

## SITE LEASE AGREEMENT

This SITE LEASE AGREEMENT (the "Lease") is made as of this \_\_\_\_ day of \_\_\_\_\_ 2017 by and between the TOWN OF NEW FAIRFIELD ("Landlord"), a Connecticut Municipality, having its principal place of business at 4 Brush Hill Road, New Fairfield, CT, and T-MOBILE NORTHEAST LLC, a Delaware Limited Liability Company, with a mailing address of 4 Sylvan Way, Parsippany, NJ ("Tenant"). The Landlord and Tenant are at times collectively referred to herein as the "Parties" or individually as a "Party".

### 1. Leased Premises and Property

(a) **Landlord's Property.** Landlord is the owner of a certain piece or parcel of property situated in the Town of Patterson, County of Putnam, and State of New York known as 212 Tower Road (also known as 212 Tower Hill Road), as more particularly described in Exhibit A (the "Property"). The Property includes a two story building ("Building") and multi-user Tower affixed to the Building that has been designated for telecommunications use (the "Tower"). The Building, Tower and Property are described and shown on Exhibit B.

### (b) Leased Premises.

(1) Upon the signing of this Lease by all Parties (the "Effective Date"), Landlord hereby leases to Tenant a portion of the Property consisting of (i) approximately 62 square feet of equipment room space within the Building for the installation, operation, maintenance, removal, or replacement of Tenant's Facilities, and related activities, as defined below and, as approximately shown on Exhibit B (the "Equipment Room Space"), and (ii) subject to Paragraph 1(b)(2) below, space on the Tower for the installation, operation, and maintenance of antennas as more particularly shown on Exhibit B (the "Tower Space"). Tenant's location on the Tower shall be shown on Exhibit B. The Equipment Room Space and Tower Space are collectively referred to herein as the "Premises." The Premises are leased to Tenant together with (i) the nonexclusive right over the accessway; and (ii) subject to the provisions of Paragraph 7(a) below, the right to erect, install, maintain, repair, remove, replace, and operate on the Premises radio communications equipment as shown on Exhibit B, including utility lines, transmission lines, electronic equipment, radio transmitting and receiving antennas and supporting equipment, and other associated equipment (collectively "Tenant's Facilities"). Without the payment of additional rent, Landlord agrees that Tenant will be permitted to install the following as part of Tenant's Facilities on the Premises: A location-based system as shown on Exhibit B on the Premises, as may be required by any county, state, or federal agency / department to comply with the Enhanced 911 requirements (E911) subject to (i) to the Interference provisions herein, and (ii) to Landlord's consent which shall not be unreasonably withheld, conditioned, or delayed, if Tenant desires or is required to install such system on the Tower Space.

(2) The Parties acknowledge and agree that structural upgrades and modifications must be performed to the Tower in order to accommodate Tenant's initial installation of its communications facility at the proposed Tower Space ("Initial Build Out"). Tenant shall have the right to perform such modifications on the following conditions:

(a) Tenant shall, at its sole cost and expense, perform the following consistent with all federal, state and local requirements for the benefit of Landlord as more particularly



described on Exhibit B: (i) remove and properly dispose of the existing top twenty (20) foot guyed section of the Tower and replace with a new (of new materials) twenty (20) foot section of Tower, sufficient to accommodate Tenant's proposed installation at  $100' \pm$  AGL and one additional wireless carrier's installation (based on the same/equivalent equipment load as Tenant's proposed installation) at the  $90' \pm$  AGL (Wireless Tenant #1); (ii) provide all other structural upgrades, reinforcement and addition of steel diagonals and supporting infrastructure to the remainder of the Tower to ensure the structural integrity and compliance with all requirements, taking into consideration the proposed wireless carrier installation to be situated at  $65' \pm$  AGL (Wireless Tenant #2) and current tenants on the Tower ("Other Tenants") as shown on Exhibit B ((i) and (ii) collectively, the "Tower Improvements"). The Tower Improvements, which include the proposed loading for Tenant, Wireless Tenant #1, and Wireless #2, are properly conveyed in Exhibit D, the "Structural Analysis and Tower Modification Drawings". Tenant is not responsible for any deviation of this from Other Tenants, Wireless Tenant #1, or Wireless Tenant #2 that could result in a failure of any future structural analysis; (iii) coordinate the aforementioned activities with the Landlord and Landlord's Other Tenants or occupants, including any repairs caused by Tenant's activities; and (iv) subject to Paragraph 1(b)(2)(b) below, upon completion of the Tower Improvements, provide a bill of sale and convey to Landlord the Tenant's Improvements with all manufacturer warranties and a two year warranty from the Acceptance Date on any work or labor performed on the Tenant Improvements.

(b) Upon completion of the Tower Improvements, Landlord shall have the right, but not the obligation, to inspect the Tower Improvements, and accept or reject such Tower Improvements to its reasonable satisfaction. If Landlord rejects the Tower Improvements, Landlord shall state the basis for the rejection and submit the same to Tenant. Tenant shall promptly, and not later than fourteen (14) days after receipt of Landlord's notice, and at no cost to Landlord, commence to remedy the defect or failure. Upon Tenant's completion of the remediation of the defect or failure, Tenant shall submit written notice to the Landlord. The foregoing procedure shall apply again and successively thereafter until Tenant has remedied the defect or failure and Landlord signs off on the acceptance, the date upon which will be deemed the "Acceptance Date." Upon the Acceptance Date, the Tower Improvements (less the Tenant's wireless communications equipment) shall automatically become a part of the Tower owned by Landlord. Landlord and Tenant further agree to promptly resolve any dispute that may arise between the Parties over the Construction Drawings or construction of the Tower Improvements made by Tenant to the Tower before or after Tenant has installed its equipment on the Tower. Any improvements made by Tenant or on Tenant's behalf shall be borne solely by Tenant and Landlord shall have no obligation to pay, reimburse, credit, set-off or otherwise contribute any amounts under this Agreement to Tenant for any such improvements.

