

146724

LEASEHOLD DEED OF TRUST

Recording requested by  
And when recorded mail to:

GIBSON, DUNN & CRUTCHER  
One Montgomery Street  
Telesis Tower, 31st Floor  
San Francisco, California 94104-4505  
Attn: Veronica McGregor

(space above this line for recorder's use)

LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING

THIS LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING ("Deed of Trust") is made as  
of the 10th day of September, 1993, by and among Nevada 2 Cellular  
Corporation ("Trustor"), whose place of business is 2572 Idaho St.,  
Suite A3, Eiko, NV, \_\_\_\_\_ ("Trustee"), whose place  
of business is \_\_\_\_\_, and NORTHERN  
TELECOM Finance Corporation, a Delaware  
corporation, whose principal place of business is 220 Athens  
Way, Nashville, Tennessee 37228. All initially capitalized terms  
used herein and not otherwise defined herein shall have the  
meanings ascribed to them in the Financing Agreement (as defined  
below).

RECITALS

A. Beneficiary, General Cellular Corporation, a  
Delaware corporation ("GCC") and certain of GCC's direct and  
indirect subsidiaries (the "Borrower Subsidiaries") are parties to  
that certain Cellular System Financing Agreement dated as of August  
6, 1993 (the "Financing Agreement").

B. Pursuant to the Financing Agreement, Beneficiary has  
agreed to provide financing to GCC and the Borrower Subsidiaries,  
on the terms and conditions set forth in the Financing Agreement.

C. In order to secure the obligations of GCC and the  
Borrower Subsidiaries under the Financing Agreement and the other  
Financing Documents (as defined in the Financing Agreement), each  
of GCC and the Borrower Subsidiaries has agreed to grant  
Beneficiary a security interest in substantially all of its assets,  
including their leasehold interests in real property.

Original

D. In connection therewith, Trustor desires to enter into this Deed of Trust in order to grant Beneficiary a security interest in its leasehold interest in the Property (defined below).

#### ARTICLE I

#### GRANT OF SECURITY INTEREST

FOR GOOD AND VALUABLE CONSIDERATION, TRUSTOR HEREBY GRANTS, TRANSFERS, CONVEYS AND ASSIGNS TO TRUSTEE, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, all rights, titles, interests, estates, powers and privileges that Trustor now has or may hereafter acquire in or to the following property and interests therein:

(a) Land. All of Trustor's right, title and interest in that certain parcel of real property (the "Land") in the County of Eureka, State of Nevada, described in Exhibit A attached hereto and by this reference incorporated herein, which interest is a leasehold interest created by that certain lease (the "Lease") by and between the owner of the Property (the "Landlord") and Trustor, attached hereto as Exhibit B, and by this reference incorporated herein including, without limitation, (i) all options to extend or renew the Lease, (ii) all security deposits and prepaid rents made by or on behalf of the Trustor, and (iii) all of Trustor's other rights, titles and interests under the Lease.

(b) Improvements. All buildings and other improvements now or hereafter erected on the Land and covered by the Lease, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery, and other articles attached to said buildings and improvements (the "Improvements"). The Land and Improvements are hereinafter referred to collectively as the "Property".

(c) Rents. All rents, issues, profits, royalties, income and other benefits derived from the Property (collectively the "Rents"), subject to the right, power and authority hereinafter given to Trustor to collect and apply such rents.

(d) Leases. All leases and subleases covering the Property or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Trustor thereunder, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of a similar nature.

(e) Options To Purchase. All right, title and interest of Trustor in and to all options to purchase the Property or any portion thereof or interest therein, and any greater estate in the

Property owned or hereafter acquired by Trustor.

(f) Easements. All easements, rights-of-way and rights used in connection with the Property or as a means of access thereto or which are otherwise of benefit thereto to the users thereof, and all tenements, hereditaments and appurtenances thereof and thereto.

(g) Personal Property. All right, title and interest of Trustor in all tangible personal property (the "Personal Property") now or at any time hereafter located on or appurtenant to the Property and used in connection with the management or operation of the Property.

(h) Additional Interests. All other interests, estates, rights, claims or demands, both in law and in equity, which Trustor now has or may hereafter acquire in the Property, including, without limitation, (i) any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property, (ii) any and all proceeds of insurance in effect with respect to all or any part of the Property, and (iii) any and all claims or demands which Trustor now has or may hereafter acquire against anyone with respect to any damage to all or any part of the Property.

## ARTICLE II SECURED OBLIGATIONS

This Deed of Trust (and the Lien created hereby) is made for the purpose of securing the following obligations (collectively, the "Secured Obligations"):

(a) Payment and performance by Trustor of all indebtedness and other obligations evidenced by that certain Equipment Line of Credit Note and that certain Third Party Equipment Line of Credit Note (together, the "Notes") executed by Trustor in favor of Beneficiary, together with interest thereon, which Notes (together with any and all modifications, extensions and renewals thereof) are hereby made a part hereof;

(b) Payment and performance by Trustor of all indebtedness and other obligations evidenced by that certain Guaranty set forth in Exhibit 10 to, and made a part of, the Financing Agreement, pursuant to which Trustor guarantees the obligations of GCC arising in connection with the Working Capital Line of Credit Note;

(c) Payment and performance of all indebtedness and other obligations of Trustor to Beneficiary contained in (i) the Financing Agreement and (ii) the other Financing Documents;

(d) Payment by Trustor of all amounts advanced by or on behalf of Trustee or Beneficiary to improve, protect or preserve the Property or the security of this Deed of Trust; and

(e) Payment and performance of all amendments, modifications, extensions, renewals and replacements of any of the foregoing (including, without limitation, (i) amendments or modifications of the required principal payment dates or interest payment dates, or both, as the case may be, or (ii) amendments, modifications, extensions or renewals at a different rate of interest), whether or not any such amendment, modification, extension, renewal or replacement is evidenced by a new or an additional promissory note or notes or another document.

**ARTICLE III**  
**COVENANTS**

Trustor hereby covenants and agrees as follows:

3.1 Payment of Secured Obligations. Trustor shall pay when due the principal, interest, and all other amounts due to Beneficiary as provided in the Financing Agreement, the Notes and the other Financing Documents; the principal of and interest on any amount advanced in the future and secured by this Deed of Trust; and all other charges, fees and other sums as provided in the Financing Agreement or any of the other Financing Documents.

3.2 Maintenance and Repair. Trustor shall keep the Property in good condition and repair.

3.3 Required Insurance. Trustor shall at all times maintain in full force and effect, at Trustor's sole cost and expense, policies of insurance in form, substance, amounts and with companies as required by the Financing Agreement. In the event of any damage or destruction to the Property, all insurance proceeds shall be applied in accordance with the terms of Section 5.6 of the Financing Agreement.

3.4 Condemnation and Other Awards. Trustor hereby assigns to Beneficiary, as security for the Secured Obligations, all compensation, awards, damages and other amounts payable to Trustor in connection with any condemnation or other taking of all or any part of the Property for public or semi-public use (including, but not limited to, the proceeds of any settlement, proceedings or whether or not condemnation or other taking are instituted in connection therewith). All such proceeds shall be applied in the same way as insurance proceeds, as set forth in Section 5.6 of the Financing Agreement.

3.5 Taxes and Impositions. As set forth in Section 5.12 of the Financing Agreement, Trustor shall pay or cause to be paid all Taxes imposed upon it.

3.6 Utilities. Trustor shall promptly pay or cause to be paid all gas, electricity, water, sewer and other utility charges which are incurred for the benefit of the Property or which may become a Lien against the Property.

3.7 Liens. Trustor shall not cause, incur, suffer or permit to exist or become effective any Lien, encumbrance or charge upon all or any part of the Property or any interest therein, other than Permitted Liens. Trustor shall pay and promptly discharge, at Trustor's sole cost and expense, all Liens, encumbrances and charges upon all or any part of the Property or any interest therein, other than Permitted Liens.

3.8 Sale or Lease of Property. Except as otherwise expressly provided in the Financing Agreement and except for subleases of portions of the Improvements by Trustor, in accordance with its past business practices, to other persons in the business of operating broadcast stations or cellular radio-telephone systems, Trustor shall not sell, lease or otherwise transfer all or any part of the Property or any interest therein without the prior written consent of Beneficiary (which consent may be withheld in its sole and absolute discretion).

3.9 Defense of Actions. Trustor, at no cost or expense to Beneficiary or Trustee, shall appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust, all or any part of the Property, or the interests, rights, powers or duties of Beneficiary or Trustee hereunder. If Beneficiary or Trustee elects to become a party to such action or proceeding, or is made a party thereto, Trustor shall indemnify, defend and hold Trustee and Beneficiary harmless from all liability, damage, cost and expense incurred by Trustee and Beneficiary, or either of them, by reason of such action or proceeding (including, without limitation, reasonable attorneys' fees and expenses), whether or not such action or proceeding is prosecuted to judgment or decision.

