

2016-010325

Klamath County, Oregon



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Fee: \$87.00

Prepared By: Stacey Lane
After Recording, Return to:
SBA 2012 TC Assets, LLC
8051 Congress Avenue
Boca Raton, Florida 33487
Attn: Dee Ott

NONDISTURBANCE, ATTORNMENT AND SUBORDINATION AGREEMENT

THIS NONDISTURBANCE, ATTORNMENT AND SUBORDINATION AGREEMENT (this "Agreement"), is dated as of May 18, 2016, among T-Mobile West LLC, a Delaware limited liability company ("~~Sub~~tenant"), SBA 2012 TC Assets, LLC, a Delaware limited liability company ("SBA") and Deutsche Bank Trust Company Americas, Trustee for the certificateholders of SBA Tower Trust Secured Tower Revenue Securities (and not in its corporate capacity), as lender under the Loan Agreement defined below (in such capacity, "Lender").

Recitals:

A. By Communications Site Lease Agreement (Ground) dated October 25, 2004 (the "Lease"), by and between Nextel West Corp., a Delaware corporation d/b/a Nextel Communications ("Nextel") and Quentin L. Breen, trustee of Train Mountain Foundation ("Owner"), Nextel leased from Owner a portion of that tract or parcel of land located in Klamath County, State of Oregon and more particularly described on Exhibit A attached hereto (such real property demised under the Lease being referred to herein as the "Property"); as evidenced by that certain Memorandum of Agreement dated October 25, 2004 and recorded on August 10, 2006, as Instrument No. 2006-016082; as assigned by an Assignment and Assumption of Ground Lease dated September 23, 2008 and recorded on October 8, 2008, as Instrument No. 2008-013862, whereby Nextel assigned the Lease to TowerCo Assets, LLC, a Delaware limited liability company; TowerCo Assets, LLC changed its name to SBA 2012 TC Assets, LLC effective October 1, 2012; all instruments being recorded with the Klamath County Recorder's Office, Oregon.

SBA Site: OR47633-A/Chiloquin
Subtenant: PO03764A/Chiloquin

B. SBA and Lender, among other parties, have entered into that certain Amended and Restated Loan and Security Agreement dated as of November 18, 2005 (as the same may be further amended, restated, supplemented, modified, replaced, renewed or extended from time to time, the "Loan Agreement"). Pursuant to the Loan Agreement, SBA has granted or conveyed to Lender a security interest, lien, mortgage and security title to certain assets of SBA, including, without limitation, all or substantially all of SBA's personal property. Further pursuant to the Loan Agreement, SBA is required from time to time to grant and convey to Lender a security interest, lien, mortgage and security title in, to and under various leases of real property under which SBA is the tenant (but not all such leases) and various subleases of real property under which SBA is the tenant (but not all such leases) and various subleases of real property under which SBA is the sublandlord (but not all such subleases), as more particularly provided in the Loan Agreement (such instrument(s) granting and conveying such security interest, lien, mortgage and security title, collectively, the "Lien Document").

C. SBA and Subtenant have entered into that certain Antenna Site Agreement, dated September 30, 2015 (the "Sublease"), pursuant to which SBA has subleased to Subtenant, and Subtenant has subleased from SBA, a portion of the Property and tower space on the communications tower constructed by SBA on the Property (the "Tower") together with certain rights of access and to install utilities and cable runs on the Property (collectively, the "Premises"), all as more particularly provided in the Sublease. Because SBA's interest in, to and under the Lease and the Sublease and the Property and the Premises may now or hereafter be included in the collateral under the Loan Agreement and subject to the lien of a Lien Document, SBA is required under the Loan Agreement [and the Sublease] to obtain a fully executed and delivered agreement regarding subordination of the Sublease to the lien of any such Lien Document in the form of this Agreement. Subtenant and Lender desire that the foregoing obligation be fulfilled and are willing to execute and deliver this Agreement.

