

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 Town of Falmouth, a Municipality, having a mailing address of 271 Falmouth Road, Falmouth, ME 04105 ("**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive, 13-F West Tower, Atlanta, GA 30324 ("**Tenant**").

BACKGROUND

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 271 Falmouth Road, in the County of Cumberland, State of Maine (collectively, the "**Property**"). Tenant desires to use a portion of the Property in connection with its federally licensed communications business. Landlord is willing to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

- 1. LEASE OF PREMISES.** Landlord hereby leases to Tenant a certain portion of the Property containing approximately 150 square feet of interior equipment space and 32 square feet exterior space for the placement of a generator including the air space above such ground space, as described on attached **Exhibit 1** (the "**Premises**") for the placement of Tenant's Communication Facility as defined below.
- 2. PERMITTED USE.** Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of its communications fixtures and related equipment, cables, accessories and improvements, which include, without limitation, a suitable support structure, associated antennas, equipment shelter area approximately 150 square feet, a generator area consisting of approximately 32 square feet, and fencing, each as necessary for the successful and secure use of the Premises (collectively, the "**Communication Facility**"), as well as the right to survey and review title on the Premises; (collectively, the "**Permitted Use**"). Tenant shall have the right to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local applications and/or requirements placed on carriers, including, but not limited to, first-responder and emergency 911 communication services, and, so long as such Tenant additions, modifications, and/or replacement of equipment to be in compliance with same impact only the Premises, Landlord shall not increase the Rent due hereunder. 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 start of construction, Landlord grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of Landlord's contiguous, adjoining or surrounding property (the "**Surrounding Property**") as may reasonably be necessary to Tenant's construction and installation of the Communication Facility. Within thirty (30) days following completion of Tenant's construction and installation of the Communication Facility, Tenant shall repair any damage to the Surrounding Property caused by Tenant so as to return the Surrounding Property to its condition prior to commencement of Tenant's 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, and to construct a fence around the Premises. Tenant may modify, supplement, replace upgrade, or expand the equipment and/or Communication Facility, after receipt of written approval from the Landlord, not to be unreasonably withheld, conditioned or delayed, and such approval may be in the form of a

modification to this Agreement. Landlord will make reasonable efforts to allow Tenant to make such modifications or replacements to the Premises in order to ensure that Tenant's 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 and Tenant will be required to negotiate further modification to this Agreement in good faith.

3. TERM.

(a) The initial lease term will be five (5) years ("**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 four (4) additional five (5) year term(s) (each five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions 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 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 prior to the end of the final Extension Term, then upon 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 (each an "**Annual Term**") until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. Monthly rental during such Annual Terms shall be equal to the Rent paid for the last month of the final Extension Term increased by fifteen percent (15%) per Annual 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 ("**Term**").

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, Three Thousand and No/100 Dollars (\$3,000.00) (the "**Rent**"), at the address set forth above. In any partial month occurring after the Rent Commencement Date, Rent will be prorated. The initial Rent payment will be forwarded by Tenant to Landlord within forty-five (45) days after the Rent Commencement Date.

(b) In year one (1) of each Extension Term, the monthly Rent will increase by fifteen percent (15%) over the Rent paid during the previous five (5) year term.

(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. The foregoing shall not apply to Rent and any submetered electrical charges pursuant to Paragraph 14(b). Rent 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 Tenant's 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 ordinance, 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 Tenant's Permitted Use under this Agreement and agrees to reasonably assist Tenant with such applications and with obtaining and maintaining the Government Approvals. In addition, Tenant shall have the right to initiate the ordering and/or scheduling of necessary utilities.

(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 (or the applicable portion thereof where the Premises is located) 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 (or the applicable portion thereof where the Premises is located) , 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. [\[TERMSINATION PROVISIONS NOT AGREED UPON\]](#) 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 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 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 of the Communication Facility by Tenant; by Landlord 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 six (6) 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 following: 5 Approvals, 6(a) Termination, 6(b) Termination, 6(c) Termination, 6(d) Termination, 11(d) Environmental, 18 Condemnation or 19 Casualty.

7. INSURANCE.

(a) During the Term, Tenant will carry, at its own cost and expense, the following insurance: (i) workers' compensation insurance as required by law; and (ii) commercial general liability (CGL) insurance with respect to its activities on the Property, such insurance to afford protection of up to Three Million Dollars (\$3,000,000) per occurrence and Six Million Dollars (\$6,000,000) general aggregate, based on Insurance Services Office (ISO) Form CG 00 01 or a substitute form providing substantially equivalent coverage. Tenant's CGL insurance shall contain a provision including Landlord as an additional insured. Such additional insured coverage:

(i) shall be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Tenant, its employees, agents or independent contractors;

(ii) shall not extend to claims for punitive or exemplary damages arising out of the acts or omissions of Landlord, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of Landlord, its employees, agents or independent contractors; and

(iii) shall not exceed Tenant's indemnification obligation under this Agreement, if any.

(b) Notwithstanding the foregoing, Tenant shall have the right to self-insure the coverages required in subsection (a). In the event Tenant elects to self-insure its obligation to include Landlord as an additional insured, the following provisions shall apply (in addition to those set forth in subsection (a)):

(i) Landlord shall promptly and no later than thirty (30) days after notice thereof provide Tenant with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Tenant with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like;

- (ii) Landlord shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Tenant; and
- (iii) Landlord shall fully cooperate with Tenant in the defense of the claim, demand, lawsuit, or the like.

8. INTERFERENCE.

(a) Landlord will not grant, after the date of this Agreement, a lease, license or any other right to any third party, if 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 except for use by Landlord for its Public Safety Antenna or for other essential municipal services. Landlord will notify Tenant in writing prior to granting any third party the right to install and operate communications equipment on the Property.

(b) Landlord will not, nor will Landlord permit its tenants, licensees, invitees, agents or independent contractors to interfere in any way with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. 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.

(c) For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property and/or Premises that causes electronic or physical obstruction with, or degradation of, the communications signals from the Communication Facility except for use by Landlord for its Public Safety Antenna or use of the Property for any essential municipal services.

9. INDEMNIFICATION.

(a) Tenant agrees to indemnify, defend and hold Landlord 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 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, or agents.

(b) Landlord agrees to indemnify, defend and hold Tenant 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 actions or failure to act of Landlord, its employees or agents, or Landlord's 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 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) Tenant and Landlord 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) 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) as long as Tenant is not in default then Landlord grants to Tenant sole, actual, quiet and peaceful use,

enjoyment and possession of the Premises without hindrance or ejection by any persons lawfully claiming under Landlord; (iv) 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, upon Tenant's request, Landlord will provide to Tenant a subordination agreement executed by Landlord and the holder of such security interest.

11. ENVIRONMENTAL.

(a) Landlord represents and warrants that, to the best of its knowledge, except as may be identified in **Exhibit 11** attached to this Agreement, (i) the Property, as of the date of this Agreement, is free of hazardous substances, including asbestos-containing materials and lead paint, or such hazardous substances have been properly remediated in accordance with applicable regulations and law. Landlord has not tested or otherwise verified that the Property, as of the date of this Agreement, is free of any such substances. 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 either pursuant to this Agreement or in, on or about the Property or Premises.

(b) Landlord 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, 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 of this Agreement or from such contamination caused by the acts or omissions of Landlord during the Term or its breach of its obligations or representations under this Section 11. 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 arising from its breach of its obligations or representations under this Section 11.

(c) The indemnifications of 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 third party, Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon forty five (45) days prior written notice to Landlord and subject to Sections 13 and 15(b) of this Agreement.

12. ACCESS. At all times throughout the Term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, 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. Upon Tenant's request, 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. 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, and such failure is within Landlord's control, such failure shall be a default under this Agreement.

13. REMOVAL/RESTORATION. At the end of the Initial and Extension terms or upon Termination pursuant to Section 6, Landlord may opt to retain, at no cost to Landlord, the support structure and the Public Safety Antenna upon reasonable prior written notice to Tenant provided at least one hundred and eighty (180) days prior to the expiration of the term. All other portions of the Communication Facility 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 except for Landlord's retention option delineated above in this Paragraph 13. Tenant will repair any damage to the Property resulting from Tenant's removal activities at Tenant's sole cost and expense.

