

Market: PNW
Cell Site Number: PD33
Cell Site Name: Boones & Ibach
Search Ring Name: Boones & Ibach
Fixed Asset Number: 10576570

LAND LEASE AGREEMENT

THIS LAND LEASE AGREEMENT (“**Agreement**”), dated as of the latter of the signature dates below (the “**Effective Date**”), is entered into by The City of Tualatin, an Oregon municipal corporation, having a mailing address of 18880 SW Martinazzi Ave., Tualatin, OR 97062 (“**Landlord**” or “**City**”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE, 3rd Floor, Atlanta, GA 30319 (“**Tenant**” or “**Tenant NCW**”).

BACKGROUND

i) Landlord owns or controls that certain plot, parcel or tract of land, as described on **Exhibit 1**, together with all rights and privileges arising in connection therewith, located at 8930 SW Norwood Road, Tualatin, OR 97062, in the County of Washington, State of Oregon 97062 (collectively, the “**Property**”). Landlord desires to grant to Tenant NCW the right to use a portion of the Property in accordance with this Agreement.

ii) Landlord has a valid Site Lease with Option Agreement dated May 8, 2006, as amended and assigned (collectively, the “**SLA**”) with SBA Communications Corporation (“**SBA**”) for use of a portion of Landlord’s ~~Property~~ for a cell tower. The A true and accurate copy of the SLA, including all amendments and assignments thereto, is attached as Exhibit A.

iii) The provisions of the SLA provide that sublessees of SBA must acquire rights from and pay rent to Landlord by a separate lease agreement.

iv) As set out in Section 2 below, this Agreement, NCW wishes to install wireless communications equipment on the Property and City is willing to lease space on the Property to NCW therefor.

The parties agree as follows:

1. LEASE OF PREMISES.

1. Landlord hereby leases to Tenant NCW a certain portion of the Property containing approximately 150 square feet including the air space above such ground space, as described on attached **Exhibit 1**, (the “**Premises**”), for the placement of a Communication Facility in accordance with the terms of this Agreement.

2. **PERMITTED USE.** Tenant NCW may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure (“**Structure**”), associated antennas, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (the “**Communication Facility**”), as well as the right to test, survey and review title on the Property; Tenant further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, (collectively, the “**Permitted Use**”). Landlord and Tenant agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Tenant’s Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Landlord’s execution of this Agreement will signify Landlord’s approval of **Exhibit 1**. For a period of ninety (90) days following the

Formatted: Font: Bold

Formatted: Font: Bold

Commented [KM1]: Making sure this is correct- Second Amendment to Site Lease With Option has address listed as 8930 SW Norwood Road

Commented [SG2R1]: Corrected

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: 11 pt

Formatted: List Paragraph, Indent: Left: 0", First line: 0", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.75", Hyphenate, Tab stops: Not at -1" + -0.5"

Commented [KM3]: Replace term “Tenant” with “NCW” throughout doc

start of construction, Landlord grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of the Landlord's contiguous, adjoining or surrounding property (the "**Surrounding Property**") as may reasonably be required during construction and installation of the Communication Facility. Tenant has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the Property's main entry point to the equipment shelter or cabinet, install a generator and to make other improvements, alterations, upgrades or additions appropriate for Tenant's Permitted Use, ~~including the right to construct a fence around the Premises or equipment, install warning signs to make individuals aware of risks, install protective barriers, install any other control measures reasonably required by Tenant's safety procedures or applicable law,~~ and undertake any other appropriate means to secure the Premises or equipment at Tenant's expense. Subject to Landlord's prior written consent, Tenant has the right to modify, supplement, replace, upgrade, expand the Communication Facility (including, for example, increasing the number of antennas or adding microwave dishes) or relocate the Communication Facility within the Premises at any time during the Term. Tenant will be allowed to make such alterations to the Property in order to ensure that the Communication Facility complies with all applicable federal, state or local laws, rules or regulations. In the event Tenant desires to modify or upgrade the Communication Facility, in a manner that requires an additional portion of the Property (the "**Additional Premises**") for such modification or upgrade, Landlord ~~agrees to may agree to~~ lease to Tenant the Additional Premises, upon the same terms and conditions set forth herein, except that the Rent shall increase, in conjunction with the lease of the Additional Premises by the amount equivalent to the then-current per square foot rental rate charged by Landlord to Tenant times the square footage of the Additional Premises. ~~Landlord agrees to take such actions and enter into and deliver to Tenant such documents as Tenant reasonably requests in order to effect and memorialize the lease of the Additional Premises to Tenant.~~

3. **TERM.**

(a) The initial lease term will be five (5) years (the "**Initial Term**"), commencing on the Effective Date. The Initial Term will terminate on the fifth (5th) anniversary of the Effective Date.

(b) This Agreement will automatically renew for ~~five~~ (5) additional five (5) year term(s) (each additional five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions set forth herein unless Tenant notifies Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the Initial Term or the then-existing Extension Term.

(c) Unless (i) Landlord or Tenant notifies the other in writing of its intention to terminate this Agreement at least six (6) months prior to the expiration of the final Extension Term, or (ii) the Agreement is terminated as otherwise permitted by this Agreement prior to the end of the final Extension Term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter ("**Annual Term**") until terminated by either party hereto by giving to the other party hereto written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. Monthly rent during such Annual Terms shall be equal to the Rent paid for the last month of the final Extension Term. If Tenant remains in possession of the Premises after the termination of this Agreement, then Tenant will be deemed to be occupying the Premises on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the "**Term**."

(e) ~~In no event shall the Initial Term of this Agreement or any Extension or Annual Term extend beyond the term of the SLA, which, if not otherwise extended, will expire by its terms on dated May 8, 2006 . Notwithstanding anything to the contrary contained in this Agreement, and any such Term this Agreement shall be coterminous with the SLA shall expire as of that date.~~

4. **RENT.**

(a) Commencing on the first day of the month following the date that Tenant commences construction (the "**Rent Commencement Date**"), Tenant will pay Landlord on or before the fifth (5th) day of each calendar month in advance, ~~One Thousand Four Hundred Dollars~~ and No/100 Dollars (\$1,400.00) (the "**Rent**"), at the address set forth above. In any partial month occurring after the Rent Commencement Date, the

Commented [KM4]: Would recommend 4

Formatted: Highlight

Commented [KM5]: Without knowing the date TMO exercised its Option, I cannot determine the expiration date. It appears the SLA had an initial term of 5 years, with 5 x 5-yr Renewals.

Commented [KM6]: To be negotiated

Rent will be prorated. The initial Rent payment will be forwarded by Tenant to Landlord within ninety (90) days after the Rent Commencement Date.

Commented [KM7]: Recommend 45 days

(b) ~~In year two (2) of the Initial Term, and each year thereafter during the Term~~ Upon the commencement of each Extension Term, the monthly Rent will increase by two percent (2%) over the Rent paid during the previous ~~five (5) year term~~.

Commented [KM8]: To be negotiated

(c) All charges payable under this Agreement such as utilities and taxes shall be billed by Landlord within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Landlord, and shall not be payable by Tenant. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by Landlord. The provisions of this subsection shall survive the termination or expiration of this Agreement.

5. APPROVALS

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon the suitability of the Premises and Property for the Permitted Use and Tenant's ability to obtain and maintain all governmental licenses, permits, approvals or other relief required of or deemed necessary or appropriate by Tenant for its use of the Premises, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "Government Approvals"). Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Government Approvals for the Permitted Use and agrees to reasonably assist Tenant with such applications and with obtaining and maintaining the Government Approvals.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice.

(c) Tenant may also perform and obtain, at Tenant's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Government Approvals.

6. TERMINATION. This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Section 15.45 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Tenant; or if Tenant determines, in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(c) by Tenant, upon written notice to Landlord, if Tenant determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory for its intended uses;

(d) by Tenant upon written notice to Landlord for any reason or no reason, at any time prior to commencement of construction by Tenant; ~~or~~

(e) by Tenant upon sixty (60) days' prior written notice to Landlord for any reason or no reason, so long as Tenant pays Landlord a termination fee equal to three (3) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any termination provision contained in any other Section of this Agreement, including ~~the other subsections of this Section 6~~ the following: ~~Section 5 Approvals, Section 6(a) Termination, Section 6(b) Termination, Section 6(c) Termination, Section 6(d) Termination, Section 11(d) Environmental, Section 18 Condemnation or Section 19 Casualty~~;

Formatted: Strikethrough

(f) by Landlord, upon written notice to Tenant, if Landlord determines in accordance with TMC 6-4-220 that Tenant's use of the Premises constitutes a nuisance which imminently endangers human life or property; ~~or~~

(g) by Landlord, in accordance with the abatement procedures set out at TMC 6-4-170 to 6-4-180, if Tenant fails to abate a nuisance as set out at TMC 6-4-160(2);

(h) _____ by Landlord of federal or state laws, regulations, or guidelines are adopted or interpreted in such a way that the use of the Premises under this Agreement is no longer permitted; or-

(i) _____ by Tenant upon written notice to Landlord if Tenant's agreement with SBA for use of SBA's communication facilities terminates.