3.10 Indemnification. If Beneficiary is made a party defendant to any litigation concerning this Deed of Trust or the Property by Trustor, then Trustor shall indemnify, defend and hold Beneficiary harmless from all liability by reason of said litigation, including reasonable attorneys' fees and expenses incurred by Beneficiary in any such litigation, whether or not any such litigation is prosecuted to judgment. If Beneficiary commences an action against Trustor to enforce any of the terms hereof or because of the breach by Trustor of any of the terms hereof, or for the recovery of any sum secured hereby, Trustor



3.12 Protection of Security. Upon the occurrence of an Event of Default (as defined in Section 6.1 below), Beneficiary and/or Trustee, each in its own discretion, without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation, may take such actions as either of them may deem necessary to protect the security hereof. In connection therewith (without limiting their general powers), Beneficiary and/or Trustee shall have and are hereby given the right, but not the obligation, (i) to enter upon and take possession of the Property; (ii) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Beneficiary or Trustee hereunder; and (iii) in exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Trustor shall, immediately upon demand therefor by Beneficiary, pay all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing

3.11 Waiver. The obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Property or any part thereof; (ii) any restriction or prevention of or interference with any use of the Property or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (v) any claim which Trustor has or might have against Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any of the terms hereof or of any other agreement with Trustor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not Trustor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor.

shall pay to Beneficiary reasonable attorneys' fees and expenses, and the right to such attorneys' fees and expenses shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment. If Trustor breaches any term of this Deed of Trust, Beneficiary may employ an attorney or attorneys to protect its rights hereunder, and in the event of such employment following any breach by Trustor, Trustor shall pay Beneficiary reasonable attorneys' fees and expenses incurred by Beneficiary, whether or not an action is actually commenced against Trustor by reason of breach.

rights, including without limitation costs of evidence of title, court costs, appraisals, surveys and attorneys' fees.

**3.13 Additional Security.** In the event Beneficiary at any time holds additional security for any of the obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently herewith or after a sale is made hereunder and, in connection therewith, Trustor hereby waives all rights of marshaling.

**3.14 Inspections.** Beneficiary, or its agents, representatives or workmen, are authorized to enter, at any reasonable time, the Property for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Financing Documents.

**3.15 Beneficiary's Powers.** Without affecting the liability of Trustor or any other Person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Property not then or heretofore released as security for the full amount of all unpaid obligations, Beneficiary may in accordance with the Financing Agreement and the other Financing Documents, and from time to time and without notice (i) release any Person so liable, (ii) extend the maturity or alter any of the terms of any such obligation, (iii) waive any provisions contained herein or grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at Beneficiary's option any parcel, portion or all of the Property, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements with debtors in relation thereto.

### 3.16 Lease.

(a) Except as expressly provided otherwise herein (and in that certain Landlord Waiver and Consent executed by Landlord in connection herewith), this Deed of Trust is made subject to whatever rights and interests the Landlord may have under the Lease and the covenants, conditions and restrictions set forth therein.

(b) Trustor shall keep and perform each and every covenant, agreement and obligation of the Lessee set forth in the Lease, and shall not commit, suffer or permit any breach thereof. If Trustor shall default under the Lease, Beneficiary may at its option, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereunder or removing or waiving any default hereunder, take any action necessary or desirable to cure any default by Trustor in the performance of any of the terms, covenants and

conditions of the Lease, and is authorized to enter upon the Property for such purposes. All costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by Beneficiary in connection therewith shall be repayable upon demand by Trustor, with interest thereon at the Post-Default Rate, and shall be secured hereby. Any default by Trustor under the Lease shall be a default hereunder, subject to Section 6.1(b) hereof.

(c) Except as otherwise permitted under the Financing Agreement, Trustor shall not, without Beneficiary's prior written consent (which consent shall not be unreasonably withheld), materially modify, or cause or permit the termination of, the Lease, or waive or in any way release the Landlord from any of the Landlord's obligations under the Lease. If, in conformance with the Financing Agreement, Trustor takes any of the actions described in the immediately preceding sentence, Trustor shall provide Beneficiary with written notice at least ten (10) Business Days prior to the taking thereof.

(d) Trustor shall give immediate notice to Beneficiary of the occurrence of any material default by the Landlord under the Lease within Trustor's knowledge or of the receipt by it of any notice from the Landlord under the Lease, claiming the occurrence of any default or event of default by Trustor under the Lease. Trustor hereby assigns to Beneficiary the proceeds of any claims that Trustor may have against the Landlord for any breach of the Lease by the Landlord, as security for the Secured Obligations.

(e) So long as this Deed of Trust is in effect, there shall be no merger of the leasehold estate created by the Lease with the fee estate in the Property or any portion thereof notwithstanding the union of such estates in the Landlord, or the Trustor or in a third party. In case Trustor acquires the fee title or any other estate, title or interest in the Property covered by the Lease, this Deed of Trust shall attach to and cover and be a Lien upon the fee title or such other estate so acquired, and such fee title or other estate shall, without further assignment, mortgage or conveyance, become and be subject to the Lien of this Deed of Trust. Trustor shall notify Beneficiary of any such acquisition by Trustor and, on written request by Beneficiary, shall cause to be executed and recorded all such other and further assurances or other instruments in writing as may in the opinion of Beneficiary be required to carry out the intent and meaning hereof.

(f) All subleases entered into by Trustor with respect to all or any portion of the Property (and all existing subleases modified by Trustor) shall provide that (i) such subleases are subordinate to the Lien of this Deed of Trust, as amended from time to time, and (ii) if Beneficiary forecloses under this Deed of Trust, each sublease shall, if Beneficiary so elects,



remain in full force and effect and the subtenant shall atorn to Beneficiary or its assignee.

(g) Trustor shall exercise any option or right to renew or extend the term of the Lease, or shall give Beneficiary written notice of its intent not to exercise such option or right, at least thirty (30) days prior to the date of termination of any such option of right. If there shall have occurred and be continuing a Default or an Event of Default and Trustor fails to exercise any such option or right or if the failure by Trustor to exercise any such option or right would cause a Default or an Event of Default, Beneficiary may exercise the option or right as Trustor's agent and attorney-in-fact pursuant to this Deed of Trust, or in Beneficiary's own name or in the name of and on behalf of a nominee of Beneficiary, as Beneficiary elects in its sole and absolute discretion.

(h) If there shall have occurred and be continuing a Default or an Event of Default or if a surrender of the Lease would cause a Default or an Event of Default, no surrender (except a surrender upon the expiration of the term of the Lease or upon the termination by the Landlord thereunder pursuant to the provisions thereof) by Trustor, as lessee under the Lease, to the Landlord under the Lease, or any portion thereof or of any interest therein, shall be valid or effective, and neither the Lease nor the terms thereof may be amended, modified, changed, surrendered or canceled, or subordinated to any fee mortgage, to any lease, or to any other interest, either orally or in writing, without the prior written consent of Beneficiary so long as this Deed of Trust is in effect.

(i) Trustor shall, promptly after the execution and delivery of this Deed of Trust or of any instrument or agreement supplemental thereto, notify the Landlord under the Lease in writing of the execution and delivery thereof and deliver to the Landlord a copy of such Deed of Trust, instrument or agreement, as the case may be.

(j) Trustor hereby warrants that the Lease is in all respects valid and subsisting; that it is not in default under any of its terms or provisions; that no controversies exist involving any claim of default; that it owns the entire lessee's interest under the Lease; and that it has the right to execute this Deed of Trust.

### 3.17 Effect of Bankruptcy on Lease.

(a) In the event of the termination, rejection, or dissatisfaction by the Landlord under the Lease pursuant to any section or chapter of the Bankruptcy Code or any similar law (each such law being referred to herein as a "Bankruptcy Law" and all such laws being collectively referred to herein as "Bankruptcy

"Laws"), Trustor hereby agrees to make or refrain from making any election available to lessees under any Bankruptcy Law (including, without limitation, the election available pursuant to Section 365(h) of the Bankruptcy Code) only after notice to and the consent of Beneficiary, which consent shall not be unreasonably withheld. Any such election, if made by Trustor without the prior written consent of Beneficiary, shall be void and of no force or effect.

