



Real Estate Assets Department
SDC003

NEW CINGULAR WIRELESS PCS/STADIUM
P517PM-059-A00

Document Type

LEGAL DOCUMENTS



Sub - Category

SUBLEASES



16

Market: San Diego/ Las Vegas/ Hawaii
Cell Site Number: 117544
Cell Site Name: Qualcomm Stadium
Fixed Asset Number: 10145832

Licensee Site No.: SD96XC003
Licensee Site Name: SD96XC003 Qualcomm

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "**Agreement**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is entered into by New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive, Atlanta, Georgia 30324 ("**Licensor**") and Sprint PCS Assets, LLC, a Delaware limited liability company, having a mailing address of 6391 Sprint Parkway, Overland Park, Kansas 66251 ("**Licensee**").

BACKGROUND RECITALS

A. Licensor has entered into a certain written lease, license or other use agreement dated June 21, 2011 by and between, The City of San Diego, a California municipal corporation, which is the owner or manager of the Property (defined below) ("**Owner**") and Licensor (the "**Master Agreement**"). A copy of the Master Agreement (redacted for economics terms and conditions) is attached as **Exhibit 1**. Licensee acknowledges it has received or has had the opportunity to review the Master Agreement to its satisfaction. Licensor represents and warrants that it has or will obtain all necessary approvals and consents, if any, required under the Master Agreement from Owner for Licensee's proposed use as set forth in this Agreement.

B. As of the Effective Date, pursuant to the Master Agreement, Licensor has or will construct and install a distributed antenna system and associated equipment, wiring, conduits and connections (collectively "**DAS**") as more specifically set forth in the Master Agreement in and/or upon a certain plot, parcel or tract of land located at 9449 Friars Road, San Diego, San Diego County, California which is commonly known as Qualcomm Stadium ("**Property**"), to provide wireless communications service providers and users with access to the DAS.

C. The primary location of Licensee's BTS equipment to be connected to the DAS is hereinafter referred to as the "**Customer Hub**." The Customer Hub is located outside of Licensor's controlled space ("**DAS HUB**"), but within space owned by the City of San Diego located in the Qualcomm Stadium. Licensee is entering into a separate lease with the City of San Diego for the Customer Hub ("**Customer Hub Lease**"). Licensee will provide a RF connection from the Licensee's BTS equipment located within the Customer Hub to the DAS operated by Licensor, which connection will be at the location indicated on the plans and specifications that are part of **Exhibit 2** attached hereto. The locations of those portions of the DAS system to be designated for Licensee's use are depicted on **Exhibit 2** attached hereto. Licensor, Licensee and any other party with an agreement with Licensor or any Affiliate (as defined in Section 22 below) of Licensor to use the DAS is hereinafter referred to as a "**DAS Participant**."

D. Licensee desires to secure from Licensor a non-exclusive right to use the DAS pursuant to the terms and conditions of this Agreement, and Licensor desires to confer to Licensee the non-exclusive right to use the DAS subject to the terms and conditions in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be bound hereby, agree as follows:

1. **NON-EXCLUSIVE LICENSE FOR DAS USE.** Subject to (i) the terms and conditions of the Master Agreement and (ii) any other rules and regulations reasonably adopted by Licensor from time to time during the Term (as defined below) that are provided to Licensee in writing in advance, that are applicable to all DAS Participants, and that do not materially conflict with the terms and conditions set forth herein or require any commercially unreasonable fees or cost to Licensee ("**Licensor's Standards**"), Licensor hereby confers to Licensee during the Term a non-exclusive license to connect Licensee's coaxial jumper cable from the Licensee's BTS equipment, as identified in **Exhibit 4** to the DAS, and to propagate radio frequency signals over the DAS, as more specifically set forth herein, for the Permitted Use (as defined below). Licensor hereby further agrees to provide, subject to the Master Agreement, a non-exclusive license for ingress to and egress from, over, under, across, along and through the Property in locations reasonably approved by Licensor for Licensee to install, maintain, repair, replace and remove conduits, wires, cables, cable trays and other necessary connections to the DAS only as

shown on the plans and specifications attached hereto as part of **Exhibit 4**, between Licensee's BTS equipment and the DAS, and the electric power, telephone and/or fuel sources on the Property for such Permitted Use (collectively the "**DAS License**"). It is expressly understood that all rights granted to Licensee under this Agreement are irrevocable until this Agreement expires or sooner terminates as provided herein.

2. PERMITTED USE.

(a) Licensee shall use the DAS License solely to connect Licensee's BTS equipment, as identified in **Exhibit 4**, to the DAS as further described in **Exhibit 3 ("Permitted Use")**, and only upon and through the range of those certain frequencies (inclusive of such frequencies) specifically identified in **Exhibit 3 ("Permitted Frequencies")**, and in strict compliance with Licensee's federally licensed wireless communications business, and for no other purpose without the prior written consent of Licensors, which consent will not be unreasonably withheld, conditioned or delayed. The Permitted Frequencies may be amended from time to time by the parties upon notice to Licensors if a permitted frequency change is allowed in Exhibit 3 and pursuant to an amendment to this Agreement if a permitted frequency change is not as allowed in Exhibit 3, provided that the frequencies are licensed to Licensee or one of its Affiliates, as specified in Section 16(b). The DAS License is non-exclusive, and limited in strict accordance with the terms and conditions of this Agreement. Licensors shall have the right, subject to the Master Agreement, to enter into leases, license agreements and other agreements with others in the sole discretion of Licensors provided doing so does not violate the terms and conditions set forth in this Agreement.

(b) Licensee shall, at its sole expense, install, operate, maintain and repair Licensee's BTS equipment to industry standards, and all portions thereof, and any future additions or alterations thereto, if any, and conduct any and all activities associated with this Agreement, according to, and in strict compliance with, all applicable laws, ordinances, rules and regulations, whether now or hereafter enacted or as amended of local, County, State and Federal governmental authorities (collectively "**Applicable Laws**"). In the event of a conflict between the Licensors' Standards and the terms of the Master Agreement, then the terms of the Master Agreement shall control. Subject to the terms of the Master Agreement, Applicable Laws and this Agreement, Licensors and its authorized representatives have complete authority over all technical matters concerning the DAS, including, but not limited to, construction, installation, safety and the administration of Licensors' Standards in connection with the DAS, and the connection between Licensee's BTS equipment and the DAS. Not less than ten (10) business days prior to connecting Licensee's BTS equipment to the DAS, and not less than ten (10) business days prior to installing any additional equipment within the Customer Hub, Licensee shall reasonably coordinate the same with Licensors to assure no alteration of the DAS is required to accommodate such connection or modification beyond the original capacity reserved by this Agreement.