Agreement

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Nondisturbance. Except as provided in the following sentence hereof, Lender, or any purchaser at a foreclosure sale, any transferee who acquired the Property or Premises (or both) by deed in lieu of foreclosure or otherwise (or any successors or assigns of such purchasers or transferees), shall not, in connection with, upon or after any foreclosure, acceptance of deed or other instrument in lieu of foreclosure or the exercise of any right, remedy or privilege granted by the Loan Agreement or any Lien Document, or otherwise available to Lender at law or in equity, disturb Subtenant's possession or use of the Premises under the Sublease, and the Sublease will continue in full force and effect according to its terms. The nondisturbance set forth above in this Section 1 shall not be required upon and after the occurrence of an event of default by Subtenant under the Sublease that is not cured within any applicable cure period or other event or condition that, without further action of SBA, causes the termination of the Sublease or would entitle SBA under the Sublease to dispossess Subtenant from the Premises.

2. Attornment to Lender. If and when Lender, or any purchaser at a foreclosure sale, any transferee who acquires the Property or Premises (or both) by deed in lieu of foreclosure or otherwise (or any successors or assigns of such purchasers or transferees), succeeds to SBA's interest in and under the Sublease pursuant to the Loan Agreement or any Lien Document or otherwise on account of Lender's exercise of a remedy available to it, Subtenant shall attorn to Lender, or such purchasers or transferees and their successors and assigns, as sublessor, under all of the terms, covenants and provisions of the Sublease and such attornment shall be self-operative without the execution of any further instrument by any party and shall be effective immediately upon Lender, or such purchasers or transferees and their successors and assigns, succeeding to SBA's interest in and under the Sublease. Subtenant hereby further agrees in such event to attorn to Lender, or such purchasers or transferees and their successors and assigns, and to recognize Lender, or such purchasers or transferees and their successors and assigns, as "Landlord" or "Sublandlord", as the case may be, under the Sublease, and Subtenant agrees to execute and deliver, upon the reasonable request of Lender, any instrument which may be necessary or appropriate to evidence such attornment.

3. No Offset. Lender shall not be: (a) liable for any act or omission of any prior landlord (including SBA); (b) subject to any offsets or defenses which Subtenant might have against any prior landlord (including SBA), (c) bound by any rent, security deposit or additional rent which Subtenant might have paid more than one (1) year in advance to any prior landlord (including SBA); (d) bound to Subtenant for any act or omission arising after the date on which the Lender shall transfer title to the Property to a third party; or (e) liable to Subtenant for the commencement, prosecution or completion of any construction work described therein or liable under any express or implied warranty regarding construction work described therein or liable under any express or implied warranty regarding construction contained in the Sublease or in any other document or instrument between SBA and Subtenant (unless Lender elects, at its option, to commence or otherwise conduct as successor "Landlord" or "Sublandlord", as the case may be, such construction work).

4. Subordination. Subtenant hereby agrees that its subtenancy under the Sublease is subordinated to the security interest, lien, mortgage and security title of Lender in and to the Property and SBA's interest in and under the Sublease pursuant to any Lien Document and any renewals, substitutions, extensions or replacements thereof, with the same force and effect as though such Lien Document had been executed by SBA and delivered to Lender and recorded prior to the execution of the Sublease and prior to the time that Subtenant took possession of the Premises. Subtenant agrees to execute and deliver, upon the reasonable request of Lender, any instrument in recordable form, which may be necessary to evidence such subordination.

5. Notice and Cure; Requirement Regarding Certain Amendments.

(a) Notwithstanding anything in the Sublease to the contrary, Subtenant hereby agrees that, so long as Lender holds a lien on the Premises pursuant to any Lien Document, Subtenant will, simultaneously with the giving of any notice to SBA required under the Sublease, provide to Lender written notice of (i) Subtenant's intention to cancel or terminate the Sublease under the terms and conditions of the Sublease, or (ii) Subtenant's exercise of a credit or offset against rent or future rent payable thereunder. Lender shall be afforded an opportunity to cure

any event of default by SBA under the Sublease or correct any circumstances or condition giving rise to such right of termination or cancellation of the Sublease by Subtenant, provided that Lender shall be subject to the same cure periods and rights as provided to SBA under the Sublease. Further, Subtenant agrees that any material amendment or modification to the Sublease shall not be binding upon Lender without Lender's written consent or deemed consent as provided in the last sentence of this Section 5(a). Subtenant or SBA (or both) shall provide to Lender, in accordance with Section 5(b) below, notice of any such amendment or modification to the Sublease as described above in this Section 5. Lender, SBA and Subtenant agree that, for the purposes of this Section 5(a), nonmaterial amendments or modifications shall include, but shall not be limited to, the following: (i) any extension of the term of the Sublease, (ii) any addition to, alteration, modification, or replacement of Subtenant's equipment, (iii) any relocation of Subtenant's equipment on the Property, (iv) any increase in the Rent (as defined in the Sublease), and (v) any decrease in the Rent, provided however, that such an amendment shall become material should the decrease in Rent result in Rent lower than the amount then prescribed by the unamended Sublease. In the event that Lender fails to accept or reject such amendment or modification in a writing delivered to Subtenant and SBA within twenty (20) calendar days after receipt by Lender of such notice from Subtenant or SBA (or from both), whichever is earlier, Lender shall be deemed to have consented to such amendment or modification to the Sublease.

(b) Any notice required or permitted by or in connection with this Agreement shall be in writing and shall be made by hand delivery against receipt, or by overnight delivery service by a nationally recognized carrier, or by certified mail, return receipt requested, postage prepaid, addressed to the parties at the appropriate address set forth below or to such other address as may hereafter be specified by written notice by the parties to each other in accordance with this Section 5. Notice shall be considered given as of the earlier of the date of actual receipt of hand delivery, the next business day after delivery by the sending party to an overnight delivery service, or three (3) calendar days after the date of mailing, independent of the date of actual delivery or whether delivery is ever in fact made, as the case may be, provided the giver of notice can establish that notice was given as provided herein.

To Subtenant:

T-Mobile USA, Inc.
12920 S.E. 38th Street
Bellevue, WA 98006-1350
Attn: Lease Compliance
Site No. PO03764A

To SBA:

SBA 2012 TC Assets, LLC
8051 Congress Avenue
Boca Raton, Florida 33487
Attention: Jeffrey A. Stoops
Telecopy: (561) 997-0343
Telephone: (561) 995-7670

with a copy to:

Attention: Thomas P. Hunt
Telecopy: (561) 989-2941
Telephone: (561) 226-9231

To Lender:

Deutsche Bank Trust Company Americas, Trustee
c/o Midland Loan Services, Inc. a division of PNC
Bank, National Association, as Servicer
10851 Mastin Boulevard
Suite 300
Overland Park, Kansas 66210
Attention: SBA Tower Trust – Secured Tower
Revenue Securities
Telecopy: (913) 253-9733

6. Amendments and Waivers. No modification, amendment, waiver or release of any provision of this Agreement or of any right, obligation, claim or cause of action arising hereunder, shall be valid or binding for any purpose whatsoever, unless in writing and duly executed by the party against whom the same is sought to be asserted. This Agreement shall not be deemed to amend or modify the Sublease.

7. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties herein named and their respective successors and assigns in interest.

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

9. Severability. A determination that any provision of this Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Agreement to any person or to particular circumstances is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.

10. Governing Law. This Agreement shall be governed by, and interpreted in accordance with, the internal laws of the State of Oregon.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first above written.

SUBTENANT:

[Signature]
Witness Signature

Brent Tenpleton
Witness Printed Name

[Signature]
Witness Signature
Jerry Howard
Witness Printed Name

T-Mobile West LLC,
a Delaware limited liability company

By: [Signature]
Name: M. CHIDAMBARAM
Title: Market Manager

T. Ruggin

LENDER:

[Signature]
Witness Signature

Denese Ott
Witness Printed Name

[Signature]
Witness Signature

Tina Wright
Witness Printed Name

Deutsche Bank Trust Company Americas, Trustee for the certificate holders of SBA Tower Trust Secured Tower Revenue Securities (and not in its corporate capacity)

By: Midland Loan Services, Inc., a division of PNC Bank, N.A., as Servicer for Deutsche Bank Trust Company Americas, Trustee (and not in its corporate capacity)

By: SBA Properties, LLC, as agent for Midland Loan Services, Inc., a division of PNC Bank, N.A., as Servicer, under Limited Power of Attorney dated as of October 14, 2015 (and not in its corporate capacity)

