

SITE AGREEMENT
(Kansas)

This Site Agreement ("Agreement") is entered into this 5 day of June, 2001, by and between the City of Lawrence, Kansas, a municipal corporation ("Owner"), and VoiceStream Kansas City, Inc., a Delaware corporation, its successors and assigns ("Tenant"), and provides for the granting and leasing of certain property interests on the following terms:

For good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agrees as follows:

1. **PROPERTY.** The property interests hereby leased and granted by Owner ("Property") shall include the following:

- ☒ Real property comprised of approximately 2500 square feet of land,
- ☒ Space required for cable runs to connect equipment and antennas,
- ☒ Non-exclusive easements required to run utility lines and cables, and
- ☒ Non-exclusive easement across Owner's Property (hereinafter defined) for access (the "Access Easement"),

in or upon the Owner's real property ("Owner's Property") described on Exhibit "A" attached hereto and subject to the specifications shown and described on said Exhibit "A".

The parties acknowledge and agree that Tenant's original Access Easement shall be as depicted in Exhibit "A" and that Tenant, at its sole cost and expense, shall be solely responsible for installing, maintaining and repairing the Temporary Road portion of the original Access Easement depicted on Exhibit "A". Subject to the access and security provisions described below in Section 5 of this Agreement, Tenant shall have the continuing right to use the original Access Easement and Temporary Road until such time as a Permanent Road (as defined below) to the Property is constructed.

The parties further acknowledge and agree that Owner may in the future construct a new fire and emergency services facility (the "Fire Station") on Owner's Property, at which time a new road (the "Permanent Road") will be constructed from Wakarusa Avenue to the Property. To contribute toward Owner's construction costs for that portion of the Permanent Road from Wakarusa Avenue to the Fire Station, Tenant shall make a one-time only, non-refundable additional payment of Fifteen Thousand Dollars (\$15,000.00) to Owner on the Commencement Date. Thereafter, if and when the Permanent Road is constructed, Tenant shall be solely responsible for paying all costs incurred in extending the Permanent Road from the Fire Station to the Property. If and when construction of

the Permanent Road is completed as described in this paragraph, Tenant shall cease using and abandon the original Access Easement and Temporary Road, and with the Owner's permission, remove such road, and the Permanent Road shall be deemed to be the route of the Access Easement for purposes of this Agreement.

2. **TERM.** The initial term of this Agreement shall be that part of five (5) years commencing on the date designated in a notice that Tenant will deliver to Owner (the "Commencement Date Notice") as the date on which Tenant will take possession which, if possession occurs at all, shall be no later than August 1, 2001 ("Commencement Date") and terminating on December 31, 2005. If the Commencement Date Notice is not received by August 1, 2001, then neither party shall have any further rights or obligations under this Agreement.

3. **RENT.** Tenant's obligation to pay rent shall arise only upon delivery of the Commencement Date Notice. Thereafter, Tenant shall pay Owner rent quarterly in advance on January 1, April 1, July 1 and October 1, beginning on the Commencement Date (for that portion of the applicable quarter in which the Commencement Date occurs) and thereafter every three (3) months as set forth above. The rent for the first quarter shall not be payable until ten (10) days after receipt by Tenant of properly executed and acknowledged signature counterparts of this Agreement and the Memorandum (hereinafter defined) from Owner. The monthly rent for the initial Term shall One Thousand Dollars (\$1,000.00) ("Initial Monthly Rent"), together with any applicable sales tax. Any partial months will be prorated. The rent for each Option Period (defined below) shall be the rent for the then expiring term (whether the initial Term or any Option Period), increased by the same percentage as any percentage increase in the Consumer Price Index, All Items, U.S. City Average, as determined by the United States Department of Labor, Bureau of Labor Statistics or any successor index, between the Commencement Date of the initial Term or an Option Period, as the case may be, and ninety (90) days prior to commencement of any Option Period.

Owner agrees to provide Tenant any information necessary to allow Tenant to make all rent payments through direct deposit or similar paperless transfer of funds.

As an essential part of the consideration granted by Tenant under this Agreement, Tenant and Owner are concurrently executing an Antenna Site License Agreement (the "License") in the form of Exhibit C hereto, pursuant to which Owner shall be allowed to make reasonable use of the tower portion of the Communications Facility for public purposes. The termination or revocation of the License by Tenant, in whole or in part, shall constitute a default under this Agreement and in such case, Owner may pursue any available remedies at law, in equity or under this Agreement.