(b) In the event there is a termination, rejection, or disaffirmance by the Landlord under the Lease as described in subparagraph (a) above and Beneficiary consents to Trustor's remaining in possession under any legal right Trustor may have to occupy the Property, then (i) Trustor shall remain in such possession and shall perform all acts necessary for Trustor to retain its right to remain in such possession, whether such acts are required under the then existing terms and provisions of the Lease or otherwise, and (ii) all of the terms and provisions of this Deed of Trust and the Lien created hereby shall remain in full force and effect and shall be extended automatically to such possession, occupancy, and interest of the Trustor, to all rights of Trustor to such possession, occupancy, and interest, and to all of Trustor's rights and remedies against the Landlord under the Bankruptcy Laws.

(c) In the event that there is a termination, rejection or disaffirmance by the Landlord under the Lease as described in subparagraph (a) above and Beneficiary consents to Trustor's agreement to such rejection, Trustor hereby irrevocably assigns to Beneficiary all of Trustor's rights to damages arising from such rejection, as security for the Secured Obligations. At Beneficiary's election, Beneficiary and Trustor shall proceed jointly or in the name of Trustor in respect of any claim or proceeding relating to the rejection of the Lease, including without limitation the right to file and prosecute any proofs of claim, complaints, motions and other documents in any case in respect of the Landlord under the Bankruptcy Code. Any amounts received by Beneficiary or Trustor as damages arising from the rejection of the Lease as aforesaid shall be applied first to all costs reasonably incurred by Beneficiary (including attorneys' fees) in connection with this subsection (c) and then in accordance with the other applicable provisions of this Deed of Trust and the Financing Agreement.

#### ARTICLE IV ENVIRONMENTAL MATTERS

4.1 Representations and Warranties. Trustor hereby represents and warrants that, as of the date hereof:

(a) Except (i) as disclosed to Beneficiary in writing or (ii) where the failure to so comply would not have a

material adverse effect on Trustor, (A) neither Trustor nor, to the best of Trustor's knowledge, any previous occupant or user of the Property, has engaged in or permitted any operations or activities upon, or any use or occupancy of the Property, or any portion thereof, for the purpose of or in any way involving the generation, storage or disposal of any Hazardous Materials (as defined in the Financing Agreement) (whether legal or illegal, accidental or intentional) on, under, in or about the Property (except in compliance in all material respects with Environmental Laws), or transported any Hazardous Materials to, from or across the Property (except in compliance in all material respects with Environmental Laws), and (B) no Hazardous Materials are presently located on, under, in or about the Property (except in compliance in all material respects with Environmental Laws).

(b) Except (i) as disclosed to Beneficiary in writing or (ii) where the failure to so comply would not have a material adverse effect on Trustor, the existing uses and activities thereon and, to the best of Trustor's knowledge after reasonable due diligence (which shall not include the hiring of environmental consultants or engineers unless in the reasonable judgment of Trustor such persons should be retained to inspect the Property or investigate any condition on the Property), the prior uses and activities thereon by or on behalf of Trustor, comply and have at all times complied in all material respects with all Environmental Laws (as defined in the Financing Agreement).

(c) Except (i) as disclosed to Beneficiary in writing or (ii) where the failure to so comply would not have a material adverse effect on Trustor, Trustor has obtained all permits, licenses and other authorizations which are required under all Environmental Laws relating to the generation, storage or disposal of Hazardous Material in, on or about the Property. Trustor is in compliance in all material respects with all terms and conditions of required permits, licenses and authorizations, and is also in compliance in all material respects with all other Environmental Laws.

(d) Except (i) as disclosed to Beneficiary in writing or (ii) where the failure to so comply would not have a material adverse effect on Trustor, neither Trustor nor, to the best of Trustor's knowledge, any prior owner, occupant or user of the Property has received notice or other communication concerning any alleged violation of Environmental Laws, or notice or other communication concerning alleged liability for any alleged breach of such Environmental Laws, and to the best of Trustor's knowledge, there exists no writ, order or judgment outstanding, nor any lawsuit, proceeding or investigation, pending or threatened, relating to the ownership, use, maintenance or operation of the Property or from alleged violation of any Environmental Laws, and there are no potential liabilities for cleanup costs pursuant to any Environmental Laws.

The above representations and warranties contained in this Section 4.1 shall survive the termination and release of this Deed of Trust and the discharge of Trustor's other obligations hereunder.

4.2 Environmental Covenants. Trustor shall at all times comply with the following requirements:

- (a) Trustor shall not cause, permit or suffer any Hazardous Material to be generated upon, stored upon or disposed upon the Property or any portion thereof by Trustor or its agents, employees, contractors, or invitees, or any other party, except in compliance in all material respects with all Environmental Laws.
- (b) Trustor shall not cause permit a material violation of any Environmental Law upon, within or beneath the Property.

(c) Trustor shall not create or suffer to exist with respect to the Property or permit any of its agents to create or suffer to exist any environmental lien, security interest or other environmental charge or encumbrance of any kind.

(d) Trustor shall, at its sole cost and expense, promptly take all actions required by any federal, state or local governmental agency or political subdivision to comply with any Environmental Law, which requirements or necessity arise from the presence upon, about or beneath the Property, of a Hazardous Material or a violation of any Environmental Laws.

(e) If Trustor shall become aware of or receive notice or other communication concerning any actual, alleged, suspected or threatened violation of Environmental Laws, then Trustor shall deliver to Beneficiary, within ten (10) days of the receipt of such notice or communication by Trustor, a written description of said violation, liability, or actual or threatened event or condition, together with copies of any documents evidencing same. Receipt of such notice shall not be deemed to create any obligation on the part of Beneficiary to defend or otherwise respond to any such notification.

(f) Trustor agrees to indemnify, reimburse, defend, exonerate, pay and hold harmless Beneficiary, its successors and assigns, and their respective directors, officers, shareholders, employees, agents, contractors, subcontractors, experts, licensees, affiliates, lessees, trustees, and invitees, from and against any and all losses, claims, penalties, expenses, actions, suits, obligations, liabilities and liens arising from the presence of hazardous materials upon, about or beneath the Property or migrating to or from the Property, or arising in any manner whatsoever out of the violation of any Environmental Laws pertaining to the Property and the activities thereon, whether

FORESEEABLE OR UNFORESEEABLE, AND REGARDLESS OF WHEN SUCH LOSSES, CLAIMS, PENALTIES, EXPENSES, ACTIONS, SUITS, OBLIGATIONS, LIABILITIES OR LIENS OCCURRED.

**ARTICLE V  
ASSIGNMENT OF RENTS, ISSUES AND PROFITS**

5.1 Assignment of Rents. Trustor hereby presently and absolutely assigns and transfers to Beneficiary all the rents, issues and profits of the Property, and hereby gives to and confers upon Beneficiary the right, power and authority to collect such rents, issues and profits; provided, however, that Trustor shall have a license to collect such rents, issues and profits (but not more than two months in advance unless the written approval of Beneficiary has first been obtained) prior to or at any time there is not an Event of Default (defined in Section 6.1 hereof). The assignment of the rents, issues and profits of the Property in this Article V is intended to be an absolute assignment from Trustor to Beneficiary and not merely the passing of a security interest. The rents, issues and profits are hereby assigned absolutely by Trustor to Beneficiary contingent only upon the occurrence of an Event of Default (defined in Section 6.1 hereof).

5.2 Collection upon Default. Upon the occurrence of an Event of Default (defined in Section 6.1 hereof), Beneficiary may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property, or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The collection of such rents, issues and profits, or the entering upon and taking possession of the Property, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

**ARTICLE VI  
REMEDIES UPON DEFAULT**

6.1 Events of Default. The occurrence of any of the following events shall constitute an event of default ("Event of Default") hereunder:

(a) An Event of Default occurs under the Financing Agreement or any of the other Financing Documents; or

(b) Any representation or warranty contained herein shall be inaccurate or incomplete in any material respect on



the date when made; or

(c) Borrower shall fail to perform any covenant contained in this Deed of Trust (within any grace period provided for such performance); or

(d) Any event or circumstance occurs which gives the Lessor a right to terminate the Lease, and Trustor fails to cure such event or circumstance within the greater of (i) fifteen (15) days after the giving of written notice by Lessor or Beneficiary, or (ii) any applicable cure period provided under the Lease or granted by Lessor in writing; provided, however, that, as set forth in Section 3.16(b) hereof, Beneficiary may take such actions which it deems necessary to prevent the termination of the Lease prior to the expiration of any such periods.

6.2 Acceleration Upon Default, Additional Remedies. In the event of an Event of Default, Beneficiary may, at its option, declare all indebtedness secured hereby to be due and payable without any presentment, demand, protest or further notice of any kind, and the same shall thereupon become due and payable; and whether or not Beneficiary exercises said option, Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the property, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the property, and, with or without taking possession of the property, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorneys' fees, upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder and, notwithstanding the continuance in possession of the property or the collection, receipt and application of rents, issues or profits, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Financing Documents or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Exercise any or all of the remedies available to a secured party under the applicable provisions of the Uniform Commercial Code.

