

COMMUNICATIONS TOWER SPACE LEASE AGREEMENT

THIS COMMUNICATIONS TOWER SPACE LEASE AGREEMENT ("*Agreement*") is dated as of June 13, 2009, by and between Sauk County, a political subdivision of the State of Wisconsin, ("*Lessor*" or "*County*") and Bug Tussel Wireless, LLC, a Wisconsin Limited Liability Company ("*Lessee*" or "*Bug Tussel Wireless*") and a wholly owned affiliate of Hilbert Communications, LLC, a Wisconsin Limited Liability Company ("*Hilbert*").

For the fees described within this agreement, the parties hereto agree as follows:

1. Tower Sites and Communications Equipment.

County owns a county-wide network of communications towers along with communication buildings and associated facilities, which includes, but is not limited to, such things as the utilities entering associated properties located throughout the County of Sauk, State of Wisconsin. Collectively these items will hereinafter be referred to as the "Tower Sites" or "Towers" and are described in Attachment A. Lessee may be placing equipment and facilities on said Tower Sites that will be more fully described in Attachment B and hereinafter referred to as "Communication Equipment" or "Communication Facilities".

2. Communications Tower Space Lease Agreement.

The Agreement consists of 8 pages and Attachment A, Attachment B, Attachment C, and Attachment D. The Agreement and Attachments A through D constitute the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein, except to the extent that Lessee currently has one lease with Lessor at Lessor's Spring Green/Thuli Tower Site and this lease shall remain in full force and effect. Any amendments to this Agreement must be in writing and executed by both parties.

3. Effective Date.

This Agreement shall be effective on the date of full execution hereof as shown on the date line of the signature block ("*Effective Date*"). Beginning on the Effective Date and continuing until the end of the term as defined in Paragraph 4 below, Lessee shall be permitted entry to the Tower Sites for the purpose of placing and servicing the Communication Equipment.

4. Term.

The term of this Agreement shall commence upon the Effective Date, as defined in Paragraph 3 above and shall continue in effect for a ten (10) year term ("*Initial Term*") unless otherwise terminated as provided within this Agreement. Lessee shall have the right to extend the term for one (1) additional five (5) year term on the same terms and conditions stated within this Agreement, except that the payment schedule listed in Attachment D will be modified in accordance to the fee schedule contained in Attachment C. In order for this Agreement to renew, Lessee shall provide Notice to the County of its intention to renew within six (6) months of the expiration of the Initial Term. Upon receipt of said Notice, the County shall have sixty (60) days to reject the Lessee's intention to renew. If the County does not reject the Lessee's intention to renew, the Agreement will be extended for another five (5) year term.

5. Use.

From and after the Effective Date, the Tower Sites may be used by the Lessee for any lawful activity in connection with the operation of the Lessee's Communication Equipment. If applicable,

copies of the licenses for Communication Equipment shall be provided to the County prior to said equipment being placed onto the Tower Sites.

6. Facilities; Utilities; Access.

County can provide ground space of 50 square feet (5 foot by 10 foot area) at each Tower Site if requested as part of Attachment B. The County may not have communications shelter space available for rent at the Tower Sites. Lessee shall be responsible for making all necessary site preparations and utility connections to its Communication Facilities and shall be responsible for all costs associated with the installation and ongoing billings for such utilities, including any backup systems. Lessee must provide access to any such Communication Facility to the County. The County is the controlling party at the Tower Sites and shall have access to all facilities at the Tower Sites, including the Communications Facilities of the Lessee, should any sort of problem (i.e. emergency, fire, homeland security issue, damage, etc.) arise.

- (a) All construction and installation work performed at the Tower Sites shall be coordinated with the County contact(s) noted within this Agreement. No work shall commence at any Tower Site until the County contact(s) has completed a walk through with the Lessee.
- (b) Lessee shall have the right to remove all Communication Equipment and Facilities installed by the Lessee at its sole expense on or before the expiration, or earlier termination, of this Agreement in accordance with the terms specified within this Agreement. Lessee shall be responsible to repair any damage to the Tower Sites caused by Lessee; such damages shall be determined by the County in its reasonable discretion. Should the Lessee fail to properly repair any damages to Tower Sites caused by Lessee, the County shall be entitled to make repairs to such damage and Lessee shall be responsible for payment of the reasonable cost of such repairs plus 5%. Upon termination or expiration of this Agreement, the Lessee shall remove all Communication Equipment from the Tower Sites within sixty (60) days of the date of termination and Lessee shall repair the premises to substantially the condition in which it existed upon start of lease, reasonable wear and tear excepted.
- (c) Lessee, Lessee's employees, agents and contractors shall have reasonable access to each Tower Site without notice to County twenty-four (24) hours a day, seven (7) days a week, at no charge. County grants to Lessee, and Lessee's agents, employees and contractors, a non-exclusive right of pedestrian and vehicular ingress and egress to the Tower Sites. The County grants to Lessee, and Lessee's agents, employees and contractors, a non-exclusive right to that portion of the County-owned communications building where the Lessee's Communications Equipment may be placed.
- (d) County shall maintain all access roadways from the nearest public roadway to the Tower Sites in a manner sufficient to allow pedestrian and vehicular access at all times under normal weather conditions. County shall be responsible for maintaining and repairing such roadways, at its sole expense, except for any damage caused by Lessee's use of such roadways.
- (e) County shall be responsible for any repairs and/or maintenance the Tower Sites may require unless the need for such repairs and/or maintenance is due to Lessee's use of the Tower Sites. County further agrees that, in accordance with Paragraph 20 below, it shall be responsible for all marking and lighting requirements of the Federal Aviation Administration ("FAA") and the Federal Communications Commission ("FCC").