14. MAINTENANCE/UTILITIES.

(a) Tenant has exclusive control of and will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Tenant shall be solely responsible for the reasonable out of pocket cost of repairs to the Premises including, but not limited to, ensuring adequate fire suppression equipment, climate control, security, and all other access and operational issues, except for any such damage caused by the negligence or willful misconduct of Landlord or its employees, contractors or agents. Landlord will maintain and repair the Property and Access thereto, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements.

(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 submeter from Landlord. 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 Communication Facility experiences an interruption in electrical service 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. (c) Landlord hereby grants to any company providing utility or similar services, including electric power and telecommunications, to Tenant an access license 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 utility 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.

(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 thirty (30) 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. If Tenant remains in default beyond any applicable cure period, 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 of this Agreement within five (5) days after written notice of such failure to the extent the failure to provide Access is within Landlord's control; (ii) Landlord's failure to cure an interference problem as required by Section 8 of this Agreement within five (5) days 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 any and all 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, upon receipt of Landlord’s written consent and provided that the assignee or sublessee assumes, recognizes and also agrees to become responsible to Landlord for the performance of all terms and conditions of this Agreement to the extent of such assignment or sublease. Upon consent of Landlord to Tenant assignment, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such assignment.

17. NOTICES. 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 as follows:

If to Tenant:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: ME5371; Cell Site Name: Falmouth Town Hall (ME)
Re: Fixed Asset No.: 12934659
575 Morosgo Drive NE
13-F West Tower
Atlanta, GA 30324

With a copy to:

New Cingular Wireless PCS, LLC
Attn.: Legal Department
Re: Cell Site #: ME5371; Cell Site Name: Falmouth Town Hall (ME)
Re: Fixed Asset No.: 12934659
208 Akard Street
Dallas, TX 75202-4206

The copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

If to Landlord:

Town of Falmouth
271 Falmouth Road
Falmouth, ME 04105

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.

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 forty-eight (48) 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 prorata basis.

19. CASUALTY. CASUALTY PROVISIONS NOT AGREED UPON

Landlord will provide notice to Tenant of any casualty affecting the Premises within forty-eight (48) hours of the casualty. If any part of the Communication Facility or Premises is damaged by casualty so as to render the Premises inoperable, in Tenant's reasonable determination, then Tenant may terminate this Agreement by providing written notice to Landlord. Tenant's termination right hereunder remains subject to Landlord's retention option in Paragraph 13 and to Landlord's right to cure in Paragraph 15(b). Landlord and Tenant will reasonably cooperate with regard to filing of insurance claims on account thereof. Landlord agrees to reasonably cooperate with Tenant to facilitate the placement of temporary transmission and reception facilities on the Property for a period of up to six (6) months, but only until such time as Tenant is able to activate a replacement transmission facility and so long as the temporary transmission and reception facilities are located in compliance with all applicable law, rules, ordinance, regulations and the like and do not unreasonably impact Landlord's use of the Property; notwithstanding the termination of the Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. If Landlord determines not to rebuild or restore the Property, Landlord will notify Tenant of such determination within thirty (30) days after the casualty. Landlord agrees that the Rent shall be abated if the Premises are inoperable for a period exceeding five (5) days due to casualty impacts which are not Tenant's responsibility pursuant to this Agreement until the Premises are rebuilt or restored. Tenant placement of temporary transmission and reception facilities on the Property constitutes rebuilding or restoration of the Premises.

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. This Paragraph 20 does not impact Landlord's retention option as set forth herein in Paragraph 13.21.

21. TAXES.

(a) Landlord shall be responsible for timely payment of all taxes and assessments levied upon the lands, improvements and other property of Landlord. Tenant shall be responsible for any taxes and assessments attributable to and levied upon Tenant's leasehold improvements on the Premises. 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 with regard to Rent.

(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.

(c) 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 Tenant may deem appropriate. Landlord shall reasonably cooperate with respect to the commencement and prosecution of any such proceedings and will execute any documents reasonably 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.

(d) Any tax-related notices shall be sent to Tenant in the manner set forth in Section 17 and, in addition, a copy of any such notices shall be sent to the following address. Promptly after the Effective Date of this Agreement, Tenant shall provide the following address to the taxing authority for the authority's use in the event the authority needs to communicate with Tenant.