(c) Each Party agrees to execute any documents, including a bill of sale, reasonably requested by the other Party to accomplish or confirm the foregoing assignment of such ownership and warranties.

(d) Notwithstanding anything to the contrary herein, Tenant acknowledges and agrees that Wireless Tenant #2 is planning to install its wireless communications equipment on the Tower and nothing that Tenant is proposing or that Tenant will do in regard to the Tower Improvements will interfere with or preclude Wireless Tenant #2 from installing, operating

and/or maintaining its equipment at its intended location on the Tower; (ii) Tenant will not interfere with the Other Tenants on the Tower; and (iii) Tenant will ensure that upon completion of the work and Tower Improvements, the Tower will not fail a structural to accommodate Wireless Tenant #1 based on the equivalent equipment as provided in Exhibit D. Tenant shall remediate and resolve any structural deficiencies during the first twenty-four (24) months following the Tower Improvement Acceptance Date for any structural deficiencies or inability to locate Wireless Tenant #1 on the Tower or any noncompliance with the Structural Analysis and Tower Modification Drawings to Wireless Tenant #2 or the other tenants on the Tower as of the Effective Date of this Lease.

2. **Governmental Approvals.** During the term of this Lease, Landlord agrees to cooperate with Tenant in obtaining at Tenant's expense all certificates, licenses, permits, approvals, or authorizations required for Tenant's use of the Premises for all applicable governmental and/or regulatory authorities. Such cooperation shall include, but not be limited to, appoint Tenant as agent for all land use, planning, zoning and wetlands applications; Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, zoning approvals, variances, other land use permits and such other governmental approvals and permits as are required for Tenant's use under this Lease. In no case shall Landlord and Tenant be considered joint venturers.

3. **Initial Lease Term**

- (a) **Initial Term.** The initial term of this Lease (the "Initial Term") shall be for a period of five (5) years commencing on the earlier of (i) the first (1<sup>st</sup>) day of the month after the date of issuance of all permits required for the installation of Tenant's equipment and its use of the Premises for Tenant's Facilities; or (ii) the first (1<sup>st</sup>) day of the month in which Tenant commences construction or installation of Tenant's equipment at the Premises, but in no event later than six (6) months from the execution of this lease, or such other date as may be mutually agreeable in writing (the "Commencement Date"); provided, however, notwithstanding anything contained herein to the contrary the Commencement Date is subject to events of force majeure in which case the Commencement Date shall be extended for the time period of the delay due to the force majeure event but not more than eight (8) months from the execution of the Lease by all Parties.
- (b) **Extension Term.** Providing Tenant is not in default under this Lease beyond the expiration of applicable notice and cure periods, Tenant shall have the option to extend the Initial Term of this Lease for three (3) additional five (5) year terms (each, an "Extension Term"). Tenant shall be deemed to have elected to exercise each such option to extend unless it shall notify Landlord of its intention not to exercise an option to extend at least six (6) months prior to the expiration of the then current term.

4. **Rent**

- (a) Commencing on the Commencement Date, and during the first (1<sup>st</sup>) year of the Initial Term, Tenant will pay Landlord an annual rent (the "Rent") of Thirty One Thousand Eight Hundred and 00/100 Dollars (\$31,800.00), to be paid in equal monthly installments of Two Thousand Six Hundred and Fifty Dollars (\$2,650.00). Rent for each succeeding year of the Initial Term and each year of each Extension Term shall be equal to One Hundred Two and Seventy Five One



Hundredths percent (102.75%) of the Rent payable for the immediately preceding lease year. Rent for any partial calendar month will be prorated.

- (b) The first monthly installment of Rent shall be due and payable within fifteen (15) days following the Commencement Date. All other installments of Rent shall be due and payable on or before the fifth (5<sup>th</sup>) day of each month, in advance. Rent shall be payable to Landlord at 4 Brush Hill Road, New Fairfield, Connecticut 06812 or to such other person, firm or place as Landlord may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date. If Tenant fails to pay the monthly installment within said fifteen (15) day period for the first monthly installment or five (5) day period for any subsequent monthly payment, Tenant shall pay a late fee of five (5%) percent of the installment amount.
  - (c) An additional payment of Five Thousand Three Hundred and 00/100 Dollars (\$5,300.00) shall be paid on the Commencement Date. Said additional payment being a one-time "facilities charge" for the infrastructure available for use at the Premises.
  - (d) All amounts of any nature owing to Landlord by Tenant under this Lease shall be deemed rent or additional rent.
5. Compliance with Laws and Approvals. All operations by Tenant and Tenant's use of the Premises shall be in compliance with all applicable Federal Communications Commissions ("FCC") requirements, including, but not limited to, emission purity, frequency tolerance, power output, and radio frequency exposure standard. Further, subject to Paragraph 17, Tenant shall comply with all other applicable laws, licenses, permits, and governmental approvals including, without limitation, zoning and land use authorities, specific to Tenant's particular use of the Premises.
6. Interference. In the event Tenant's transmissions and equipment create interference with any present or future operations of the Landlord or to any other tenant utilizing the Tower prior to the Tenant's use, Tenant agrees, upon notification of such interference to promptly remedy same at its sole cost and expense, and, if necessary, to immediately cease operations (except for tests) until such remedy is accomplished. The Tenant, at its own cost and expense, will install any filters, isolation traps, or other necessary equipment to correct and eliminate such interference. In the event Tenant is unable to cure its interference within twenty-four (24) hours of receipt of written notice by Landlord, Tenant agrees to turn off the interfering equipment. The Parties agree that except for intermittent testing, Tenant shall not be permitted to turn on the interfering equipment until the interference has been cured. Notwithstanding the foregoing, if Tenant does not turn off the interfering equipment, such interference will be deemed a material breach of this Lease, and Landlord will have the non-exclusive remedy of terminating the Lease. The Landlord agrees to protect Tenant's operations from interference by other subsequent tenant's equipment, or from modifications of existing tenant's equipment by requirement of the same or substantially similar language contained in this Paragraph to be included in all Lease or license agreements executed on or after the Effective Date which permit use of the Premises.
7. Tenant's Improvements.
- (a) **Installation.** (1) In connection with the initial build out, maintenance, and operation of the Tenant's Facilities on the Premises, Tenant has the right to do all work necessary to prepare,