- (f) In the event the Lessee desires to modify its equipment located at a Tower Site and/or in the County facilities in the future, Lessee must first obtain the prior written approval of the County after the completion of all necessary engineering. Such approval shall not be unreasonably withheld, conditioned or delayed, and all costs associated with such changes shall be at the expense of the Lessee. Lessee shall complete a Sauk County Tower Co-location Application form (Attachment B) with all desired modifications noted. Additionally, this Agreement will be reviewed at the time of any such changes, and costs associated with this Agreement will be adjusted appropriately in accordance with Attachment C.

7. Fee.

For the Term of this agreement the County shall receive from the Lessee the payment in the amount defined within Attachment D and in accordance to the payment schedule noted within Attachment D.

8. Interference.

- (a) Lessee shall operate its Communication Facilities in compliance with all FCC requirements and in a manner that will not cause interference to other lessees or licensees of the Tower Site, provided that any such installations predate that of the Lessee's Facilities. Lessee shall operate its Communication Facilities in compliance with all FCC requirements and in a manner that will not cause interference to the County.
- (b) Subsequent to the installation of the Lessee's Communication Equipment, Lessee will not, and will not permit its lessees or licensees to, install new equipment on or make any alterations to the Tower Sites, or property contiguous thereto, owned or controlled by County if such modifications are likely to cause interference with the County's operations. In the event interference occurs, Lessee agrees to use its best efforts to eliminate such interference within a reasonable time period. Lessee's failure to comply with this paragraph shall be a material breach of this Agreement.
- (c) Lessee shall be responsible for attaching all necessary filtering devices to its Communications Equipment to eliminate any degradation or performance loss caused to the County system. Should the Lessee's Communications Equipment at any time be determined by County to be the cause for the County's system to have a loss in performance/degradation, the County shall have the right to immediately remove from service (turn off/remove) the Lessee's Communications Equipment to eliminate the performance loss on the County system. Should the County need to remove from service any portion of the Lessee's Communication Equipment, the County will notify the Lessee as soon as possible. The Lessee will not be allowed to return its Communication Equipment to service until such problem is corrected and County is on site to assure corrections have been made.

9. Taxes.

Lessee shall be responsible for any and all taxes assessed to its communication system and Communication Facilities.

10. Waiver of Lessee's Lien Rights.

Lessee waives any lien rights it may have concerning the County facilities, all of which are deemed County's personal property and not fixtures, and County has the right to remove the same at any time without Lessee's consent.

11. Termination and Default.

- (a) This Agreement may be terminated without further liability as follows:
- (i) By either party upon a breach of any covenant or term hereof by the other party, which breach is not cured within sixty (60) days of receipt of written notice of breach, except that this Agreement shall not be terminated if the breach cannot reasonably be cured within such sixty (60) day period and the breaching party has commenced to cure the breach within such sixty (60) day period and diligently pursues the cure to completion; or by County if County is unable to occupy and utilize the premises due to an action of the FCC, including without limitation, a take back of channels or change in frequencies; or
 - (ii) By County if any environmental report for the property reveals the presence of any Hazardous Material after the Term Commencement Date; or
 - (iii) If at some point in the future, it becomes unnecessary or undesirable for the County to continue to operate and maintain any of the Towers, the County shall provide one hundred and twenty (120) days' notice of its intent to discontinue maintenance and operation of a Tower and terminate this Agreement for convenience and without any liability for damages to the Lessee. Upon such notice, the Lessee shall remove its equipment from the Tower within the one hundred and twenty (120) day period.
 - (iv) The County shall have the right to terminate this Agreement after five (5) years, if the fee payments are fifty (50) percent less than those payments laid out in the anticipated payments set forth in Attachment D. The County shall have six (6) months within which to give notice to the Lessee of its intent to terminate the Agreement. Lessee shall have sixty (60) days to either accept the termination or request that this Agreement be converted into an agreement with a monthly fee per Attachment C.
- (b) This Agreement will be considered in default as follows: If the fee is not received by the County within sixty (60) days of the date that it is due (as described in Attachment D and Paragraph 7.), the Lessee shall be considered to be in default of this Agreement. The County shall provide the Lessee Notice of Default. Once a Notice of Default has been received, the Lessee shall have thirty (30) days to cure the default in full as stated in the Notice. If the default is not cured, the County shall have the right to remove the Lessee's Communication Equipment and/or immediately terminate this Agreement. The County shall provide notice of the termination of this Agreement and removal of the equipment. Lessee shall be responsible for statutory interest on payments not made as well as costs and attorney's fees required to enforce the provisions of this section.