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: ME5371; Cell Site Name: Falmouth Town Hall (ME)
Re: Fixed Asset No.: 12934659
575 Morosgo Drive NE

13-F West Tower
Atlanta, GA 30324

22. SALE OF PROPERTY.

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

(b) In the event of a change in ownership, transfer or sale of the Property, Landlord or its successor shall send the documents listed below to Tenant.

- i. Full contact information for new owner including phone number(s)
- ii. Completed and Signed AT&T Payment Direction Form for new owner; and
- iii. New IRS Form W-9 for new owner

(c) Landlord agrees not to sell, lease or use any areas of the Property for the installation, operation or maintenance of other wireless communications facilities (except the Public Safety Antenna or other public safety or municipally necessary equipment or operations) 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. 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 for purposes of any installation, operation or maintenance of any other wireless communications facility or equipment except for municipal purposes.

(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.

23. RENTAL STREAM OFFER. If at any time after the date of this Agreement, Landlord receives a bona fide written offer from a third party seeking an assignment or transfer of the 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 twenty (20) 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 twenty (20) day period, Landlord may assign the right to receive 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. 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.

24. REVENUE SHARE. In the event Tenant sublets or licenses space on the Communication Facility to a third party collocator ("**Collocator**"), Tenant shall remit thirty percent (30%) of the rent or license fees collected by Tenant from such Collocator (the "**Collocator Rent**") to Landlord (the "**Landlord's Revenue Share**"). The Collocator Rent shall be negotiated by and between Tenant and Collocator, on terms acceptable to Tenant, in Tenant's sole discretion. In calculating the amount of Landlord's Revenue Share, Collocator Rent shall not include (i) any payment received by Tenant under the applicable sublease or license for reimbursement of operating expenses or construction costs relating to the Communication Facility paid by Tenant or (ii) any other payment other than regular recurring rent or license fees. Landlord acknowledges and agrees that Landlord's Revenue share may or may not be paid directly by any Collocator to Landlord. In the event that Landlord's Revenue Share is paid by said Collocator and passed through as a cost to Collocator, the same shall not be subject to further revenue sharing or mark-up payable to Landlord. In the event Tenant sublets to more than one Collocator, Tenant shall be obligated to pay the Landlord's Revenue Share for each Collocator. Tenant's obligation to pay Landlord's Revenue Share to Landlord shall expire or abate, as applicable, at such time as the Collocator does not pay Collocator Rent to Tenant, and shall resume, as applicable, if and when the Collocator resumes paying such recurring Collocator Rent and the Landlord's Revenue Share shall be prorated for partial periods.

25. LEGAL AND ENGINEERING FEES. Tenant agrees to pay Landlord's out of pocket legal fees for the review of this Agreement and for engineering or other consultant review of Tenant's Plans in an aggregate amount not to exceed Ten Thousand and No/100 Dollars (\$10,000.00) within forty-five (45) days after receipt of invoices and documentation evidencing legal, engineering and other consultant fees incurred.

26. PUBLIC SAFETY ANTENNA FEES. Tenant agrees to pay Landlord's out of pocket fees for the purchase and installation of a Public Safety Antenna in an aggregate amount not to exceed Thirty-one Thousand Three Hundred Ninety-five and 12/100 Dollars (\$31,395.12) within forty-five (45) days after receipt of invoices and documentation evidencing those out of pocket expenses.

27. 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) **Memorandum/Short Form Lease.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum or Short Form of Lease substantially in the form attached as **Exhibit 24b**. Either party may record this Memorandum or Short Form of Lease at any time during the Term, in its absolute discretion. Thereafter during the Term of this Agreement, 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 or Short Form of Lease.

(c) **Limitation of Liability.** 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. 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) **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) **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.

(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 without limitation, 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. 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) **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.

[SIGNATURES APPEAR ON NEXT PAGE]

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

"LANDLORD"

Town of Falmouth

By: _____

Print Name: _____

Its: _____

Date: _____

"TENANT"

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

By: AT&T Mobility Corporation

Its: Manager

By: _____

Print Name: _____

Its: _____

Date: _____

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

DRAFT

TENANT ACKNOWLEDGMENT

State of Massachusetts

County of Middlesex

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ (date) by _____ (name of officer, manager or agent, title of officer, manager or agent) of AT&T Mobility Corporation, manager of New Cingular Wireless PCS, LLC, a Delaware limited liability company, on behalf of the limited liability company.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

LANDLORD ACKNOWLEDGMENT

State of Maine

County of Cumberland

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ (date) by _____ (name and title of position).

(Signature of person taking acknowledgment)

Town Manager

(Title or rank)

EXHIBIT 1

DESCRIPTION OF PREMISES

Page ____ of ____

to the Land Lease Agreement dated _____, 2014, by and between the Town of Falmouth, a Municipality, 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:

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 GOVERNMENTAL AUTHORITIES.
3. WIDTH OF ACCESS ROAD SHALL BE THE WIDTH REQUIRED BY THE APPLICABLE GOVERNMENTAL 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 12

STANDARD ACCESS LETTER

[FOLLOWS ON NEXT PAGE]

[Landlord Letterhead]

DATE

Building Staff / Security Staff
Landlord, Lessee, Licensee
Street Address
City, State, Zip

Re: Authorized Access granted to AT&T

Dear Building and Security Staff,

Please be advised that we have signed a lease with AT&T permitting AT&T to install, operate and maintain telecommunications equipment at the property. The terms of the lease grant AT&T 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, AT&T representatives may be seeking access to the property outside of normal business hours. AT&T 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 the leased area. Thank you for your assistance.

Landlord Signature

EXHIBIT 24b

MEMORANDUM OF LEASE

[FOLLOWS ON NEXT PAGE]

MEMORANDUM OF LEASE

Prepared by:

Kristen LeDuc
NB&C
153 Northboro Road, Suite 19
Southborough, MA 01772

Return to:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
575 Morosgo Drive
13-F West Tower
Atlanta, GA 30324

Re: Cell Site #: ME5371; Cell Site Name: Falmouth Town Hall
Fixed Asset Number: 12934659
State: Maine
County: Cumberland

This Memorandum of Lease is entered into on this ____ day of _____, 2014, by and between Town of Falmouth, a Municipality, having a mailing address of 271 Falmouth Road, Falmouth ME 04105 (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive, 13-F West Tower, Atlanta, GA 30324 (hereinafter referred to as "**Tenant**").

1. Landlord and Tenant entered into a certain Land Lease Agreement ("**Agreement**") on the ____ day of _____, 2014, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing is set forth in the Agreement.
2. The initial lease term will be five (5) years commencing on the Effective Date of the Agreement, with four (4) successive 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. 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"
Town of Falmouth

By: _____
Print Name: Nathan Poore
Its: Town Manager
Date: _____

"TENANT"

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

By: AT&T Mobility Corporation
Its: Manager

By: _____
Print Name: Kevin Mason
Its: Manager
Date: _____

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

TENANT ACKNOWLEDGMENT

State of Massachusetts

County of Middlesex

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ (date) by _____ (name of officer, manager or agent, title of officer, manager or agent) of AT&T Mobility Corporation, manager of New Cingular Wireless PCS, LLC, a Delaware limited liability company, on behalf of the limited liability company.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

LANDLORD ACKNOWLEDGMENT

State of Maine

County of Cumberland

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ (date) by Nathan Poore, Town Manager for the Town of Falmouth, Maine.

Nathan Poore

Town Manager, Town of Falmouth, Maine

EXHIBIT 1

DESCRIPTION OF PREMISES

Page ____ of ____

to the Memorandum of Lease dated _____, 20____, by and between _____, a _____, 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:

W-9 FORM

[FOLLOWS ON NEXT PAGE]

Request for Taxpayer Identification Number and Certification

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

Name (as shown on your income tax return)

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:

Individual/sole proprietor C Corporation S Corporation Partnership Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶

Other (see instructions) ▶

Exempt payee

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

City, state, and ZIP code

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 the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

| | | | | | | | | |
|------------------------|--|--|--|---|--|--|--|--|
| Social security number | | | | | | | | |
| | | | | - | | | | |

| | | | | | | | | |
|--------------------------------|--|---|--|--|--|--|--|--|
| 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).

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 on page 4.

| | | |
|------------------|----------------------------|--------|
| Sign Here | Signature of U.S. person ▶ | Date ▶ |
|------------------|----------------------------|--------|

General Instructions

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

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