4. **OPTION TERMS.** Tenant may extend the term of the Agreement four (4) additional and successive five (5) year Option Periods (individually, an "Option Period" and collectively, the "Option Periods"). Tenant shall have elected to extend the term for each successive Option Period unless it gives Owner written notice of its intention not to extend at least thirty (30) days prior to the expiration of the then-current term.
5. **USE.** Tenant may use the Property for the purpose of constructing, maintaining and

operating a communications facility in accordance with Exhibit "A" (collectively, the "Communications Facility"), provided that Tenant shall not be required to occupy the Property. Minor modifications to the Communications Facility, such as the replacement or addition of antennas, coaxial cable, or base station equipment shall not require approval of the Owner. Major modifications to the Communications Facility will require the prior written consent of Owner and may require Owner's approval as a land use regulator. Owner shall provide Tenant with twenty-four (24) hour, seven (7) day a week, year around access to the Property; provided, however, that Tenant shall comply with all reasonable security measures required by Owner with respect to such access, including checking in or registering with Owner's on-site personnel each time Tenant, its employees, agents or contractors visit the Property; and provided, further, that Owner shall ensure that its personnel are available on-site in order to provide Tenant access in accordance with this provision. Tenant will pay all personal property taxes assessed against the Communications Facility. Owner is a municipal corporation and is exempt from the payment of real property taxes, and Tenant shall be responsible for any real property taxes assessed against the Property as a result of the use or development of the Property by Tenant. Tenant will not allow any mechanic's or materialmen's liens to be placed on the Property as a result of its work on the Property. Tenant shall provide to the Owner, or shall cause its contractors to provide to the Owner, performance and payment bonds to assure timely performance of and payment for the work to be performed on the Property.

During the term of this Agreement, Tenant shall have the right, but not the duty or obligation, to pay any taxes, judgments, liens, assessments or other charges which are or could become liens on Owner's Property or any portion thereof (individually and collectively, the "Liens"). If Tenant pays or otherwise satisfies any such Liens, in whole or in part, Tenant shall have the right, but not the duty or obligation, to offset or deduct any amounts so paid against any current or future payments of rent or other charges that are owed by Tenant to Owner pursuant to this Agreement (collectively, the "Rent Charges"). If Tenant elects to offset or deduct any amounts it pays to satisfy Liens against Rent Charges, Owner shall reimburse Tenant upon demand for any and all sums paid by Tenant which exceed the Rent Charges, including, without limitation, reasonable attorneys' fees incurred by Tenant in effecting the payment or satisfaction of the Liens and the offset or deduction of the same from the Rent Charges.

Tenant, its agents and contractors, are hereby granted the right, at its sole cost and expense, to enter upon the Owner's Property and conduct such studies as Tenant deems necessary to determine the Property's suitability for Tenant's intended use. These studies may include surveys, soil tests, environmental evaluations, radio wave propagation measurements, field strength tests and such other analyses and studies as Tenant deems necessary or desirable. Owner shall cooperate with Tenant and execute all documents required to permit Tenant's intended use of the Property in compliance with zoning, land use, and for building regulations; provided, however, such cooperation shall not alter the Owner's independent role as a land use regulator. Owner hereby appoints Tenant as its agent and attorney-in-fact for the limited purpose of making such filings and taking such actions as are necessary to obtain any desired zoning and/or land use approvals.

6. **UTILITIES.** Payment for electric service and for telephone or other communication services to the Communications Facility shall be Tenant's responsibility. Owner agrees to cooperate with Tenant in its efforts to connect the Communications Facility to existing utility service at Tenant's expense.
7. **REMOVAL OF COMMUNICATIONS FACILITY.** All personal property and trade fixtures of Tenant may be removed by Tenant upon the termination of this Agreement, unless Owner gives Tenant express written consent to leave any such personal property and trade fixtures on the Property. On or before the Commencement Date, Tenant shall provide Owner a \$20,000.00 surety bond from a surety licensed to conduct business in Kansas, which bond shall provide for the removal of the Communications Facility from the Property upon the expiration or termination of this Agreement. The bond shall remain in effect during the initial term and all Option Periods of this Agreement and shall be renewed annually on the anniversary of the Commencement Date.
8. **INSURANCE.** Tenant shall maintain commercial general liability insurance insuring Tenant against liability for personal injury, death or damage to personal property arising out of use of the Property by Tenant, with combined single limits of One Million and No/ 100 Dollars (\$1,000,000.00). Tenant shall also maintain fire and extended coverage insurance insuring Tenant's personal property for its full insurable value (subject to reasonable deductibles). On or before the Commencement Date, and annually thereafter, Tenant shall provide Owner with an insurance certificate evidencing that Tenant maintains the insurance required by this Agreement.
9. **CONDITION OF PROPERTY.** Owner represents that the Owner's Property and all improvements thereto, including the proposed use of the Property by Tenant pursuant to this Agreement, are in compliance with all building, life/safety, and other laws of any governmental or quasi-governmental authority.
10. **TERMINATION.** This Agreement may be terminated by Tenant at any time in its sole discretion by giving written notice thereof to Owner, which termination shall not constitute a waiver of Tenant's rights under Paragraph 16 of the Agreement.
11. **INDEMNITY.** Owner and Tenant each indemnify the other against, and hold the other harmless from any and all costs (including reasonable attorney's fees and expenses) and claims, actions, damages, obligations, liabilities and liens which arise out of (a) the breach of this Agreement by the indemnifying party; or (b) the use and/or occupancy of the Property, or the balance of the Owner's Property, by such indemnifying party. This indemnity shall not apply to any claims, actions, damages, obligations, liabilities and liens arising from any negligent or intentional misconduct of the indemnified party and shall survive the termination of this Agreement.