Formatted: Font: Not Bold, No underline, Not Expanded by /
Condensed by

7. **INSURANCE.** During the Term, Tenant must maintain a policy or policies of insurance for ~~Comprehensive~~Commercial Automobile ~~and vehicle~~ liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from the use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with \$2,000,000 combined single limits per accident. In addition, Tenant must maintain a policy or policies of insurance for ~~Comprehensive~~Commercial General Liability Insurance in the amount of ~~not less than~~ \$2,000,000 per occurrence and aggregate during the Term of this Agreement. The insurance must include ~~name~~ the Tualatin Development Commission and the City of Tualatin as additional insureds ~~by endorsement as respects this agreement~~. Subtenant must submit proof of insurance before commencing its use of Premises. ~~will purchase and maintain in full force and effect such general liability policy as Tenant may deem necessary. Said policy of general liability insurance will at a minimum provide a combined single limit of One Million and No/100 Dollars (\$1,000,000.00). Notwithstanding the foregoing, Tenant shall have the right to self insure such general liability coverage.~~

8. **INTERFERENCE.**

(a) NCW acknowledges that it will not have exclusive use of the Property, ~~portions of which (outside of the Premises) may be leased by others for other purposes. At all times during the Term of this Agreement, NCW agrees to use equipment of a type and tuned to a frequency that will not cause interference to other pre-existing lessees on the Property, or the City's communication equipment, and agrees to make no changes in or to its Communication Facility or to its frequencies without prior written consent of Landlord.~~ Prior to or concurrent with the execution of this Agreement, Landlord has provided or will provide Tenant with a list of radio frequency user(s) and frequencies used on the Property as of the Effective Date. Tenant warrants that its use of the Premises will not interfere with those existing radio frequency uses on the Property, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) Landlord will ~~make best efforts to ensure future tenants of the Property will install only such equipment that is of the type and frequency which will not cause interference to the operation, use, or location of NCW's Communication Facility located on the Property. not grant, after the Effective Date, a lease, license or any other right to any third party, if the exercise of such grant may in any way adversely affect or interfere with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement.~~ Landlord will notify Tenant in writing prior to granting any third party the right to install and operate communications equipment on the Property.

(c) Landlord will ~~make best efforts to ensure not, nor will Landlord permit~~ its employees, tenants, licensees, invitees, agents or independent contractors ~~to will not cause interference in any way with the Communication Facility, to the operation, s of Tenant or the rights of Tenant under this Agreement. use, or location of NCW's Communicaiton Facility located on the Property.~~ Landlord will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Tenant. In the event any such interference does not cease within the aforementioned cure period, Landlord shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected.

(d) For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property or Surrounding Property that causes electronic or physical obstruction with, or degradation of, the communications signals from the Communication Facility.

9. **INDEMNIFICATION.**

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability-, costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the

Communication Facility or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, invitees, agents or independent contractors.

(b) Subject to the limitations set out in the Oregon Constitution, City Charter and Oregon Tort Claims Act (ORS 30.265 through 30.300), Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability, costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Landlord, its employees, invitees, agents or independent contractors, or Landlord's material breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

(c) The indemnified party: (i) shall promptly provide the indemnifying party with written notice of any claim, demand, lawsuit, or the like for which it seeks indemnification pursuant to this Section 9 and provide the indemnifying party with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of the indemnifying party; and (iii) shall fully cooperate with the indemnifying party in the defense of the claim, demand, lawsuit, or the like. A delay in notice shall not relieve the indemnifying party of its indemnity obligation, except (1) to the extent the indemnifying party can show it was prejudiced by the delay; and (2) the indemnifying party shall not be liable for any settlement or litigation expenses incurred before the time when notice is given.

10. WARRANTIES.

(a) Each of Tenant and Landlord (to the extent not a natural person) each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power, and authority or capacity, as applicable, to enter into this Agreement and bind itself hereto through the party or individual set forth as signatory for the party below.

(b) Landlord represents, warrants and agrees that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license; (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement; (iii) ~~then~~ Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises in accordance with the terms of this Agreement without hindrance or ejection by any persons lawfully claiming under Landlord; (iv) and Landlord's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Landlord; ~~and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, then Landlord will provide promptly to Tenant a mutually agreeable subordination, non-disturbance and attornment agreement executed by Landlord and the holder of such security interest in the form attached hereto as Exhibit 10(b).~~

11. ENVIRONMENTAL.

(a) Landlord, to the best of its knowledge, represents and warrants: ~~except as may be identified in Exhibit 11 attached to this Agreement,~~ (i) the Property, as of the Effective Date, is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

(b) Landlord, subject to the limitations set out in the Oregon Constitution, City Charter and Oregon Tort Claims Act (ORS 30.265 through 30.300) and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for,

Commented [KM9]: Exhibit 11 has been deleted from the Agmt.

payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding (“Claims”), to the extent arising from that party’s breach of its obligations or representations under Section 11(a). Landlord agrees to hold harmless and indemnify Tenant from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Landlord for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with hazardous substances prior to the Effective Date or from such contamination caused by the acts or omissions of Landlord during the Term. Tenant agrees to hold harmless and indemnify Landlord from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Tenant for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from hazardous substances brought onto the Property by Tenant.

(c) The indemnification provisions contained in this Section 11 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 11 will survive the expiration or termination of this Agreement.

(d) In the event Tenant becomes aware of any hazardous materials on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Tenant’s sole determination, renders the condition of the Premises or Property unsuitable for Tenant’s use, or if Tenant believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of liability to a government agency or other third party, then Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to Landlord.

12. ACCESS.

(a) At all times throughout the Term of this Agreement, Landlord will provide necessary ingress and egress to the Premises to Tenant. Tenant and its employees, agents, and subcontractors, who will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access (“Access”) to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. Prior to entry on to the Premises, NCW shall provide Landlord at least twenty-four (24) hours prior notice, unless the entry is due to an emergency, in which case NCW shall provide Landlord with immediate notice upon determining the need for entry due to the emergency. As may be described more fully in Exhibit 1, Landlord grants to Tenant an easement for such Access and Landlord agrees to provide to Tenant such codes, keys and other instruments necessary for such Access to Tenant. Upon Tenant’s request, Landlord will execute a separate recordable easement evidencing this right. Landlord shall execute a letter granting Tenant Access to the Property substantially in the form attached as Exhibit 12; upon Tenant’s request, Landlord shall execute additional letters during the Term. If Tenant elects to utilize an Unmanned Aircraft System (“UAS”) in connection with its installation, construction, monitoring, site audits, inspections, maintenance, repair, modification, or alteration activities at a Property, Landlord hereby grants Tenant, or any UAS operator acting on Tenant’s behalf, express permission to fly over the applicable Property and Premises, and consents to the use of audio and video navigation and recording in connection with the use of the UAS. Landlord acknowledges that in the event Tenant cannot obtain Access to the Premises, Tenant shall incur significant damage. If Landlord fails to provide the Access granted by this Section 12, such failure shall be a default under this Agreement. In connection with such default, in addition to any other rights or remedies available to Tenant under this Agreement or at law or equity, Landlord shall pay Tenant, as liquidated damages and not as a penalty, \$500 per day in consideration of Tenant’s damages until Landlord cures such default. Landlord and Tenant agree that Tenant’s damages in the event of a denial of Access are difficult, if not impossible, to ascertain, and the liquidated damages set forth above are a reasonable approximation of such damages.

12. (b) Landlord reserves the right at any time without notice to enter upon the Premises through its designated agents or employees for any purpose necessary, incidental to or connected with the performance of its obligations under this Agreement or in the exercise of its proprietary or governmental functions, except that Landlord will not so enter and occupy the Premises as to materially hinder or prevent normal use of the Premises by NCW, without NCW’s consent, which will not be unreasonably withheld.

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Commented [KM10]: We need to discuss this broad grant of authority

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Normal, Indent: First line: 0.5", No bullets or numbering

13. **REMOVAL/RESTORATION.** All portions of the Communication Facility brought onto the Property by Tenant will be and remain Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during or after the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of Tenant and may be removed by Tenant at any time during or after the Term. Tenant will repair any damage to the Property resulting from Tenant's removal activities. Any portions of the Communication Facility that Tenant does not remove within ~~one hundred twenty~~^{ninety} (90~~420~~) days after the later of the end of the Term and cessation of Tenant's operations at the Premises shall be deemed abandoned and owned by Landlord. Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation.

