

Cell Site No.: 58228
Cell Site Name: CLE098A/Fire Station 3
Fixed Asset No.: 10069901
Market: OH / PA
Address: 6655 Ridge Road

FIRST AMENDMENT TO LICENSE AGREEMENT

THIS FIRST AMENDMENT TO LICENSE AGREEMENT ("First Amendment") dated as of the later date below is by and between City of Parma, an Ohio municipal corporation, having a mailing address at 6611 Ridge Road, Parma, OH 44129 (hereinafter referred to as "Licensor") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, successor by merger to AT&T Wireless PCS, Inc., by and through its agent Wireless PCS, Inc., a Delaware corporation, dba AT&T Wireless Services, having a mailing address at 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "Licensee").

WHEREAS, Licensor and Licensee (or their predecessors in interest) entered into a License Agreement dated July 30, 1997 (hereinafter, the "Agreement"), whereby Licensor leased to Licensee certain Premises, therein described, that are a portion of the Property located at 6655 Ridge Road, Cleveland, OH 44129; and

WHEREAS, Licensor and Licensee desire to extend the term of the Agreement; and

WHEREAS, Licensor and Licensee desire to modify, as set forth herein, the License Fee (as defined below) payable under the Agreement; and

WHEREAS, Licensor and Licensee desire to modify, as set forth herein, the Licensee's obligations to pay License Fee to Licensor for a License Fee Guarantee Period (as defined below); and

WHEREAS, Licensor and Licensee desire to amend the Agreement to clarify the scope of Licensee's permitted use of the Premises; and

WHEREAS, Licensor and Licensee desire to amend the Agreement to provide Licensee the right to enlarge the Premises; and

WHEREAS, Licensor and Licensee, in their mutual interest, further wish to amend the Agreement 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, Licensor and Licensee agree as follows:

1. **Term.** The term of the Agreement shall be amended to provide that the Agreement has a new initial term of sixty (60) months ("New Initial Term"), commencing on September 1, 2012 ("New Term Commencement Date"). As of such New Term Commencement Date, all remaining renewal terms in the Agreement except as set forth herein shall be void and of no further force and consequence. The Agreement will be automatically renewed for up to five (5) additional sixty (60) month terms (each an "Extension Term") upon the same terms and conditions of the Agreement, as amended herein, without further action by Licensee, unless Licensee notifies Licensor in writing of Licensee's intention not to renew the Agreement at least sixty (60) days prior to the expiration of the then current Extension Term. Hereafter, the defined term "Term" shall include the New Initial Term and any applicable Extension Term. Licensor agrees and acknowledges that except that as such permitted use or other rights may be amended herein, Licensee may continue to use and exercise its rights under the Agreement as permitted prior to the New Initial Term.

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2. **Modification of License Fee.** Commencing on September 1, 2012, the license fee payable under the Agreement shall be One Thousand Five Hundred Fifty and No/100 Dollars (\$1,550.00) per month (the "License Fee"), and shall continue during the Term, subject to adjustment, if any, as provided below.

3. **Modification of Licensee's Obligation to Pay – License Fee Guarantee.** Notwithstanding Licensee's obligations to pay License Fee set forth under the Agreement, for a sixty (60) month period commencing September 1, 2012, and ending August 31, 2017 ("License Fee Guarantee Period"), Licensee's obligation to pay License Fee is guaranteed and such obligation will not be subject to offset or cancellation by Licensee, except as due to loss from casualty or condemnation. Notwithstanding the foregoing, if Licensor exercises any of Licensor's rights to terminate the Agreement, if any, Licensee will be released from any and all of its obligations to pay License Fee during the License Fee Guarantee Period as of the effective date of the termination. In addition, Licensee shall be released from any and all of its obligations to pay License Fee during the License Fee Guarantee Period if any of the following shall occur: (a) Licensor is in breach of the Agreement, including but not limited to any default under the terms of the Agreement beyond any applicable grace and cure period; (b) there is a foreclosure of the Property; (c) the Licensor shall require Licensee to relocate Licensee's equipment and facilities to a location that is not acceptable to Licensee in its reasonable business judgment if allowed for in the Agreement; (d) any existing government permits and/or approvals cannot be obtained or maintained, at no fault of the Licensee; or (e) Licensee terminates the Agreement pursuant to the terms of the Expansion of Permitted Use section as modified below. If the Agreement is further modified in the future with an obligation for Licensee to pay additional License Fee, the payment of License Fee guarantee established in this paragraph will not be diminished or limited, but such License Fee guarantee will not extend to that future additional License Fee obligation.

4. **Future License Fee Increase / Extension Term Increase.** The Agreement is amended to provide that commencing on September 1, 2017, License Fee shall increase by eight percent (8%) and at the beginning of each Extension Term, as applicable.

5. **Expansion of Permitted Use.** The permitted use as delineated definition of "Permitted Use" contained in paragraph 1 of the Agreement is hereby deleted in its entirety and replaced with the following;

Licensee, may use the Premises for the transmission and reception of any and all communications signals and may, at no additional cost or expense, modify, supplement, replace, upgrade, expand or refurbish the equipment and/or improvements thereon, including but not limited to the number and type(s) of antennas (collectively, "Communications Facility"), or relocate the same within the Premises at any time during the term of the Agreement for any reason. Licensor shall reasonably cooperate in obtaining governmental and other use permits or approvals necessary or desirable for the foregoing permitted use. If Licensor does not comply with the terms of this section, in addition to any other rights it may have at law and equity, Licensee may terminate the Agreement upon written notice to Licensor and Licensee shall have no further liability to Licensor. The additional License Fee due to Licensor pursuant to the last sentence of Section 3 of the Agreement shall not be affected by this paragraph.

6. **Expansion of the Premises.** Licensor grants, to the extent practicable and on a space available basis, at no additional cost or expense, the Licensee the right to enlarge the Premises or the Licensor shall make space available on the Property for Licensee so that Licensee or its authorized sublicensees may implement any

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necessary modifications, supplements, replacements, refurbishments, or expansions to the Communications Facility or to any equipment related thereto, or for any other reasons, as determined by Licensee in its sole discretion.

7. **Acknowledgement.** Licensor acknowledges that: 1) this First Amendment is entered into of the Licensor's free will and volition; 2) Licensor has read and understands this First Amendment and the underlying Agreement and, prior to execution of this First Amendment, was free to consult with counsel of its choosing regarding Licensor's decision to enter into this First Amendment and to have counsel review the terms and conditions of this First Amendment; 3) Licensor has been advised and is informed that should Licensor not enter into this First Amendment, the underlying Agreement between Licensor and Licensee, including any termination or non-renewal provision therein, would remain in full force and effect.

8. **Notices.** Paragraph 10 of the Agreement 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:

If to Licensee:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site # 58228
Cell Site Name CLE098A/Fire Station 3 (OH); Fixed Asset No.: 10069901
12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

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

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Re: Cell Site # 58228
Cell Site Name CLE098A/Fire Station 3 (OH); Fixed Asset No: 10069901
15 East Midland Avenue
Paramus, NJ 07652

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

And as to Licensor:

City of Parma
6611 Ridge Road

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Parma, OH 44129

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."

9. **Sale of Property / Rental Stream Offer.** The parties hereby agree that the Agreement shall be amended to include the following provisions:

a.

Sale of Property. If Licensor, at any time during the Term of the Agreement, decides to sell, subdivide or rezone any of the Premises (or any interest therein), all or any part of the Property or Surrounding Property (or any interest therein), to a purchaser other than Licensee, and Licensor receives a bona fide written offer from a third party or proposes an offer to a third party or receives a modified written offer from a third party, Licensor shall immediately furnish Licensee with a copy of such offer. Licensee shall have the right within ninety (90) days after it receives such offer to agree in writing to match the terms and conditions of the same ("**Sale of Property Offer**"). Such writing shall be in the form of a contract substantially similar to the offer received or offered by Licensor. If Licensee chooses not to exercise this right of first refusal or fails to provide written notice to Licensor within the ninety (90) day period, Licensor may sell the property pursuant to the Sale of Property Offer received or proffered by it. Licensor acknowledges and agrees that such sale, subdivision or rezoning shall be made subject to this Agreement and Licensee's rights hereunder. Licensor agrees that it shall promptly notify Licensee in writing of such sale, subdivision or rezoning. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Licensor or its successor shall send the documents listed below in this subsection (b) to Licensee. Until Licensee receives all such documents, Licensee shall not be responsible for any failure to make payments under the Agreement and reserves the right to hold payments due under the Agreement.

