

UNOFFICIAL COPY



Doc#: 1028833009 Fee: \$48.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/15/2010 08:31 AM Pg: 1 of 7

THIS DOCUMENT PREPARED BY,
and
WHEN RECORDED RETURN TO:

Michael Fraunces, President
(858) 799-7850
Md7 Capital Three, LLC
3721 Valley Centre Drive
Suite 303
San Diego, CA 92130

Parcel #: 14-06-128-018-0000

SPACE ABOVE FOR RECORDER'S USE

LEASE ASSIGNMENT AGREEMENT

THIS LEASE ASSIGNMENT AGREEMENT ("Agreement") is entered into on June 30, 2010, by and between **Xuong C. Trinh, not individually but as Trustee of the Xuong C. Trinh Revocable Trust Agreement dated March 5, 2009, and Cuong C. Trinh, Dan C. Trinh, Chan A. Trinh, Olivia Ngoc Khanh Trinh a/k/a Olivia Trinh-Arnemann, and Alice Ngoc a/k/a Alice Ngoc-Hue Trinh, Not as Joint Tenants but as Tenants-In-Common, previously and erroneously referred to as 5250 N. Broadway L.L.C. (together with their successors and assigns, collectively, "Owner"), whose mailing address for notices is 6618 North Christiana Avenue, Lincolnwood, IL 60712, and Md7 Capital Three, LLC, a Delaware limited liability company (together with its successors and assigns, "Md7 Capital Three"), whose mailing address for notices is 3721 Valley Centre Drive, Suite 303, San Diego, California 92130.**

RECITALS

WHEREAS, Owner and T-Mobile Central LLC, a Delaware limited liability company, as successor in interest to VoiceStream GSM I Operating Company, a Delaware limited liability company ("Tenant"), entered into a Rooftop Lease with Option dated April 8, 2004 ("Lease"), whereby Owner leased to Tenant certain premises described therein, together with any and all other space currently utilized by Tenant ("Premises"), that are a portion of that certain real property located at **5252 North Broadway Street, Chicago, IL 60640**, previously referred to as 5256 N. Broadway, Chicago, IL 60640 ("Property") described on Exhibit A attached hereto and incorporated herein;

WHEREAS, Owner is the owner of a valid and indefeasible fee simple interest (the "Owner's Interest") in the Property;

WHEREAS, Owner and Md7 Capital Three desire to enter into an agreement whereby Md7 Capital Three shall pay to Owner, the Rent Schedule Payments (as defined in the Terms and Conditions defined below) in exchange for, among other things, Owner's assignment to Md7 Capital Three of all of the following for the Assignment Term (defined below) subject to Tenant's rights under the Lease: (i) all of Owner's rights, title and interests in, to and under the Lease, including the right to collect all rents from Tenant, including base rent, additional rent (with the exception of any collocation rent), late charges, interest, fees and other monies, (ii) Owner's right to use and possess the Premises described in the Lease, and (iii) all of Owner's other rights and interests under the Lease (collectively, the "Assigned Rights"); and

WHEREAS, additional terms and conditions relating to the assignment by Owner to Md7 Capital Three of the Assigned Rights are set forth in that certain document named Lease Assignment

A00199555-Sale KJ3 - 1/2

S
P
S
SC
INT

UNOFFICIAL COPY

Agreement (Terms and Conditions) dated June 30, 2010, by and between Owner and Md7 Capital Three ("Terms and Conditions"), which is hereby incorporated herein in its entirety.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals (including all provisions of the Terms and Conditions), which are hereby incorporated herein in their entirety, and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Owner and Md7 Capital Three agree as follows:

1. **Rent Schedule Payments.** As full consideration for the Assignment (defined below) and Owner's continued performance of its obligations under the Lease, on or following the Commencement Date (defined below), Md7 Capital Three shall commence payment of the rent schedule payments to Owner in the amounts and frequency as designated in the Terms and Conditions ("**Rent Schedule Payments**").
2. **Assignment, Amendment.** Owner hereby irrevocably, unconditionally and absolutely conveys, transfers and assigns to Md7 Capital Three the Assigned Rights for the Assignment Term (the "**Assignment**"). During the Assignment Term, and unless otherwise expressly provided herein, Md7 Capital Three shall have the sole and exclusive right to exercise (or the right to require Owner to exercise) the Assigned Rights, including, without limitation, the right to amend the Lease.
3. **Term of Assignment.** The term of the Assignment ("**Assignment Term**") shall commence on September 10, 2010 ("**Commencement Date**"), and shall expire on September 9, 2035 ("**Expiration Date**"). Prior to the Commencement Date, Md7 Capital Three may deliver written notice ("**Cancellation Notice**") to Owner of Md7 Capital Three's election not to undertake the Assignment, in which event this Agreement shall automatically terminate and be of no further force and effect upon Owner's receipt of the Cancellation Notice, and the Lease shall continue by its terms between Owner and Tenant.
4. **Lease Term.** The last day of the current term of the Lease shall be deemed amended and extended through, or moved-up to, as applicable, the Expiration Date, and neither Tenant, Md7 Capital Three nor any other party shall be required to exercise any renewal option or take any other action in order for the current term of the Lease to continue through, and end on, the Expiration Date.
5. **Obligations.** The parties acknowledge that, by this Assignment, Md7 Capital Three has not assumed, and does not intend to assume, any of the obligations, duties or liabilities of Owner under the Lease, and no act or forbearance by Md7 Capital Three under this Agreement shall be deemed an assumption by Md7 Capital Three of any obligations of Owner. During the Assignment Term, Md7 Capital Three shall not have any liability or obligation with respect to the care, management or repair of the Property or Premises or any part thereof or for any injury or damage sustained by any person in, on, under or about the Property or Premises. Owner shall remain responsible for covenanting Tenant's quiet enjoyment and possession of the Premises, and for the performance of all conditions, covenants, obligations and duties required of Owner under the Lease and under applicable laws and regulations at all times during the Assignment Term.
6. **No Modifications.** During the Assignment Term, Owner shall not have the right, without the prior written consent of Md7 Capital Three (which may be withheld in Md7 Capital Three's sole discretion), to modify, extend, renew or terminate (including eviction) the Lease, or to waive any default under the Lease.