(c) Licensee shall not make any changes, additions, alterations or structural improvements to the DAS, or any portion thereof, or alter its use of Permitted Frequencies or BTS equipment in a way that violates the interference provisions set forth herein, requires any changes, additions, alterations or structural improvements to the DAS or utilizes additional capacity thereon (collectively "**Alterations**") without Licensors' specific prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed but may be subject to commercially reasonable increased Access Fee(s) and/or Capital Contribution (as defined below). The following are conditions precedent to Licensors' approval of any Alteration:

(i) Licensee shall provide to Licensors reasonably detailed plans and specifications for Licensors' review and approval detailing any proposed Alteration;

(ii) Licensors shall have reasonably determined that the Alteration(s) will not have an adverse impact on the structural integrity of the DAS. If Licensors determines that the Alteration(s) will have an adverse impact on the structural integrity of the DAS, then Licensee, at its sole expense, shall have an engineering study performed with an engineering firm reasonably approved by Licensors, and Licensee, shall pay for all improvements required or recommended pursuant to such study, together with all professional costs reasonably incurred by Licensors in any manner relating directly to the installation of the Alteration(s);

(iii) Licensee shall obtain, at no cost to Licensors, all required permits, approvals, and/or licenses pertaining to the installation, operation, maintenance and/or repair of the Alteration(s);

(iv) Licensors shall have reasonably determined that the Alteration(s) will not cause Interference (as defined in Section 8(d) below) with the operations of Licensors or any Pre-Existing DAS User (as defined in Section 8(a) below);

(v) If the Alteration increases Licensee's use of the capacity of the DAS, beyond the original capacity reserved for use by Licensee pursuant to this Agreement, a mutually agreed upon increase in the Access Fee may be added;

(vi) The Alteration shall be made at the sole expense of Licensee and shall be subject to all of the terms and conditions of this Agreement and any additional terms and conditions to be mutually determined between Licensors and Licensee; and

(vii) The Alteration must not be prohibited by the Master Agreement, or if not allowed, all necessary consents of Owner and/or any other party with approval rights applicable to the Alteration pursuant to the Master Agreement shall be obtained by Licensee at no cost or expense to Licensors.

(d) Licensors expressly reserves the right to withhold its consent to any Alteration if any of the conditions set forth in Section 2(c) above pertaining to the proposed Alteration have not been satisfied or waived by Licensors.

(e) For any Alteration which may be consented to by Licensors pursuant to the provisions of Section 2(c) above, within sixty (60) days after completion of any Alteration, Licensee shall furnish to Licensors "as built" drawings, plans, blueprints, and exhibits associated with Licensee's plans and, as applicable, all such documentation is to be engineer certified and filed with all applicable governmental agencies. ("**Alteration Documents**"). This Agreement will be amended to include the Alteration Documents as part of the use right granted herein.

3. **TERM.**

(a) The initial term will be ten (10) years ("**Initial Term**"), commencing on the Effective Date.

(b) Subject to the Master Agreement and , in the event Licensors and Owner elect to extend the term of the Master Agreement, Licensee shall be granted a comparable right to renew this Agreement for the same additional term(s) (each an "Extension Term"), (each an "Extension Term"), upon the same terms and conditions unless Licensee notifies Licensors in writing of Licensee's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the existing term. Notwithstanding the foregoing, in the event that Licensee is in default of this Agreement either: (i) on the date that is sixty (60) days prior to the expiration of the applicable Extension Term or (ii) upon the commencement date of the applicable Extension Term, then the Extension Term may be cancelled by Licensors in its sole and absolute discretion upon written notice to Licensee.

(c) If Licensee has not disconnected its BTS equipment from the DAS upon the expiration or earlier termination of this Agreement, and Licensors consents in writing, then Licensee will be deemed to be using the DAS License on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement except that the Access Fee during such Holdover Term shall be One Hundred Fifty Percent (150%) of the Access Fee payable during the last year of the Initial Term or the applicable Extension Term, as the case may be.

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

(e) Notwithstanding anything to the contrary contained herein, this Agreement shall immediately terminate in the event of the earlier expiration or termination of the Master Agreement. Provided, however, that in the event such termination is due to the default of the Master Agreement by Licensors or such expiration is due to Licensors's failure to exercise any applicable renewal or extensions of the Master Agreement that may be applicable during the Initial Term of this Agreement, Licensors shall return to Licensee a pro rata share of Licensee's Capital Contribution pursuant to the following calculation: the Capital Contribution less twenty percent (20%) depreciation for each year of the Initial Term that has then passed, partial years to be prorated, such calculation commencing upon the Access Fee Commencement Date ("**Refund Calculation**"). This refund will be made by Licensors to Licensee within sixty (60) days of termination.

4. **ACCESS FEE/ADDITIONAL FEES AND RELATED CHARGES.**

(a) Commencing on the first day of the month following the date which Licensee begins propagating commercial frequencies through the DAS ("**Access Fee Commencement Date**") and on the first day of every month thereafter during the Term, Licensee will pay Licensors a monthly access fee payment of **Six Thousand Nine Hundred Eighty Five and 24/100 Dollars (\$6,985.24)** (the "**Access Fee**"), without notice, setoff or demand at the payment remittance address set forth in Section 17 below. The criteria for DAS Acceptance is more particularly described on **Exhibit 6**, attached hereto and incorporated herein.

(b) Any Access Fee payment that is not paid within ten (10) business days of the date when due shall automatically be subject to a late charge of one point five percent (1.5%) of the overdue amount, which late charge is conclusively deemed by the parties to be a fair and reasonable estimate of the cost that Licensors will occur by reason of the late payment by Licensee, and not a penalty. Acceptance of such a late charge by Licensors shall in no event constitute a waiver of Licensee's default with respect to such overdue amount, nor prevent Licensors from exercising any of the other rights and remedies granted under this Agreement or available at law or in equity.

(c) On each anniversary of the Access Fee Commencement Date during the Term, the monthly Access Fee will increase by three percent (3 %) over the Access Fee paid during the previous year.