(d) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Property to be sold, which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of the county in which the Property is located.

(e) Seek a judgment that Trustor has breached its covenants, representations and/or warranties set forth in this Deed of Trust regarding Environmental Laws and/or Hazardous Materials, arising from, an action for breach of contract pursuant to California Code Civil of Procedure ("CCP") Section 736 (or to the extent that the law of another state applies to this Deed of Trust, pursuant to any applicable comparable provisions of the law of such State), without regard to whether Beneficiary has commenced an action to foreclose this Deed of Trust, and to seek injunctive or other appropriate equitable relief and/or the recovery of any and all damages incurred as a result of a violation of an Environmental Law, as permitted under CCP Section 736 (or to the extent that the law of another state applies to this Deed of Trust, pursuant to any applicable comparable provisions of the law of such State), including without limitation all damages, costs and expenses specified in CCP Section 736(b) (or to the extent that the law of another state applies to this Deed of Trust, pursuant to any applicable provisions of the law of such state), it being conclusively presumed between Trustor and Beneficiary that any costs advanced or expenses incurred by Beneficiary relating to the cleanup, remediation or other response action with respect to the Property were made or incurred by Beneficiary in good faith. Trustor acknowledges and agrees that notwithstanding anything to the contrary, express or implied, in this Deed of Trust or in any of the financing documents (including without limitation any nonrecourse or exculpatory language), Trustor shall be personally liable for any recovery described in this paragraph and such liability shall not be limited to the amount of the indebtedness secured hereby and any such action to seek such recovery shall survive and shall be unaffected and unimpaired by the conveyance of the lien of this Deed of Trust, or any Trustee's sale or JUDICIAL FORECLOSURE HEREUNDER OR DEED IN LIEU THEREOF;

(f) Exercise all other rights and remedies permitted to be exercised by a beneficiary of a deed of trust or a secured party or both under the financing documents or pursuant to applicable law and equity.

6.3 Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and

7.3 Trustor Waiver of Rights. Trustor hereby waives, to the fullest extent permitted by law, the benefit of all laws now existing or that hereafter may be enacted providing for (i) any appraisal before sale of any portion of the Property, and (ii) any extension of the time for the enforcement of the collection of the

7.2 Amendments. This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

7.1 Governing Law; Severability. This Deed of Trust shall be governed by the laws of the State of California as to all matters other than (a) those matters relating to the enforcement or exercise of any and all remedies of Beneficiary hereunder, which shall be governed by the laws of the State of Nevada, and (b) matters which, under applicable conflict of law principles, require the application of laws of a state other than California. In the event that any provision or clause of this Deed of Trust conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust are declared to be severable.

MISCELLANEOUS  
ARTICLE VII

performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or under any Financing Document, notwithstanding some or all of the said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Financing Documents to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

Notes or the debt evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt. Trustor also waives, to the extent permitted by law, rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshaling in the event of foreclosure of the Liens hereby created.

7.4 Reconveyance by Trustee. Upon written request of Trustor stating that all sums secured hereby have been paid, and upon surrender by Beneficiary of this Deed of Trust and the Notes to Trustee for cancellation and retention and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or the Person legally entitled thereto, without warranty, any portion of the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

7.5 Notices. Whenever Beneficiary, Trustor or Trustee shall desire to give or serve any notice, demand, request or other communication with respect to this Deed of Trust, each such notice, demand, request or other communication shall be in writing, shall be sent or otherwise communicated to the addressee at its address indicated in the first page hereof, and shall be deemed to have been duly given or made (a) when delivered by hand, (b) the following Business Day when sent by overnight delivery service by courier, or when transmitted by facsimile after 4:00 p.m. on any Business Day, or (c) the third (3rd) Business Day after the day when mailed by certified mail, or (d) on 4:00 p.m. the same day, when transmitted on a Business Day by facsimile (and confirmation of transmission having been printed by sender's facsimile machine) before 4:00 p.m. on any Business Day. A copy of any notice given by facsimile shall also be mailed, postage prepaid, to the addressee.

7.6 Successors and Assigns. Subject to Section 3.8 hereof, this Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the owner and holder of the Notes, whether or not named as Beneficiary herein.

7.7 Security Interest in Personal Property. Pursuant to that certain Borrower Subsidiary Security Agreement dated as of September 15, 1993, Trustor has granted to Beneficiary a security interest in, inter alia, substantially all of its personal property now or hereafter affixed to or located on or at the Property.

7.8 Fixture Filing. This Deed of Trust constitutes a financing statement filed as a fixture filing in the official Records of the County Recorder of the county in which the Property



is located with respect to any and all fixtures included within the term "property" as used herein and with respect to any personal property that may now be or hereafter become fixtures (each a "fixture" and collectively the "fixtures"). It is understood and agreed that, to protect Beneficiary against the effect of California Commercial Code Section 9313, as amended from time to time (or to the extent that the law of another state applies to this Deed of Trust, pursuant to any applicable comparable provisions of the law of such state), in the event that (a) any fixture owned by Trustor on the Property, or any part thereof, is replaced or added to, or any new fixture owned by Trustor is installed or substituted by Trustor, and in each case such fixture (together with all fixtures being replaced, added to, installed or substituted at or about the same time) has a cost or fair market value in excess of \$20,000 and such replacement, addition, installation or substitution is not in the ordinary course of business consistent with past practice, and (b) such fixture is or may be subject to a security interest held by a seller or any other party:

(a) Trustor or any owner of all or any part of the Property shall, before the replacement, addition, installation, or substitution of any such fixture give Beneficiary written notice that a security agreement with respect to such fixture is proposed to be consummated and obtain the prior written approval of Beneficiary thereto, which notice shall contain the following information:

(i) a description of the fixture to be replaced, added to, installed or substituted;

(ii) a recital of the address at which the fixture will be replaced, added to, installed or substituted;

(iii) a statement of the name and address of the holder and the amount secured by the security interest; and

(iv) the date of the purchase of such fixture.

Neither this subsection (a) nor any consent by Beneficiary pursuant to this subsection (a) shall constitute an agreement to subordinate any right of Beneficiary in fixtures or other property covered by this Deed of Trust.

(b) In the event Trustor shall fail, beyond any applicable notice and grace periods, to make any payment or perform any covenant related to any security interest in favor of any person other than Beneficiary, Beneficiary may, at its option, within five (5) days after notice to Trustor or if Beneficiary's



Immediate action is reasonably necessary to protect the Lien hereof or its security for the indebtedness under the Financing Documents, by such security interest, and the amount so paid shall be secured by this Deed of Trust and shall be a Lien on the Property enjoying the same priorities ~~vis-à-vis~~ the estates and interests encumbered hereby as this Deed of Trust, (ii) added to the amount of the indebtedness under the Financing Documents, and (iii) payable on demand with interest at the Post-Default Rate; and if Trustor shall fail to make such payment for ten (10) days after demand, the entire sum secured hereby shall, at the option of Beneficiary, become due and payable immediately, anything contained in this Deed of Trust or the other Financing Documents to the contrary notwithstanding; or Beneficiary shall have the privilege of acquiring by assignment from the holder of such security interest any and all contract rights, accounts receivable, chattel paper, negotiable or non-negotiable instruments and other evidence of Trustor's indebtedness secured by such Fixtures, and, upon acquiring such interest by assignment, shall have the right to enforce the security interest as assignee thereof, in accordance with the terms and provisions of the California Uniform Commercial Code (or to the extent that the law of another state applies to this Deed of Trust, pursuant to any applicable comparable provisions of the Uniform Commercial Code as in effect in such State), as amended or supplemented, and in accordance with other Law.

(c) Whether or not Beneficiary has paid or taken an assignment of such security interest, if at any time Trustor shall be in default for a period of ten (10) days under the security agreement covering the Fixtures, such default shall be a material breach of Trustor's covenants under this Deed of Trust, and shall at the option of Beneficiary constitute an Event of Default under this Deed of Trust, and all amounts secured hereby shall, at the option of Beneficiary, become due and payable immediately.

(d) The provisions of subsections (b) and (c) of this Section 7.8 shall not apply if the goods which may become Fixtures are of at least equivalent value and quality as any property being replaced and if the rights of the party holding such security interest have been expressly subordinated, at no cost to Beneficiary, to the Lien of this Deed of Trust in a manner satisfactory to Beneficiary.

7.9 Headings. Article and section headings are included in the Deed of Trust for the convenience of reference only and shall not be used in construing this Deed of Trust.