14. **MAINTENANCE/UTILITIES.**

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Property and access thereto and all areas of the Premises where Tenant does not have exclusive control, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements. Landlord will be responsible for maintenance of landscaping on the Property, including any landscaping installed by Tenant as a condition of this Agreement or any required permit.

(b) Tenant will be responsible for paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. In the event Tenant cannot secure its own metered electrical supply, Tenant will have the right, at its own cost and expense, to sub-meter from Landlord. When sub-metering is required under this Agreement, Landlord will read the meter and provide Tenant with an invoice and usage data on a monthly basis. Tenant shall reimburse Landlord for such utility usage at the same rate charged to Landlord by the utility service provider. Landlord further agrees to provide the usage data and invoice on forms provided by Tenant and to send such forms to such address and/or agent designated by Tenant. Tenant will remit payment within ~~sixty~~ (60) days of receipt of the usage data and required forms. Landlord shall maintain accurate and detailed records of all utility expenses, invoices and payments applicable to Tenant's reimbursement obligations hereunder. Within fifteen (15) days after a request from Tenant, Landlord shall provide copies of such utility billing records to the Tenant in the form of copies of invoices, contracts and cancelled checks. If the utility billing records reflect an overpayment by Tenant, Tenant shall have the right to deduct the amount of such overpayment from any monies due to Landlord from Tenant.

(c) ~~As noted in Section 54(c) above,~~ any utility fee recovery by Landlord is limited to a twelve (12) month period. If Tenant submeters electricity from Landlord, Landlord agrees to give Tenant at least twenty-four (24) hours advance notice of any planned interruptions of said electricity. Landlord acknowledges that Tenant provides a communication service which requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. If the interruption is for an extended period of time, in Tenant's reasonable determination, Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption. Landlord will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord.

(d) Tenant will have the right to install utilities, at Tenant's expense, and to improve present utilities on the Property and the Premises. Landlord hereby grants to any service company providing utility or similar services, including electric power and telecommunications, to Tenant an easement over the Property, from an open and improved public road to the Premises, and upon the Premises, for the purpose of constructing, operating and maintaining such lines, wires, circuits, and conduits, associated equipment cabinets and such appurtenances thereto, as such service companies may from time to time require in order to provide such services to the Premises. Upon Tenant's or service company's request, Landlord will execute a separate recordable easement evidencing this grant, at no cost to Tenant or the service company.

15. **DEFAULT AND RIGHT TO CURE.**

Commented [KM11]: Recommend 45

Commented [KM12]: This does not appear to be an accurate reference

Commented [SG13]: Reinserted; Tenant must be able to bring power/telco &/or fiber to the site.

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. The cure period specified herein shall not apply to a nuisance proceeding under TMC 6-4-160(2) or any health or other nuisance which imminently endangers human life or property as set out at TMC 6-4-220. If Tenant remains in default beyond any applicable cure period, then Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) Landlord's failure to provide Access to the Premises as required by Section 12 within twenty-four (24) hours after written notice of such failure; ~~(ii) Landlord's failure to cure an interference problem as required by Section 8 within twenty-four (24) hours after written notice of such failure; or~~ (iii) Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have: (i) the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant, and (ii) any and all other rights available to it under law and equity.

16. ASSIGNMENT/SUBLEASE. Tenant will have the right to assign this Agreement or sublease the Premises and its rights herein, in whole or in part, ~~without Landlord's consent upon receiving Landlord's prior written consent, which Landlord may in its sole discretion withhold; provided Tenant shall have the right to assign its rights in this Agreement, in whole or in part, without Landlord's consent to a Tenant Affiliate (as defined in Section 24(i)).~~ Upon notification to Landlord of such assignment, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such assignment.

17. NOTICES. ~~For Notices of Default to Tenant, notices must be sent to Tenant's Lease Administration Department by email at NoticeIntake@att.com; and to Tenant's Law Department via first class certified or registered mail, return receipt requested or by a nationally recognized overnight courier, postage prepaid, addressed to: All notices, requests and demands hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties hereto as follows:~~

If to Tenant: _____ New Cingular Wireless PCS, LLC
_____ Attn: Tower Asset Group – Lease Administration
_____ Re: Cell Site #: PD33; Cell Site Name: Boones & Ibach (add state abbreviation)
_____ Fixed Asset #: 10576570
_____ 1025 Lenox Park Blvd NE 3rd Floor
_____ Atlanta, Georgia 30319

With a copy to: _____ New Cingular Wireless PCS, LLC
_____ Attn.: Legal Dept – Network Operations
_____ Re: Cell Site #: PD33; Cell Site Name: Boones & Ibach (add state abbreviation) OR
_____ Fixed Asset #: 10576570 _____
_____ 208 S. Akard Street
_____ Dallas, TX 75202-4206

All other notices will be sent:

- (a) To Tenant's Lease Administration Department by email at NoticeIntake@att.com with the FA#, Cell Site #, and Cell Site Name in the email subject line; and
- (b) The copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

If to Landlord at:

The City of Tualatin
Attn: [REDACTED]
18880 SW Martinazzi Ave.
Tualatin, OR 97062
[REDACTED]

Formatted: No underline

Formatted: Indent: Left: 0.5"

Field Code Changed

Field Code Changed

Notices by email to Tenant's Lease Administration Department will be effective on the first calendar day after it was sent unless the sender receives an automated message that the email has not been delivered. Electronic mail shall be sent with a read receipt, but a read receipt shall not be required to establish that notice was given and received. All other notices shall be effective when properly sent and received or refused, unless returned undelivered.

Either party hereto may change the place for the giving of notice to it by thirty (30) days' prior written notice to the other party hereto as provided herein.

18. INTENTIONALLY OMITTED. 18. CONDEMNATION. In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within twenty four (24) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Tenant will be entitled to reimbursement for any prepaid Rent on a *pro rata* basis.

19. CASUALTY. Landlord will provide notice to Tenant of any casualty or other harm affecting the Property within twenty-four (24) hours of the casualty or other harm. If any part of the Communication Facility or the Property is damaged by casualty or other harm as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to Landlord, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a *pro rata* basis. Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property, but only until such time as Tenant is able to activate a replacement transmission facility at another location; notwithstanding the termination of this Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. If Landlord or Tenant undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property until the reconstruction of the Premises and/or the Communication Facility is completed. If Landlord determines not to rebuild or restore the Property, Landlord will notify Tenant of such determination within thirty (30) days after the casualty or other harm. If Landlord does not so notify Tenant and Tenant decides not to terminate under this Section 19, then Landlord will promptly rebuild or restore any portion of the Property interfering with or required for Tenant's Permitted Use of the Premises to substantially the same condition as existed before the casualty or other harm. Landlord agrees that the Rent shall be abated until the Property and/or the Premises are rebuilt or restored, unless Tenant places temporary transmission and reception facilities on the Property.

20. WAIVER OF LANDLORD'S LIENS. Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Landlord consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

21. TAXES.

(a) Landlord shall be responsible for (i) all taxes and assessments levied upon the lands, improvements and other property of Landlord including any such taxes that may be calculated by a taxing authority using any method, including the income method, (ii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with this Agreement, and (iii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with a sale of the Property or assignment of Rent payments by Landlord. Tenant shall be responsible for (y) any taxes and assessments attributable to and levied upon Tenant's leasehold improvements on the Premises if and as set forth in this Section 21 and (z) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with an assignment of this Agreement or sublease by Tenant. Nothing herein shall require Tenant to pay any inheritance, franchise, income, payroll, excise, privilege, rent, capital stock, stamp, documentary, estate or profit tax, or any tax of similar nature, that is or may be imposed upon Landlord.

(b) In the event Landlord receives a notice of assessment with respect to which taxes or assessments are imposed on Tenant's leasehold improvements on the Premises, Landlord shall provide Tenant with copies of each such notice immediately upon receipt, but in no event later than thirty (30) days after the date of such notice of assessment. If Landlord does not provide such notice or notices to Tenant in a timely manner and Tenant's rights with respect to such taxes are prejudiced by the delay, Landlord shall reimburse Tenant for any increased costs directly resulting from the delay and Landlord shall be responsible for payment of the tax or assessment set forth in the notice, and Landlord shall not have the right to reimbursement of such amount from Tenant. If Landlord provides a notice of assessment to Tenant within such time period and requests reimbursement from Tenant as set forth below, then Tenant shall reimburse Landlord for the tax or assessments identified on the notice of assessment on Tenant's leasehold improvements, which has been paid by Landlord. If Landlord seeks reimbursement from Tenant, Landlord shall, no later than thirty (30) days after Landlord's payment of the taxes or assessments for the assessed tax year, provide Tenant with written notice including evidence that Landlord has timely paid same, and Landlord shall provide to Tenant any other documentation reasonably requested by Tenant to allow Tenant to evaluate the payment and to reimburse Landlord.

