

Cell Site No.: 27512
Cell Site Name: Jerusalem
Fixed Asset No.: 10067878
Market: Washington D.C./Maryland
Address: 19200 Jerusalem Road, Poolesville, MD 20837

FIRST AMENDMENT TO LEASE AGREEMENT FOR TELECOMMUNICATIONS

THIS FIRST AMENDMENT TO LEASE AGREEMENT FOR TELECOMMUNICATIONS ("First Amendment") dated and effective as of the date of Landlord's signature below is entered into by and between Montgomery County, Maryland, a body corporate and politic located at 101 Monroe Street, Rockville, MD 20850, successor in interest to the Board of Education of Montgomery County, (hereinafter referred to as "Landlord") and New Cingular Wireless PCS, LLC, a Delaware limited liability company authorized to conduct business in the State of Maryland, located at 1025 Lenox Park Blvd NE 3rd Floor Atlanta, GA 30319, successor in interest to AT&T Wireless PCS, LLC, (hereinafter referred to as "Tenant").

WHEREAS, Landlord and Tenant (or their predecessors in interest) entered into a Lease Agreement for Telecommunications, dated January 24, 2003 (hereinafter, the "Lease"), whereby Landlord leased to Tenant certain Premises, therein described, that are a portion of the Property located at 19200 Jerusalem Road, Poolesville, MD 20837; and

WHEREAS, the term of the Agreement expired on January 23, 2023, and Landlord acknowledges that Tenant has been occupying the Premises on a month-to-month basis and Landlord has accepted Rent during such month-to-month basis from Tenant and the parties mutually desire to renew the Agreement, memorialize such renewal period and modify the Agreement in certain other respects, all on the terms and conditions contained herein; and

WHEREAS, Landlord and Tenant desire to modify, as set forth herein, the Rent (as defined below) payable under the Lease; and

WHEREAS, Landlord and Tenant desire to amend the Lease to clarify the scope of Tenant's permitted use of the Premises; and

WHEREAS, Landlord and Tenant, in their mutual interest, further wish to amend the Lease as set forth below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

- 1. Term.** The Term of the Lease shall be amended to provide that commencing on January 24, 2023, will be automatically renewed, upon the same terms and conditions of the Lease, for two (2) additional five (5) year extension terms (each an "Extension Term") without further action by Tenant, unless Tenant notifies Landlord in writing of Tenant's intention not to renew the Lease at least sixty (60) days prior to the expiration of the Current Term or any Extension Term. Hereafter, "Term" shall include the Current Term and any applicable Extension Term. Landlord agrees and acknowledges that, except as Tenant's permitted use of the Premises and other rights are amended herein, Tenant may continue to use and exercise its rights under the Lease as permitted prior to the first Extension Term.

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2. **Acknowledgement.** Landlord acknowledges that: 1) this First Amendment is entered into of the Landlord's free will and volition; 2) Landlord has read and understands this First Amendment and the underlying Lease and, prior to execution of this First Amendment, was free to consult with counsel of its choosing regarding Landlord's decision to enter into this First Amendment and to have counsel review its terms and conditions; 3) Landlord has been advised and is informed that should Landlord not enter into this First Amendment, the underlying Lease between Landlord and Tenant, including any termination or non-renewal provision therein, would remain in full force and effect through the expiration date of the Current Term.
3. **Affirmation of Rent.** Landlord and Tenant wish to affirm that on January 24, 2023, the Rent payable under the Lease was Three Thousand Six Hundred Fourteen and 93/100 Dollars (\$3,614.93) per month, and shall continue at that amount during the Term, subject to adjustment, if any, as provided below.
4. **Future Rent Increase Monthly Payments.** The Lease is amended to provide that commencing on January 24, 2024, Rent shall increase by Two and One-Half percent (2.5%) over the Rent paid during the previous year, and each anniversary thereafter.
5. **Notices.** Paragraph 29 of the Lease is hereby deleted in its entirety and replaced with the following: NOTICES. 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.

As to Tenant:
New Cingular Wireless PCS, LLC,
c/o AT&T Network Real Estate Administration,
Cell Site #: 27512, Cell Site Name: Jerusalem (MD),
Fixed Asset No: 10067878
1025 Lenox Park Blvd NE
3rd Floor
Atlanta, GA 30319

With a required copy to:
Attn.: AT&T Legal Department,
New Cingular Wireless PCS, LLC,
Re: Cell Site #: 27512, Cell Site Name: Jerusalem (MD),
Fixed Asset No: 10067878
208 S. Akard Street
Dallas, TX 75202-4206

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As to Landlord:

Montgomery County, Maryland
Department of General Services
Office of Real Estate
101 Monroe Street, 9th Floor
Rockville, Maryland 20850
Attn: Director

With a copy that does not constitute notice to:

Office of the County Attorney
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attn: County Attorney