maintain, and alter the Premises for Tenant's business operations and to install transmission lines connecting the antennas to the transmitters and receivers as set forth on approved plans and specifications (the Parties acknowledge that the drawings attached hereto as Exhibit B are for general descriptions of the Tenant's Facilities, identification of Premises, and schedule of equipment authorized to be installed on the Property). Tenant will provide detailed plans and specifications in the form of architectural and engineering drawings prepared and stamped/signed by a professional engineer licensed in the State of New York ("Construction Drawings") that, once approved as set forth under Paragraph 7(a)(2) below, will be added to this Lease as Exhibit C and, will control, if there is a conflict with Exhibit B.).

(2) Tenant shall submit copies of the site plan (commonly known as "permitting drawings") and Construction Drawings to the Landlord for prior approval, which approval will not be unreasonably withheld, conditioned, delayed, or denied. Landlord shall give such approval or provide Tenant with its reasonable requests for changes within thirty (30) business days of Landlord's receipt of Tenant's plans. If Landlord does not provide such approval or request for changes within such thirty (30) business day period, Landlord shall be deemed to have approved the plans. Landlord shall not be entitled to receive any additional consideration in exchange for giving its approval of Tenant's initial build out plans. Notwithstanding such approval, Tenant will not cause or permit any further modification or alteration of the Tower beyond the initial build out (as approved in accordance with this Paragraph 7) without first obtaining, in each instance, Landlord's consent which shall not be unreasonably withheld, conditioned, delayed, or denied. Prior to performing any construction on the Tower, Tenant must submit the name of the proposed contractor or subcontractor ("Contractor"), for Landlord's review and approval, which shall not be unreasonably withheld, conditioned, delayed, or denied. The Contractor must be experienced in the communications industry, and in particular, experienced in communication tower construction and alterations. All of Tenant's construction and installation work shall be performed at Tenant's sole cost and expense and in good and workmanlike manner consistent with usual and customary industry standards. Before performing any replacements, modifications, upgrades, de-installation, or modification of equipment, antennas, or transmission lines located on the Tower, Tenant shall provide written notice to Landlord and obtain Landlord's prior approval, which shall be at Landlord's sole discretion. In the event such proposed changes involve changes to Tenants' Facilities on the Tower, Tenant shall also supply Landlord with a detailed structural analysis of such changes with its notice and request for Landlord approval. Landlord shall give such approval or provide Tenant with its reasonable requests for changes within thirty (30) business days of Landlord's receipt of Tenant's request for any replacements, upgrading or modification. If Landlord permits such modifications, replacements, or upgrades, such changes shall result in an increase (but not a decrease) of the Rent payable by Tenant hereunder, (which increase in Rent shall be reflective of the additional area or capacity of the Tower or Tenant's Facilities utilized by Tenant) and Rents shall be mutually agreed upon by the Parties based upon the greater of current market rate for Tenant's modified Tenant's Facility or an increased rent based upon the percentage increase in space and capacity over that existing to the modifications. Notwithstanding the foregoing to the contrary, Tenant may improve or enhance its equipment located in the Equipment Room Space with written notice, but without Landlord's consent, and at no additional Rent, provided that such enhancement does not (i) exceed the leased



Equipment Room Space, (ii) the enhanced equipment replaces the current equipment as a like-for-like exchange in term of fit, form (including size and weight) and function or (iii) impair or diminish the capacity of the Tower. At the request of either Party, Landlord and Tenant shall enter into an amendment of this Lease setting forth such additional Rent, Tenant's Facilities, Equipment Room Space, and Tower space.

(3) In the course of Tenant's initial build out, Landlord may request that Tenant cooperate with its tenants, and upon receipt of any such request from Landlord, Tenant agrees not to impact Landlord's or its tenants' operations. Tenant shall retain any contractor listed on Schedule 1 attached hereto and made apart hereof or another construction company approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed, to perform the work required by Tenant. Any improvements required, and made, by Tenant or its contractor or subcontractors shall be borne solely by Tenant and Landlord shall have no obligation to pay, reimburse, credit, set-off or otherwise contribute any amounts under this Agreement for any such work.

(4) Landlord's consent or lack of consent to the Construction Drawings, Tower improvements or any other plans or scopes of work submitted by Tenant shall not constitute in any way an endorsement as to the viability or structural soundness of such Tower Improvements, Construction Drawings, plans or scopes of work. Tenant shall provide Landlord with updated Construction Drawings ("As-builts") within forty-five (45) days following completion of the work.