~~(c)(e) For any tax amount for which Tenant is responsible under this Agreement, Tenant shall have the right to contest, in good faith, the validity or the amount thereof using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as permitted by law. This right shall include the ability to institute any legal, regulatory or informal action in the name of Landlord, Tenant, or both, with respect to the valuation of the Premises. Landlord shall cooperate with respect to the commencement and prosecution of any such proceedings and will execute any documents required therefor. The expense of any such proceedings shall be borne by Tenant and any refunds or rebates secured as a result of Tenant's action shall belong to Tenant, to the extent the amounts were originally paid by Tenant. In the event Tenant notifies Landlord by the due date for assessment of Tenant's intent to contest the assessment, Landlord shall not pay the assessment pending conclusion of the contest, unless required by applicable law.~~ Intentionally Omitted.

~~(d)(d) Landlord shall not split or cause the tax parcel on which the Premises are located to be split, bifurcated, separated or divided without the prior written consent of Tenant.~~ Intentionally Omitted.

~~(c)(e) Tenant shall have the right but not the obligation to pay any taxes due by Landlord hereunder if Landlord fails to timely do so, in addition to any other rights or remedies of Tenant. In the event that Tenant exercises its rights under this Section 21(c) due to such Landlord default, Tenant shall have the right to deduct such tax amounts paid from any monies due to Landlord from Tenant as provided in Section 15(b), provided that~~

Commented [KM14]: This section should mirror Section 10 of Site Lease With Option

Formatted: Font: Not Bold

~~Tenant may exercise such right without having provided to Landlord notice and the opportunity to cure per Section 15(b).~~ Intentionally Omitted.

(f) Intentionally Omitted. Any tax-related notices shall be sent to Tenant in the manner set forth in Section 17. Promptly after the Effective Date, Landlord shall provide the following address to the taxing authority for the authority's use in the event the authority needs to communicate with Tenant. In the event that Tenant's tax address changes by notice to Landlord, Landlord shall be required to provide Tenant's new tax address to the taxing authority or authorities.

(g) Intentionally Omitted. ~~(g) Notwithstanding anything to the contrary contained in this Section 21, Tenant shall have no obligation to reimburse any tax or assessment for which the Landlord is reimbursed or rebated by a third party.~~

22. SALE OF PROPERTY.

~~(a) Landlord may sell the Property or a portion thereof to a third party, provided: (i) the sale is made subject to the terms of this Agreement; and (ii) if the sale does not include the assignment of Landlord's full interest in this Agreement, the purchaser must agree to perform, without requiring compensation from Tenant or any subtenant, any obligation of Landlord under this Agreement, including Landlord's obligation to cooperate with Tenant as provided hereunder.~~

22. SALE OF PROPERTY. If Landlord decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the Property, Landlord shall promptly notify Tenant in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Tenant's rights hereunder. Within ten (10) days of a change in ownership, transfer or sale of the Property, Landlord or its successor shall send the documents listed below to Tenant. Until Tenant receives all such documents, Tenant's failure to make payments under this Agreement shall not be an event of default and Tenant reserves the right to hold payments due under this Agreement.

- i. New deed to Property, Bill of Sale, and/or Transfer Agreement
- ii. New IRS Form W-9
- iii. Completed and Signed Tenant Payment Direction Form
- iv. Full contact information for new Landlord including email(s) & phone number(s)

23. RENTAL STREAM OFFER. If during the Term of this Agreement Landlord receives a bona fide offer from a third-party (other than a lender or a transferee from or successor of a lender) seeking an assignment or transfer of Rent payments associated with this Agreement ("**Rental Stream Offer**"), Landlord shall immediately furnish Tenant with a copy of the Rental Stream Offer. Tenant shall have the right within forty-five (45) days after it receives such copy to match the Rental Stream Offer and agree in writing to match the terms of the Rental Stream Offer. Such writing shall be in the form of a contract substantially similar to the Rental Stream Offer. If Tenant chooses not to exercise this right or fails to provide written notice to Landlord within the forty-five (45) day period, Landlord may assign the right to receive the Rent payments pursuant to the Rental Stream Offer, subject to the terms of this Agreement. If Landlord attempts to assign or transfer Rent payments without complying with this Section, the assignment or transfer shall be void. Notwithstanding anything contained herein to the contrary, the granting of a mortgage, deed of trust, security agreement or an assignment and/or transfer of this Agreement and/or the rental payments hereunder to or by lender (and the corresponding exercise by a lender or its successor or purchaser of any rights under such mortgage, deed of trust, security agreement, assignment and/or transfer, including without limitation the transfer and/or assignment of this Agreement and/or the rental payments to the lender or any thirty party) shall not be deemed a Rental Stream Offer and this Section 23 shall not apply thereto.

~~(b) If Landlord, at any time during the Term of this Agreement, decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the Property or the Surrounding Property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Tenant's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord or its successor shall send the documents listed below in this Section 22(b) to Tenant. Until Tenant receives all such documents,~~

Commented [KM15]: strike

Formatted: Indent: First line: 0"

Formatted: Font: Bold

Formatted: Font: Not Bold

Formatted: Indent: First line: 0", Tab stops: 0", Left

Tenant's failure to make payments under this Agreement shall not be an event of default and Tenant reserves the right to hold payments due under this Agreement.

- i. Old deed to Property
- ii. New deed to Property
- iii. Bill of Sale or Transfer
- iv. Copy of current Tax Bill
- v. New IRS Form W-9
- vi. Completed and Signed Tenant Payment Direction Form
- vii. Full contact information for new Landlord including phone number(s)

(c) Landlord agrees not to sell, lease or use any areas of the Property or the Surrounding Property for the installation, operation or maintenance of other wireless communication facilities if such installation, operation or maintenance would interfere with Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion. Landlord or Landlord's prospective purchaser shall reimburse Tenant for any costs and expenses of such testing. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Tenant, Landlord shall be prohibited from selling, leasing or using any areas of the Property or the Surrounding Property for purposes of any installation, operation or maintenance of any other wireless communication facility or equipment.

(d) The provisions of this Section 22 shall in no way limit or impair the obligations of Landlord under this Agreement, including interference and access obligations.

23. RIGHT OF FIRST REFUSAL. Notwithstanding the provisions contained in Section 22, if at any time after the Effective Date, Landlord receives a bona fide written offer from a third party seeking any sale, conveyance, assignment or transfer, whether in whole or in part, of any property interest in or related to the Premises, including without limitation any offer seeking an assignment or transfer of the Rent payments associated with this Agreement or an offer to purchase an easement with respect to the Premises ("Offer"), Landlord shall immediately furnish Tenant with a copy of the Offer. Tenant shall have the right within ninety (90) days after it receives such copy to match the financial terms of the Offer and agree in writing to match such terms of the Offer. Such writing shall be in the form of a contract substantially similar to the Offer but Tenant may assign its rights to a third party. If Tenant chooses not to exercise this right or fails to provide written notice to Landlord within the ninety (90) day period, Landlord may sell, convey, assign or transfer such property interest in or related to the Premises pursuant to the Offer, subject to the terms of this Agreement. If Landlord attempts to sell, convey, assign or transfer such property interest in or related to the Premises without complying with this Section 23, the sale, conveyance, assignment or transfer shall be void. Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement until Landlord complies with this Section 23. Tenant's failure to exercise the right of first refusal shall not be deemed a waiver of the rights contained in this Section 23 with respect to any future proposed conveyances as described herein.

24. MISCELLANEOUS.

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Landlord and Tenant. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Intentionally Omitted.** (b) **Memorandum of Lease.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum of Lease substantially in the form attached as Exhibit 24(b). Either party may record this Memorandum of Lease at any time during the Term, in its absolute discretion. Thereafter during the Term, either party will, at any time upon fifteen (15) business days' prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease.

Formatted: Tab stops: 0", Left

Commented [KM16]: strike

Formatted: Font: Bold

(c) **Limitation of Liability.** Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

(d) **Compliance with Law.** Tenant agrees to comply with all federal, state and local laws, orders, rules and regulations (“**Laws**”) applicable to Tenant’s use of the Communication Facility on the Property. Landlord agrees to comply with all Laws relating to Landlord’s ownership and use of the Property and any improvements on the Property.

(e) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(f) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. Except for Exhibit A, the Exhibits are numbered to correspond to the Section wherein they are first referenced. Except as otherwise stated in this Agreement, each party shall bear its own fees and expenses (including the fees and expenses of its agents, brokers, representatives, attorneys, and accountants) incurred in connection with the negotiation, drafting, execution and performance of this Agreement and the transactions it contemplates.