(d) During the Term, Licensee shall pay any and all charges to install utilities and separately meter utilities and provide necessary telco to Licensee's BTS Equipment, and Licensors shall pay all utility charges for utilities consumed by or related to the DAS. In the event that Licensee, despite its use of reasonable efforts to do so, is unable to separately meter the utilities for Licensee's BTS Equipment, then Licensee shall, on a monthly basis or such other periodic basis as Licensors shall have the right to determine in its sole discretion, pay to Licensors the portion of the utilities used in the operation of Licensee's BTS Equipment at the rate charged by the servicing utility provider or other agreed rate between Licensors and Licensee.

(e) Licensee shall be responsible for any costs and expenses related to any Alteration to the DAS that results from a change or Alteration of Licensee's BTS equipment, as determined by Licensors in its sole, but reasonable, discretion. Licensors reserves the right in Licensors's sole discretion to invoice for Licensors's costs due and payable hereunder by Licensee in advance on an annual, semi-annual or quarterly basis, and Licensee shall pay Licensors for all such costs within thirty (30) days of Licensee's receipt of invoice together with reasonable supporting documentation evidencing such costs as provided by Licensors in its sole but reasonable discretion, provided that Licensee shall nonetheless be responsible for all actual costs incurred by Licensors in the event that such actual costs exceed Licensors's estimated amounts invoiced to Licensee and provided that Licensee shall be promptly reimbursed any amounts overpaid.

(f) Licensee shall also pay to Licensors the sum of **Two Million Four Hundred Sixty Seven Thousand Three Hundred Sixty Four and 28/100 Dollars (\$2,467,364.28)** within thirty (30) days of the Effective Date. This payment comprises Licensee's "**Capital Contribution**" to the DAS to reimburse Licensors for a portion of the cost to install the DAS which shall be fully earned on the Access Fee Commencement Date, and non-refundable upon payment to Licensors, subject to Section 6 below. The Capital Contribution will in no way give Licensee any ownership interest in the DAS. In the event Licensee fails to timely pay to Licensors the Capital Contribution, and notwithstanding any other provision of this Agreement to the contrary, Licensors shall have the absolute right in its sole discretion to prohibit Licensee from connecting its BTS Equipment to the DAS and to terminate this Agreement upon notice to Licensee.

(g) Licensee shall pay to Licensors a one-time payment of **One Thousand Eight Hundred and 00/100 dollars (\$1,800.00)** (the "**DAS Commissioning Fee**") within thirty (30) days of the Effective Date. The DAS Commissioning Fee compensates Licensors for the time and effort expended by Licensors in connection with assisting Licensee in commissioning Licensee's approved portions of the DAS and the connection of Licensee's BTS equipment to the DAS at the DAS Hub location, including, up to two (2) visits to the Property by Licensee supervised by Licensors, a pre-installation coordination meeting with Licensors and final inspection, which shall be completed by the expiration of the Soak Period (as defined in Exhibit 6 Section IV). Licensors reserves the right to assess an additional fee of **Five Hundred and 00/100 (\$500.00)** in the event Licensors is required to reschedule the commissioning of Licensee's equipment due to Licensee cancellation on less than twenty-four (24) hours prior notice, such additional fee due and payable to Licensors within thirty (30) days of Licensee's receipt of invoice or demand therefor. All payments specified herein shall be sent to the payment remittance address provided in Section 17 of this Agreement.

LICENSEE ACKNOWLEDGES AND AGREES THAT THE ACCESS FEE AND THE CAPITAL CONTRIBUTION SET FORTH HEREIN REFLECT LICENSOR'S PRICING FOR THE PERMITTED USE AND DAS LICENSE WITHOUT ALTERATION. IN THE EVENT LICENSEE REQUESTS AN ALTERATION OF THE DAS TO OTHERWISE EXPAND THE PERMITTED USE IN ANY WAY (INCLUDING THE MODIFICATION OR ADDITION OF FREQUENCIES), LICENSOR RESERVES THE RIGHT TO CONDITION APPROVAL TO ANY SUCH CHANGE ON AN INCREASE IN THE ACCESS FEE OR THE PAYMENT OF AN ADDITIONAL CAPITAL CONTRIBUTION, OR BOTH.

(h) The Master Agreement requires that Licensor share 30% of the rents or license payments that Licensor receives from any third party users of the Site ("Revenue Share"). Licensee agrees to reimburse Licensor for the cost of said Revenue Share ("Revenue Share Reimbursement"). The Revenue Share Reimbursement, which is included in the Access Fee in Section 4 (a) above, is Two Thousand Ninety Five and 57/100 Dollars (\$2,095.57) per month. Such Revenue Share Reimbursement shall be adjusted in the same manner as, and simultaneously with the adjustments to Licensee's Rent payments. Licensee shall pay to Licensor a one-time payment as reimbursement for the Revenue Share due related to and included in the Capital Contribution in Section 4 (f) above, in the amount of Seven Hundred Forty Thousand Two Hundred Nine and 28/100 Dollars (\$740,209.28), to be paid within thirty (30) days of the Effective Date.

5. APPROVALS

(a) Licensor agrees that Licensee's ability to use the DAS License is contingent upon the consent of Owner, if required under the Master Agreement and Licensee's ability to obtain and maintain all governmental licenses, permits, approvals or other relief required of or deemed necessary or appropriate by Licensee for its use of the DAS License, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "**Government Approvals**"). Licensor represents and warrants to Licensee that, to the best of its knowledge, it has obtained all necessary Government Approvals for the installation and operation of the DAS. Licensor authorizes Licensee to prepare, execute and file all required applications to obtain Government Approvals for Licensee's Permitted Use under this Agreement and agrees to reasonably assist Licensee with such applications, but Licensor shall not be responsible for incurring any out of pocket expenses in such regard. At Licensee's sole cost and expense, Licensee shall use reasonable efforts to provide Licensor with complete copies of all applications, plans and other related materials relating to any such Governmental Approvals at least five (5) business days before any such documentation is filed with the applicable jurisdiction.

(b) Prior to the Access Fee Commencement Date, and subject to the terms and conditions of the Master Agreement, and prior coordination and approval of Owner concerning the time, place and manner for visiting the Property, Licensee may also perform and obtain, at Licensee's sole cost and expense, non-invasive engineering procedures, environmental investigations or other non-invasive tests or reports on, over, and under the Property (collectively "**Non-Invasive Testing**"), necessary to determine if Licensee's use of the DAS License will be compatible with Licensee's engineering specifications, system, design, operations or Government Approvals. Any proposed invasive procedures, investigations, tests or reports (collectively "**Invasive Testing**") shall be subject to Licensor's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed.