6. **Termination.** In addition to any rights that may exist in the Lease, Tenant may terminate, the Lease at any time with 90 days prior written notice to Landlord for any or no reason.
7. **Permitted Use.** Tenant, its personnel, invitees, contractors, agents, subtenant/licensors, or its authorized sub Tenant, or assigns may use the Premises, at no additional cost or expense, for the transmission and reception of any and all communications signals and to modify, supplement, replace, upgrade, expand, including but not limited to the number and type(s) of antennas, or refurbish the equipment and/or improvements thereon, or relocate the same within the Premises at any time during the term of this Lease for any reason, or 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 or for any other reason. Landlord shall reasonably cooperate in obtaining governmental and other use permits or approvals necessary or desirable for the foregoing permitted use in its capacity as Landlord, and not in its capacity of a local regulatory governing body. If Landlord does not comply with the terms of this section, in addition to any other rights it may have at law, Tenant may terminate this Lease and shall have no further liability to Landlord. If Landlord does not comply with the terms of this section, Tenant will have the right to exercise any and all rights available to it under law and equity, including the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant.
8. **Removal/Restoration.** In addition to the terms set forth in the Lease, Landlord agrees that the Communications Facility and any related equipment brought to the Premises by Tenant, its agents, contractors, predecessors-in-interest or Tenants, shall be and remain Tenant's personal property or the personal property of its Tenant(s), as the case may be. Tenant, in its sole discretion, may remove the Communications Facility or any portion of the Communications Facility at any time during the Term of the Lease, without notice to Landlord and without Landlord's consent. Notwithstanding any terms to contrary, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation, nor will Tenant be required to remove

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from the Premises or the Property any foundations or underground utilities. Tenant, may, in its sole discretion, transfer any improvements or alterations to the Premises to Landlord at any time during the Term of the Lease without notice to the Landlord and without the Landlord's consent. Any portions of the Communication Facility that Tenant does not remove within one hundred twenty (120) 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.

9. 24/7 Access. Landlord hereby grants to Tenant, its authorized sub lessees, and to any public or private utility serving Tenant's Communications Facility or related equipment, access to the premises and to and over the Property twenty-four hours per day, seven days per week (24/7), including but not limited to, access from an accessible, open and maintained public road to the premises, for the installation, maintenance, repair, modification, alteration, or refurbishment of the Communications Facility or any equipment related to such Communications Facility as such access is deemed necessary by Tenant, in its sole discretion, without the requirement of notice by Tenant to Landlord. In the event that any public or private utility serving Tenant's Communications Facility is unable to use the access provided to Tenant, the Landlord hereby agrees to grant additional access to Tenant or to such public or private utility, for the benefit of Tenant, at no cost to Tenant and pursuant to the same terms and conditions as noted above. The terms and conditions regarding access in the Lease remain in full force and effect, except as modified by this paragraph.

10. Sale of Property.

(a) Landlord shall not be prohibited from the selling, leasing or using of any of the Property except as provided below.

(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, 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 subsection (b) to Tenant. Until Tenant receives all such documents, 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. Notwithstanding the foregoing, failure of Landlord or its successor to send notice of any rezoning, sale, subdivision or transfer, or any documents required under this Subsection (b) shall not affect the validity of any such transaction.

- 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 AT&T Payment Direction Form
- vii. Full contact information for new Landlord including phone number(s)

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(c) Landlord agrees not to permit the use of any areas of the Property in a manner that would interfere with Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion. Landlord shall reimburse Tenant for any costs and expenses of such testing.

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

11. Appropriations & County Liability.

Landlord's obligations under the Lease are subject to, limited by and contingent upon the appropriation and availability of funds by the Montgomery County Council, as well as the notice requirements and damage limitations set forth in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. Sec. 5-301, et seq. (the "LGTCA") and Md. Code Ann., Cts. & Jud. Proc. Sec. 5-5A-02 (collectively, the "County Indemnification Statutes"), all as amended. Nothing herein is intended in any way to create any rights or causes of action in any third parties, or to increase Landlord's liability above the caps provided in the County Indemnification Statutes, as applicable.

12. Indemnification.

Paragraphs 19 and 20 of the Agreement are hereby deleted in its entirety and replaced with the following:

19. INDEMNIFICATION. Tenant shall pay for the defense of, indemnify and hold harmless, Landlord from all losses, costs, claims, causes of actions, demands and liabilities arising from (a) any breach by Tenant of any covenant of this Lease; (b) any misrepresentation by Tenant and/or any breach by Tenant of any warranty of Tenant contained in this Lease; and (c) any occurrence arising from (i) Tenant's construction, installation, maintenance, repair, operation, replacement or removal of the Communications Facility or any other equipment, or any other activities of Tenant on the Premises, and (ii) the condition of the Communications Facility and Premises in any way related to Tenant's use of the Communications Facility of the Premises, including, without limitation, any personal injury, death, or other accident in any way related to Tenant's use of the Premises. Such indemnification shall include the cost of investigation, all expenses of litigation, and the cost of appeals, including, without limitation, reasonable attorneys' fees and court costs, and shall be applicable to Tenant's activities on the Premises whether prior to the Commencement Date or after the termination of this Lease. In addition to the Landlord, Landlord's board members, staff, officers, agents, servants, employees, volunteers, business invitees, customers, students, family members and guests shall be beneficiaries of the indemnification. This indemnification shall not be applicable to the extent of any negligence or willful misconduct of the Landlord, its board members, staff, officers, agents, servants, employees, volunteers, customers, business invitees, students, family members and guests.