- (b) **No Mechanic's Liens.** Tenant shall cause all construction to occur in compliance with all applicable laws and ordinances and shall, within thirty (30) days after written notice, discharge or bond off any mechanic's and material supplier liens filed or recorded.
- (c) **Ownership.** Subject to Paragraph 1 and 18, title to the Tenant's Facilities shall be held by Tenant. Subject to Paragraph 1 and 18 herein, all of the Tenant's Facilities shall remain Tenant's personal property and are not fixtures. Subject to Paragraph 1, 18 and 7(d) herein, Tenant has the right to remove all Tenant's Facilities at Tenant's sole expense on or before expiration or earlier termination of this Lease; provided that the Tenant repairs any damage to the Premises caused by such removal. However, Removal of equipment on the Tower Space is subject to Landlord's prior approval, which shall not be unreasonably withheld, conditioned, delayed, or denied.
- (d) **Removal upon Expiration or Termination.** (i) At least one hundred and eighty (180) days prior to expiration of this Lease, Tenant shall notify Landlord of its intent to abandon any or all of the, antenna and related fixtures or any other personalty of Tenant. Landlord shall have the first right within thirty (30) days of such notice, to notify Tenant that Landlord, will retain in place or otherwise, without fee, all or a portion of the fixtures and other equipment that Tenant intends to abandon. If Landlord does not so notify Tenant, within such thirty (30) day period, Tenant shall, within ninety (90) of the expiration of this Lease, remove its antenna fixtures and all personal property and otherwise restore the Premises and Property to its original condition, reasonable wear and tear and casualty excepted. If said antenna fixtures and personal property remain on the Premises beyond the expiration date without Landlord's consent, including said ninety (90) day period, Tenant shall pay

Landlord an amount that is equal to one hundred and fifty percent (150%) of the rate of rent in effect immediately prior to expiration until all such antenna fixtures and personal property are completely removed. (ii) With respect to terminations under Paragraph 11 and subject to Paragraph 18, Landlord shall have all the same rights regarding removal or retention of Tenant's abandoned Facilities as is permitted upon the expiration of the Lease as provided above, as follows: Tenant shall notify Landlord, within thirty (30) days after the effective date of termination, of Tenant's intent to abandon any or all of the antenna and related fixtures or any other personalty of Tenant. Landlord shall have the thirty (30) days from such notice, to notify Tenant that Landlord will retain in place or otherwise, without fee (but subject to the rights of Tenant's lender(s)), all or a portion of the fixtures and other equipment that Tenant intends to abandon. If Landlord does not notify Tenant, within such thirty (30) day period, Tenant shall, within ninety (90) days of the termination of the Lease, remove its antenna fixtures and all personal property, and restore the Premises and Property to its original condition, reasonable wear and tear and casualty excepted. Any such fixtures that Landlord does not choose to retain upon termination, shall be removed by Tenant at Tenant's cost upon the expiration of the removal period after the effective date of termination and failure to do so shall result in a payment of an amount equal to one hundred and fifty percent (150%) of the Rent rate in effect immediately prior to termination until all such fixtures, antenna fixtures and personal property are completely removed.

- (e) **Security.** At its sole cost and expense, Tenant may use any and all appropriate means of restricting access to the Tenant's Facilities that are exclusive to Tenant. Such restriction of access shall not unreasonably interfere with the access to the Premises by Landlord and other users/tenants of the Property. Except in the case of a life-safety emergency, in the event Landlord or other tenants/users of the Property require access to areas secured by Tenant, Landlord shall provide Tenant with reasonable advanced notice and Tenant shall have the right to accompany any Party requesting such access. Security of the Premises shall be the sole responsibility, expense, and liability of the Tenant; provided, however, in no event shall Tenant's equipment be disturbed during access.
- (f) **Relocation.** Upon request of the Landlord, Tenant agrees to relocate its equipment on a temporary basis to another location on the Property, hereinafter referred to as the "Temporary Relocation," for the sole purpose of Landlord performing maintenance, repair or similar work at the Property or in the Building or on the Tower provided: (i) the Temporary Relocation is similar to Tenant's existing location in size and is compatible for Tenant's use, in Tenant's reasonable determination; (ii) Landlord pays all costs incurred by Tenant for relocating Tenant's equipment to the Temporary Relocation and improving the Temporary Relocation so that it is fully compatible for the Tenant's use, in Tenant's reasonable determination but to the extent that the maintenance, repair or similar work is solely due to Tenant's acts or omissions, Tenant shall pay such relocation costs; (iii) Landlord gives Tenant at least ninety (90) days written notice prior to requiring Tenant to relocate, or as much time as practicable, if such maintenance, repair or similar work is a necessity or emergency for health or safety; (iv) Tenant is allowed, if necessary, in Tenant's reasonable determination, to place a temporary installation on the Property during any such relocation; and (v) upon the completion of any maintenance, repair or similar work by Landlord, Tenant is permitted to return to its original location from the temporary location with



all costs for the same being paid by Landlord but to the extent that the maintenance, repair or similar work is solely due to Tenant's acts or omissions, Tenant shall pay such relocation costs.