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

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Section 15 of this Agreement after the applicable cure periods.

(b) by Licensee upon written notice to Licensor, if Licensee is unable to, despite good faith diligent efforts to do so, obtain, or maintain (after Licensee has undertaken commercially reasonable efforts to obtain and/or maintain same), 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 Licensee's BTS equipment as now or hereafter intended by Licensee. In such event, Licensor shall have the right to retain any DAS Commissioning Fee(s) and to be reimbursed by Licensee on demand for all other reasonable actual costs and expenses incurred by or on behalf of Licensor in direct furtherance of accommodating Licensee's potential use of the DAS (excluding the costs and expenses associated with the design and installation of the DAS) up to the date of termination of the Agreement or Licensor can subtract such costs from the Capital Contribution that will be returned to Licensee, within thirty (30) days following Licensee's receipt of an invoice together with reasonable supporting documentation evidencing such costs and expenses or Licensor can subtract such costs from the Capital

Contribution that will be returned to Licensee, which reimbursement obligation shall survive the termination of this Agreement.

(c) by Licensee, upon written notice to Licenser prior to the Access Fee Commencement Date, if Licensee determines, in its reasonable discretion, that the condition of the Property is unsatisfactory for Licensee's intended uses after Licensee has completed testing as may be allowed pursuant to Section 5(b) above. In such event, Licenser shall have the right to retain any DAS Commissioning Fee(s) and to be reimbursed by Licensee on demand for all other reasonable actual costs and expenses incurred by or on behalf of Licenser in direct furtherance of accommodating Licensee's potential use of the DAS (excluding the costs and expenses associated with the design and installation of the DAS) up to the date of termination of the Agreement or Licenser can subtract such costs from the Capital Contribution that will be returned to Licensee, within thirty (30) days following Licensee's receipt of an invoice together with reasonable supporting documentation evidencing such costs and expenses. The reimbursement obligation shall survive the termination of this Agreement.

(d) upon Licenser's failure to satisfy the DAS Acceptance criteria, as provided in **Exhibit 6**, in which event any Capital Contribution previously paid by Licensee shall be refunded in full by Licenser within forty-five (45) days of such termination, less the costs for the dedicated Licensee DAS equipment which is decommissioned and returned to Licensee and the costs for the installation and removal of such equipment; provided, however, the rights contained herein shall not be exercised unless Licensee has given Licenser thirty (30) days written notice of such failure and a thirty (30) day period for Licenser to cure the same.

In addition to the above, in the event of a Termination pursuant to Section 6(a), (b), (c), 8 (c) (provided that the applicable notice and the opportunity to cure has exceeded). Licensee will be refunded a portion of its Capital Contribution as determined by the "Refund Calculation" defined in Section 3(e). Licenser will provide this refund Licensee within sixty (60) days of the date of Termination. The obligations of Licensee and Licenser set forth in this Section 6 shall survive the expiration or earlier termination of this Agreement.

7. INSURANCE.

(a) During the Term of this Agreement, Licensee at its sole cost and expense, shall procure and maintain in full force and effect (i) commercial general liability insurance coverage with a combined single limit of not less than Three Million Dollars (\$3,000,000) for bodily injury, insuring against liability arising out of Licensee's use of the DAS, including property damage to the DAS; (ii) property damage insurance covering the replacement cost of Licensee's BTS equipment on the Property; (iii) automobile liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including coverages for owned, non-owned, and hired vehicles, including loading and unloading operators, and (iv) workers' compensation as required by the laws of the State where the Property is located, including employer's liability insurance with minimums of One Million Dollars (\$1,000,000). The coverage amounts set forth may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated. Such insurance will be obtained from an insurance company(s) selected by Licensee provided that it shall be authorized to transact business in the state where the Property is located and shall hold a current rating of not less than A-VII according to A.M. Best. Such policy(s) of insurance listed under (i) and (iii) immediately above shall name the other party, Owner (and all other parties required to be named under the Master Agreement) as additional insureds. All insurance policy(s) shall also provide for at least thirty (30) days prior written notice to the other party and Owner of the cancellation thereof and shall be primary and non-contributing to similar policies carried by the other party. Such insurance shall be on an occurrence basis and shall be primary of any other valid and collectible insurance that Licenser may carry as the same relates to the other party's operations at the Property. Claims made policies are not acceptable and do not constitute compliance with Licensee's obligations under this Section 7. Licensee shall be required to furnish to Licenser, prior to Licensee connecting its BTS equipment to the DAS or within thirty (30) days of the Effective Date, and for the duration of the Term of this Agreement, current certificates of insurance confirming that the insurance coverage as specified herein is in full force and effect.

(b) Notwithstanding the foregoing insurance requirements, the insolvency, bankruptcy, or failure of any insurance company carrying insurance for either party, or failure of any such insurance company to pay Claims (as defined in Section 11(b)) accruing, shall not be held to waive any of the provisions of this Agreement or relieve Licensee from any obligations under this Agreement.

8. INTERFERENCE.

(a) Licensee covenants, represents and warrants that the installation, maintenance and operation of Licensee's BTS equipment and its connection to the DAS shall not cause Interference (as defined below) with (i) Licensor's operation, management, or maintenance of the DAS, or (ii) the use or operation of any other equipment by any DAS Participant that has installed its equipment in the Property and/or otherwise commenced use of the DAS prior to the Effective Date of this Agreement (each, a "**Pre-Existing DAS User**") as long as the Pre-Existing DAS User operates and continues to operate its equipment within its respective frequencies and in accordance with all Applicable Laws.

(b) Notwithstanding anything to the contrary in this Agreement, it is expressly understood and agreed that if the installation, operation or connection to the DAS of Licensee's BTS equipment shall cause any such Interference, Licensee shall, upon written request from Licensor, immediately suspend its operations (except for intermittent testing) and immediately eliminate or commence remedy of such Interference. Licensee agrees to use commercially reasonable diligent efforts to eliminate or remedy such Interference, including taking such reasonable action Licensor deems necessary. If Licensee fails to eliminate such Interference in the manner provided above, Licensor shall have the absolute right to disconnect Licensee's BTS equipment from the DAS. If it is determined that such Interference cannot be rectified by Licensee within thirty (30) days after written notice of such Interference, then Licensee may, at its option, terminate this Agreement upon written notice to Licensor.