7.10 No Merger. If both the Landlord's and Trustor's estates under the Lease or any portion thereof which constitutes a part of the Property shall at any time become vested in one owner, this Deed of Trust and the Lien created hereby shall not be

destroyed or terminated by application of the doctrine of merger and, in such event, Beneficiary shall continue to have and enjoy all of the rights and privileges of Beneficiary as to the separate estates. In addition, upon the foreclosure of the Lien created by this Deed of Trust on the Property pursuant to the provisions hereof, any leases or subleases then existing and created by Trustor shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Beneficiary or any purchaser at any such foreclosure sale shall so elect. No act by or on behalf of Beneficiary or any such purchaser shall constitute a termination of any lease or sublease unless Beneficiary or such purchaser shall give written notice thereof to such tenant or subtenant.

7.11 Appointment of Successor Trustee. Trustee or any successor acting hereunder may resign and thereupon be discharged of the trusts hereunder upon thirty (30) days' written notice to Beneficiary. Regardless of whether such resignation occurs, Beneficiary may, from time to time, substitute a successor or successors to any Trustee named herein or acting hereunder in accordance with any statutory procedure for such substitution; or if Beneficiary, in its sole discretion, so elects, Beneficiary may substitute such successor or successors by recording in the office of the recorder of the county or counties where the property is situated, an instrument executed by Beneficiary, and containing the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee, which instrument shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the predecessor Trustee, succeed to all its title, estate, rights, powers and duties hereunder.

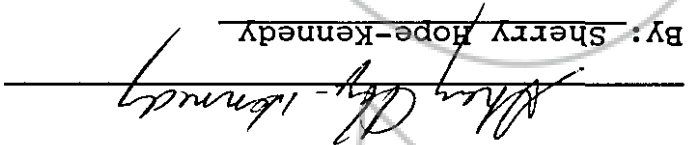
7.12 Further Assurances. Trustor agrees to do or cause to be done such further acts and things and to execute and deliver or to cause to be executed and delivered such additional assignments, agreements, powers and instruments, as Beneficiary or Trustee may reasonably require or deem advisable to correct any defect, error or omission in this Deed of Trust or the execution or acknowledgment of this Deed of Trust, to subject to the Lien of this Deed of Trust any of Trustor's properties covered or intended to be covered hereby, to perfect and maintain such Lien, to keep valid and effective the charges and Lien hereof, to carry into effect the purposes of this Deed of Trust or to better assure and confirm to Beneficiary or Trustee their respective rights, powers and remedies hereunder.

7.13 WAIVER OF JURY TRIAL. NO PARTY TO THIS DEED OF TRUST OR ANY ASSIGNEE, SUCCESSOR, HEIR OR PERSONAL REPRESENTATIVE OF A PARTY SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR ANY OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF THIS DEED OF TRUST, ANY RELATED AGREEMENT OR

INSTRUMENT, ANY OTHER COLLATERAL FOR THE INDEBTEDNESS SECURED HEREBY OR THE DEALINGS OR THE RELATIONSHIPS BETWEEN OR AMONG THE PARTIES, OR ANY OF THEM. NO PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION, IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN DULY DISCUSSED BY THE PARTIES HERETO, AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS. NO PARTY HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

IN WITNESS WHEREOF, Trustor has duly executed this Deed of Trust as of the date and year first above written.

"TRUSTOR": Nevada 2 Cellular Corporation

  
By: Sherry Hope-Kennedy

Title: Assistant Secretary

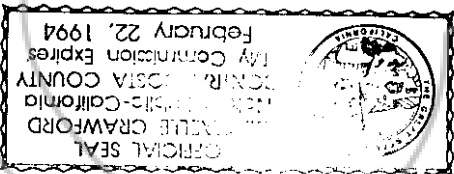
PROXY

ALL-PURPOSE ACKNOWLEDGEMENT

State of California )  
County of Solano )  
)

On September 10, 1993 before me Sherry Hope-Kennedy,  
personally appeared and personally known to me to be the person(s)  
whose name(s) is/are subscribed to the within instrument and  
acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s), or the entity upon  
behalf of which the person(s) acted, executed the instrument.  
Witness my hand and official seal.

*Sherry Hope-Kennedy*  
Signature of Notary



Capacity claimed by signer:  
Signer is representing:  
(Name of Person(s) or Entity(ies))

Nevada 2 Cellular Corporation

Individual(s)  
Corporate Officer(s) XXXXX

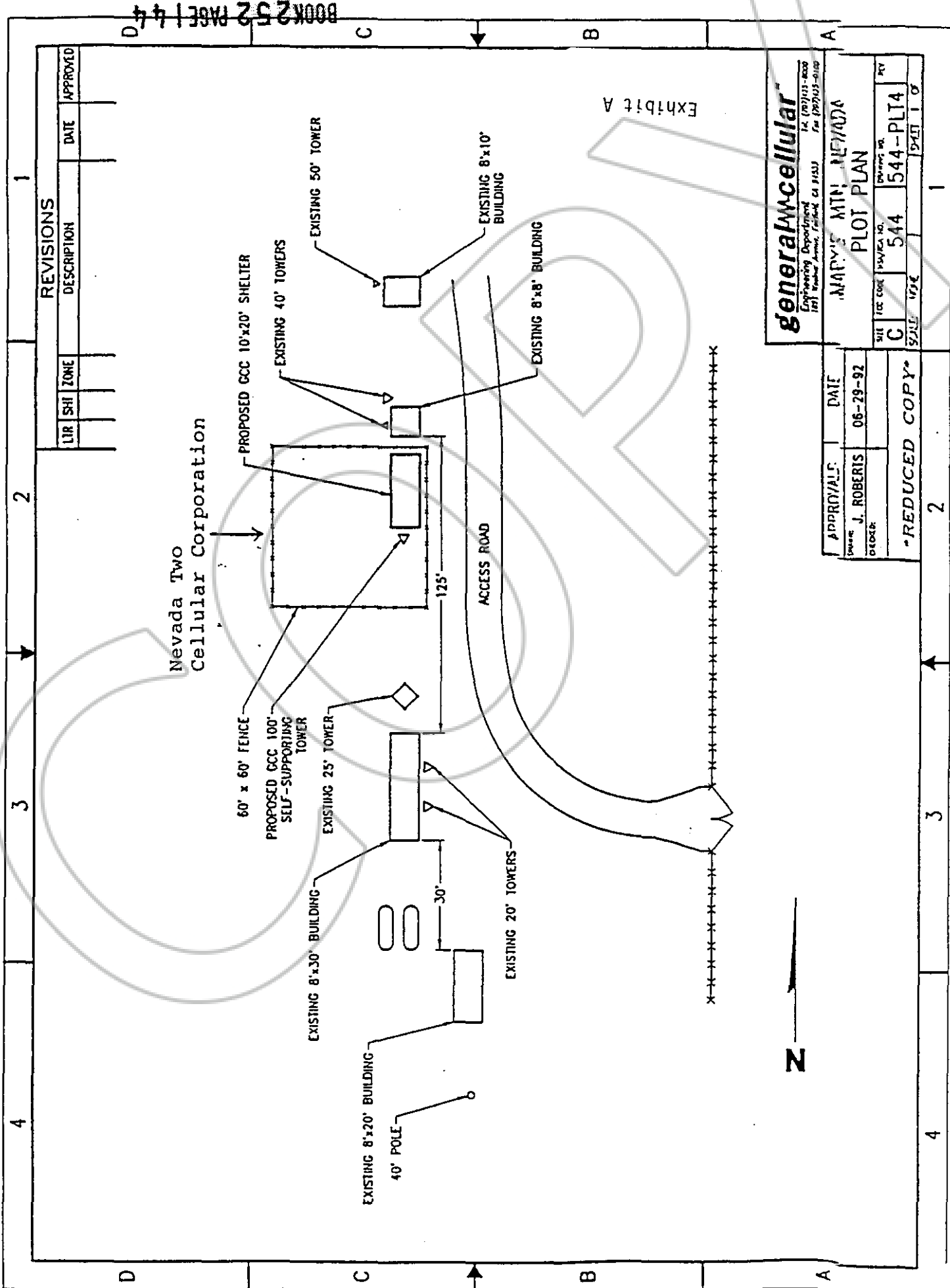
Title Assistant Secretary  
Title

Partner(s)  
Attorney-in-Fact  
Trustee(s)  
Subscribing Witness  
Guardian/conservator  
Other

This certificate must be attached to the document described below:

Title or Type of Document Leasehold Deed of Trust  
Number of Pages 21 + Exhibits  
Date of Document September 10, 1993  
Signer(s) Other Than Named Above None

EXHIBIT "A"



BOOK 252 PAGE 144

Exhibit A

REVISIONS		
LIR	SHI	ZONE

DESCRIPTION	DATE	APPROVED

**General Cellular**  
 Engineering Department  
 121 Weber Avenue, P.O. Box 11133  
 Salt Lake City, UT 84111 Tel: (801) 431-8000 Fax: (801) 431-8100

MAP'S MTR: N27/4)A  
**PLOT PLAN**

SITE	100 CODE	ISSUE NO.	DATE	BY
C	544	544-PL1A	5/11/92	

APPROVAL: J. ROBERTS 06-29-92  
 DATE: 06-29-92

SCALE: 1/8" = 1'-0"

\*REDUCED COPY\*



1 2 3 4

A B C D



COPY

BOOK 252 PAGE 145

Section 29, Township 33N, Range 51E, MDB&M, near Mary's Mountain, near Carlin, in the County of Eureka, State of Nevada.