8. Access

- (a) Throughout the Initial Term of this Lease and all Extension Terms, Tenant, Tenant's employees, agents, subcontractors, lenders, and invitees shall have access to the Premises with notice to Landlord twenty-four (24) hours a day, seven (7) days a week, at no charge. Tenant shall be given the access code to the front entrance gate and the access code to the lockbox affixed to the building, which contains the key to the entrance to Tenant's equipment space. Tenant shall call Landlord's dispatch prior to entrance into the building given the door alarms, failure of which may result in the deployment of public safety personnel to the Property. Tenant shall be responsible for false alarm dispatch fees directly attributable to Tenant's failure to notify dispatch prior to gaining entrance to the building, if Landlord is charged for such dispatch. Landlord grants to Tenant, and its agent, employees, contractors, guests, and invitees, a non-exclusive right for pedestrian and vehicular (by a four (4) wheel drive vehicle, if necessary) ingress and egress across the Accessway. Tenant shall perform construction work and maintenance between the hours of 8 am to 5 pm local time Monday through Friday, except for emergency repairs or as otherwise approved by the Landlord wherein Tenant may perform work at any time.
- (b) Landlord shall maintain all access roadways from the nearest public roadway to the Accessway. However, Landlord shall not be liable for any direct, incidental, or consequential damage as a result of the Tenant's inability to access the Premises or Tenant's Facilities, unless caused by Landlord's willful misconduct.
- (c) Upon written request, Tenant shall supply Landlord with a copy of all Tenant's antenna specifications, Plans and Governmental Approvals for the Premises.

9. Utilities. Tenant shall be required to obtain separate utility service from any utility company that will provide service to the Premises. In conjunction with this requirement Tenant will have the non-exclusive right to utilize a portion of the existing electric and telephone distribution panel for its purpose. Tenant shall make direct billing arrangements with the power and telephone company. The use or installation of additional conduits or cables to provide electric or telephone to the Tenant's equipment shall be at the sole cost and responsibility of the Tenant including, but not limited to, the requirements of Paragraph 7(a) above. In the event the Tenant desires to provide for the installation of an emergency generator or generator hook-up, permission to do so shall be the responsibility, cost and liability of the Tenant (subject to applicable local land use regulations) and subject to prior consent of the Landlord, which consent shall not be unreasonably withheld, conditioned, denied or delayed. In the event the utility company requires an easement to provide service to Tenant, Landlord agrees to grant such reasonably necessary easement(s) to the utility company. Except for a portable generator, temporarily positioned in response to a bona fide emergency, should such emergency generator facility not be a part of the Tenant's Facilities as described above, otherwise, such installation will be considered additional space and subject to the provisions of this Agreement regarding adjustment of rent.



10. Maintenance and Repairs

- (a) **Tenant's Obligation.** Tenant shall, at Tenant's expense, keep and maintain the Tenant's Facilities now or hereafter located on the Premises in commercially reasonable condition and repair during the term of this Lease, normal wear and tear and casualty excepted. If Tenant fails to do so, and upon thirty (30) days prior written notice (except in the event of a life-safety emergency where no such notice shall be required), Landlord may elect to do such maintenance and repairs and charge Tenant additional rent for the reasonable costs of same, provided however, reasonable documentation shall be furnished to Tenant evidencing such costs. Following such repair, Tenant shall pay such amount within fifteen (15) days of receipt of written demand setting forth such costs (including such documentation) for such repairs. Upon termination or expiration of this Lease, the Premises shall be returned to Landlord in good, usable condition, normal wear and tear and casualty excepted.
- (b) **Landlord's Obligation.** Landlord will maintain its improvements at the Property in good condition, and shall maintain the Tower in good repair by all federal, state, county, and local laws.

11. Termination: Default. Except as otherwise provided herein, this Lease may be terminated as follows:

- (a) **Monetary Default.** Upon thirty (30) days written notice by Landlord, if Tenant fails to cure a default for payment of amounts due under this Lease within that thirty (30) day period, providing such termination does not relieve Tenant of liability for Rent, including additional rent, hereunder.
- (b) **Non-monetary Default.** Subject to the provisions of Paragraph 6 regarding interference, upon thirty (30) days prior written notice by either Party, if the other Party commits a non-monetary default and fails to cure or commence curing such default within that thirty (30)-day period, or such longer period as may be reasonably required to diligently complete a cure commenced within that thirty (30)-day period, providing such termination, by Landlord for Tenant's default, does not relieve Tenant of liability for Rent, including additional Rent, hereunder. In the event of a breach of the provisions of Paragraph 6 regarding interference, notwithstanding anything contained herein to the contrary, in addition to Tenant's right to terminate as aforesaid, Tenant may pursue any and all remedies available to it at law or in equity; provided, however, in pursuing its remedies herein, in no event shall Tenant seek to recover from Landlord indirect, special, incidental, or consequential damages, including, without limitation, loss of profits, income, or business opportunities to the Tenant.
- (c) **Loss of License.** Upon thirty (30) days notice by Tenant that Tenant is unable, after a good faith effort by Tenant, to maintain any license (including, without limitation, an FCC license), permit or Governmental Approval necessary to the operation of the Tenant's Facilities.
- (d) **Casualty.** In the event that the Premises is damaged by fire or other casualty to the extent that the Premises cannot reasonably be expected to be repaired within ninety (90) days following such casualty, or, if the Premises is damaged by fire or other casualty so that such damage may reasonably be expected to materially disrupt Tenant's operations at the Premises for more than forty-five (45) days, Tenant may at any time following such fire or other casualty, provided Landlord has not completed the restoration required to permit Tenant to resume its operations at the Premises, terminate this Lease upon fifteen (15) days prior written notice to Landlord.



Any such notice of termination shall cause this Lease to expire with the same force and effect as though the date set forth in notice were the date originally set as the expiration date of this Lease and with respect to payment due to the other under this Lease. Notwithstanding the foregoing, all rental shall abate during the period of such fire or other casualty and until the Premises and/or Tenant's Facilities are restored to the condition existing immediately prior to such damage or destruction.