(c) Licensor represents and warrants that it shall: (i) not knowingly permit the installation or operation of equipment or other facilities by any person or entity that installs its equipment on the DAS after the connection of Licensee's BTS equipment to the DAS as permitted herein (each, a "**Future DAS User**") if such equipment, facilities, or the operation thereof causes Interference with Licensee's Permitted Use of the DAS as permitted hereunder. Licensor shall also use commercially reasonable diligent efforts to cause any Future DAS User that causes Interference to promptly remedy any such Interference or shut down its equipment causing the Interference within forty-eight (48) hours of its receipt of written notice thereof. In the event that a Future DAS User causes Interference with Licensee's prior Permitted Use of the DAS, and with respect to which Licensor has fully complied with its obligations under this Section 8(c), Licensee (and in lieu of any and all other remedies whether at law or in equity against Licensor) may: (A) bring an action in equity to enjoin such Interference; or (B) terminate this Agreement by giving Licensor five (5) days prior written notice thereof, provided, however, that such termination will not be effective if such Interference is abated by Licensor within such five (5) day period.

(d) For the purposes of this Section 8, "**Interference**" may include, but is not limited to, any use of the DAS that causes material and adverse electronic, physical or obstruction interference with, or degradation of, the communications signals to or from the DAS.

9. INDEMNIFICATION.

(a) Licensee agrees to indemnify, defend and hold Licensor harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the negligent or intentional actions or failure to act of Licensee, its employees or agents or Licensee's breach of any covenant, representation, warranty and/or provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Licensor, its employees, agents or independent contractors.

(b) Licensor agrees to indemnify, defend and hold Licensee harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the negligent or intentional actions or failure to act of Licensor, its employees or agents, Licensor's breach of any covenant, representation, warranty and/or provision of this Agreement, to the extent attributable to the negligent or intentional act or omission of Licensee, its employees, agents or independent contractors.

(c) The obligations of Licensee and Licensor set forth in Sections 9(a) and 9(b) shall survive the expiration or earlier termination of this Agreement.

10. WARRANTIES.

(a) Licensee and Licensor each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Licensee hereby acknowledges that Licensor's rights pertaining to the DAS derive from the Master Agreement. This Agreement shall be subject and subordinate to the terms and conditions of the Master Agreement. Under no circumstances shall this Agreement be construed to confer upon Licensee any greater rights or privileges than

may be authorized by the Master Agreement. Nothing contained in this Agreement shall be construed to create privity of estate or of contract between Licensee and Owner. If for any reason the term of the said Master Agreement shall terminate prior to the expiration of the Initial Term and/or any Extension Term(s) or Holdover Term of this Agreement, this Agreement shall automatically terminate, and neither Licensor nor Owner shall be liable to Licensee by reason thereof provided such termination is not volitional on the part of Licensor or due to the default of Licensor under the Master Agreement and provided that Licensor covenants, represents and warrants that it will exercise all renewals or extensions of the Master Agreement permitted it thereunder during the entire Term of this Agreement. Licensee covenants and agrees not to commit or permit (to the extent of their control) to be committed any act or omission under this Agreement or otherwise in, under or upon the Agreement that violates any term or condition of the Master Agreement. Licensor covenants and agrees not to commit or permit (to the extent of their control) to be committed any act or omission under the Master Agreement or otherwise in, under or upon the Agreement that would cause the Master Agreement to be terminated.

(c) LICENSEE ACKNOWLEDGES THAT OTHER THAN AS SET FORTH HEREIN, LICENSOR HAS NOT MADE ANY REPRESENTATION OR WARRANTY CONCERNING THE PROPERTY OR THE SUITABILITY OF THE DAS FOR LICENSEE'S PERMITTED USE, OR FOR ANY OTHER PURPOSE. LICENSOR HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ASSOCIATED WITH THE DAS (UNLESS OTHERWISE STATED IN THIS AGREEMENT), AND LICENSEE ACCEPTS THE DAS AND ALL OTHER RIGHTS CONFERRED UNDER THIS AGREEMENT IN AN "AS IS, WHERE IS" CONDITION. LICENSEE HEREBY ACKNOWLEDGES THAT IT HAS CONDUCTED ITS OWN DUE DILIGENCE OF THE PROPERTY AND THE DAS TO LICENSEE'S SATISFACTION AND LICENSEE IS RELYING SOLELY UPON ITS OWN DUE DILIGENCE.

11. ENVIRONMENTAL.

(a) Licensor and Licensee agree that with respect to their actions on the Property, or the actions of their respective agents or contractors each will be responsible for compliance with Applicable Laws and 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) Licensor and Licensee 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, 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 caused by the indemnitor's breach of its obligations under Section 11(a) hereof. Furthermore, Licensor agrees to hold harmless and indemnify Licensee from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Licensor 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 and thereafter throughout the Term for Licensor's acts and omissions related to hazardous substances. Licensee agrees to hold harmless and indemnify Licensor from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Licensee for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from hazardous substances brought and/or released onto the Property by Licensee.

(c) In addition to the forgoing, Licensor shall indemnify, defend and hold Licensee harmless from and against any and all Claims to the extent Licensor is indemnified against such Claims by Owner under the Master Agreement.

(d) The indemnifications of this Section 11 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property environmental conditions or any environmental 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.

12. ACCESS. Licensee's access to the BTS equipment shall be as provided herein. Subject to the terms and conditions of the Master Agreement and Licensor's Standards, at all times throughout the Term of this Agreement, and at no additional charge to Licensee, Licensee and its employees, agents, and contractors, will have the right, with twenty-four (24) hours prior notice to Licensor to access those portions of the DAS designated for Licensee's use. In the case of an emergency, Licensee shall contact Licensor and Licensor shall use reasonable, good faith efforts, subject to the Master Agreement, to permit access to Licensee as soon as possible. Any work required by

Licensee to be performed to the DAS will be reasonably coordinated with Licensor, will be subject to Licensor's prior consent (not to be unreasonably withheld, conditioned or delayed) and if an Alteration, will comply with the applicable terms and conditions set forth herein. Such access may be accompanied by Licensor in Licensor's discretion. Licensee acknowledges and agrees that access to the Property and/or the DAS may be restricted and/or supervised pursuant to the terms of the Master Agreement or Applicable Laws, and Licensee agrees to strictly comply at Licensee's sole cost and expense, with all such restrictive terms and conditions of the Master Agreement and/or Applicable Laws, as the case may be. In the event Licensor approves Licensee or its agents to perform any work on the DAS system, such approval shall be in writing.