Property Description  
Mary's Mountain

Exhibit A

LICENSE FOR CELLULAR COMMUNICATIONS SITE

THIS AGREEMENT, made this 31st day of August, 1992, by and between THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware corporation, (hereinafter called "Licensor"), and NEVADA TWO CELLULAR CORPORATION, a Delaware corporation, (hereinafter, whether one party or more, called "Licensee").

WITNESSETH:

1. License.

(a) Subject to the provisions hereof, Licensor hereby grants a License to Licensee to construct, reconstruct, maintain, operate and use a cellular and microwave communications facility including but not limited to one (1) 100' self-supporting tower, one (1) 10' x 21' fiberglass building and appurtenances related thereto, hereinafter collectively referred to as the "Facility", upon a portion of Licensor's property located within Section 29, Township 33N, Range 51E, MDB&M, near Mary's Mountain, near Carlin, in the County of Eureka, State of Nevada ("Premises"). The Premises and said Facility are generally located as shown on Exhibit "A" attached hereto and made a part hereof.

(b) Licensee is aware that the Premises may not have access and, in such event, it shall be Licensee's responsibility to obtain access from others. Licensee's right to use the Premises is nonexclusive, and Licensor and its nominees shall have the right, upon providing reasonable prior notice to Licensee, to enter and use the Premises for any purpose that will not unreasonably interfere whatsoever with the rights granted to Licensee under this License. Notwithstanding the foregoing, Licensor shall not knowingly permit access to the Premises by a competitor of Licensee.

2. Term. The term of this License is for the one (1) year period commencing on September 1, 1992 and ending at midnight on August 31, 1993; provided, however, that notwithstanding the foregoing, Licensor may revoke this License at any time by giving Licensee ~~thirty (30)~~ ninety (90) days notice. This License may be continued in effect from year to year subject to all its provisions, and subject to the consent of the parties hereto and the acceptance by Licensor of the advance License Fee for each successive annual term. Licensee agrees that Licensor shall not be estopped to revoke this License, notwithstanding any expenditure, regardless of amount, that may be incurred by Licensee with respect to the Premises. Licensee further agrees that Licensee shall not contest Licensor's right to revoke this License.

3. License Fee. Licensee shall pay to Licensor a "License Fee" for the use of the Premises during the term hereof in the sum of Three Thousand Six Hundred Fifty-Two Dollars (\$3,652.00) per annum, payable, annually, in advance, without prior notice, deduction, setoff or demand, at File #53694, Los Angeles, CA 90074-3694.

4. Additional License Fee. Subject to the provisions of paragraph 12 hereof, in addition to the License Fee set forth in Section 3, Licensee shall pay to Licensor, as additional License Fee, fifty percent (50%) of all amounts received from sublicensees of all or any portion of the Premises.

5. Expenses of Licensee. Licensee shall pay, in addition to the annual License Fee, the costs and expenses listed below:



5.1 Taxes. Licensee shall pay, before they become delinquent, all charges, fees, taxes and assessments imposed on the Premises solely by reason of Licensee's activities or by reason of the Facility or any improvement or personal property located on the Premises by or on behalf of Licensee. Licensee may pay such charges, fees, taxes or assessments, and such payments will be repaid by Licensee on demand. Licensee shall pay, in addition to all other charges hereunder, any privilege, sales, gross income or other tax (other than tax on net income) imposed on or measured by amounts to be paid by Licensee hereunder by any agency having the authority to do so. Without relieving Licensee from its obligation to pay to Licensee these charges, Licensee shall have the right to contest (to the agency imposing taxes, assessments, etc.) any taxes, assessments or other charges referred to in this Section 5.1.

5.2 Utilities. Licensee agrees to pay all water service charges and water standby charges on, or assessed against, the Premises during the term of this License. Licensee agrees to pay for all utilities installed at Licensee's request and for all utility services furnished to Licensee on the Premises.

5.3 Other Expenses. In addition to the taxes and utilities as described above, and unless otherwise specified herein, Licensee shall bear the sole risk and pay all costs and expenses of whatever kind and nature which arise from this License, including, without limitation, expenses to construct, reconstruct, alter, repair and maintain the Facility and any other improvements approved by Licensee or personal property located on the Premises by or on behalf of Licensee.

5.4 Interest. Licensee agrees to pay to Licensee interest at the rate of twelve percent (12%) per annum (based on a 360-day year), upon any and all amounts whatsoever due to Licensee under this Agreement, from the date payment of each such amount is due and owing to Licensee or from the date of each breach by Licensee of any obligation hereunder, as the case may be, unless such payment is rendered or paid to Licensee within thirty (30) days after the date a payment is due and owing hereunder to Licensee or the date of such breach, as the case may be. In the event that amounts owed by Licensee to Licensee are due to a breach of this License or, in the event that amounts, other than Licensee Fees, are owed to Licensee, interest shall be charged beginning fifteen (15) days from the date Licensee is provided with written notice to that effect.

5.5 Reimbursement to Licensee. If Licensee shall have made payments on behalf of Licensee for any costs or expenses incurred herein, Licensee shall reimburse Licensee within fifteen (15) days from the date of written notice amounts for such costs or expenses were incurred. Licensee shall have the right to lien on any Licensee-owned property on Licensee's property as security for repayment of said amount.

## 6. Use.

6.1 Qualifications on Use. Licensee shall neither use nor permit any use of the Premises for any purpose other than that set forth in Section 1 hereof.

(a) This License is subject to all easements, leases, liens, conditions, restrictions, encumbrances and claims of title which may affect the Premises. Licensee acknowledges that there may be subterranean facilities on the Premises, notwithstanding the absence of markers, monuments or maps indicating their existence. Licensee accepts the Premises (including, without limitation, Licensee-owned improvements, if any) in their present condition and without any representation or warranty by Licensee as to the condition of such Premises or improvements, and Licensee shall not

be responsible for any defect or change of conditions in the Premises or such improvements, any damage occurring thereto or for the existence of any violation of any municipal, county, state or federal law, order, rule, regulation or ordinance.

(b) Licensee shall not (1) explore for, mine, extract or remove any minerals of any kind or character, including without limitation oil, natural gas, hydrocarbon substances, geothermal steam, brines or minerals in solution, quarry or stone, sand or gravel (2) commit any waste thereon, (3) remove any earth or soil, (4) destroy, cut or remove any timber, trees or firewood standing or lying thereon, or (5) permit others to commit any of said acts. Licensee shall be permitted to construct its Facility in a customary manner which includes minor grading of soil. Licensee shall not do or suffer to be done in or upon said Premises any act or thing which is or may be a nuisance. Licensee shall not use or permit others to use the Premises for any unlawful or immoral purposes.

(c) The Premises shall not be used for displaying signs and notices other than those connected with the use of the Premises contemplated by this License.

(d) Licensee, at its expense, shall arrange for the filing of any map required under any subdivision map act and of any environmental impact report required by any governmental body having jurisdiction in the matter.

## 6.2 Construction, Alterations and Liens.

(a) Consent is hereby granted to construct Licensee's initial Facility as depicted on Exhibit "A" attached hereto and made a part hereof. Licensee shall not construct any other improvements without Licensee's prior written consent which shall not be unreasonably withheld or delayed. If requested, Licensee shall furnish Licensee with a bond in a form and amount satisfactory to Licensee and in an amount equal to or greater than one hundred fifty percent (150%) of the total cost of the proposed construction cost or cost of improvements prior to commencing such construction, reconstruction, alteration or repair.

