permitted or imposed by the Environmental Laws, or for any actual or asserted liability or obligation of MCM under the Environmental Laws.

Because of the nature of this indemnification, any statute of limitations period shall not begin to accrue until MCM has actual knowledge of the action to be indemnified.

19. SUBORDINATION: This Agreement shall be subordinate to any and all ground and underlying leases affecting the Property as well as to all mortgagees, easements and encumbrances which may now or hereafter affect the Property and to all renewals, modifications, consolidations, replacements and extensions thereof, provided, that no such subordination shall

be effective unless the holder of such ground and underlying leases or mortgage shall, in a separate agreement with MCM, agree that in the event of a foreclosure or conveyance in lieu of foreclosure affecting the Owner's interest in the Property, such holder shall recognize and confirm the validity and existence of this Agreement. In the event that MCM requests a subordination, non-disturbance and attornment agreement then, MCM shall furnish to the Owner a form of such subordination, non-disturbance and attornment agreement, and the Owner shall return to MCM such subordination, non disturbance and attornment agreement executed in recordable form by the holder of such ground and underlying lease or mortgage.

20. GENERAL CLAUSES:

- a) Heirs and Successors. This assignment and assumption are binding upon the Owner and MCM, and their respective heirs, successors, executors, administrators, personal representatives and assigns.
- b) Singular and Plural. The singular includes the plural and the plural includes the singular.
- c) Captions and Headings. The captions and headings throughout this instrument are for the convenience or reference only, and the words therein shall in no way be held or deemed to refine, limit, describe, explain, modify, amplify or add to the interpretation, construction, or meaning of any provision of or the scope or intent of this instrument, nor in any way affect this instrument.
- d) Exhibits. Exhibit A, Exhibit B and Exhibit C attached to this instrument are incorporated into this instrument and made a part of this instrument.
- e) Counterparts. This instrument may be executed in several counterparts but the counterparts shall constitute but one and the same instrument.
- f) Survival. Paragraphs 10, 11, 12, 15, 16, 17, 18, 19, and 20 and 26 shall survive any expiration or termination of this Agreement.

21. SEVERABILITY: In the event one or more, but not all, of the provisions of this Agreement, are declared unlawful or unenforceable by a court of competent jurisdiction, such determination shall not affect the legality or enforceability of the remainder of the terms hereof.

22. ENTIRE AGREEMENT: This Agreement contains the entire understanding of the parties. There are no representations, warranties, promises, covenants or undertakings other than those expressly set forth herein.

23. GOVERNING LAW; INTERPRETATION: This Agreement shall be construed in accordance with the laws of the state of Connecticut. Unless otherwise stated, reference in this Agreement to sections refer to the sections of this Agreement only.

24. NOTICES: All notices required hereunder shall be sent certified mail, return receipt requested, to the parties at the addresses shown below or such other address as each party designates by notice complying with the terms hereof:

MCM: Message Center Management, Inc.
40 Woodland Street
Hartford, CT 06132-0623

Owner: Town Of Ledyard
Attention: Mayor's Office
741 Colonel Ledyard Highway
Ledyard, CT, 06339

25. RECORDATION: To the extent permitted by law, MCM shall have the right to record a Notice of License Agreement for this Agreement (more particularly described in Exhibit C attached hereto and made a part hereof) in the office of the Town/City or County Clerk in which the Site is located.

~~26. CONFIDENTIALITY: It is agreed by the parties hereto that the terms of this Agreement shall remain strictly confidential as between them and that, except for that portion of the Agreement which might be recorded in the office of the Town/City or County Clerk in which the Property is situated, disclosure of this Agreement shall not be made by either party or its agents, servants, employees, affiliates or subsidiaries to any other person or entity, except for the successors, heirs and assigns of the parties, without first obtaining the written consent of the other party.~~

2567. CONSTRUCTION: Each provision of this Agreement has been mutually negotiated, prepared and drafted; each party has been represented by legal counsel, and in connection with the construction of any provision hereof or deletions herefrom no consideration shall be given to the issue of which party actually prepared, drafted, requested or negotiated any provision or deletion.

IN WITNESS WHEREOF, each of the undersigned have duly authorized and executed this Agreement as of the date and year first above written.

OWNER: TOWN OF LEDYARD

By: _____

Date: _____

Print Name: _____

Title: _____

Witness: _____

Date: _____

Witness: _____

Date: _____

MCM: MESSAGE CENTER MANAGEMENT, INC.

By: _____

Date: _____

Print Name: Maria A. Scotti

Title: Director

Witness: _____

Date: _____

Witness: _____

Date: _____

DRAFT

EXHIBIT A
Legal Description

DRAFT

EXHIBIT C
NOTICE OF LICENSE AGREEMENT

Notice is hereby given of the existence of the following License Agreement:

1. The name and address of the Owner is:

Town Of Ledyard
741 Colonel Ledyard Highway
Ledyard, CT, 06339

The name and address of the Licensee ("MCM") is:

Message Center Management, Inc.
40 Woodland Street
Hartford, CT 06105

2. The date of execution of the License Agreement by the Owner is _____.
The date of execution of the License Agreement by the Licensee MCM is _____.

3. Description of the Owner's premises: _____.

4. The initial term of the License Agreement is for _____.

5. The commencement date of the License Agreement is _____, 2010.

6. The termination date of the initial term of the License Agreement is _____.

7. The License Agreement contains a provision giving MCM the Licensee Two (2) consecutive options to extend the License Agreement. Each extension period shall be for a term of Ten (10) years. The first such extension period shall commence following the expiration date of the initial term.

8. A copy of said License Agreement is on file at the offices of:
Message Center Management, Inc., 40 Woodland St., Hartford, CT 06105

This instrument, being intended to be a Notice of License Agreement executed solely for the purpose of providing constructive notice of said License Agreement, is not intended to affect in any way the rights and obligations of the parties to said License Agreement.

IN WITNESS WHEREOF, the parties hereunto and to said License Agreement, have either set, or caused to beset, their respective hands and seals as of the _____ day of _____, 2010.

OWNER:
TOWN OF LEDYARD

Witness

By: _____

Print Name: _____

Witness

Title: _____

STATE OF _____)
) : ss.
COUNTY OF _____)

, 2010

Personally appeared, _____, duly authorized signer and sealer of the foregoing instrument and acknowledged the same to be his/her free act and deed of said _____, before me:

Commissioner of the Superior Court
Notary Public
My commission expires:

MCM: MESSAGE CENTER MANAGEMENT, INC.

Witness

By: _____

Print Name: Maria A. Scotti

Witness

Title: Director

STATE OF CONNECTICUT)
) : ss.
COUNTY OF HARTFORD)

, 2010

Personally appeared, Maria A. Scotti duly authorized Agent of MESSAGE CENTER MANAGEMENT, INC., signer and sealer of the foregoing instrument and acknowledged the same to be her free act and deed of said Maria A. Scotti, before me.

Commissioner of the Superior Court
Notary Public
My commission expires:

EXHIBIT D

The Sub-License Notice

Property Address:

Sub-Licensee Name:

Sub-Licensee Address:

Commencement Date:

Initial Term: _____ Renewals _____ terms of _____ years each

Rent \$ _____ monthly _____ quarterly _____ annually _____

Escalator _____ percent per year

Electricity \$ _____ monthly _____ quarterly _____ annually _____

Metered _____ submetered _____

Amount of TX antennas _____ Amount of RX antennas _____

GPS Unit _____

Equipment area for the Sub-Licensee shall consist of a _____ foot by _____ foot area totaling no more than _____ square feet.