(g) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(h) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term “including” will be interpreted to mean “including but not limited to”; (iii) whenever a party’s consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms “termination” or “expiration” are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; (viii) the singular use of words includes the plural where appropriate; and (ix) if any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

(i) **Affiliates.** All references to “Tenant” shall be deemed to include any Affiliate of New Cingular Wireless PCS, LLC using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Agreement. “Affiliate” means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. “Control” of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(j) **Survival.** Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(k) **Payment Forms.** Notwithstanding any other provision of this Agreement, Tenant shall have no obligation to pay Rent or make any other payment to Landlord unless and until Landlord has delivered to Tenant a current IRS Form W-9, an Electronic Remittance Notification form, and a Payment Direction Form (collectively the “Payment Forms”). Landlord shall deliver the Payment Forms to Tenant: (i) upon execution of this Agreement; (ii) upon any change in Landlord’s name or address; and (iii) at such other times as may be reasonably requested by Tenant. Upon execution of this Agreement, Landlord shall mail the Payment Forms to Tenant at 1025 Lenox Park Blvd NE 3rd Floor, Atlanta, GA 30319, at which time Tenant shall provide Landlord a supplier/vendor number. Subsequently, Landlord shall either: (1) upload the forms to the AT&T Landlord Portal (<https://landlordportal.att.com/>); or (2) mail the Payment Forms to the AT&T Tower Asset Group – Lease Administration. The Payment Forms are attached as Exhibit 24(k). To protect Landlord’s sensitive information,

Formatted: Font: Bold

Landlord shall not send any of the Payment Forms to Tenant via email. ~~(k) — W 9. — As a condition precedent to payment, Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant, including any change in Landlord's name or address.~~

~~(l)(i) — **Execution/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant. This Agreement may be executed in two (2) or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. All parties need not sign the same counterpart.~~ **Intentionally Omitted.**

(m) **Attorneys' Fees.** In the event that any dispute between the parties related to this Agreement should result in litigation, the prevailing party in such litigation shall be entitled to recover from the other party all reasonable fees and expenses of enforcing any right of the prevailing party, including reasonable attorneys' fees and expenses. Prevailing party means the party determined by the court to have most nearly prevailed even if such party did not prevail in all matters shall have the meaning as set out in ORS 20.077. This provision will not be construed to entitle any party other than Landlord, Tenant and their respective Affiliates to recover their fees and expenses.

~~(n) —~~ **Intentionally Omitted.**

~~(n) — **WAIVER OF JURY TRIAL.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.~~

(o) **No Additional Fees/Incidental Fees.** Unless otherwise specified in this Agreement, all rights and obligations set forth in the Agreement shall be provided by Landlord and/or Tenant, as the case may be, at no additional cost. No unilateral fees or additional costs or expenses are to be applied by either party to the other party, for any task or service including, but not limited to, review of plans, structural analyses, consents, provision of documents or other communications between the parties.

(p) **Further Acts.** Upon request, Landlord will cause to be promptly and duly taken, executed, acknowledged and delivered all such further acts, documents, and assurances as Tenant may request from time to time in order to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement and all transactions and permitted use contemplated by this Agreement.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the Effective Date.

“LANDLORD”

The City of Tualatin,
an Oregon municipal corporation [Insert Landlord's
Name]

[Insert Jurisdictional State, and Entity Type]

By: _____
Print Name: [_____]
Its: [Insert Title]
Date: [Insert Date]

“TENANT”

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____
Print Name: Wayne Wooten
Its: Area Manager
Date: [Insert Date]

Formatted: Indent: Left: 3.63"

~~{ACKNOWLEDGMENTS APPEAR ON NEXT PAGE}~~

TENANT ACKNOWLEDGMENT

STATE OF _____
_____) ss:
COUNTY OF _____)

On the _____ day of _____, 20____, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Tenant.

Notary Public:

My Commission Expires: _____

LANDLORD ACKNOWLEDGMENT

STATE OF _____
_____) ss:
COUNTY OF _____)

On the _____ day of _____, 20____ before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Landlord for the purposes therein contained.

Notary Public:

My Commission Expires: _____

EXHIBIT 1

DESCRIPTION OF PROPERTY AND PREMISES

Page 1 of 12

to the Land Lease Agreement dated [Insert Date], 20 , by and between The City of Tualatin, an Oregon municipal corporation, [Insert Landlord's Name], a [Insert Jurisdictional State, and Entity Type], as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

Formatted: Font: 12 pt

The Property is legally described as follows:

For APN/Parcel ID(s): R2154937
For Tax Map ID(s): 2S135DA00101

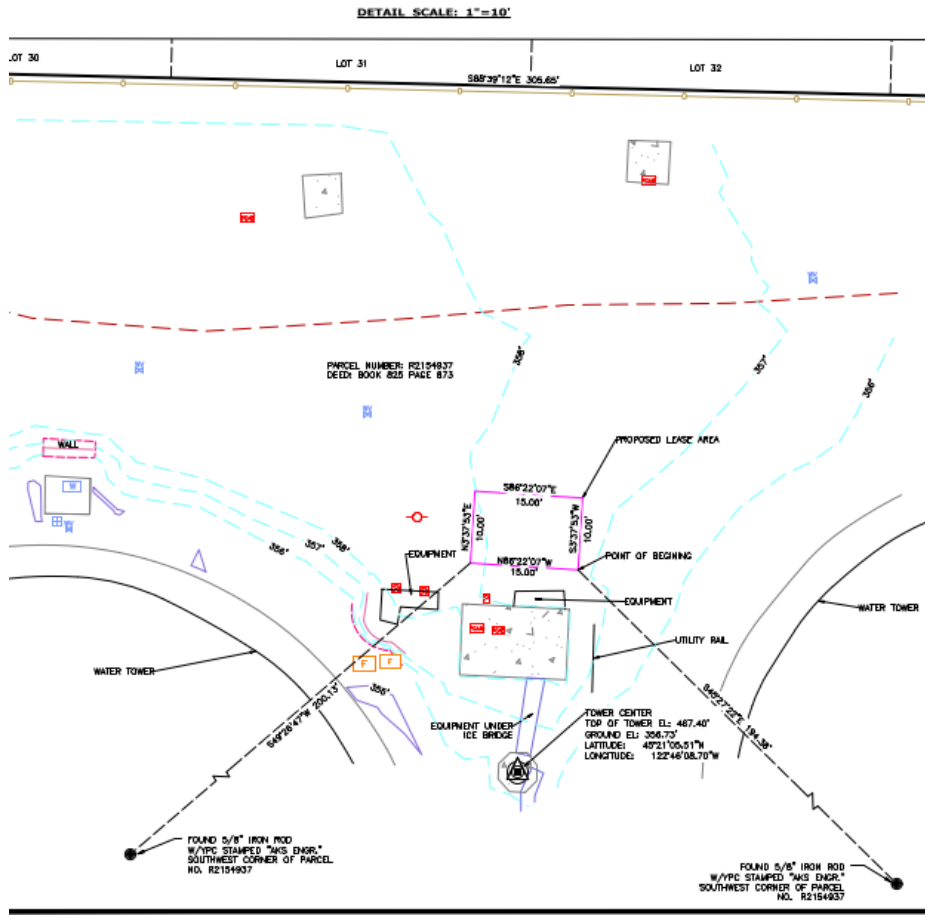
A tract of land situated in the Southeast one-quarter of Section 35, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, County of Washington and State of Oregon, more particularly described as follows:

Beginning at the Northeast corner of that tract of land described in Deed to the Sherwood School District No. 88J recorded in Book 804, Page 820, Records of Washington County; thence South along the East line thereof 676.5 feet to the Southeast corner of said tract, and the true point of beginning of the herein described tract; thence continuing South along the East line extended Southerly 200 feet to a point; thence East, parallel with the South line of said school district tract extended Easterly, 300 feet to a point; thence North on a line parallel with the East line of said school district extended Southerly 200 feet to a point; thence West 300 feet to the true point of beginning.

TOGETHER WITH the Easements and Appurtenances as described in instrument recorded July 12, 1971, in Book 825, Page 876, Washington County Deed Records.

EXHIBIT 1
Page 2 of 2

The Premises are described and/or depicted as follows:



Notes:

1. THIS EXHIBIT MAY BE REPLACED BY A LAND SURVEY AND/OR CONSTRUCTION DRAWINGS OF THE PREMISES ONCE RECEIVED BY TENANT.
2. ANY SETBACK OF THE PREMISES FROM THE PROPERTY'S BOUNDARIES SHALL BE THE DISTANCE REQUIRED BY THE APPLICABLE GOVERNMENT AUTHORITIES.
3. WIDTH OF ACCESS ROAD SHALL BE THE WIDTH REQUIRED BY THE APPLICABLE GOVERNMENT AUTHORITIES, INCLUDING POLICE AND FIRE DEPARTMENTS.
4. THE TYPE, NUMBER AND MOUNTING POSITIONS AND LOCATIONS OF ANTENNAS AND TRANSMISSION LINES ARE ILLUSTRATIVE ONLY. ACTUAL TYPES, NUMBERS AND MOUNTING POSITIONS MAY VARY FROM WHAT IS SHOWN ABOVE.