By: [Signature]
Name: Ed Roach
Title: Vice President

SBA:

[Signature]
Witness Signature

Denese Ott
Witness Printed Name

[Signature]
Witness Signature

Tina Wright
Witness Printed Name

SBA 2012 TC Assets, LLC, a Delaware limited liability company

By: [Signature]
Name: Ed Roach
Title: Vice President

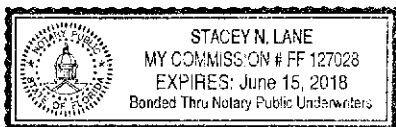
LENDER:

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 18 day of May, 2016, by Ed Roach, as Vice President of SBA Properties, LLC, a Delaware limited liability company, as agent for Midland Loan Services, Inc., a division of PNC Bank, National Association, as Servicer for Deutsche Bank Trust Company Americas, under Limited Power of Attorney dated as of October 14, 2015, on behalf of the company. He is personally known to me or has produced Id as identification.

(AFFIX NOTARIAL SEAL)



Stacey N Lane
(OFFICIAL NOTARY SIGNATURE)
Notary Public - State of Florida

Stacey Lane
(Printed, Typed or Stamped name of Notary)

Commission Number: 127028

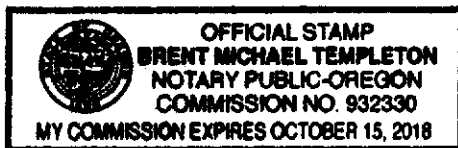
SUBTENANT:

STATE OF Oregon

COUNTY OF Multnomah

The foregoing instrument was acknowledged before me this 10th day of May, 2016, by Mohan Chidambaram as Market Manager of T-Mobile West LLC, a Delaware limited liability company, on behalf of the company. He/She is personally known to me or has produced Oregon Drivers License as identification.

(AFFIX NOTARIAL SEAL)



Brent E. Templeton
(OFFICIAL NOTARY SIGNATURE)
Notary Public - State of Oregon

Brent Michael Templeton
(Printed, Typed or Stamped name of Notary)

Commission Number: 932330

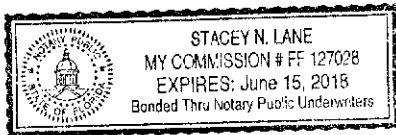
SBA:

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 18 day of May, 2016, by Thomas P. Hunt, as Executive Vice President and General Counsel of SBA 2012TC Assets, LLC, a Delaware limited liability company, on behalf of the company. He is personally known to me or has produced _____ as identification.

(AFFIX NOTARIAL SEAL)



Stacey N. Lane
(OFFICIAL NOTARY SIGNATURE)
Notary Public - State of Florida

Stacey N. Lane
(Printed, Typed or Stamped name of Notary)

Commission Number: _____

EXHIBIT A

Real Property in the County of Klamath, State of Oregon, described as follows:

**S ½ N ½ SE ¼ and the S ½ SE ¼ of Section 29, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, EXCEPTING THEREFROM the following: Being a portion of the SE ¼ SE ¼ of Section 29, Township 34 South, Range 7 East of the Willamette Meridian,
Describe as follows:**

Commencing at the section of corner common Sections 28, 29, 32 and 33, all in said Township and Range; thence North 80°54'10" West, 614.85 feet to the true point of beginning of the parcel of land to be described ; thence South 52° 29'30" West 150.00 feet; thence North 37°30'30" West, 150.00 feet; thence North 52° 29'30" East, 150.00 feet; thence South 37°30'30" East, 150.00 feet to the true point of Beginning.

Access easement as follows:

Width: 20 Feet; Approximate length: 1.10 Miles between the Leasehold Parcel and the public road known as Highway 422 North over existing traveled ways where practical, and establishing a new route as necessary.

Utilities easement as follows:

Width: 5 Feet; Approximate length; 500 Feet between the Leasehold Parcel and suitable utility company service connection points. Lessor agrees to make such direct grants of easement as the utility companies may require.

**Tax Parcel Numbers: 3407-02900-01100
3407-02800-00301**