(b) If any or all of the Facility is one or more pipelines, such pipelines shall be laid and maintained at least 48 inches below the surface of the ground. The trenches shall be filled in and the ground maintained in its natural condition. If the Facility is one or more electric power lines, Licensee shall prevent the leakage of electric current from Licensee's wires to such extent as may be necessary to avoid interference with other electric transmission, signaling or communication lines. Licensee shall construct, reconstruct, maintain and operate the Facility in a good, safe and workmanlike manner consistent with the use made of the Premises for other purposes. Identifying markers in form and size satisfactory to Licensee shall be installed and maintained by Licensee so as to mark the subsurface facilities at appropriate locations, or at such locations as Licensee designates. Such markers shall be relocated or removed by Licensee within thirty (30) days of the receipt of Licensee's written request.

(c) Licensee has the right to post notices of nonresponsibility upon the Premises, and to otherwise notify, actually or constructively, any entity or persons supplying services or materials to the Premises that Licensee is not responsible for the cost thereof. Licensee covenants and agrees to hold Licensee and the Premises harmless from any mechanic's or materialmen's liens claimed by any person, firm or corporation employed by or on behalf of Licensee. In the event of the filing of any such lien, Licensee shall cause such lien to be released within five (5) days after Licensee's

termination of this Agreement.

(c) It is expressly understood and agreed that the foregoing provisions shall survive the

(b) Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit, administrative action or other proceeding brought against Licensor by any public body, individual, partnership, corporation, or other legal entity relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or to indemnify and hold harmless Licensor. Licensee shall pay all the costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation expenses, settlement payments, and amounts paid in satisfaction of judgments. Any and all lawsuits or administrative actions brought or threatened on any theory of relief available at law, in equity or under the rules of any administrative agency shall be covered by this Section, including, but not limited to, the theories on intentional misconduct, negligence, strict liability, nuisance, breach of statute regulation, or ordinance or any theory created by statute or ordinance, whether local, state or federal.

active or passive, of Licensor.

regardless of whether such liability, cost or expense is caused or contributed to by the negligence,

unless

intentional misconduct

(iii) the condition of the Premises or any part thereof,

Licensor),

(ii) the use of the Premises or the Facility or improvements by Licensee, its agents, employees, or any third party (other than agent, employee or invitee of

(i) Licensee's breach of any provision of this License, or

(a) Licensee agrees to release, hold harmless, indemnify and defend (with counsel reasonably approved by Licensor) Licensor from and against all liability, cost and expense (including, without limitation, attorneys' fees, in addition to costs of suit and judgment) for loss of or damage to any property or loss of the use thereof or for injury to or death of any person when arising or resulting from

reasonable

7.1 General.

7. Indemnification and Insurance.

6.3 Damage. Except for the sole and willful negligence of Licensor, its agents, assigns and employees, if any damage is caused to land, or to crops, grass, trees, livestock, improvements, or other property on the Premises, Licensee agrees to promptly repair or pay the full replacement value of such damaged property (regardless of amortization) to Licensor, at Licensor's discretion, except as provided for in Section 6.1(b).

reasonable

written notice to do so. Licensor shall indemnify and defend Licensor against all liability, cost and expense (including attorney's fees) incurred by Licensor as a result of any such lien.





(d) The term "Licensor" as used in this Section 7 and in Exhibit "B" hereto shall include Licensor, Caelius Development Corporation, Caelius Management Corporation, Santa Fe Pacific Corporation and the successors, assigns, affiliated companies and agents of either of them.

### 7.2 Environmental Impairment.

(a) Licensee, at its expense, shall comply with all applicable laws, regulations, rules and orders with respect to the use of the Premises, regardless of when they become or became effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and water and air quality, and furnish satisfactory evidence of such compliance upon request of Licensor.

(b) Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or from the Premises due to Licensee's use and occupancy thereof, Licensee, at its expense, shall be obligated to clean all the property affected thereby, whether owned or controlled by Licensor or any third person, to the reasonable satisfaction of Licensor (insofar as the property owned or controlled by Licensor is concerned) and any governmental body having jurisdiction thereover.

(c) Licensee shall indemnify, hold harmless and defend Licensor against all liability, cost and expense (including, without limitation, any fines, penalties, judgments, litigation costs and attorneys' fees) incurred by Licensor as a result of Licensee's breach of this Section 7, or as a result of any such discharge, leakage, spillage, emission or pollution, regardless of whether such liability, cost or expense arises during or after the License term, unless such liability, cost or expense is proximately caused solely by the active negligence of Licensor.

resulting from Licensee's use of the Premises

### 7.3 Insurance.

(a) Licensee shall maintain insurance as required by the Insurance Rider, attached to this License as Exhibit "B". Either a properly completed certificate of insurance to which has been attached Licensor's standard form of endorsement (a copy of which is attached hereto as Exhibit "C") executed by an authorized representative of the insurer or insurers or a certified copy of the policy or policies will be satisfactory evidence of such insurance.

(b) If Licensee fails to comply with this requirement, Licensor may, but shall not be obligated to, obtain such insurance and keep the same in effect and upon demand, Licensee shall pay to Licensor, as additional rent, the premium cost thereof.

8. Termination or Expiration. Termination or expiration of this License shall not release either party from liability resulting from an event which occurred prior to such termination or expiration. Upon termination or expiration of this License, Licensee shall discontinue the use of the Facility and, within thirty (30) days, remove the Facility and all other personal property of Licensee from the Premises. Licensee shall restore the Premises as nearly as possible to the condition in which they existed prior to the construction of the Facility. Property of Licensee not removed from the Premises within thirty (30) days after the termination, revocation or expiration of this License shall become the property of Licensor. Licensee agrees to reimburse Licensor for all reasonable cost and expense incurred by Licensor in restoration of the Premises and disposing of said property of Licensee not so removed. If Licensee fails to surrender possession of the Premises upon termination or revocation of

sixty (60)

sixty (60)



this License (or expiration if Licensor does not consent to holdover), Licensor shall have the right, to the extent permitted by law, to re-enter the Premises and remove Licensee and any person or entity claiming through Licensee from the Premises. If Licensee fails to surrender possession and to remove the Facility within sixty (60) days after termination of this License, Licensee agrees to pay a penalty of fifty percent (50%) of the monthly License Fee, in addition to any other payments due and payable under the License.

9. Default.

(a) Licensee shall be in default under this License if Licensee fails or refuses to pay the License Fees hereunder or any other amount when due or if Licensee fails or refuses to perform any other covenant or condition, except as otherwise provided for in this License.

(b) If Licensee fails to cure a default within fifteen (15) days after notice from Licensor to do so, Licensor shall have the right, without further notice and in addition to any other remedies Licensor may have at law or equity, to revoke this License forthwith and to retake possession of the Premises.

10. Nonwaiver. Licensor's failure to enforce or exercise its rights under any term, condition or covenant of this License shall not be construed as a waiver of such rights or such term, covenant or condition. Acceptance of the License Fee shall not be deemed a waiver of Licensor's right to revoke this License as provided herein, regardless of when accepted.

11. Attorneys' Fees. If either party takes any steps or brings an action to compel performance of or to recover for breach of any term of this License, the losing party shall pay reasonable attorneys' fees of the prevailing party, in addition to the amount of judgment and costs.

12. Personal Nature of License. This License is personal to Licensee. As such, Licensee has no right to assign this License, in whole or in part, or sublicense the Premises in whole or in part, without Licensor's prior written consent, which consent may be given or withheld for any reason whatsoever, not be unreasonably

13. Notices. Any demands, notices or statements herein requested or required to be given by one party to the other shall be in writing. Delivery of such written notice, demand or statement shall be conclusively deemed as sufficient if and when delivered in person or deposited in the United States mail, registered or certified, postage fully prepaid, addressed, if to Licensor, % Cateilus Management Corporation, its agent, at 1065 N. Pacific Center Dr., Suite 200, Anaheim, CA 92806, and, if to Licensee, at 1891 Woolner Avenue, Fairfield, CA 94533. Either party hereto may by written notice change the address to which such demands, notices or statements may be sent. All payments from Licensee to Licensor shall be made to Licensor at Licensor's address as stated in Section 3 hereof unless Licensor gives Licensee notice of another address for making payments. Licensor may change by written notice the address where payments to Licensor shall be made.

14. Fencing and Barricades. Licensee, at its expense, shall install and maintain barricades, fences, and fence gates as shown on Exhibit "A" or as may be requested by Licensor.

The term "Licensor" as used in Section 7 shall include any railroad company operating on such tracks.

15. Time is of the essence of this License.



16. Entire Agreement. The contents of this License are the entire agreement between the parties, and supersede all written or oral communication between the parties prior to its execution, all understanding and negotiations regarding the same having been merged herein, it being their intention that this be an integrated agreement.

This License shall not be modified except by the written agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the day and year first herein written.