12. Destruction or Condemnation.

If the Tower Sites or related premises are damaged, destroyed, condemned or transferred in lieu of condemnation, County may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Lessee no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation.

13. Insurance.

County, at County's sole cost and expense, shall procure and maintain on each Tower Site and on the County facilities, bodily injury and property damage insurance with a combined single limit of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against all liability of Lessee, its employees and agents arising out of or in connection with County's use of the Tower Sites, all as provided for herein. Lessee, at Lessee's sole cost and expense, shall procure and maintain on the Communication Equipment and on the Tower Sites, bodily injury and property damage insurance with a combined single limit of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and per Tower Site. Such insurance shall insure, against all liability of Lessee, its employees and agents arising out of or in connection with Lessee's use, occupancy and maintenance of the property. Each party shall be named as an additional insured on the other's policy. Each party shall provide to the other a certificate of insurance evidencing the coverage required by this paragraph at the beginning of this lease and upon request. Lessee shall have the right to self insure any and all coverage's to the limits required.

14. Waiver of Subrogation.

Lessee and County release each other and their respective principals, employees, representatives and agents, from any claims for damage to any person or to the Tower Sites or to the County facilities or to the Communication Equipment or to any other property thereon caused by, or that result from, risks insured against any insurance policies carried by the parties and in force at the time of any such damage. Lessee and County shall cause each insurance policy obtained by them to provide that the insurance company waives all right of recovery by way of subrogation against the other in connection with any damage covered by any policy. Neither Lessee nor County shall be liable to the other for any damage caused by fire or any of the risks insured against under any insurance policy required by Paragraph 13.

15. Liability and Indemnity.

Lessee and County shall each indemnify, defend and hold the other harmless from and against all claims, losses, liabilities, damages, costs and expenses (including reasonable attorneys' and consultants' fees, costs and expenses) (collectively "Losses") arising from the indemnifying party's breach or default of any term or condition of this Agreement or from the negligence or willful misconduct of the indemnifying party's agents, employees or contractors in or about the Tower Sites. The duties described in this Paragraph 15 shall apply as of the Effective Date of this Agreement and survive the termination of this Agreement.

16. Assignment and Subletting.

Lessee may not assign, or otherwise transfer all or any part of its interest in this Agreement or in any of the Tower Sites without the prior written consent of the County; such consent shall not be unreasonably withheld. Upon assignment, Lessee shall be relieved of all future performance, liabilities, and obligations under this Agreement, provided that the assignee assumes all of Lessee's obligations herein. County may assign this Agreement, which assignment shall be evidenced by written notice to Lessee within a reasonable period of time thereafter, provided that the assignee assumes all of Lessor's obligations herein. Lessee may not sublet any portion of the interest or property leased in this Agreement. This Agreement shall run with the property and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives, heirs and assigns.

17. Warranty of Title and Quiet Enjoyment.

Lessor warrants that:

- (a) Lessor owns or has an exclusive lease to the Tower Sites in fee simple and has rights of access thereto and the Tower Sites are free and clear of all liens, encumbrances and restrictions except those of record as of the Effective Date; and
- (b) Lessor covenants and agrees with Lessee that Lessee may peacefully and quietly enjoy the premises, provided that Lessee is not in default or breach after notice and expiration of all cure periods.