UNOFFICIAL COPY

7. **Successor Lease.** Upon the early termination of the Lease during the Assignment Term for any reason, Owner agrees that Md7 Capital Three may elect to terminate this Agreement or become the tenant of the Premises upon terms and conditions identical to those in the Lease, as amended (the “Md7 Capital Three Lease”), and upon the provisions of the Terms and Conditions.

8. **Assignment; Secured Parties.** Md7 Capital Three shall have the right to sublease the Premises and/or assign, sell, pledge or otherwise transfer any and all of its rights, title or interests in, to or under this Agreement, the Lease, the Premises or the Md7 Capital Three Lease, including to any pledgees, mortgagees, holders of security interests, trustees, lenders or other parties providing financing to Md7 Capital Three (individually, “Secured Party”), without the prior consent of Owner.

9. Miscellaneous Provisions.

(a) This Agreement shall run with the Property, and shall inure to the benefit of and shall bind the successors and assigns of the parties to this Agreement;

(b) Interpretation of this Agreement shall be governed by the internal laws of the State in which the Premises are located without regard for principles of conflicts of law;

(c) To the extent permitted by law, each party waives any right to a jury trial in any action or proceeding to enforce or interpret this Agreement;

(d) This Agreement may be executed in multiple counterparts; and

(e) This Agreement may be recorded in the relevant recording jurisdiction where the Property is located.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

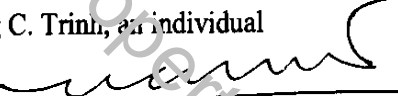
UNOFFICIAL COPY


IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.


OWNER:


Xuong C. Trinh, not individually but as Trustee of the Xuong C. Trinh Revocable Trust Agreement dated March 5, 2009

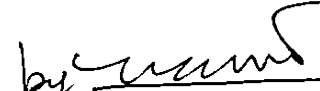
By: 
Xuong C. Trinh, Trustee

Cuong C. Trinh, an individual
By: 
Cuong C. Trinh

Dan C. Trinh, an individual
By: *D. T. by *
Cuong C. Trinh, his/her attorney-in-fact

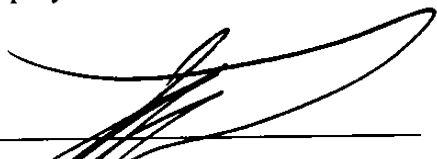
Chan A. Trinh, an individual
By: *A. T. by *
Cuong C. Trinh, his/her attorney-in-fact

Olivia Ngoc Khanh Trinh a/k/a Olivia Trinh-Arnemann, an individual
By: *Olivia T. by *
Cuong C. Trinh, his/her attorney-in-fact

Alice Ngoc a/k/a Alice Ngoc-Hue Trinh, an individual
By: *Alice T. by *
Cuong C. Trinh, his/her attorney-in-fact

Md7 Capital Three:

Md7 Capital Three, LLC, a Delaware limited liability company

By: 
Print Name: Thomas E. Leddo
Title: Vice President

UNOFFICIAL COPY

OWNER ACKNOWLEDGEMENT

STATE OF Ill

COUNTY OF Cook

On Aug. 10, 2010 before me, [print name and title of notarial officer here:] Won Sun Kim as attorney & notary, personally appeared Xuong C. Trinh, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Won Sun Kim

My commission expires: 3/20/12



(Seal)

OWNER ACKNOWLEDGEMENT

STATE OF Ill

COUNTY OF Cook

On Aug 10, 2010 before me, [print name and title of notarial officer here:] Won Sun Kim as attorney & notary, personally appeared Cuong C. Trinh, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Won Sun Kim

My commission expires: 3/20/12



(Seal)

UNOFFICIAL COPY

Md7 Capital Three ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN DIEGO)

On August 20, 20 10, before me, Holly Nigh, a Notary Public, personally appeared Thomas E. Leddo, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: *[Handwritten Signature]*



(Seal)

UNOFFICIAL COPY

EXHIBIT A

PREMISES DESCRIPTION AND LEGAL DESCRIPTION OF PROPERTY

Street Address: 5252 North Broadway Street, Chicago, IL 60640

Parcel #: 14-08-128-018-0000

Legal Description:

That certain communications facility site (and easement) located on a portion of the real property described as follows:

LOTS 1,2,3 AND THE NORTH 10 ½ FEET OF LOT 4 IN BLOCK 16 IN COCHRAN'S 3RD ADDITION TO EDGEWATER, SAID ADDITION BEING A SUBDIVISION OF THE EAST ½ OF THE NORTHWEST ¼ OF SECTION 8, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS.