


**RECORDED AT REQUEST OF, AND  
WHEN RECORDED RETURN TO:**

Nextel Communications>  
854 Trafalgar Court>  
Maitland, FL 32751  
Attn: Property Manager

  
20041220000691850 Pg 1/4 170.50  
Shelby Cnty Judge of Probate, AL  
12/20/2004 09:56:00 FILED/CERTIFIED

**MEMORANDUM OF AGREEMENT  
AL-1428E / Morgan Creek  
APN: 17-4-17-0-000-001.000**

This MEMORANDUM OF AGREEMENT is entered into on this 27<sup>th</sup> day of July, 2004, by Charles H. Peay Jr, A married man, as his sole and separate property, with an address at 2524 Ashford Place, Birmingham AL, 35243 (hereinafter referred to as "**Owner**" or "**Landlord**") and Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications, with an office at Nextel South, a Georgia corporation, d/b/a Nextel Communications, with an office at 6575 The Corners Parkway, Norcross, GA, 30092 (hereinafter referred to as "**Nextel**" or "**Tenant**").

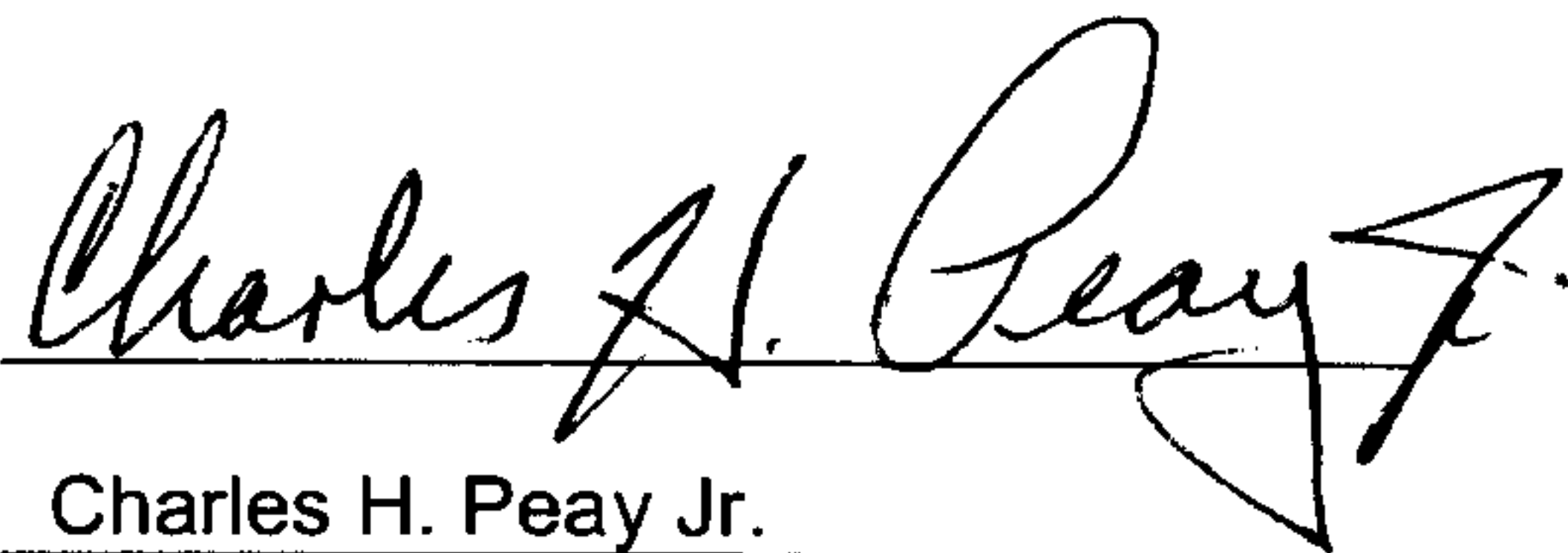
1. Landlord and Tenant entered into a Communications Site Lease Agreement ("**Agreement**") dated as of July 27<sup>th</sup>, 2004, effective upon full execution of the parties ("**Effective Date**") for the purpose Nextel undertaking certain Investigations and Tests and, upon finding the Land appropriate, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing is set forth in the Agreement.
2. The term of the Agreement is for five (5) years commencing on the start of construction of the Tenant Facilities or eighteen (18) months following the Effective Date, whichever first occurs ("**Term Commencement Date**"), and terminating on the fifth anniversary of the Commencement Date with five (5) successive five (5) year options to renew.
3. The Land that is the subject of the Agreement is described in Exhibit A annexed hereto. The portion of the Land being leased to Tenant and all necessary access and utility easements (the "**Premises**") are set forth in the Agreement.

In witness whereof, the parties have executed this Memorandum of Agreement as of the day and year first written above.

**LANDLORD:**

Charles H. Peay Jr.,  
A married man, as his sole and separate  
property

By:



Name: Charles H. Peay Jr.

Title: Owner

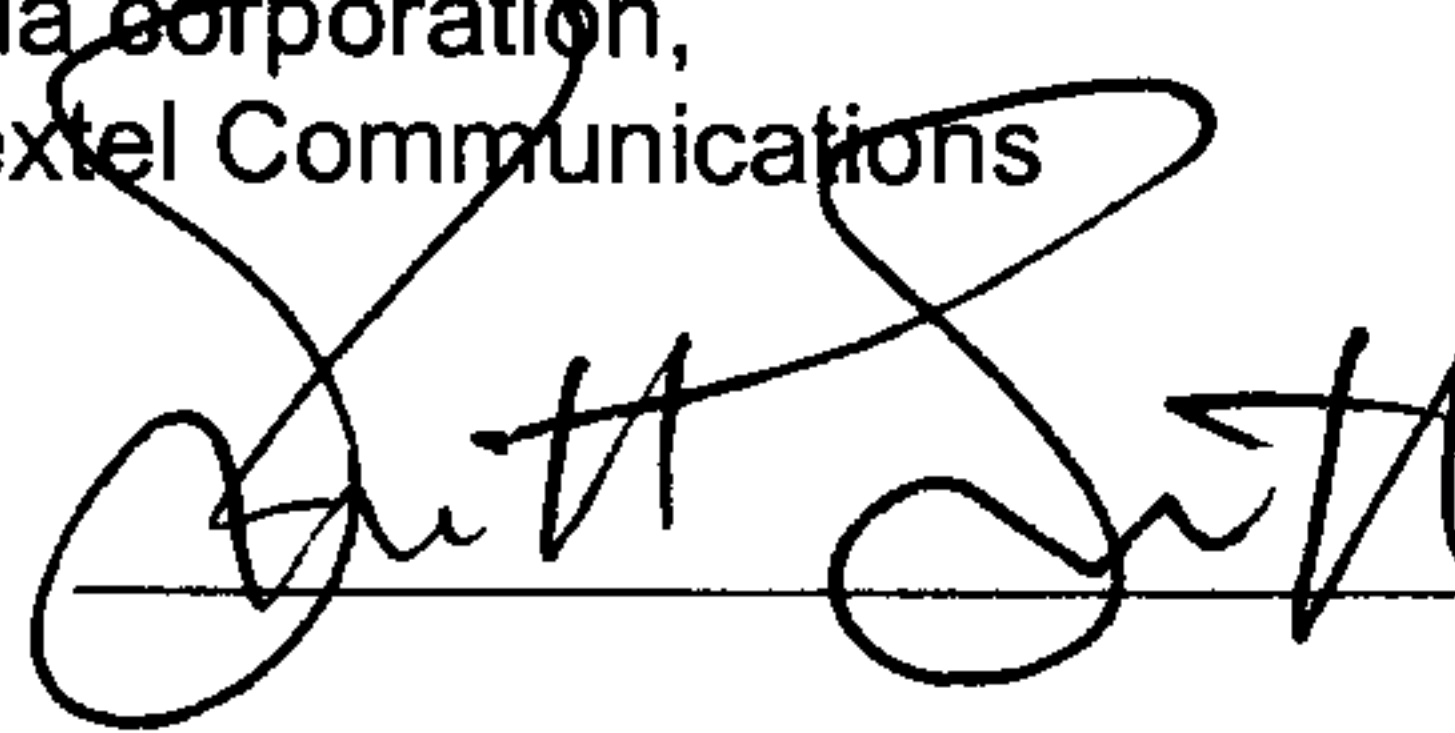
Date:

7/26/04

**TENANT:**

Nextel South Corp.,  
a Georgia corporation,  
d/b/a Nextel Communications

By:



Name: Scott Smith

Title: Agent

Date:

7-27-04

STATE OF Alabama

COUNTY OF Jefferson

On 26 July, 2004, before me, Jennifer A. Garrett, Notary Public, personally appeared Charles H. Peay, Jr., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Jennifer A. Garrett (SEAL)  
Notary Public

My commission expires: MY COMMISSION EXPIRES FEBRUARY 23, 2008

STATE OF NC

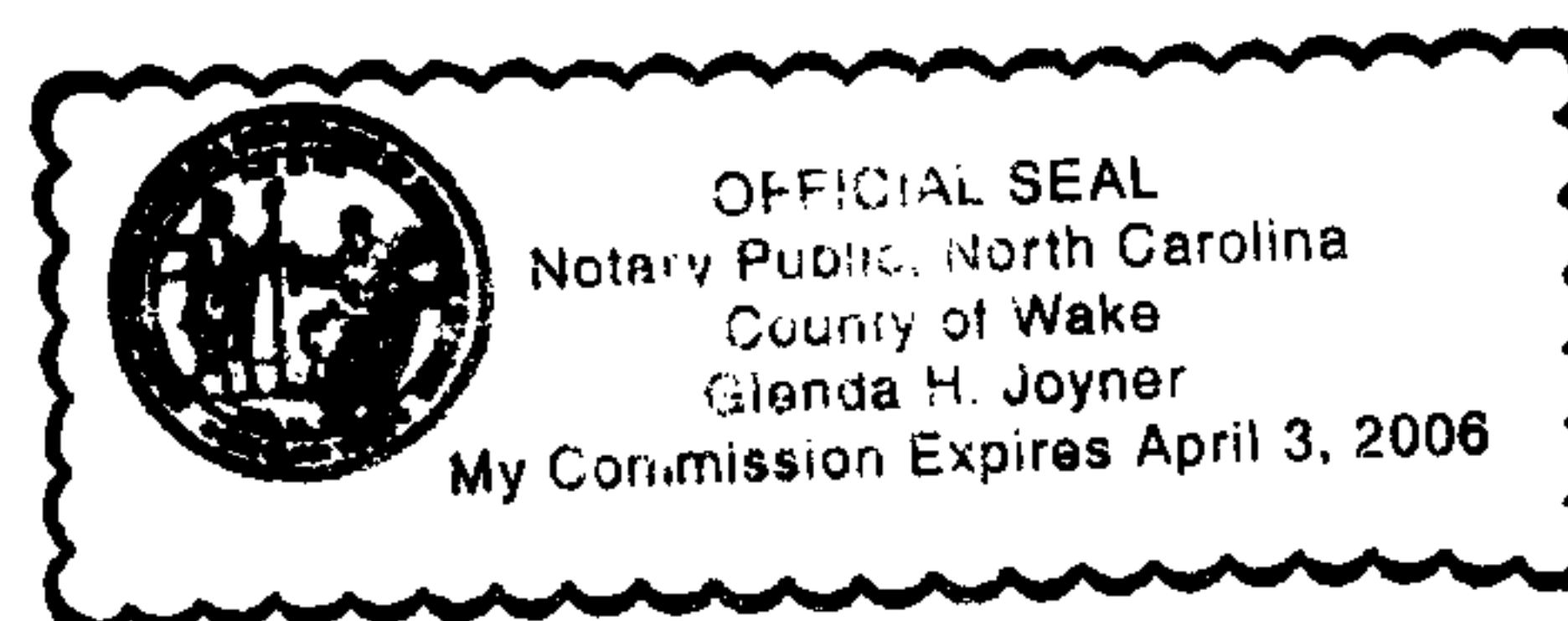
COUNTY OF Wake

On 7/27/04, before me, Glenda H. Joyner, Notary Public, personally appeared Scott Smith, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Glenda H. Joyner (SEAL)  
Notary Public

My commission expires: 04/03/06



**EXHIBIT A**  
**DESCRIPTION OF LAND**

to the Agreement dated July 27, 2004, by and between Charles H. Peay Jr., a married man, as his sole and separate property, as Landlord, and Nextel South Corp., a Georgia corporation, d/b/a Nextel Communications, as Tenant.

The Land is described and/or depicted as follows (metes and bounds description):

APN: 14-4-17-0-000-001.000

**A WRITTEN DESCRIPTION OF THE LAND WILL BE PRESENTED HERE OR ATTACHED HERETO**



## EXHIBIT A

20041220000691850 Pg 4/4 170.50  
Shelby Cnty Judge of Probate, AL  
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## DESCRIPTION OF LAND

Shelby County, Alabama

, to wit:

All that part of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 17 lying North and Northeasterly of Narrow Road and the NE $\frac{1}{4}$  of said Section 17, Township 20 South, Range 2 East, containing 180 acres, more or less. Less and except the Wallace Family Cemetery property described as follows: White Cemetery: Commence at the Southeast corner of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Sec. 17, Township 20 South, Range 2 East, thence run North along the East line of said  $\frac{1}{2}$ - $\frac{1}{2}$  Section a distance of 168.95 feet; thence turn an angle of 82 deg. 46 min. 27 sec. to the left and run a distance of 524.20 feet to the point of beginning; thence turn an angle of 90 deg. to the left and run a distance of 136.91 feet; thence turn an angle of 90 deg. 00 min. to the right and run a distance of 292.74 feet; thence turn an angle of 90 deg. 00 min. to the right and run a distance of 313.23 feet; thence turn an angle of 90 deg. 00 min. to the right and run a distance of 292.74 feet; thence turn an angle of 90 deg. 00 min. to the right and run a distance of 176.32 feet to the point of beginning. Situated in the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Sec. 17, Township 20 South, Range 2 East, Shelby County, Alabama. Also, less and except: Commence at the Southeast corner of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Sec. 17, Township 20 South, Range 2 East, thence run North along the East line of said  $\frac{1}{2}$ - $\frac{1}{2}$  Section a distance of 168.85 feet to the point of beginning; thence turn an angle of 77 deg. 13 min. 33 sec. to the right and run a distance of 195.07 feet to the right-of-way of Alabama Highway No. 25, thence turn an angle of 85 deg.

16 min. 54 sec. to the left and run along said Hwy. R/W a distance of 60.22 feet; thence turn an angle of 94 deg. 43 min. 06 sec. to the left and run a distance of 724.23 feet; thence turn an angle of 90 deg. 00 min. to the left and run a distance of 60.00 feet; thence turn an angle of 90 deg. 00 min. to the left and run a distance of 524.20 feet to the point of beginning. Situated in the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , Sec. 16 and the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Section 17, Township 20 South, Range 2 East.

Also, less and except the following which is used for Black Cemetery, or such portion thereof as is located within the confines of this said Parcel 2: Black Cemetery: Commence at the Southeast corner of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Sec. 17, Township 20 South, Range 2 East; thence run West along the South line of said  $\frac{1}{2}$ - $\frac{1}{2}$  Section a distance of 909.22 feet to the point of beginning; thence turn an angle of 111 deg. 31 min. 53 sec. to the left and run a distance of 194.06 feet; thence turn an angle of 89 deg. 10 min. 01 sec. to the right and run a distance of 213.67 feet; thence turn an angle of 96 deg. 56 min. 28 sec. to the right and run a distance of 132.60 feet; thence turn an angle of 14 deg. 57 min. 12 sec. to the right and run a distance of 281.72 feet; thence turn an angle of 117 deg. 21 min. 38 sec. to the right and run a distance of 148.12 feet; thence turn an angle of 41 deg. 34 min. 41 sec. to the right and run a distance of 86.78 feet to the point of beginning. Situated in the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 17, Township 20 South, Range 2 East.

Also, except a perpetual right-of-way or an easement for purpose of ingress and egress to and from the Black Cemetery which easement is described as follows: Fifteen (15) feet on either side of a centerline described as: Commence at the Southeast corner of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Section 17, Township 20 South, Range 2 East, thence run West along the South line of said  $\frac{1}{2}$ - $\frac{1}{2}$  Section a distance of 713.21 feet to the point of beginning; thence turn an angle of 66 deg. 27 min. 18 sec. to the left and run a distance of 150.14 feet; thence turn an angle of 44 deg. 05 min. 26 sec. to the right and run a distance of 76.03 feet to the point of ending. Situated in the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 17, Township 20 South, Range 2 East; Fifteen (15) feet on either side of a centerline described as: Commence at the Southeast corner of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Section 17, Township 20 South, Range 2 East, thence run West along the South line of said  $\frac{1}{2}$ - $\frac{1}{2}$  Section a distance of 713.21 feet to the point of beginning; thence turn an angle of 116 deg. 34 min. 44 sec. to the right and run a distance of 121.28 feet to the point of ending. Situated in the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Section 17, Township 20 South, Range 2 East.