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

- b. Rental Stream Offer. If at any time after the date of this First Amendment, Licensor receives a bona fide written offer from a third party or receives a modified bona fide written offer from a third party seeking an assignment or transfer of the Rent payments associated with this Agreement ("**Rental Stream Offer**"), Licensor shall immediately furnish Licensee with a copy of the Rental Stream Offer. Licensee shall have the right within ninety (90) 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 Licensee chooses not to exercise this right of first refusal or fails to provide written notice to Licensor within the ninety (90) day period, Licensor may assign the right to receive Rent payments pursuant to the Rental Stream Offer, subject to the terms of the Agreement. If Licensor attempts to assign or transfer rent payments without complying with this Paragraph, the assignment or transfer shall be void, Licensee shall not be responsible for any

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failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement until Licensor complies with this Paragraph.

- c. During the term of the Agreement, any sale or transfer of the Property, by operation of law or otherwise, will be subject to the Agreement and Licensee's rights thereunder. Any sale or transfer of real property which is now or may in the future be subdivided or otherwise separate from the Property and over which Licensee has the right of access or utility connections to the Premises will be subject to such rights. Licensor will notify Licensee of any sale or transfer, and will cause the transferee to execute any document(s) reasonably required by Licensee to memorialize Licensee's rights under the Agreement, and to ensure proper notice and payment of rent to such transferee.

10. Sections 12 and 13 of the Agreement are hereby deleted in their entirety.

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

12. **Memorandum of Agreement.** Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Agreement substantially in the form of the Attachment 1. Either party may record this memorandum at any time, in its absolute discretion.

13. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this First Amendment, the terms of this First Amendment shall control. Except as expressly set forth in this First Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this First Amendment.

14. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

[NO MORE TEXT ON THIS PAGE - SIGNATURES TO FOLLOW ON NEXT PAGE]

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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.

LICENSOR:
City of Parma,
an Ohio municipal corporation

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

By: AT&T Mobility Corporation
Its: Manager

By: _____
Tim DeGeeter, Mayor

By: _____

Print Name: _____

Date: _____

Title: _____

By: _____
Brian Higgins, Service Director

Date: _____

Date: _____

Witnesses:

Witnesses:

Sign: _____

Sign: _____

Name: _____

Name: _____

Sign: _____

Sign: _____

Name: _____

Name: _____

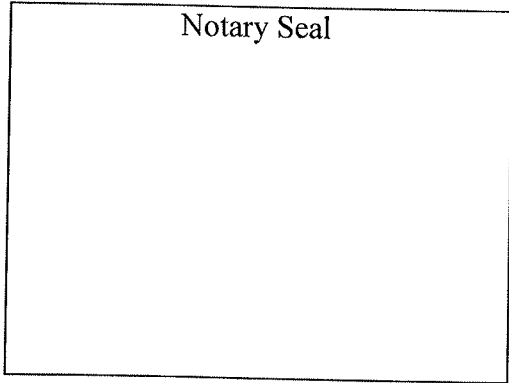
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LICENSOR ACKNOWLEDGEMENT

STATE OF _____)
) SS.
 COUNTY OF _____)

I certify that I know or have satisfactory evidence that **Tim DeGeeter** is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the **Mayor of City of Parma**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____.



 (Signature of Notary)

 (Legibly Print or Stamp Name of Notary)
 Notary Public in and for the State of

 My appointment expires: _____

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Attachment 1

Memorandum of Agreement