12. **HAZARDOUS SUBSTANCES.** Owner warrants that Owner has no knowledge of any substance, chemical, or waste on the Owner's Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Owner shall hold Tenant harmless from and indemnify Tenant against any damage, loss, expense, response costs, or liability, including consultant fees and attorneys' fees resulting from the presence of hazardous substances on, under or around the Owner's Property or resulting from hazardous substances being generated, stored, disposed of, or transported to, on, under, or around the Owner's Property as long as the hazardous substances were not generated, stored, disposed of, or transported by Tenant or its employees, agents or contractors. Notwithstanding the foregoing, Owner hereby notifies Tenant that the Property is located near a former landfill owned by Owner and Tenant shall undertake any and all studies it deems advisable in order to assure itself of the suitability of the Property for the uses intended by Tenant and Owner shall have no liability should it be determined now or in the future that the Property is not suitable for the uses intended.
13. **CASUALTY/CONDEMNATION.** If any portion of the Owner's Property or Communications Facility is damaged by any casualty and such damage adversely affects Tenant's use of the Property, or if a condemning authority takes any portion of the Owner's Property and such taking adversely affects Tenant's use of the Owner's Property, this Agreement shall terminate as of the date of the casualty or the date the title vests in the condemning authority, as the case may be if Tenant gives written notice of the same within thirty (30) days after Tenant receives notice of such casualty or taking. The parties shall be entitled to make claims in any condemnation proceeding for value of their respective interests in the Property (which for Tenant may include, where applicable, the value of the Communications Facility, moving expenses, prepaid rent, and business dislocation expenses). Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation.
14. **WAIVER OF LANDLORD'S LIEN.** To the extent permitted by law, Owner hereby waives any and all lien rights it has or may have, statutory or otherwise, concerning the Communications Facility or any portion thereof which shall be deemed personal property for the purposes of this Agreement, regardless of whether or not the same is deemed real or personal property under applicable law.
15. **QUIET ENJOYMENT.** Tenant, upon paying the rent, shall peaceably and quietly have, hold and enjoy the Property, with actual and constructive notice that the Property is located upon and near a municipal water treatment facility which is scheduled to undergo substantial renovation and construction during time period from 2001 to 2003, and the planned construction and operation of a fire/medical facility, which can and will produce noise, vibration and air pollutants associated with the construction and operation of such facilities. If, as of the date of execution of this Agreement or hereafter, there is any mortgage, or other encumbrance affecting Owner's Property, then Owner agrees to obtain from the holder of such encumbrance an Agreement that Tenant shall not be disturbed in its possession, use and enjoyment of the Property. Owner shall not cause or permit any use of Owner's Property which interferes with or impairs the quality of the communication services being rendered by Tenant from the Property; provided, however, that the Owner shall not be responsible for any radio frequency interference associated

with normal water plant operations. Except in cases of emergency, Owner shall not have access to the Property unless accompanied by Tenant personnel.

16. **DEFAULT.** Except as expressly limited hereby, Owner and Tenant shall each have such remedies for the default of the other party hereto as may be provided at law or equity following written notice of such default and failure to cure the same within fifteen (15) days.