20. INSURANCE REQUIREMENTS.

(a) All property of the Tenant, its employees, agents, business invitees, licensees,

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customers, clients or guests, in and on the Premises shall be and remain at the sole risk of the Tenant, and Landlord shall not be liable to them or anyone for any damage to, or loss of such personal property arising from any act of nature or any persons, nor from any other reason, unless such damage or loss is caused by the negligence or willful act or negligent failure to act on the part of the Landlord, its board members, staff, officers, employees, agents or volunteers, nor shall the Landlord be liable for the interruption or loss to Tenant's business arising from any of the above described acts or causes, unless such damage, interruption or loss is caused by the negligence or willful act or negligent failure to act on the part of the Landlord, its board members, staff, officers, employees, agents or volunteers. The Landlord shall not be liable for any personal injury to the Tenant, its employees, agents, business invitees, licensees, customers, clients or guests arising from the use, occupancy and condition of the Premises unless such injury is caused by the negligence or willful act or negligent failure to act on the part of the Landlord, its board members, staff, officers, employees, agents or volunteers.

(b) During the term, Tenant will maintain a policy of commercial general liability insurance insuring the Tenant against liability arising out of the use, operation or maintenance of the Premises and the installation, repair, maintenance, operation, replacement and removal of the Communications Facility. The Landlord shall be included as Additional Insured by endorsement as respects this agreement. The insurance will be maintained for personal injury and property damage liability, adequate to protect Landlord against liability for injury or death of any person in connection with the use, Operation, and condition of the Premises, in an amount of THREE MILLION DOLLARS (\$3,000,000.00) per occurrence/aggregate. During the term, Tenant shall also maintain workers' compensation, employers' liability insurance, and automobile liability insurance:

(i) Worker's Compensation Insurance - Meeting all requirements of Maryland law and employers' liability coverage:

Bodily injury by accident: \$ 500,000 each accident
Bodily injury by disease: \$ 500,000 policy limits
Bodily injury by disease: \$ 500,000 each employee

(ii) Automobile Liability:

Bodily injury and Property Damage:

\$500,000 each accident, including owned, hired, and non-owned automobiles.

(c) Insurance carried by Tenant will be maintained with companies that have an AM Best rating of A- VII or higher. The Tenant will deliver to the, Department of General Services, Real Estate Division, certificates of insurance evidencing the existence and amounts of the insurance. Tenant will provide at least 30 days written notice to Landlord of cancellation or non-renewal of any required coverage that is not replaced. Tenant shall, in no event more than fifteen (15) days after the renewal or replacement of such policies, furnish Landlord

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with renewals' certificates of insurance for replacement policies. Notwithstanding anything to the contrary contained in this Lease, the failure of Tenant to maintain the insurance required under Paragraph 20 shall constitute an event of default requiring cure by Tenant pursuant to Paragraph 15 (b). The coverage requirements under Paragraph 20 (b) shall not be deemed to limit Tenant's liability under this Lease.

(d) Intentionally omitted.

(e) Tenant will not do anything or permit anything to be done or any hazardous condition to exist ("Increased Risk") which would invalidate or cause the cancellation of the insurance policies carried by Tenant. In the event that any such Increased Risk arises, Tenant shall promptly remedy the condition causing such Increased Risk in accordance with the procedures set forth in Paragraph 7 of this Lease.

(f) The Landlord shall be included as an "additional insured" on Tenant's liability Policies by endorsement.

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IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this First Amendment on the date and year below.

LANDLORD:
Montgomery County, Maryland

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

By: AT&T Mobility Corporation
Its: Manager

By: *Fariba Kassiri* for _____

By: DocuSigned by:
Jesse Bird
1DCD6F3C02534A8...

Print Name: Fariba Kassiri

Print Name: Jesse Bird

Title: Deputy Chief Administrative Officer

Title: Principal Tech Vendor Mgmt

Date: 09/27/2024

Date: 9/11/2024

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

By: *Neal Anker*

Print Name: Neal Anker

Title: County Attorney (Assistant)

Date: 9/19/2024

RECOMMENDED BY:

By: *Cynthia Brenneman*

Print Name: Cynthia Brenneman

Title: Director, Office of Real Estate
Department of General Services

Date: 9/18/24