EXHIBIT A

LANDLORD & SBA SLA

(Page 1 of _____)

Formatted: No underline

Formatted: Underline

Formatted: Font: Italic, No underline

to the Land Lease Agreement dated [Insert Date], 20____, by and between The City of Tualatin, an Oregon municipal corporation, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

EXHIBIT 10(b)

Formatted: Font: Not Bold, Highlight

Formatted: Highlight

Formatted: Font: Not Bold

Formatted: Left

The SLA, including all amendments and assignments thereto, is attached hereto.

EXHIBIT 24(k)

IRS FORM W-9, EFT & PDF
(Page 1 of 4)

[IRS FROM W-9 (REVISED MARCH 2024), EFT & PDF APPEAR ON FOLLOWING THREE (3) PAGES]

Formatted: Centered, Right: 0.01", Tab stops: -1", Left + -0.5", Left + 0", Left + 0.5", Left + 1", Left + 1.5", Left + 2", Left + 2.5", Left + 3.5", Left + 4", Left + 4.25", Left + 4.5", Left + 5", Left + 5.5", Left + 6", Left + 6.5", Left + 7", Left + 7.5", Left

Form **W-9**
(Rev. March 2024)
Department of the Treasury
Internal Revenue Service

**Request for Taxpayer
Identification Number and Certification**
Go to www.irs.gov/FormW9 for instructions and the latest information.

**Give form to the
requester. Do not
send to the IRS.**

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type.
See Specific Instructions on page 3.

1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)

2 Business name/disregarded entity name, if different from above.

3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor ☐ C corporation ☐ S corporation ☐ Partnership ☐ Trust/estate

☐ LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership)

Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner.

☐ Other (see instructions)

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any)
Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any)
(Applies to accounts maintained outside the United States.)

3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions

5 Address (number, street, and apt. or suite no.). See instructions. Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.
Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
- -
or
Employer identification number
- -

Part II Certification
Under penalties of perjury, I certify that:
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person Date

General Instructions
Section references are to the Internal Revenue Code unless otherwise noted.
Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.
What's New
Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.
New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).
Purpose of Form
An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

Cat. No. 10231X

Form **W-9** (Rev. 3-2024)

ATT 1014-04_PD33 Boones_Ibachi_Land_Lease_DRAFT KRM July 11(09-21-2025)krmLand Lease Agreement 4-28-2020



ELECTRONIC REMITTANCE NOTIFICATION

Please provide the following information to receive email notification of payments issued.

Supplier Name: (Payee)	
Supplier Number:	
Email Address: (For remittance email)	
Contact Phone Number:	
Mailing Address:	
Bank Name: (attach voided check)	
Banking Routing Number: (Must be a 9-digit number)	
Bank Account Number: (Please include leading zeros)	
Authorized Signature:	
Print Name:	

In addition to the information populated above, the following information needs to be provided:

(1) Your bank routing number and account number on your bank letterhead

-OR-

(2) A voided copy of the check from the account you would like your funds deposited.

Preferred method of delivery <https://landlordportal.att.com/home>

-OR-

Email forms to g13214@att.com

US Mailing Address:
AT&T Tower Asset Group - Lease Administration
1025 Lenox Park Boulevard NE – 3rd Floor
Atlanta, GA 30319

1-2025)kjmLand Lease Agreement 4-28-2029

Field Code Changed

PAYMENT DIRECTION FORM

☐ New Vendor ☐ New Site Code ☐ Existing Vendor

Formatted: Tab stops: -1", Left + -0.5", Left + 0", Left + 0.5", Left + 1", Left + 1.5", Left + 2", Left + 2.5", Left + 3", Left + 3.5", Left + 4", Left + 4.5", Left + 5", Left + 5.5", Left + 6", Left + 6.5", Left + 7", Left + 7.5", Left

Field Code Changed

FA Number:	
Lessor / Licensor Name:	
Existing Vendor Number	
Payee Percentage Payment Share:	
Payee Name:	
Payment Address:	
Contact Phone Number:	
Email Address:	
Method of Payment:	

I hereby authorize AT&T Mobility LLC and/or its subsidiaries to make all recurring and/or non-recurring payments related to the Payee Name and Payment Address (listed above). This authorization shall remain in effect until it has been modified in an executed agreement or newly submitted payment direction form.

Lessor/Licensor Signature

Date

Print Name

Title

Requests can be submitted via the AT&T Landlord Portal: <https://landlordportal.att.com/>

Mailing address:

AT&T
Tower Asset Group - Lease Admin
1025 Lenox Park Blvd NE; 3rd Floor
Atlanta, GA 30319-5309

PDF 2.1, revised 04.14.2022

**SUBORDINATION, NON DISTURBANCE
AND ATTORNMENT AGREEMENT**

[FOLLOWS ON NEXT PAGE]

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

— **THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (“**Agreement**”), dated as of the date below, between — [Insert Mortgagee's Name] — having its principal office at — [Insert Mortgagee's Address] —, (hereinafter called “**Mortgagee**”) and [Insert Landlord's Name] —, a — [Insert Jurisdictional State, and Entity Type] — having its principal office/residing at — [Insert Landlord's Address] — (hereinafter called “**Landlord**”), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE 3rd Floor, Atlanta, GA 30319 (“**Tenant**”).

RECITALS:

- A. — Tenant has entered into a certain Option and Lease Agreement dated [Insert Date], 20 —, (the “**Lease**”) with Landlord, covering property more fully described in **Exhibit 1** attached hereto and made a part hereof (the “**Premises**”); and
- B. — Landlord has given to Mortgagee a mortgage (the “**Mortgage**”) upon property having a street address of [Insert Address] —, being identified as Lot — in Block — in the — of [Insert City], [Insert County] County, State of [Insert State] (“**Property**”), a part of which Property contains the Premises; and
- C. — The Mortgage on the Property is in the original principal sum of [Spell Out Dollar Amount](\$ —) Dollars, which Mortgage has been recorded in the appropriate public office in and for [Insert County] County, [Insert State] (“**Mortgage**”); and
- D. — Tenant desires to be assured of continued occupancy of the Premises under the terms of the Lease and subject to the terms of this Agreement.

AGREEMENT

— **NOW, THEREFORE**, in consideration of the mutual promises, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. — So long as this Agreement will remain in full force and effect, the Lease is and will be subject and subordinate to the lien and effect of the Mortgage insofar as it affects the real property and fixtures of which the Premises forms a part (but not Tenant's trade fixtures and other personal property), and to all renewals, modifications, consolidations, replacements and extensions thereof, to the full extent of the principal sum secured thereby and interest thereon, with the same force and effect as if the Mortgage had been executed, delivered, and duly recorded among the above mentioned public records, prior to the execution and delivery of the Lease.
2. — In the event Mortgagee takes possession of the Premises as mortgagee in possession, including but not limited to, by deed in lieu of foreclosure or foreclosure of the Mortgage, Mortgagee agrees not to affect or disturb Tenant's right to possession of the Premises and any of Tenant's other rights under the Lease in the exercise of Mortgagee's rights so long as Tenant is not then in default, after applicable notice and/or grace periods, under any of the terms, covenants, or conditions of the Lease.
3. — In the event that Mortgagee succeeds to the interest of Landlord or other landlord under the Lease and/or to title to the Premises, Mortgagee and Tenant hereby agree to be bound to one another under all of the terms, covenants and conditions of the Lease; accordingly, from and after such event, Mortgagee and Tenant will have the same remedies against one another for the breach of an agreement contained in the Lease as

Tenant and Landlord had before Mortgagee succeeded to the interest of Landlord; provided, however, that Mortgagee will not be:

- (a) personally liable for any act or omission of any prior landlord (including Landlord); or
- (b) bound by any rent or additional rent which Tenant might have paid for more than the payment period as set forth under the Lease (one month, year etc.) in advance to any prior landlord (including Landlord).

4. In the event that Mortgagee or anyone else acquires title to or the right to possession of the Premises upon the foreclosure of the Mortgage, or upon the sale of the Premises by Mortgagee or its successors or assigns after foreclosure or acquisition of title in lieu thereof or otherwise, Tenant agrees not to seek to terminate the Lease by reason thereof, but will remain bound unto the new owner so long as the new owner is bound to Tenant (subject to paragraph 3 above) under all of the terms, covenants and conditions of the Lease.