17. **MISCELLANEOUS.**

- a. Owner represents and warrants that Owner has full authority to enter into and sign this Agreement and has good and marketable title to the Owner's Property.
- b. This Agreement supersedes all prior discussions and negotiations and contains all agreements and understandings between the Owner and Tenant. This Agreement may only be amended in writing signed by all parties. Exhibits "A" through "C" are incorporated into this Agreement by reference.
- c. This Agreement may be signed in counterparts by the parties hereto.
- d. The terms and conditions of this Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of Owner and Tenant.
- e. The prevailing party in any action or proceeding in court to enforce the terms of this Agreement shall be entitled to receive its reasonable attorneys' fees and other reasonable enforcement costs and expenses from the non-prevailing party.
- f. Owner shall contemporaneously herewith execute and acknowledge and deliver to Tenant for recording a Memorandum of this Agreement ("Memorandum") in the form of Exhibit "B".
- g. Tenant may not assign this Agreement or sublet any portion of the Property without Owner's written consent, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that such consent shall not be required for the pledge or mortgage of this Agreement to Tenant's lender or for the assignment or sublease of this Agreement to an affiliated entity of Tenant. As used herein, the term "affiliated entity" shall mean any person or entity that either directly or indirectly controls, is controlled by, or is under common control with Tenant or is the purchaser of substantially all of the operating assets of Tenant. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of Tenant, whether through ownership of voting securities, by contract or otherwise.
- h. Notices shall be in writing and sent by United States Mail, postage prepaid, certified or registered with return receipt requested or by any nationally recognized overnight courier service to the address set forth beneath the signature of each party below. Any such notice shall be deemed given when deposited in

the United States Mail or delivered to such courier service.

- i. This Agreement shall be construed in accordance with the laws of the state in which the Owner's Property is located.
- j. Each party agrees to furnish to the other, within ten (10) days after request, such truthful estoppel information as the other may reasonably request.
- k. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.
- l. Owner and Tenant each represent that they have not been represented by a real estate broker or other listing agent in this transaction. Each party ("Indemnifying Party") shall indemnify and hold the other party harmless from any claims for commission, fee or other payment by such broker or any other leasing agent claiming to have represented the Indemnifying Party herein.
- m. Owner and Tenant agree to enter into the Antenna Site License Agreement attached hereto as Exhibit C.

IN WITNESS WHEREOF, the parties hereto bind themselves to this Agreement on the day and year first written above.

OWNER

CITY OF LAWRENCE, KANSAS

Address of Owner:

By: Mike Willdgen
Print Name: Mike Willdgen
Print Title: City Manager
Federal Tax ID No.:

TENANT

VOICESTREAM KANSAS CITY, INC.

By: David Blaha
Print Name: David Blaha
Its: Director of Engineering and Operations

Address of Tenant:

With a copy to:

VoiceStream Kansas City, Inc.
c/o VoiceStream Wireless
12920 SE 38th St.
Bellevue, WA 98006
ATTN: PCS Lease Administration

VoiceStream Kansas City, Inc.
c/o VoiceStream Wireless
12980 Foster, Suite 200
Overland Park, KS 66213
ATTN: Lease Administrator

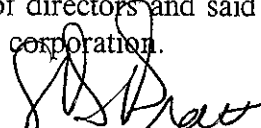
STATE OF KANSAS

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COUNTY OF JOHNSON

On this 1 day of June, 2001, before me appeared David Blaha, to me personally known, who, being by me duly sworn (or affirmed) did say that he is the Director, Engineering and Operations, of VoiceStream Kansas City, Inc., and that said instrument was signed on behalf of said corporation by authority of its board of directors and said David Blaha acknowledged said instrument to be the free act and deed of said corporation.

My commission expires:


Notary Public - Kansas
NOTARY PUBLIC - State of Kansas
SUSAN D. PRATT
My Appt. Exp. 01/17/05

STATE OF KANSAS

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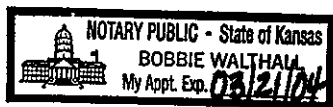
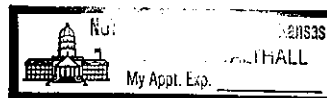
COUNTY OF DOUGLAS

On this 5th day of June, 2001, before me appeared Mike Wildgen to me personally known, who, being by me duly sworn (or affirmed) did say that he is the City Manager of the City of Lawrence, Kansas, a municipal corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its City Council and said _____ acknowledged said instrument to be the free act and deed of said municipal corporation.

My commission expires:

03/21/04


Notary Public - Kansas



SITE ID: A5E005
SITE NAME: West Lawrence /
Clinton Reservoir Tower

EXHIBIT "A"
TO
SITE AGREEMENT

SITE PLAN AND DESCRIPTION OF PROPERTY:

Please see attached Exhibits A-1, A-2, A-3, A-4 and A-5, which are incorporated as if fully set out herein.

LEGAL DESCRIPTION OF OWNER'S PROPERTY:

The Southwest (1/4) of Section Four (4), Township thirteen (13), South of Range Nineteen (19) East, less the South Forty (40) acres thereof, subject to the following: The public road on the East boundary of said tract; a stone quarry lease dated September 16, 1952, to and in favor of Perry Jones, subsequently assigned to American-Marietta Company and an easement for an electric transmission line to and in favor of Kansas Electric Power Company.

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