13. REMOVAL/RESTORATION. All portions of Licensee's BTS equipment brought onto the Property by Licensee will be and remain Licensee's personal property, regardless of whether any portion is deemed real or personal property under Applicable Laws. Licensor agrees that no part of Licensee's BTS equipment constructed, erected or placed on the Property by Licensee will become, or be considered as being affixed to or a part of the Property, it being the specific intention of Licensor that all improvements of every kind and nature constructed, erected or placed by Licensee on the Property will be and remain the property of Licensee and, at Licensee's option, may be removed by Licensee at any time during the Term, subject to the Master Agreement.

14. MAINTENANCE/UTILITIES.

(a) Licensee will keep and maintain Licensee's BTS equipment in good condition and repair at all times during the Term, reasonable wear and tear, and damage from the elements excepted, so as not to adversely affect the DAS. Prior to undertaking any permitted alteration, upgrade or expansion of the DAS ("DAS Change") that could reasonably adversely affect or reasonably adversely interfere with the Licensee equipment, the operations of Licensee, or the rights of Licensee under this Agreement, Licensor shall provide at least thirty (30) days written notice to Licensee and otherwise undertake the DAS Change in accordance with this Agreement.

(b) Licensor will maintain and repair the DAS in good condition and repair so as to not adversely affect Licensee's use thereof. Notwithstanding the above, Licensee acknowledges and agrees that Licensor shall only be responsible for standard 'fix/ repair' situations, the costs for which shall be included within the Access Fee ("Insubstantial Repairs"). Additionally, Insubstantial Repairs shall mean and include preventative maintenance (including but not limited to regularly scheduled physical inspections); repairs and replacements of the passive components of the DAS (such as connectors, splitters, and antennas); and repairs and replacements of any other components of the DAS required due to the negligence or intentional acts or omissions of Licensor, all as necessary to ensure the parts, equipment, and transport of the radio frequency signals of the DAS are operating in accordance with this Agreement, and do not degrade in performance. Any other replacement or repairs of equipment, not included in the definition of Insubstantial Repairs, as reasonably determined by Licensor ("Other Repairs") shall be paid for by each of the DAS Participants, including Licensor, on a pro-rata basis based on the Permitted Use. Prior to conducting Other Repairs, Licensor shall submit a proposal of said Other Repairs to Licensee for Licensee's approval, which shall only be withheld if the amount is not commercially reasonable. Licensee shall have ten (10) days in which to approve, in writing, said Other Repairs. Licensee's non-response shall be deemed approval. Any downtime of the DAS during this period of time shall not apply to the definition of network Availability as further addressed in Exhibit 5 herein. Licensee and Licensor agree that all repairs will be completed within a commercially reasonable time period. Licensor shall use good faith efforts to include a similar provision in its sublicensing agreements with each of the DAS Participants.

(c) Subject to the terms of paragraph 4(d), Licensee will be responsible for providing at Licensee's sole cost and expense, all electricity, or any other utility used or consumed by Licensee on the Property, but not as such is directly used in connection with the DAS Access. Licensor will provide reasonable cooperation at no additional cost to Licensor with any utility company requesting any rights over, under and across the Property in order for the utility company to provide such other service to Licensee as Licensee may require in furtherance of the Permitted Use. Licensee shall be responsible for ordering separate T-I service or such other telephone service connectivity which Licensee may require from time to time for the use and operation of Licensee's BTS Equipment, and maintaining such separate telephone service connectivity during the Term at Licensee's sole expense.

15. DEFAULT AND RIGHT TO CURE.

(a) The following will be deemed a default by Licensee and a breach of this Agreement: (i) non-payment of any monetary payment due hereunder (including without limitation any Access Fee) if such payment remains unpaid for more than ten (10) business days after receipt of written notice from Licensor of such failure to

pay; and/or (ii) Licensee's failure to perform any other term or condition under this Agreement within thirty (30) days after receipt of written notice from Licensor specifying the failure. No such failure, however, will be deemed to exist if Licensee has commenced to cure such non-monetary 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 Licensee. If Licensee remains in default beyond any applicable cure period, except as otherwise set forth herein, Licensor 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 Licensor and a breach of this Agreement: Licensor's failure to (i) provide access as set forth herein or cure prohibited Interference as required herein, and/or (ii) perform any other term or condition under this Agreement within thirty (30) days after receipt of written notice from Licensee specifying the failure. No such failure, however, will be deemed to exist if Licensor 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 Licensor. If Licensor remains in default beyond any applicable cure period, except as otherwise set forth herein, Licensee will have the right to exercise any and all rights and remedies available to it under law and equity.

16. ASSIGNMENT/SUBLICENSE.

(a) Licensor reserves the full right to assign, transfer, mortgage or otherwise encumber the DAS and/or its interest in this Agreement without any consent required to an entity that in Licensor's reasonable determination is qualified to operate and maintain the DAS as required herein and which entity agrees to be bound and subject to the terms of this Agreement. Within fifteen (15) business days of receipt of Licensor's written request, Licensee shall, execute and deliver to Licensor such further commercially reasonable instruments subordinating this Agreement, as may be required by Licensor in connection with Licensor's contemplated transaction; provided, however, that any such instrument shall recognize Licensee's right to continue this Agreement in accordance with the terms and conditions of this Agreement as long as Licensee is not in default of this Agreement beyond all applicable cure periods. Upon delivery of such assignment documentation, Licensor shall be relieved of all obligations and liabilities accruing thereafter hereunder and Licensee shall look solely to the assignee for the performance thereof provided such assignee accepts all such obligations.