- (e) **Condemnation.** If all or a portion of the Premises or Tenant's Facilities are condemned or transferred in lieu of condemnation, sufficient, in Tenant's reasonable determination, to render the Premises or Tenant's Facilities unsuitable for Tenant's intended use as provided herein, Tenant may elect to terminate this Agreement as of the date of the condemnation or transfer in lieu of condemnation by giving notice to Landlord no more than forty five (45) days following the date of such condemnation or transfer in lieu of condemnation. If Tenant chooses not to terminate this Agreement, Rent shall be reduced or abated in proportion to the actual reduction or abatement of use of the Premises.
- (f) **Remedies.** Except as otherwise provided herein, Tenant and Landlord shall have all remedies provided by law to enforce this Lease. In any such action the non-prevailing Party shall be liable for prompt payment of the reasonable Attorney's fees and costs of enforcement of the prevailing Party.
- (g) **Limited Termination at Will.** During any Extension Period, Tenant may terminate this Lease at any time and for any reason upon one hundred eighty (180) days written notice to Landlord and payment of a termination fee equal to six (6) months rent.

12. Taxes. During the Initial Term or an Extension Term, Tenant shall pay any personal property taxes on Tenant's property, and shall pay to Landlord, within thirty (30) days after receipt of adequate documentation from the taxing authority on Tenant's share of real property taxes, any such taxes assessed on, or any portion of such taxes directly attributable to, the Tenant's Facilities or the Leased Premises including, without limitation, equipment shelters and/or cabinets and related equipment or facilities installed by Tenant at the Premises. Nothing shall abrogate Tenant's right to pay taxes under protest and dispute same.

13. Insurance and Subrogation

- (a) Each Party shall carry Commercial General Liability Insurance in an aggregate amount of at least Two Million and no/100 Dollars (\$2,000,000.00), by a provider that has an "A- VII" Best rating and is licensed to do business in the State of New York. Tenant shall include Landlord as an additional insured and provide a certificate of insurance at least once per year and at such other times as reasonably requested by Landlord within ten (10) days after receipt of Landlord's written request.
- (b) Landlord and Tenant hereby mutually release each other (and their successors and assigns) from liability for, and waive all right of recovery against the other for, any loss or damage covered by their respective first Party property insurance policies for all perils insured thereunder. In the event of such insured loss, neither Party's insurance company shall have a subrogated claim against the other.



14. Hold Harmless. Subject to Paragraph 13(b), Landlord and Tenant shall each indemnify, defend and hold the other harmless from and against all claims, losses, liabilities, damages, costs, and expenses (including reasonable attorneys' and consultants' fees, costs, and expenses) (collectively "Damages") arising from the indemnifying Party's breach of any term or condition of this Agreement and/or from the negligence or willful misconduct of the indemnifying Party's agents, employees, or contractors, including independent contractors in or about the Property. Notwithstanding the foregoing, in no event shall either Party be liable for indirect, special, incidental, or consequential damages, including, without limitation, loss of profits, income, or business opportunities. The duties and limitations described in this Paragraph shall apply as of the Date of this Agreement and survive the expiration or earlier termination of this Agreement.
15. Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent for next-business-day delivery by a nationally recognized overnight carrier to the following address (or any other address that the Party to be notified may have designated to the sender by like notice):

To the Landlord at:

First Selectman  
Town of New Fairfield  
4 Brush Hill Road  
New Fairfield, Connecticut 06812

To the Tenant at:

T-Mobile USA, Inc.  
12920 SE 38<sup>th</sup> Street  
Bellevue, WA 98006  
Attention: Lease Compliance/CTFF632C

16. Quiet Enjoyment, Title, and Authority. Landlord covenants and warrants to Tenant that (i) Landlord has full right, power, and authority to execute this Lease; (ii) it has good and unencumbered title to the Premises and the Tower and related improvements, all of which are free and clear of any liens or mortgages; and (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease or other agreement binding on Landlord. Landlord covenants that at all times during the term of this Lease, Tenant's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as Tenant is not in default in the terms of this Lease beyond any applicable grace or cure period. There shall be no breach of this Covenant of Quiet Enjoyment by virtue of co-location on the Tower or Premises.
17. Environmental Laws.



- (a) Landlord and Tenant shall not introduce or use any substance, chemical or waste (collectively "Hazardous Substance") on the Premises that is identified as being hazardous, toxic or dangerous in any applicable federal, state, or local law or regulation (collectively, "Environmental Laws"). Tenant shall be responsible for, and shall promptly conduct investigations of all deposits, spills, or releases of any Hazardous Substance caused by Tenant, its agents, employees, contractors, and independent contractors that have occurred on the Property regardless of the source and perform such cleanup, material removal, restoration work, or other remediation of same as required by any Environmental Laws. Landlord shall be responsible for, and shall promptly conduct investigations of all deposits, spills, or releases of any Hazardous Substance caused by Landlord, its agents, employees, contractors, and independent contractors that have occurred or which may occur on the Property regardless of the source and perform such cleanup, material removal, restoration work or other remediation of same as required by any Environmental Laws.
- (b) Each Party agrees to defend, indemnify, and hold harmless the other from and against any all administrative and judicial actions and rulings, claims, causes of action, demands and liabilities including, but not limited to, Damages, costs, expenses, assessments, penalties, fines, losses, judgements, and reasonable attorney fees that the indemnitee shall suffer or incur due to the (i) existence or discovery of any Hazardous Substances on the Property as a result of indemnitors activities, (ii) migration of any Hazardous Substance released by indemnitor, to other properties, or (iii) release of any Hazardous Substance into the environment that relate to or arise from the indemnitor's activities on or at the Property prior to and during the Initial Term and all Extension Terms of this Lease. The indemnifications set forth in this subparagraph specifically include, without limitation, the payment or reimbursement of costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority.

18. Assignment, Subleasing, Mortgaging, Landlord's Lien.

- (a) Tenant shall have the right to assign or otherwise transfer this Lease to any person or business entity which is (i) a parent, subsidiary, or affiliate of Tenant, (ii) is merged or consolidated with Tenant or (iii) purchases more than fifty (50%) percent of either an ownership interest in Tenant or the assets of Tenant in the market defined by the FCC in which the Property is located. Upon notification to Landlord by Tenant of any such action, provided such assignee assumes all obligations of Tenant under this Lease, Tenant shall be relieved of all liabilities and obligations of Tenant under this Lease, Tenant shall be relieved of all liabilities and obligations hereunder and Landlord shall look solely to the assignee for performance under this Lease of all terms, covenants, and conditions to be kept or performed by the tenant hereunder. No other assignments by Tenant are permitted without the written consent of Landlord, which consent shall not be unreasonably withheld, conditioned, or delayed.
- (b) Tenant may not sublease the Premises.
- (c) Tenant may, upon written notice to Landlord, mortgage or grant a security in this Lease and the Tenant Facilities, and may assign this Lease and the Tenant Facilities to any mortgagees or holders of security interests, including their successors or assigns (collectively "Mortgagees"), provided such Mortgagees agree to be bound by the terms and provisions of this Lease. In such event, Landlord shall execute consent to leasehold financing as may reasonably be required by



Mortgagees. Providing Landlord has received written notice of identity of Mortgagee, Landlord agrees to notify Tenant and Tenant's Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant or to remove any property of Tenant or Mortgagees located on the Premises, except that the cure period for any Mortgagees shall not be less than thirty (30) days after receipt of the default notice. All such noticed to Mortgagees shall be sent to Mortgagees at the address specified by Tenant.

- (d) Waiver of Landlord's Lien. Landlord waives any lien rights it may have concerning the portion of Tenant's Facilities that are Tenant's personal property and not buildings, shelters, or related fixtures, and providing such personal property is subject to a lien by a financial institution or lender with a security agreement in effect against said personalty. Thus the waiver covers Tenant's personalty including radio communications facilities, electronic equipment, radio transmitting and receiving antennas and supporting equipment, and similar structures and antenna.

19. Successors and Assigns. Subject to Paragraph 18, this Lease and any other rights conferred upon Tenant which are granted herein shall run with the title to the land, and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, and assigns.
20. Partial Invalidity. If any term of this Lease is found to be void or invalid, such finding shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The Parties agree that if any provisions are deemed not enforceable, they shall be deemed modified only to the extent necessary to make them enforceable. Any questions of particular interpretation shall not be interpreted against the draftsman, but rather in accordance with the fair meaning thereof.
21. Non-Disturbance Agreement. In the event the Premises is or hereafter becomes encumbered by a mortgage, or other security interest, upon request of Tenant, Landlord agrees to furnish to Tenant a non-disturbance and attornment agreement for each such mortgage or security interest, which shall not be in a form reasonably acceptable to Landlord and Tenant.
22. Rights Upon Sale. Should Landlord at any time during the term of this Lease decide to sell to a purchaser other than the Tenant any or all of (i) the Tower and other related improvements, or (ii) that portion of the Property which is underlying the Accessway or any easement or right-of-way herein conferred upon Tenant or a public utility servicing the Premises, such sale shall be under and subject to this Lease and Tenant's rights hereunder.
23. Recording; Notice of Lease. This Lease shall not be recorded. However, either Party shall at any time, upon not less than ten (10) days prior written notice to the other, execute, acknowledge, and deliver to the requesting Party a short-form notice or memorandum of lease in recordable form, which instructed may be recorded by the requesting Party at its cost and shall describe only such elements of this Lease as are required for a short form recording.
24. Estoppel Certificates. Within twenty (20) days after a written request from the other, each Party agrees to furnish to the other with a so-called "Estoppel Certificate" containing such information



as the other Party may reasonably request regarding the status of this Lease. These Certificates shall not be interpreted to modify this Lease.

25. Authority. The persons who have executed this Lease each represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacity as indicated.
26. Construction. This Lease shall be construed in accordance with the laws of the State of New York and under the Jurisdiction of the courts of the State of New York.
27. Survival. The provisions of this Lease relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Lease. Additionally, any provisions of this Lease, which by their nature require performance subsequent to the expiration, or termination of this Lease, shall also survive such termination or expiration.
28. Captions. All captions contained in this Lease have been inserted for convenience only and are not intended to be part of this Lease. They shall not affect or be utilized in the construction or interpretation of the provisions of this Lease.
29. Miscellaneous.
  - (a) **Entire Agreement**. This Lease constitutes the entire agreement and understanding of the Parties, and supersedes all offers, negotiations, and other agreements, with respect to the subject matter and property covered by this Lease.
  - (b) **Cooperation**. Each Party agrees to reasonably cooperate with the other in executing any documents reasonably necessary to protect its rights or use of the Property, Tower, or Premises, as the case may be.
  - (c) **Title Insurance**. Tenant may obtain title insurance insuring its interest in the Property and Premises. Landlord agrees to execute such documents as the title company may require in connection therewith.
  - (d) **No Waiver**. The failure of either Party to insist upon strict performance of any terms or conditions of this Lease or to exercise any of its rights under this Lease shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Lease or at law in equity.
  - (e) **Exhibits**. All exhibits referred to herein and any addenda are incorporated herein for all purposes. The Parties understand and acknowledge that Exhibit B (the Premises location within the Property) may be attached to this Lease in preliminary form. Accordingly, the Parties agree that upon the preparation of final, more complete exhibits, Exhibits B and C may be replaced by Tenant with Landlord's approval, such approval not to be unreasonably withheld, conditioned, delayed, or denied, with such final, more complete exhibit(s) and at the request of either of the Parties, they shall execute such amendments of other documents reasonably requested by either of them to evidence the same. The terms of all exhibits are incorporated herein for all purposes.
  - (f) **Broker Fees**. If Landlord is represented by any broker or any other leasing agent, Landlord is responsible for all commission fees or other payment to such agent, and agrees to indemnify and hold Tenant harmless from all claims by such broker or anyone claiming through such



broker. If Tenant is represented by any broker or any other leasing agent, Tenant is responsible for all commission fees or other payment to such agent, and agrees to indemnify and hold Landlord harmless from all claims by such broker or anyone claiming through such broker.