18. Hazardous Material.

- (a) As of the Effective Date of this Agreement:
 - (i) Lessee hereby represents and warrants that it shall not use, generate, handle, store or dispose of any Hazardous Material in, on, under, upon or affecting the Tower Sites in violation of any Environmental Law (as defined below), and
 - (ii) Lessor hereby represents and warrants that:
 - a. It has no knowledge of the presence of any Hazardous Material located in, on, under, upon or affecting the Tower Sites in violation of any Environmental Law;
 - b. No notice has been received by or on behalf of Lessor, and Lessor has no knowledge that notice has been given to any predecessor owner or operator of the Tower Sites by any governmental entity or any person or entity claiming any violation of, or requiring compliance with, any Environmental Law for any environmental damage in, on, under, upon or affecting the Tower Sites; and
 - c. It will not permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Material in, on, under, upon, or affecting the Tower Sites in violation of any Environmental Law.
- (b) Without limitation of Paragraph 15, Lessee and County shall each indemnify, defend and hold the other harmless from and against all Losses arising from:
 - (i) Any breach of any representation or warranty made in this Paragraph 18 by such party; and/or
 - (ii) Environmental conditions or noncompliance with any Environmental Law (as defined below) that result, in the case of Lessee, from operations in or about the Tower Sites by Lessee or Lessee's agents, employees or contractors, and in the case of County, from the ownership or control of, or operations in or about, the Tower Sites by County or County's predecessors in interest, and their respective agents, employees, contractors, County, guests or other parties. The duties described in this Paragraph 18 shall apply as of the Effective Date of this Agreement and survive termination of this Agreement.
- (c) "*Hazardous Material*" means any solid, gaseous or liquid wastes (including hazardous wastes), regulated substances, pollutants or contaminants or terms of similar import, as such terms are defined in any Environmental Law, and shall include, without limitation, any petroleum or petroleum products or by-products, flammable explosives, radioactive materials, asbestos in any form, polychlorinated biphenyls and any other substance or

material which constitutes a threat to health, safety, property or the environment or which has been, or is in the future, determined by any governmental entity to be prohibited, limited or regulated by any Environmental Law.

- (d) "*Environmental Law*" means any and all federal, state or local laws, rules, regulations, codes, ordinances, or by-laws, and any judicial or administrative interpretations thereof, including orders, decrees, judgments, rulings, directives or notices of violation, that create duties, obligations or liabilities with respect to: (i) human health; or (ii) environmental pollution, impairment or disruption, including, without limitation, laws governing the existence, use, storage, treatment, discharge, release, containment, transportation, generation, manufacture, refinement, handling, production, disposal, or management of any Hazardous Material, or otherwise regulating or providing for the protection of the environment.

19. Miscellaneous.

- (a) Both parties represent and warrant that their use of the Tower Sites and their personal property located thereon is in compliance with all applicable, valid and enforceable statutes, laws, ordinances and regulations of any competent government authority.
- (b) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- (c) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.
- (d) Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, or reliable overnight courier to the address of the respective parties set forth below:

Sauk County:	Lessee:
Sauk County 510 Broadway Baraboo, Wisconsin 53913 Attn: Timothy R. Stieve Phone: (608) 355-3200	Bug Tussel Wireless, LLC 130 East Walnut Street, Suite 509 Green Bay, WI 54301 Attn Steve J. Schneider 920-202-2390

Lessee or County may from time to time designate any other address for this purpose by written notice to the other party.

- (e) This Agreement shall be governed by the laws of the State of Wisconsin.
- (f) In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay or withhold its approval or consent.

- (g) Each of the parties hereto represent and warrant that they have the right, power, legal capacity and authority to enter into and perform their respective obligations under this Agreement.
- (h) The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Agreement.
- (i) This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original.

20. Marking and Lighting Requirements.

County shall be responsible for compliance with all marking and lighting requirements of the FAA and the FCC. Should County be cited because any Tower Site is not in compliance with such marking and/or lighting requirements and should County fail to cure the conditions of noncompliance, Lessee may either terminate this Agreement with respect to the non-compliant Tower Site only or proceed to cure the conditions of noncompliance at County's expense.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of the last signature below.

SAUK COUNTY

Bug Tussel Wireless

Martin F. Krueger
(Signature)

[Signature]
(Signature)

MARTIN F. KRUEGER
(Print Name)

Steven J. Schneider
(Print Name)

SAUK Co. BOARD CHAIRPERSON
(Title)

President / CEO
(Title)

06/19/09
(Date)

6/18/09
(Date)

(Tax ID #)

(Tax ID #)

ATTACHMENT D

TOWER LEASE AND DARK FIBER PAYMENT SCHEDULE

Bug Tussel Wireless, LLC ("Lessee") will be leasing space on multiple Tower Sites and Fiber. An estimated Lease Payment Schedule for all towers has been developed that incorporates the payment terms for the Tower Sites and Fiber leased as part of the Agreement. The Tower Sites leased by Lessee as part of this Agreement are set forth in Attachment A.

Due to the capital investment being made by Lessee and Hilbert, and the services they will be providing to the citizens of Sauk County, Sauk County hereby agrees to allow Lessee to make reduced payments for access to the Tower Sites and Fiber at the outset of the Agreement.

It is estimated that Lessee will pay Sauk County a sum of \$2,573,092.00 for use of the Tower Sites and Fiber during the Initial Term of the Agreement, assuming that its projections are achieved. Lessee's fee to the County for the use of the Tower Sites and the Fiber shall be 5% of the total gross revenue from Mobile Wireless service and Retail Broadband service derived from the Tower Sites and 10% of the total gross revenue from Fiber Transport up to the projected payments as shown on page 2 and page 3 of Attachment D. Page two (2) and page three (3) of this Attachment D demonstrates the estimated payments Lessee is projecting to pay Sauk County for the Initial Term of the Agreement.

Lessee will provide verified accounting information to Sauk County on a quarterly basis in the months of January, April, July & October of each year with the first report being due in **January of 2010**. Representatives from Hilbert Communications may be required to attend multiple County Board Committee meetings during these months as well to present the accounting information.

END OF PAGE ONE OF ATTACHMENT D

Hilbert Communications, LLC
Sauk County Target Revenue and Subscriber Statistics
Exhibit to Agreement

<u>Year</u>	<u>Anticipated Revenue</u>	<u>Retail Broadband Subscribers</u>	<u>Mobile Wireless Subscribers</u>	<u>Fiber optic Circuits</u>
2009	2,023	100	0	0
2010	30,253	700	50	6
2011	58,475	1,400	200	8
2012	125,280	3,000	600	14
2013	174,550	4,000	1,100	20
2014	226,321	5,000	1,700	26
2015	280,493	6,000	2,400	32
2016	333,465	7,000	3,200	33
2017	388,837	8,000	4,100	34
2018	446,611	9,000	5,100	35
2019	506,784	10,000	6,200	36
TOTAL	2,573,092	10,000	6,200	36

Each quarter, Hilbert Communications will provide a certified accounting of revenues and commissions due to Sauk County in the following format:

Period Covered:

Third Quarter 2009

Number of Retail Broadband Subscribers:

400

Number of Mobile Wireless Subscribers:

0

Number of Fiber optic Circuits:

7

Revenue from Retail Broadband Subscribers:

16,800

Revenue from Mobile Wireless Subscribers:

0

Revenue from Fiber optic Circuits:

5,348

5 (five) percent of retail broadband subscribers:

840

5 (five) percent of mobile wireless subscribers

0

10 (ten) percent of fiber optic circuits

535

TOTAL DUE TO SAUK COUNTY

1,375

DARK FIBER LEASE AGREEMENT

THIS DARK FIBER LEASE AGREEMENT ("Agreement") is dated as of June 18, 2009, by and between Sauk County, a political subdivision of the State of Wisconsin, ("County" or "Lessor") and, SpiraLight Network, LLC, a Wisconsin Limited Liability Company ("Lessee") and a wholly owned affiliate of Hilbert Communications, LLC, a Wisconsin Limited Liability Company ("Hilbert").

For the fees described within this Agreement, the parties hereto agree as follows:

1. Dark Fiber.

County owns, operates on and maintains a 146.98 mile, 96 strand fiber optic cable loop (the "Fiber") between the County's emergency communications towers (the "Towers"). One buffer tube (buffer tube 7) has been set aside for splicing between the Towers, specifically fiber strand numbers 73 through 84. For this lease the Lessee requests to splice into the Fiber on Leg I, from the Sauk City Tower to the Tower Road Tower, specifically at Leg I - vault 12 (CTH Z just east of Hwy 12). Lessee will be provided four (4) strands of fiber, specifically strand numbers ~~73, 74, 75 & 76~~ 85, 86, 87, 88 on the entire Fiber network which is the equivalent of 587.92 miles of fiber.

2. Effective Date.

This Agreement shall be effective on the date of full execution hereof ("Effective Date"). Beginning on the Effective Date and continuing until the end of the term as defined in Paragraph 3 below.

3. Term.

The term of Lessee's tenancy hereunder shall commence upon the Effective Date, as defined in Paragraph 2 above and shall continue in effect for a ten (10) year term ("Initial Term") unless otherwise terminated as provided within this Agreement. Lessee shall have the right to extend the term for one (1) additional five (5) year term on the same terms and conditions stated within this Agreement except that the fees shall be modified according to the fee schedule, Attachment C and the fees will be the standard fees. In order for this Agreement to renew, Lessee shall provide Notice to the County of its intention to renew within six (6) months of the expiration of the Initial Term. Upon receipt of said Notice, the County shall have sixty (60) days to reject the Lessee's intention to renew. If the County does not reject the Lessee's intention to renew within said 60 day period, the Agreement will be extended for another five (5) year term.