THE ATCHISON, TOPEKA AND  
SANTA FE RAILWAY COMPANY,  
a Delaware corporation,

By: *[Signature]*  
Asst. Director-Asset Management

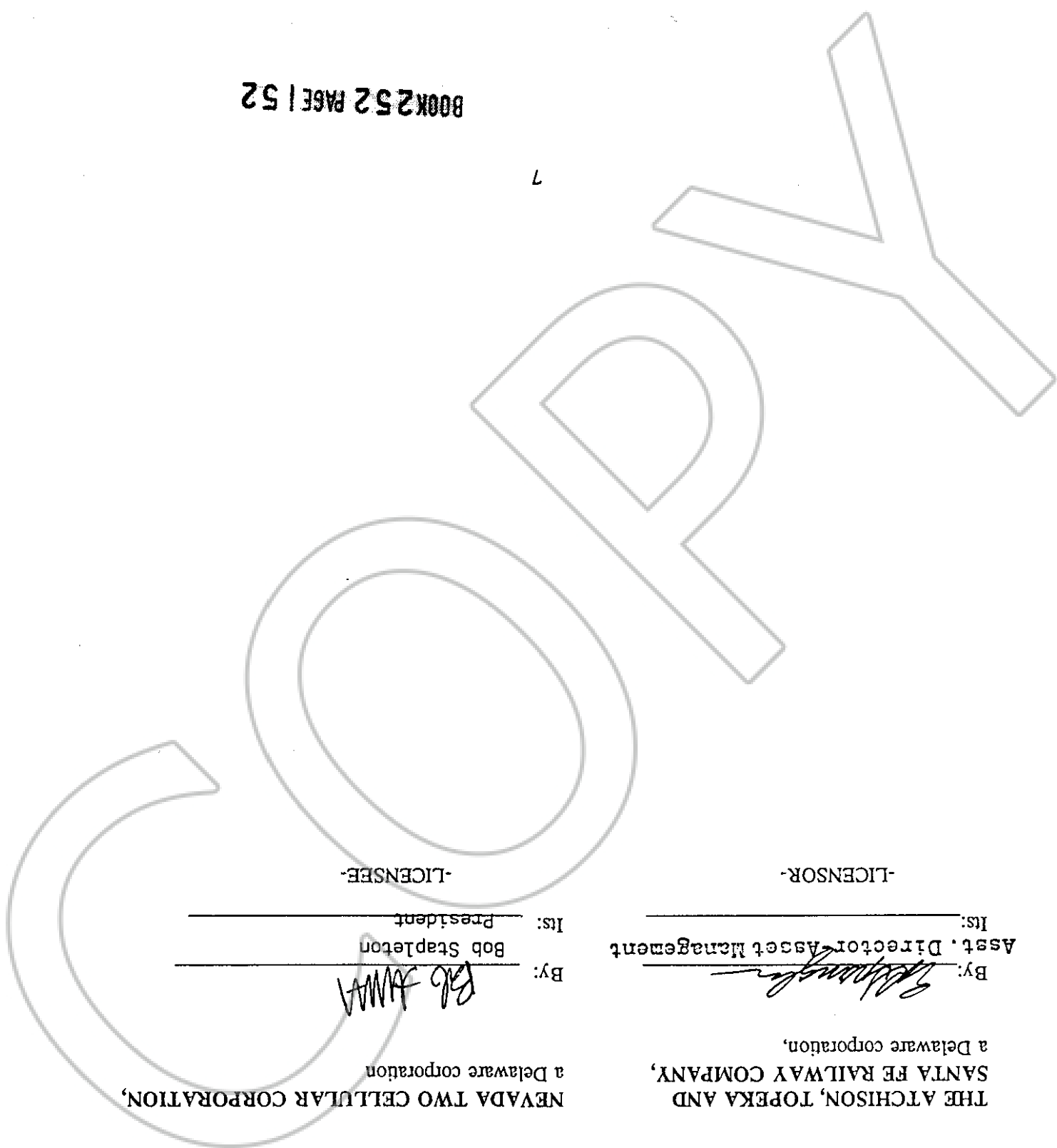
-LICENSOR-

NEVADA TWO CELLULAR CORPORATION,  
a Delaware corporation

By: *[Signature]*  
Bob Stapleton  
President

-LICENSEE-

BOOK 252 PAGE 152



INSURANCE RIDER

Attached and made a part of License dated August 31, 1992, between THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ("Licensor") and NEVADA TWO CELLULAR CORPORATION ("Licensee").

Licensee shall, at its expense, obtain and keep in force at all times the following insurance:

(a) Commercial General Liability Insurance (Occurrence Form). A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate per location if Licensee has multiple locations, providing coverage for, among other things, blanket contractual liability, premises, products/completed operations and personal and advertising injury coverage, with deletion of (a) the exclusion for operations within fifty (50) feet of a railroad track (railroad protective liability), if applicable, and (b) the exclusion for explosion, collapse or underground hazard, if applicable, and, if necessary, Licensee shall provide for restoration of the aggregate limit;

(b) Automobile Liability Insurance. Comprehensive automobile liability insurance having a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence and insuring Licensee against liability for claims arising out of ownership, maintenance, or use of any owned, hired or non-owned automobiles;

(c) Workers' Compensation Insurance and Employer's Liability Insurance. Workers' compensation insurance having limits not less than those required by state statute and federal statute, if applicable, and covering all persons employed by Licensee in the conduct of its operations on the Premises (including the all states endorsement and, if applicable, the volunteers endorsement) together with employer's liability insurance coverage in the amount of at least One Million Dollars (\$1,000,000); and

(d) Property Insurance. "All risk" property insurance including boiler and machinery comprehensive form, if applicable, covering damage to or loss of any of Licensee's personal property, fixtures, equipment and alterations, including electronic data processing equipment, of Licensee (and coverage for the full replacement cost thereof including business interruption of Licensee) ("Licensee's Property"), together with, if the property of Licensee's invitees is to be kept in the Premises, warehouse's legal liability or bailee customers insurance for the full replacement cost of the property belonging to invitees and located in the Premises.

(e) Insurance Companies. Insurance required to be maintained by Licensee shall be written by companies licensed to do business in the state in which the Premises are located and having a "General Policyholders Rating" of at least A (or such higher rating as may be required by a lender having a lien on the Premises) as set forth in the most current issue of "Best's Insurance Guide".

(f) Certificates of Insurance. Licensee shall deliver to Licensor certificates of insurance for all insurance required to be maintained by Licensee in the form of Exhibit "B", attached hereto, no later than seven (7) days prior to the date of possession of the Premises. Licensee shall, at least ten (10) days prior to expiration of the policy, furnish Licensor with certificates of renewal or "binders" thereof. Each certificate shall expressly provide that such policies shall not be cancellable or otherwise subject to modification except after sixty (60) days prior written notice to the parties named as additional insureds in this License (except in the case of cancellation for nonpayment of premium in

which case cancellation shall not take effect until at least ten (10) days' notice has been given to Licensee). If Licensee fails to maintain any insurance required in this License, Licensee shall be liable for all losses and cost resulting from said failure.

(g) Additional Insureds. Licensee and any property management company of Licensee for the Premises shall be named as additional insureds under all of the policies required by paragraph (a). The policies required under paragraph (a) shall provide for severability of interest.


(h) Primary Coverage. All insurance to be maintained by Licensee shall, except for workers' compensation and employer's liability insurance, be primary, without right of contribution from insurance of Licensee. Any umbrella liability policy or excess liability policy (which shall be in "following form") shall provide that if the underlying aggregate is exhausted, the excess coverage will drop down as primary insurance. The limits of insurance maintained by Licensee shall not limit Licensee's liability under this License.

(i) Waiver of Subrogation. Licensee waives any right to recover against Licensee for claims for damages to Licensee's Property covered by insurance. This provision is intended to waive fully, and for the benefit of Licensee, any rights and/or claims which might give rise to a right of subrogation in favor of any insurance carrier. The coverage obtained by Licensee pursuant to this License shall include, without limitation, a waiver of subrogation endorsement attached to the certificate of insurance which conforms to Exhibit "C", attached hereto.

(j) Notification of Incidents. Licensee shall notify Licensee within twenty-four (24) hours after the occurrence of any accident or incident in the Premises or the common areas which could give rise to a claim under any of the insurance policies required under this Rider.

BOOK 252 PAGE 154

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INITIAL 





COPY

BOOK 252 PAGE 156

146724

EUREKA COUNTY, NEVADA  
M.N. REBALANCE RECORDER  
FILE NO. FEE \$ 39.00

BOOK 252 PAGE 122  
OFFICIAL RECORDS  
RECORDED AT THE REQUEST OF  
*Margaret & Duane*  
93 SEP 15 P4:05