(b) Licensee may, upon written notice to Licensor, assign or transfer this Agreement and its rights arising hereunder to any corporation, partnership or other entity which (i) shall merge or consolidate with or into Licensee, or (ii) shall succeed to all or substantially all the assets, property and business of Licensee, or (iii) is Licensee's Affiliate or (iv) any other party as may be required in connection with any offering, merger, acquisition, recognized security exchange or financing related to Licensee, or (v) is Licensee's Parent; provided for subsections (i) - (v) inclusive no such transfer or assignment shall release Licensee of its obligations under this License unless the assignee has a net worth of not less than Twenty Million and 00/100 Dollars (\$20,000,000.00). Under all other circumstances, any assignment or transfer shall require Licensor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, provided that it shall not be unreasonable to withhold consent if assignee does not have net assets in excess of Twenty Million and 00/100 Dollars (\$20,000,000.00). Upon assignment, Licensee shall be relieved of all obligations and liabilities accruing thereafter hereunder and Licensor shall look solely to the assignee for the performance thereof provided such assignee accepts all such obligations in writing and is of substantially similar financial strength or credit worthiness (compared to Licensee). Licensee may not sublicense or otherwise share, in whole or in part, any portion of the DAS License conferred under this Agreement (except to any person or business entity which is either a parent, subsidiary or affiliate of Licensee, and any attempts to do so in contravention of this Section 16(b) shall be considered void and of no force or control. Licensee may not use the DAS in connection with: (i) the hosting, sharing of equipment, or duplexing, duplexing or combining of radio signals for or with any wireless services provider (WSP); or (ii) sublicensing, subleasing, or permitting use of any portion of the DAS or Licensee's BTS in any manner by any third party other than Licensee's Affiliates, subsidiaries or parent and any such uses in contravention of this Section 16 shall be considered a default under this Agreement, provided, however, nothing in this Section 16 shall prevent or prohibit Licensee from utilizing the DAS to provide wireless services to its End Users. For the purposes of this Section, "End Users" shall mean (i) persons or entities that subscribe to Licensee's wireless services, including mobile virtual network operators (MVNOs) and their end-users; or (ii) persons or entities that subscribe to wireless services provided by Licensee's roaming partners pursuant to industry-standard, nationwide (e.g., not specific to this DAS) roaming agreements between Licensee and such roaming partner

17. NOTICES & PAYMENTS.

(a) All notices, requests, demands and communications 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 as follows:

If to Licensors: New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: 117544; Cell Site Name: Qualcomm Stadium (CA)
Fixed Asset No: 10145832
575 Morosgo Dr.
Suite 13-F West Tower
Atlanta, GA 30324

With the required copy of legal notice sent to Licensors at the address above, a copy to AT&T Legal Department:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Re: Cell Site #: 117544; Cell Site Name: Qualcomm Stadium (CA)
Fixed Asset No: 10145832
208 S. Akard Street
Dallas, Texas, 75202-4206

A copy sent to AT&T Legal Department alone does not constitute legal notice.

PAYMENT REMITTANCE ADDRESS:

AT&T Mobility
Attn: Co-Location A/R
PO Box 5086
Carol Stream, IL 60197-5086
Re: FA 10145832

If to Licensee: Sprint Property Services
Mailstop: KSOPHT0101-Z2650
Sprint ID: SD96XC003
6391 Sprint Parkway
Overland Park, KS, 66251-2650

With the required copy of legal notice sent to Licensee at the address above, a copy to Sprint Nextel Legal Department:

Sprint Law Department
Attn: Sprint Nextel Real Estate Attorney
Mailstop: KSOPHT0101-Z2020
Sprint ID: SD96XC003
6391 Sprint Parkway
Overland Park, KS, 66251-2020

A copy sent to Sprint Nextel Legal Department alone does not constitute legal notice to Licensee.

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

(b) In the event of a change in ownership of Licensee, transfer of this Agreement for which Licensor's consent is given under Section 16(b) above, within sixty (60) days of such change or transfer, Licensee or its successor will send the documents listed below in this subsection (b) to Licensor:

- i. Change of ownership or transfer agreement
- ii. Full contact information for new Licensee including all phone number(s)

18. **CASUALTY.** Licensor will provide notice to Licensee of any casualty materially and adversely affecting the DAS within forty-eight (48) hours of the casualty ("Casualty"). If the Casualty causes damage to the DAS, Licensor may elect whether or not to rebuild or restore the DAS. If Licensor elects to rebuild or restore the DAS, Licensee shall have thirty (30) days from receipt of notice from Licensor that Licensor plans to rebuild or restore the DAS to determine and notify Licensor whether or not Licensee wishes to continue operating on the DAS. In the event Licensee elects not to continue operation, Licensee shall issue written notice thereof to Licensor and the License Agreement shall terminate, without further liability to either Party. Licensor shall notify Licensee within ninety (90) days following the date of the Casualty of its election to either rebuild or restore the DAS or not to rebuild or restore the DAS. In the event Licensor elects to rebuild the DAS and provides notice to Licensee thereof, Licensor agrees to use reasonable, good faith and commercially reasonable efforts to rebuild the DAS as quickly as possible. Notwithstanding the above, Licensor agrees that the Access Fee shall be abated from the date of the Casualty or the date that Licensee is unable to operate on the DAS, whichever is later, until the DAS is rebuilt or restored or the Agreement is terminated as provided herein. In the event that the DAS is not rebuilt or restored such that it meets the requirements of the Service Level Agreement within one (1) year of the Property being rebuilt, Licensee may, within thirty (30) days of such date, terminate the License Agreement and neither Party shall be liable to the other except as set forth herein. In the event that the DAS is rebuilt, and Licensee elects to connect to the new DAS, Licensee shall pay an additional Capital Contribution for the new DAS which Capital Contribution shall be calculated after deducting any amount of insurance proceeds which are received by Licensor attributable to the Casualty.

19. **WAIVER OF LICENSOR'S LIENS.** Licensor hereby waives any and all lien rights it may have, statutory or otherwise, concerning Licensee's BTS equipment or any portion thereof.

20. **TAXES.** Licensor shall be responsible for payment of all ad valorem taxes levied upon the lands, improvements and other property of Licensor. Licensee shall be responsible for all taxes levied directly upon Licensee's (i) improvements, (ii) personal property, and (iii) Licensee's BTS equipment located in or upon the Property. Licensor shall provide Licensee with copies of all assessment notices along with reasonable written documentation detailing any assessment increases directly attributable to the leasehold improvements, but in no event later than thirty (30) days after receipt by Licensor. Licensee shall be responsible for its pro rata portion (based on all DAS Participants including Licensor, of any real or personal property taxes imposed against the DAS. If applicable, Licensee further agrees to pay any sales tax or other similar tax assessed by local jurisdictions with respect to any revenues paid by Licensee to Licensor pursuant to this Agreement. Licensor shall invoice Licensee for any taxes payable by Licensee pursuant to this provision, which invoice shall be accompanied by reasonable substantiation of the amounts reflected therein. Licensee shall tender payment for such invoices not later than thirty (30) days following Licensee's receipt thereof.