4. Dark Fiber Lease Agreement

This Agreement consists of 6 pages and Attachment C, Attachment D, and Attachment F. The Agreement and Attachments C, D, & F constitute the entire agreement and understanding between the parties, and supersede all offers, negotiations, and other agreements concerning the subject matter contained herein. Any amendments to this Agreement must be in writing and executed by both parties.

5. Facilities; Access.

As part of this Agreement the County will lease dark fiber to the Lessee as noted in paragraph 1 above with the following conditions:

- (a) Lessee must adhere to Attachment F – Sauk County Fiber Lease Construction Guidelines.

- (b) All splicing and testing will be done by a Contractor selected by the County. The costs of the splicing and testing will be paid for by the Lessee as part of the set up fee. Test results will be made available to the Lessee.
- (c) The Lessee is responsible for notifying Diggers Hotline and waiting for a clear ticket before proceeding with any underground installation.
- (d) The Lessee is responsible for providing and installing the cable up to the County's vault location. The Lessee will not be allowed to enter the County's vault.
- (e) The Lessee's cable entry into County vaults will be performed by a Contractor selected by the County. Costs of the vault entry will be paid for by the Lessee as part of the set up fee.
- (f) The Lessee is responsible for providing all grounding as specified in Attachment F. If a locating pedestal is to be placed, its installation should coincide with the cable placement. The pedestal will be provided and placed by the Lessee and should not interfere with the opening and closing of the County's vault.
- (g) The Lessee will not be allowed into County vaults, splice closures or termination sites.
- (h) The Lessee will not be allowed to sublet the Fiber.
- (i) Lessee will be responsible for insurance on all equipment and facilities installed by the Lessee at/near each County vault. County will be listed as an additional insured on the Lessee's policy and a certificate of insurance will be provided to the County.
- (j) Lessee must coordinate any removal of its equipment with the County on or before the expiration or earlier termination of this Agreement in accordance with the terms specified within this Agreement.
- (k) Lessee shall be responsible to repair and restore the ground around the County vaults to its original shape. If the County determines that further repair is required to the vault locations, Lessee will be advised of repair needs and such repairs shall be completed within thirty (30) days or the County shall make repairs to such damage and Lessee shall be responsible for payment of the reasonable cost of such repairs plus 5%.
- (l) Upon termination of this Agreement, the Lessee shall remove all equipment and facilities within sixty (60) days of the date of termination and such removal shall be coordinated with the County. A restoration fee will be imposed to return the Fiber to its pre-splice condition; such fee will be based on a time and material basis plus 5% and shall be completed by a Contractor selected by the County.
- (m) County shall be responsible for any repairs and/or maintenance to the Fiber unless the need for such repairs and/or maintenance is due to Lessee's use of the Fiber. County further agrees that it will maintain an agreement with Vanguard or other such utility locating agency.
- (n) In the event the Lessee desires to modify its connection with the Fiber, Lessee must first obtain the prior written approval of the County. Such approval shall not be unreasonably withheld, conditioned or delayed, but the County may impose reasonable conditions and

restrictions to ensure that any additional changes do not interfere with the County's, or other Lessee's communications activities on the fiber. All costs associated with such changes shall be at the sole expense of the Lessee. This Agreement will be reviewed at the time of any such changes.

6. Fees.

For the Term of this Agreement the County shall receive from the Lessee the monthly lease fee as defined within Attachment D of this Agreement. There will be a one-time set-up fee and one-time restoration fee as outlined within this Agreement that will be billed based on a time and material basis plus 5% at the time that work is completed. Said set up fees shall not exceed \$2000 without the prior approval of Lessee.

7. Outages.

- (a) County shall not be held responsible or be subject to any billing for outages on the Fiber caused by any cuts, breakages or other such damage to the Fiber that is out of the control of the County.
- (b) If the County has a planned relocations of the Fiber for any reason that will cause an outage to the Lessee, the County shall provide at least seven (7) days notice prior to the start of any such relocation. If the relocation is of an emergency nature, the County will make notification as quickly as possible or within 24 hours. County will not be subject to any billing for outages associated with this relocation.

8. Taxes.

Lessee shall be responsible for any and all taxes assessed to its use of the Fiber and the installation of its equipment.

9. Waiver of Lessee's Lien Rights.

Lessee waives any lien rights it may have concerning the County communication facilities, all of which are deemed County's personal property and not fixtures. Lessee shall provide lien waivers to the County if Lessee contracts for the performance of any work or for the delivery of any materials related to the Fiber or related communications.