30. Title and Environmental Reports. If, prior to Commencement Date, Tenant reasonably determines that (i) the title of the Premises is defective under the standards of the New York Standards of Title published by the New York Bar Association and/or (ii) any environmental report of the Premises, and those adjacent areas affecting the use for ingress to and egress from, or other permitted access to, the Premises, provides unacceptable results then, after thirty (30) days prior written notice of such alleged defect to Landlord, Landlord cannot cure same or provide title insurance insuring over any such defect, Tenant may terminate this Lease after an additional thirty (30) days written notice to Landlord.

**LANDLORD:** Town of New Fairfield

By: Susan Chapman

Printed Name: Susan Chapman

Title: First Selectman

Date: 9/29/17

**TENANT:** T-Mobile Northeast LLC

By: mm md

Printed Name: Bob Vorlicek

Title: Sr. Director, Network Engineering & Operations

Date: 9-22-17

\_\_\_\_\_  
T-Mobile Legal Approval



**Exhibit A**  
Legal Description

The Property is legally described as follows:

[Enter legal description, property address, and tax parcel information here or on attachment(s)]

ALL that certain tract, piece or parcel of land, situate in the Town of Patterson, County of Putnam and State of New York, hereinafter described as Parcel I; together with a right of way and easement for all purposes of ingress and egress between said tract of land and the public road hereinafter described, said right of way and easement being situate partly in the Town of Patterson, County of Putnam and State of New York, and partly in the Town of Sherman, County of Fairfield and State of Connecticut, hereinafter more fully described as Parcel II; and also a right of way and easement for the construction, operation and maintenance of facilities for electric power and communication between the public road and the property herein referred to as Parcel I, said right of way and easement being situate in the Town of Patterson, County of Putnam and, near its northerly terminus, in the Town of Pawling, County of Dutchess, State of New York, and being hereinafter more fully described as Parcel III:

**Parcel I**

Beginning at the point which is the northeast corner of said property, from which point a stone bound on the easterly boundary line of property now or formerly of Frank Grady (said stone bound being N. 15°50' E, a distance of 367.01 feet from the southeasterly corner of said Frank Grady property) bears N. 52°14'30" W, 203.22 feet;

THENCE N 3° 45' W, 189.11 feet;

THENCE N. 18° 22' 30" W, 206.55 feet;

THENCE N. 12° 50' W, 181.81 feet;

THENCE N. 9° 47' 30" W, 284.25 feet;

THENCE N. 9° 37' W, 205.11 feet;

THENCE N. 53° 30' W, 2.50 feet

THENCE from said BEGINNING POINT, RUNNING due south for a distance of 350 feet to a monument at the southeast corner of said property;

THENCE RUNNING due west 375 feet to a monument at the southwest corner of said property;

THENCE RUNNING due north 350 feet to a monument at the northwest corner of said property;

THENCE RUNNING due east 375 feet to a monument at the northeast corner of said property, the point and place of BEGINNING.

**Parcel II: (For Conveyance Only)**

A RIGHT of WAY AND EASEMENT across lands now or formerly of Walter Gordon Merritt and Isabel H. Merritt, for all purposes of ingress and egress between the property hereinabove described as Parcel I and the public road which runs from Connecticut State Route 37 to Akins Corners, in the Town of Pawling, New York, said right of way and easement having a center line which begins at a point approximately 145



feet east of the northwest corner of the property hereinabove described as Parcel I, and which follows a curvilinear course, bearing easterly from said Parcel I, until it intersects the New York-Connecticut State Line, whence it traverses property of said Merritts in the Town of Sherman, County of Fairfield, State of Connecticut, for a distance of 625 feet, following northerly and northwesterly courses and then re-entering property of the said Merritts in the Town of Patterson, County of Putnam, State of New York; thence continuing on northerly and northwesterly courses to a point of intersection with the center line of the public road hereinabove referred to, said right of way and easement having a total length of approximately 3800 feet.

Parcel III: (For Conveyance Only)

A RIGHT OF WAY AND EASEMENT for the construction, operation, and maintenance of systems for electric power and communication, consisting of necessary poles, wires, cables, conduits, guys, anchors, braces and appurtenances, upon, along, over or under a strip of land 50 feet in width, the center line of said strip running by tangents in a northerly direction from a point approximately 235 feet east of the northwest corner of the property hereinabove described as Parcel I, to a point approximately 38 feet southeasterly from the stone bound on the easterly line of the Frank Grady property, more fully described in Parcel I hereinabove; thence running in a northeasterly direction generally parallel to and approximately 25 feet distant from the easterly property line of the lands now or formerly owned by said Frank Grady, Juliet R. Kohn, also known as Julia Kohn, and Elizabeth Baker, to a point of intersection with the northerly line of the public road between Connecticut State Route 37 and Akins Corners, in the Town of Pawling, New York.