5. Mortgagee understands, acknowledges and agrees that notwithstanding anything to the contrary contained in the Mortgage and/or any related financing documents, including, without limitation, any UCC-1 financing statements, Mortgagee will acquire no interest in any furniture, equipment, trade fixtures and/or other property installed by Tenant on the Property. Mortgagee hereby expressly waives any interest which Mortgagee may have or acquire with respect to such furniture, equipment, trade fixtures and/or other property of Tenant now, or hereafter, located on or affixed to the Property or any portion thereof and Mortgagee hereby agrees that same do not constitute realty regardless of the manner in which same are attached or affixed to the Property.

6. This Agreement will be binding upon and will extend to and benefit the successors and assigns of the parties hereto and to any assignees or subtenants of Tenant which are permitted under the Lease. The term "Mortgagee", when used in this Agreement will be deemed to include any person or entity which acquires title to or the right to possession of the Premises by, through or under Mortgagee and/or the Mortgage, whether directly or indirectly.

7. This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

[Remainder of Page Intentionally Blank—Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed as of the last signature date below.

LANDLORD: _____ [Insert Landlord's Name]

By: _____

Print Name: [_____]

Its: _____ [Insert Title]

Date: _____ [Insert Date]

TENANT: _____ New Cingular Wireless PCS, LLC,

a Delaware limited liability company

By: AT&T Mobility Corporation

Its: Manager _____

By: _____

Print Name: [_____]

Its: _____ [Insert Title]

Date: _____ [Insert Date]

MORTGAGEE: _____ [Insert Mortgagee's Name] _____,

By: _____

Print Name: [_____]

Its: _____ [Insert Title]

Date: _____ [Insert Date]

[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]

Formatted: Left

Formatted: Left, Don't keep with next, Don't keep lines together, Tab stops: -1", Left + -0.5", Left + 0", Left + 0.5", Left + 1", Left + 1.5", Left + 2", Left + 2.5", Left + 3", Left + 3.5", Left + 4", Left + 4.5", Left + 5", Left + 5.5", Left + 6", Left + 6.5", Left + 7", Left + 7.5", Left

ACKNOWLEDGEMENTS

LANDLORD

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

On the ____ day of _____, 20____, before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Landlord for the purposes therein contained.

Notary Public: _____
My Commission Expires: _____

TENANT

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

On the ____ day of _____, 20____, before me personally appeared _____, who acknowledged under oath that he/she is the _____ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Tenant.

Notary Public: _____
My Commission Expires: _____

MORTGAGEE

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

On the ____ day of _____, 20____ before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Mortgagee for the purposes therein contained.

Notary Public: _____
My Commission Expires: _____

Formatted: Left

Formatted: Left

Formatted: Left

Formatted: Left

Formatted: Left

Formatted: Left

EXHIBIT 1

DESCRIPTION OF PROPERTY AND PREMISES

The Property is legally described as follows:

The Premises is legally described as follows:

Formatted: Left

~~EXHIBIT 10(c)(i)~~

~~GROUND LEASE~~

~~[FOLLOWS ON NEXT PAGE]~~

~~(Attach Ground Lease Agreement and all Exhibits and Amendments)~~

EXHIBIT 10(e)(iii)

**CONSENT, NON-DISTURBANCE AND ATTORNMENT
AGREEMENT**

[FOLLOWS ON NEXT PAGE]

Formatted: Left, Tab stops: -1", Left + -0.5", Left + 0", Left + 0.5", Left + 1", Left + 1.5", Left + 2", Left + 2.5", Left + 3", Left + 3.5", Left + 4", Left + 4.5", Left + 5", Left + 5.5", Left + 6", Left + 6.5", Left + 7", Left + 7.5", Left

Formatted: Left

**CONSENT, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS CONSENT, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (“Agreement”), dated as of the date below, by and among [Insert Owner’s Name] having an address at [Insert Owner’s Address] (hereinafter called “Owner”) and [Insert Landlord’s Name], a [Insert Jurisdictional State, and Entity Type] having its principal office/residing at [Insert Landlord’s Address] (hereinafter called “Landlord”), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE 3rd Floor, Atlanta, GA 30319 (hereinafter called “Tenant”).

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt, Widow/Orphan control, Tab stops: Not at -0.5" + -0.1" + 0.3" + 1.1" + 1.6" + 2.1" + 2.6" + 3.1" + 3.6" + 4.1" + 4.6" + 5.1" + 5.6" + 6.1"

RECITALS:

A. Owner and Landlord have entered into a lease agreement (the “Ground Lease”), dated [Insert Date], 20 covering property more fully described on **Exhibit 1** attached hereto and made a part hereof, upon property having a street address of [Insert Address], identified as Tax Map [Insert Address], being in the City/Town of [Insert City/Town], [Insert County] County, State of [Insert State] (“Property”), a part of which Property contains the Premises (as hereinafter defined); and

Formatted: Left

Formatted: Normal, Left, Don't add space between paragraphs of the same style, No bullets or numbering

B. Tenant has entered into a certain lease dated [Insert Date], 20 (the “Lease”) with Landlord, covering property more fully described in **Exhibit 2** attached hereto and made a part hereof (the “Premises”); and

Formatted: Left

Formatted: Normal, Left, Don't add space between paragraphs of the same style, No bullets or numbering

C. Tenant desires to be assured of continued occupancy of the Premises under the terms of the Lease and subject to the terms of this Agreement.

Formatted: Left

Formatted: Normal, Left, Don't add space between paragraphs of the same style, No bullets or numbering

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

Formatted: Normal, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt

Formatted: Left, Don't add space between paragraphs of the same style

Formatted: Left

1. Notwithstanding anything contained in the Ground Lease to the contrary, Owner consents to the subleasing by Landlord of the Premises to Tenant subject to the terms and conditions contained herein. So long as this Agreement remains in full force and effect, the Lease is and will be subject and subordinate to the Ground Lease insofar as it affects the real property and fixtures of which the Premises forms a part (but not Tenant’s trade fixtures and other personal property), and to all renewals, modifications, consolidations, replacements and extensions of the Ground Lease.

2. In the event the Ground Lease is terminated or expires or Owner succeeds to the interest of Landlord or any other landlord under the Lease: (a) the Lease shall remain in full force and effect as a direct lease between Owner (and its/their heirs, distributes and assigns) and Tenant; (b) Owner agrees not to affect or disturb Tenant’s right to possession of the Premises and any of Tenant’s other rights under the Lease so long as Tenant is not then in default of any terms or provisions of the Lease, after applicable notice and/or grace periods; (c) Owner and Tenant hereby agree to be bound to one another under all of the terms, covenants and conditions of the Lease; and (d) notwithstanding any removal or restoration requirements contained in the Ground Lease, Landlord shall transfer ownership of the Structure (as defined in the Lease) to Owner. Accordingly, from and after any such event, Owner and Tenant will have the same remedies against one another for the breach of an agreement contained in the Lease as Tenant and Landlord had before Owner succeeded to the interest of Landlord; provided, however, that Owner will not be personally liable for any act or omission of any prior landlord (including Landlord).

3. Owner understands, acknowledges and agrees that notwithstanding anything to the contrary in this Agreement or otherwise in any other document, Owner will acquire no interest in any equipment, trade fixtures and/or other property installed by Tenant on the Property or Premises. Owner hereby expressly waives any interest which Owner may have or acquire with respect to such equipment, trade fixtures and/or other property of Tenant now, or hereafter, located on or affixed to the Property, Premises or any portion thereof, and Owner hereby agrees that same do not constitute realty regardless of the manner in which same are attached or affixed to the Property or Premises.

Formatted: Left, Indent: First line: 0"

4. This Agreement will be binding upon and will extend to and benefit the parties hereto and their respective heirs, distributees, successors and assigns and to any assignees or subtenants of Tenant which are permitted under the Lease. The term “Owner,” when used in this Agreement, will be

Formatted: Left

~~deemed to include any person or entity which acquires title to or the right to possession of the Property by, through or under Owner, whether directly or indirectly.~~

~~5. This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.~~

Formatted: Left, Don't keep with next, Don't keep lines together

[Remainder of Page Intentionally Blank—Signature Page Follows]

Formatted: Left

~~IN WITNESS WHEREOF~~, the undersigned have caused this Agreement to be executed as of the _____ day of _____, 20____.