10. Termination and Default.

- (a) This Agreement may be terminated without further liability as follows:
 - (i) By either party upon a breach of any covenant or term hereof by the other party, which breach is not cured within sixty (60) days of receipt of written notice of breach, except that this Agreement shall not be terminated if the breach cannot reasonably be cured within such sixty (60) day period and the breaching party has commenced to cure the breach within such sixty (60) day period and diligently pursues the cure to completion; or by County if County is unable to occupy and utilize the premises due to an action of the FCC, including without limitation, a take back of channels or change in frequencies; or
 - (ii) If at some point in the future it becomes unnecessary or undesirable for the County to continue to operate and maintain any of the Towers, the County shall provide one hundred and twenty (120) days' notice of its intent to discontinue maintenance and operation of a Tower and terminate this Agreement for convenience and without any liability for damages to the Lessee. Upon such notice, the Lessee shall remove its equipment from the Tower within the one hundred and twenty (120) day period.

- (iii) The County shall have the right to terminate this Agreement after five (5) years if the fee payments are fifty (50) percent less than the anticipated payments set forth in Attachment D. The County shall have six (6) months within which to give notice to the Lessee of its intent to terminate the Agreement. Lessee shall have sixty (60) days to either accept the termination or request that this Agreement be converted into an agreement with a fee schedule per Attachment C.
- (b) This Agreement will be considered in default as follows: If the fee is not received by the County within sixty (60) days of the date that it is due (as described in Attachment D and Paragraph 6), the Lessee shall be considered to be in default of this Agreement. The County shall provide the Lessee Notice of Default. Once a Notice of Default has been received, the Lessee shall have thirty (30) days to cure the default in full as stated in the Notice. If the default is not cured, the County shall have the right to remove the Lessee's Communication Equipment and/or immediately terminate this Agreement. The County shall provide notice of the termination of this Agreement and/or removal of the Lessee's equipment. Lessee shall be responsible for statutory interest on payments not made as well as costs and attorney's fees required to enforce the provisions of this section.

11. Insurance.

- (a) Lessee, at Lessee's sole cost and expense, shall procure and maintain insurance with a combined single limit of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against all liability of Lessee, its employees and agents arising out of or in connection with Lessee's use of the Fiber, all as provided for herein.
- (b) The County shall be named as an additional insured on Lessee's policy. A certificate of insurance evidencing the coverage required by this paragraph shall be provided upon request and on the Effective Date. Lessee shall have the right to self insure any and all coverage's to the limits required.

12. Waiver of Subrogation.

Lessee and County release each other and their respective principals, employees, representatives and agents, from any claims for damage to any person or to the property or the premises or to the County facilities or any other property thereon caused by, or that result from, risks insured against under any insurance policies carried by the parties and in force at the time of any such damage. Lessee and County shall cause each insurance policy obtained by them to provide that the insurance company waives all right of recovery by way of subrogation against the other in connection with any damage covered by any policy. Neither Lessee nor County shall be liable to the other for any damage caused by fire or any of the risks insured against under any insurance policy required by Paragraph 11.

13. Liability and Indemnity.

Lessee and County shall each indemnify, defend and hold the other harmless from and against all claims, losses, liabilities, damages, costs, and expenses (including reasonable attorneys' and consultants' fees, costs and expenses) (collectively "Losses") arising from the indemnifying party's breach of any term or condition of this Agreement or from the negligence or willful misconduct of the indemnifying party's agents, employees or contractors in or about the property. The duties described in this Paragraph 13 shall apply as of the Effective Date of this Agreement and survive the termination of this Agreement.

14. Assignment and Subletting.

Lessee may not assign, or otherwise transfer all or any part of its interest in this Agreement or in the Fiber without the prior written consent of the County; such consent shall not be unreasonably withheld. Upon assignment, Lessee shall be relieved of all future performance, liabilities, and obligations under this Agreement, provided that the assignee assumes all of Lessee's obligations herein. County may assign this Agreement, which assignment shall be evidenced by written notice to Lessee within a reasonable period of time thereafter, provided that the assignee assumes all of County's obligations herein. This Agreement shall run with the property and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives, heirs and assigns.

15. Warranty of Title and Quiet Enjoyment.

County warrants that the County owns the Fiber in fee simple and has rights of access thereto and the Fiber is free and clear of all liens, encumbrances and restrictions except those of record as of the Effective Date.

16. Repairs.

Lessee shall be responsible to repair any damage to the Fiber, property, or premises caused by Lessee; such damages shall be determined by the County in its reasonable discretion. Should the Lessee fail to properly repair any damages to the Fiber, property, or premises caused by Lessee, the County shall be entitled to make repairs to such damage and Lessee shall be responsible for payment of the reasonable cost of such repairs plus 5%. Upon termination or expiration of this Agreement, Lessee shall repair the premises to substantially the condition in which it existed upon start of lease, reasonable wear and tear excepted.

17. Miscellaneous.

- (a) Both parties represent and warrant that their use of the fiber and their personal property attached to the fiber is in compliance with all applicable, valid and enforceable statutes, laws, ordinances and regulations of any competent government authority.
- (b) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- (c) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.
- (d) Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, or reliable overnight courier to the address of the respective parties set forth below:

Sauk County
510 Broadway
Baraboo, Wisconsin 53913
Attn: Timothy R. Stieve
Phone: (608) 355-3200

SpiraLight Network, LLC
130 E. Walnut Street, Suite 509
Green Bay, Wisconsin 54301
Attn: Steven J. Schneider
Phone:

- (e) Lessee or County may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received upon actual receipt.
- (f) This Agreement shall be governed by the laws of the State of Wisconsin.
- (g) In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay or withhold its approval or consent.
- (h) Each of the parties hereto represent and warrant that they have the right, power, legal capacity and authority to enter into and perform their respective obligations under this Agreement.
- (i) The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Agreement.
- (j) All Riders and Exhibits annexed hereto form material parts of this Agreement.
- (k) This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of the last signature below.

SAUK COUNTY

SPIRALIGHT NETWORK, LLC

Martin F. Krueger
(Signature)

Steven J. Schneider
(Signature)

MARTIN F. KRUEGER
(Print Name)

Steven J. Schneider
(Print Name)

SAUK Co. BOARD CHAIRPERSON
(Title)

President/CEO
(Title)

06/19/09
(Date)

6/18/09
(Date)

(Tax ID #)

(Tax ID #)

ATTACHMENT D

TOWER LEASE AND DARK FIBER PAYMENT SCHEDULE

Bug Tussel Wireless, LLC ("Lessee") will be leasing space on multiple Tower Sites and Fiber. An estimated Lease Payment Schedule for all towers has been developed that incorporates the payment terms for the Tower Sites and Fiber leased as part of the Agreement. The Tower Sites leased by Lessee as part of this Agreement are set forth in Attachment A.

Due to the capital investment being made by Lessee and Hilbert, and the services they will be providing to the citizens of Sauk County, Sauk County hereby agrees to allow Lessee to make reduced payments for access to the Tower Sites and Fiber at the outset of the Agreement.

It is estimated that Lessee will pay Sauk County a sum of \$2,573,092.00 for use of the Tower Sites and Fiber during the Initial Term of the Agreement, assuming that its projections are achieved. Lessee's fee to the County for the use of the Tower Sites and the Fiber shall be 5% of the total gross revenue from Mobile Wireless service and Retail Broadband service derived from the Tower Sites and 10% of the total gross revenue from Fiber Transport up to the projected payments as shown on page 2 and page 3 of Attachment D. Page two (2) and page three (3) of this Attachment D demonstrates the estimated payments Lessee is projecting to pay Sauk County for the Initial Term of the Agreement.

Lessee will provide verified accounting information to Sauk County on a quarterly basis in the months of January, April, July & October of each year with the first report being due in *January of 2010*. Representatives from Hilbert Communications may be required to attend multiple County Board Committee meetings during these months as well to present the accounting information.

END OF PAGE ONE OF ATTACHMENT D

Hilbert Communications, LLC

Sauk County Target Revenue and Subscriber Statistics

Exhibit to Agreement

<u>Year</u>	<u>Anticipated Revenue</u>	<u>Retail Broadband Subscribers</u>	<u>Mobile Wireless Subscribers</u>	<u>Fiberoptic Circuits</u>
2009	2,023	100	0	0
2010	30,253	700	50	6
2011	58,475	1,400	200	8
2012	125,280	3,000	600	14
2013	174,550	4,000	1,100	20
2014	226,321	5,000	1,700	26
2015	280,493	6,000	2,400	32
2016	333,465	7,000	3,200	33
2017	388,837	8,000	4,100	34
2018	446,611	9,000	5,100	35
2019	506,784	10,000	6,200	36
TOTAL	2,573,092	10,000	6,200	36

Each quarter, Hilbert Communications will provide a certified accounting of revenues and commissions due to Sauk County in the following format:

Period Covered:

Third Quarter 2009

Number of Retail Broadband Subscribers:

400

Number of Mobile Wireless Subscribers:

0

Number of Fiberoptic Circuits:

7

Revenue from Retail Broadband Subscribers:

16,800

Revenue from Mobile Wireless Subscribers:

0

Revenue from Fiberoptic Circuits:

5,348

5 (five) percent of retail broadband subscribers:

840

5 (five) percent of mobile wireless subscribers

0

10 (ten) percent of fiberoptic circuits

535

TOTAL DUE TO SAUK COUNTY

1,375