21. **RF COMPLIANCE.**

(a) Licensee acknowledges its obligation and agrees to comply with all applicable rules and regulations of the FCC pertaining to RF emissions standards, as well as all applicable rules and/or regulations of any other federal or state agency (including but not limited to OSHA) having jurisdiction over the installation, operations, maintenance and/or working conditions involving RF emissions and/or safety and work standards performed on or near communication equipment and antennas. Licensee covenants and agrees to be solely responsible for compliance with all applicable FCC and other governmental requirements with respect to installation, operation and maintenance of Licensee's BTS equipment. Licensee will promptly remedy its operations to comply with Applicable Laws that apply to its operations and/or the cumulative operations of all DAS Participants with rights to use the DAS. Licensor represents and warrants that it shall use reasonable good faith efforts to require other DAS Participants comply with similar terms of RF compliance. Upon the Licensor's written request, Licensee shall promptly provide reasonable proof of such compliance.

(b) Licensee shall take any and all commercially reasonable steps required to cooperate with all DAS

Participants to comply individually and in the aggregate with all applicable FCC and other governmental RF emissions standards. Licensor may contract with an RF engineering firm to test, maintain and otherwise document RF Emission calculations on an annual basis, or more frequently as Licensor may reasonably determine, pertaining to the DAS (the "**RF Emissions Report**") to document that the DAS is in compliance with applicable FCC standards. Licensee agrees to pay its pro rata share of all reasonable costs and expenses actually incurred by Licensor pertaining to the RF Emissions Report to determine on-going RF emissions compliance, which pro rata share shall be based on the number of DAS Participants with rights to use the DAS as of the beginning of the calendar year in which the RF Emission Report is prepared.

22. MISCELLANEOUS.

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Licensor and Licensee. 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) **Limitation of Liability.** Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Licensee and Licensor 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.

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

(d) **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.

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

(f) **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; and (viii) the singular use of words includes the plural where appropriate.

(g) **Affiliates.** "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.

(h) **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.

(i) **W-9.** Licensor agrees to provide Licensee and shall cause any permitted assignee or transferee to provide Licensee 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 Licensee.

(j) **No Electronic Signatures/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 DAS 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 Licensor and Licensee.

(k) **Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable by a court or agency of competent jurisdiction, (a) the validity, legality and enforceability of the remaining provisions of this Agreement are not affected or impaired in any way if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired; and (b) the parties shall negotiate in good faith in an attempt to agree to another provision (instead of the provision held to be invalid, illegal or unenforceable) that is valid, legal and enforceable and carries out the parties' intentions to the greatest lawful

extent. If any such action or determination renders the overall performance of this Agreement impossible or materially impairs the original purpose, intent or consideration of this Agreement, and the parties are, despite the good faith efforts of each, unable to amend this Agreement to retain the original purpose, intent and consideration in compliance with that court or agency determination, either party may terminate this Agreement upon sixty (60) days' prior written notice to the other party.

(l) **Counterparts.** 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.

(m) **No Joint Venture.** Licensors and Licensee acknowledge and agree that the relationship between them is solely that of licensor and licensee, and nothing shall be construed to constitute the parties as landlord and tenant, sublandlord and subtenant, employer and employee, partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking. Neither party, nor its employees, agents or representatives shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other. Licensee shall have no property rights or interest in the Property or the DAS by virtue of this Agreement.

(n) **Incorporation of Recitals.** The recitals set forth above are incorporated herein as set forth in their entirety.

(o) **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.**

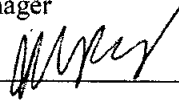
IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

LICENSOR

New Cingular Wireless PCS, LLC,

By: AT&T Mobility Corporation

Its: Manager

By: 

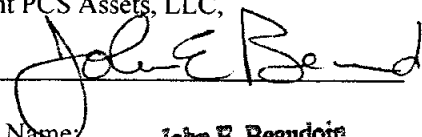
Print Name: Neil Boyer

Its: Director-Network

Date: 4-22-15

LICENSEE

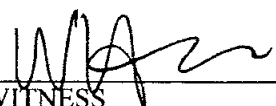
Sprint PCS Assets, LLC,

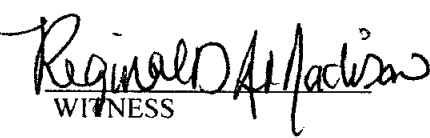
By: 

Print Name: John E. Beaudoin

Its: SRMGR CONTRACTS

Date: 9/30/2014


WITNESS

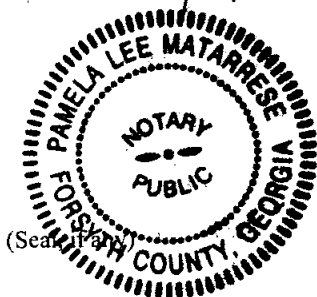

WITNESS

[ACKNOWLEDGMENTS APPEAR ON FOLLOWING PAGE]

LICENSEE ACKNOWLEDGMENT

STATE OF GEORGIA)
) SS.
COUNTY OF WINNETT)

This License Agreement was acknowledged before me on Sept 30, 2014, by John E. Beaudoin
SRMGR CONTRACTS of Sprint PCS Assets, LLC, a Delaware limited liability company



Pamela La Matarrese
Notary Public

(Signature of notarial officer)

Title (and Rank)

My appointment expires:

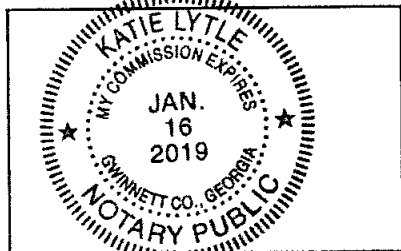
9/20/2017

LICENSOR ACKNOWLEDGMENT

STATE OF GEORGIA)
) ss.
COUNTY OF FULTON WINNETT)

I certify that I know or have satisfactory evidence that Neil Boyer is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Director-Network of AT&T Mobility Corporation, Manager of New Cingular Wireless PCS, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: APRIL 22, 2015



[Signature]
Notary Public

Print Name

My commission expires