Formatted: Left, Don't keep with next, Don't keep lines together

LANDLORD: _____ [Insert Landlord's Name]

By: _____
Print Name: [_____] _____
Its: _____ [Insert Title]
Date: _____ [Insert Date]

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt, Widow/Orphan control, Tab stops: Not at -0.5" + -0.1" + 0.3" + 1" + 1.6" + 2.1" + 2.6" + 3.1" + 3.6" + 4.1" + 4.6" + 5.1" + 5.6" + 6.1"

TENANT: _____ New Cingular Wireless PCS, LLC,
~~a Delaware limited liability company~~

By: AT&T Mobility Corporation
Its: Manager _____

By: _____
Print Name: [_____] _____
Its: _____ [Insert Title]
Date: _____ [Insert Date]

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt

Formatted: Left, Indent: Left: 0", First line: 0", Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt

OWNER: _____ [Insert Owner's Name],

By: _____
Print Name: [_____] _____
Its: _____ [Insert Title]
Date: _____ [Insert Date]

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt, Don't keep with next, Don't keep lines together

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt, Widow/Orphan control, Tab stops: Not at -0.5" + -0.1" + 0.3" + 1" + 1.6" + 2.1" + 2.6" + 3.1" + 3.6" + 4.1" + 4.6" + 5.1" + 5.6" + 6.1"

Formatted: Left, Indent: Left: 0", Don't keep with next, Don't keep lines together

[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]

Formatted: Left, Indent: Left: 0", First line: 0", Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt, Tab stops: Not at -1" + -0.5" + 0" + 0.5" + 1" + 1.5" + 2" + 2.5" + 3" + 3.5" + 4" + 4.5" + 5" + 5.5" + 6" + 6.5" + 7" + 7.5"

LANDLORD

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20____, before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Landlord for the purposes therein contained.

Notary Public: _____
My Commission Expires: _____

TENANT

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20____, before me personally appeared _____, who acknowledged under oath that he/she is the _____ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Tenant.

Notary Public: _____
My Commission Expires: _____

OWNER

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20____ before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Mortgagee for the purposes therein contained.

Notary Public: _____
My Commission Expires: _____

Formatted: Normal, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt, Tab stops: Not at -1" + -0.5" + 0" + 0.5" + 1" + 1.5" + 2" + 2.5" + 3" + 3.5" + 4" + 4.5" + 5" + 5.5" + 6" + 6.5" + 7" + 7.5"

Formatted: Indent: Left: 0"

EXHIBIT 1
(Property)

Formatted: Left, Right: 0", Tab stops: Not at -1" + -0.5" + 0" + 0.5" + 1" + 1.5" + 2" + 2.25" + 2.5" + 3.5" + 4" + 4.25" + 4.5" + 5" + 5.5" + 6" + 6.5" + 7" + 7.5"

EXHIBIT 2
(Premises)

EXHIBIT 11

ENVIRONMENTAL DISCLOSURE

Landlord represents and warrants that the Property, as of the Effective Date, is free of hazardous substances except as follows:

[INSERT AS APPLICABLE]

Formatted: Tab stops: Not at -1" + -0.5" + 0" + 0.5" + 3.58"

Formatted: Left, Tab stops: Not at -1" + -0.5" + 0" + 0.5" + 1" + 1.5" + 2" + 2.5" + 3" + 3.5" + 4" + 4.5" + 5" + 5.5" + 6" + 6.5" + 7" + 7.5"

EXHIBIT 12

STANDARD ACCESS LETTER

[FOLLOWS ON NEXT PAGE]

[This Letter Goes On Landlord's Letterhead]

[Insert Date]

Building Staff / Security Staff

[Landlord, Lessee, Licensee]

[Street Address]

[City, State, Zip]

Re: Authorized Access granted to [_____]

Dear Building and Security Staff,

Please be advised that we have signed a lease with [_____] permitting [_____] to install, operate and maintain telecommunications equipment at the property. The terms of the lease grant [_____] and its representatives, employees, agents and subcontractors ("representatives") 24 hour per day, 7 day per week access to the leased area.

To avoid impact on telephone service during the day, [_____] representatives may be seeking access to the property outside of normal business hours. [_____] representatives have been instructed to keep noise levels at a minimum during their visit.

Please grant the bearer of a copy of this letter access to the property and to leased area. Thank you for your assistance.

Landlord Signature

Formatted: Left

Formatted: Left, Tab stops: Not at -1" + -0.5" + 0" + 0.5" + 1" + 1.5" + 2" + 2.5" + 3" + 3.5" + 4" + 4.5" + 5" + 5.5" + 6" + 6.5" + 7" + 7.5"

EXHIBIT 24(b)

MEMORANDUM OF LEASE

[FOLLOWS ON NEXT PAGE]

**MEMORANDUM
OF
LEASE**

This Memorandum of Lease is entered into on this _____ day of _____, 20____, by and between [Insert Landlord's Name], a [Insert Jurisdictional State, and Entity Type] having its principal office/residing at [Insert Landlord's Address] (hereinafter called "**Landlord**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd NE 3rd Floor, Atlanta, GA 30319 ("**Tenant**").

1. Landlord and Tenant entered into a certain Land Lease Agreement ("**Agreement**") on the _____ day of _____, 20____, for the purpose of installing, operating and maintaining a communication facility and other improvements. All of the foregoing is set forth in the Agreement.

2. The initial lease term will be five (5) years commencing on the Effective Date, with [[Spell It] (____)] successive automatic five (5) year options to renew.

3. The portion of the land being leased to Tenant and associated easements are described in **Exhibit 1** annexed hereto.

4. The Agreement gives Tenant a right of first refusal in the event Landlord receives a bona fide written offer from a third party seeking any sale, conveyance, assignment or transfer, whether in whole or in part, of any property interest in or related to the Premises, including without limitation any offer seeking an assignment or transfer of the Rent payments associated with the Agreement or an offer to purchase an easement with respect to the Premises.

5. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:

[Insert Landlord's Name], a
[Insert Jurisdictional State, and Entity Type]

By: _____
Print Name: { _____ }
Its: {Insert Title}
Date: {Insert Date}

TENANT:

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager _____
By: _____
Print Name: { _____ }
Its: {Insert Title}
Date: {Insert Date}

[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]

Commented [KM17]: strike

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt

Formatted: Left, Tab stops: Not at -1" + 0.25" + 1" + 1.5" + 2" + 2.5" + 3.5" + 4" + 4.5" + 5" + 5.5" + 6" + 6.5" + 7" + 7.5"

Formatted: Left, No bullets or numbering

Formatted: Left, Indent: Left: 0"

Formatted: Left, No bullets or numbering

Formatted: Left

Formatted: Left, No bullets or numbering, Tab stops: Not at 0.75"

Formatted: Normal, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt

Formatted: Left, Tab stops: Not at 0.75"

Formatted: Left, Tab stops: Not at 0.25" + 0.75"

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt, Widow/Orphan control, Tab stops: Not at -0.5" + -0.1" + 0.3" + 1.1" + 1.6" + 2.1" + 2.6" + 3.1" + 3.6" + 4.1" + 4.6" + 5.1" + 5.6" + 6.1"

TENANT ACKNOWLEDGMENT

STATE OF _____
_____) ss:

COUNTY OF _____
_____)

On the _____ day of _____, 20____, before me personally appeared _____,
and acknowledged under oath that he/she is the _____ of AT&T Mobility Corporation, the
Manager of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such was
authorized to execute this instrument on behalf of the Tenant.

Notary Public: _____

My Commission Expires: _____

LANDLORD ACKNOWLEDGMENT

STATE OF _____
_____) ss:

COUNTY OF _____
_____)

On the _____ day of _____, 20____ before me, personally appeared
_____, who acknowledged under oath, that he/she is the person/officer named in the
within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of
the Landlord for the purposes therein contained.

Notary Public: _____

My Commission Expires: _____

Formatted: Normal, Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt

Formatted: Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt

Formatted: Left, Don't add space between paragraphs of the same style, Line spacing: Exactly 11 pt, Hyphenate, Tab stops: Not at -1" + -0.5" + 0" + 0.5" + 1" + 1.5" + 2" + 2.5" + 3" + 3.5" + 4" + 4.5" + 5" + 5.5" + 6" + 6.5" + 7" + 7.5"

Formatted: Normal

Formatted: Left, Indent: Left: 0", Tab stops: Not at -1" + -0.5" + 0" + 0.5" + 1" + 1.5" + 2" + 2.5" + 3" + 3.5" + 4" + 4.5" + 5" + 5.5" + 6" + 6.5" + 7" + 7.5"

EXHIBIT 1 TO MEMORANDUM OF LEASE
DESCRIPTION OF PROPERTY AND PREMISES

Page _____ of _____

to the Memorandum of Lease dated _____, 20____, by and between _____ [Insert
Landlord's Name] _____, a _____ [Insert Jurisdictional State, and Entity Type] _____, as Landlord, and
New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Property is legally described as follows:

The Premises are described and/or depicted as follows:

Formatted: Left, Tab stops: Not at -1" + -0.5" + 0" + 0.5" + 1" + 1.5" + 2" + 2.5" + 3" + 3.5" + 4" + 4.5" + 5" + 5.5" + 6" + 6.5" + 7" + 7.5"

W-9 FORM

[FOLLOWS ON NEXT PAGE]

**Request for Taxpayer
Identification Number and Certification**

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
or	
Employer identification number	

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
------------------	-----------------------------------	---------------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

Formatted: Left