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Doc#: 1416317013 Fee: \$50.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 06/12/2014 10:10 AM Pg: 1 of 7

Prepared by:
Record and returned to:
SBA Towers V LLC
5900 Broken Sound Parkway, NW
Boca Raton, FL 33487
561.226.9439
Site ID IL98988-L

Tax Parcel: 11-31-414-049

Address: NON-DISTURBANCE AND ATTORNMENT AGREEMENT

6542 N. Clark St, Chicago, IL 60626

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement"), dated as of April 16, 2014 by SBA Site Management LLC, a Florida limited liability company, having its principal office and place of business located at 12250 Weber Hill Road Suite 120, St. Louis, Missouri ("Tenant"), and FIRSTMERIT BANK, N.A., a national banking association, with an address at 501 West North Avenue, Melrose Park, Illinois 60160 ("Lender").

PRELIMINARY STATEMENT:

A. On January 7, 2013, Lender and Burrows Building, L.L.C., an Illinois limited liability company ("Landlord"), entered into that certain Mortgage recorded on January 9, 2013 as Deed # 1300929075 with the Recorder of Deeds of Cook County Illinois encumbering that certain real property (the "Property") described therein (collectively such instrument and all amendments, modifications, renewals, substitutions, extensions, consolidations and replacements thereto and thereof, as applicable, are hereinafter collectively referred to as "Mortgage").

B. Tenant and Landlord have or will be entering into an Easement Agreement ("Easement") for a building rooftop ("Rooftop") located on the real property described on Exhibit "A" (the "Premises") which Premises is a portion of the Property.

C. Tenant desires that Lender recognize Tenant's rights under the Easement in the event of foreclosure of Lender's lien or any other Transfer and Tenant is willing to agree to attorn to Lender or the purchaser at such foreclosure or other Transfer if Lender will recognize Tenant's right of possession under the Easement. In addition, Tenant desires that Lender release its lien on all leases, subleases and licenses for space on the Rooftop.

Therefore, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender and Tenant hereby agree as follows:

1. Subordination; Non-Disturbance. Tenant acknowledges that the Easement is junior and subordinate to the lien of the Mortgage. Provided (a) Tenant complies with this Agreement, (b) Tenant is not in default under the Easement and no event has occurred which, with the passage of

Return to: **H8978-B**

Karley Haynie

First National Financial Title Services, Inc.

3237 Satellite Blvd., Bldg. 300, Ste. 450

Duluth, GA 30096

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SC ✓
E ✓
INT W

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time or the giving of notice or both, would constitute a default under the Easement, and (c) the Easement is in full force and effect, no default under the Mortgage and no proceeding to foreclose the same or other Transfer will disturb Tenant's possession under the Easement and the Easement will not be affected or cut off thereby, and notwithstanding any such foreclosure or other Transfer of the Property to Transferee, Transferee will recognize the Easement and will accept the attornment of Tenant thereunder. "Transfer" shall mean (a) the institution of any foreclosure, trustee's sale or other like proceeding, (b) the appointment of a receiver for the Landlord or the Property, (c) the exercise of rights to collect rents under the Mortgage or an assignment of rents, (d) the recording by Lender or its successor or assignee of a deed in lieu of foreclosure for the Property, or (e) any transfer or abandonment of possession of the Property to Lender or its successor or assigns in connection with any proceedings affecting Landlord under the Bankruptcy Code, 11 U.S.C. § 101 et seq. "Transferee" shall mean the Lender or any successor or assignee of Lender taking title to the Property in connection with a Transfer.

2. Attornment. Upon the Transfer of the Property to Transferee, whether through foreclosure, deed in lieu of foreclosure or otherwise, Tenant shall attorn to Transferee as the landlord under the Easement. Said attornment shall be effective and self-operative without the execution of any further instruments upon Transferee's succeeding to the interest of the landlord under the Easement. Tenant and Lender shall, however, confirm the provisions of this paragraph in writing upon request by either of them.

3. Release of Lien. The parties acknowledge that in connection with the execution of the Easement, Landlord is conveying to Tenant all leases, subleases and licenses of space on the Rooftop (collectively the "Leases"), including but not limited to the Leases described on Exhibit "B" attached hereto. Lender hereby releases the Leases from the lien of the Mortgage and any collateral agreements and agrees to execute any additional documentation necessary to document such release.

4. Miscellaneous.

(a) This Agreement shall inure to the benefit of the parties hereto, their successors and assigns; provided, however, that in the event of the assignment or transfer of the interest of Transferee, all obligations and liabilities of Transferee under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom Transferee's interest is assigned or transferred. This Agreement shall be deemed to automatically benefit any assignee of the Easement.

(b) This Agreement is the whole and only agreement between the parties hereto with regard to the subject matter hereof. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto.

(c) This Agreement shall be deemed to have been made in the state where the Property is located and the validity, interpretation and enforcement of this Agreement shall be determined in accordance with the laws of such state.

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(d) In the event any legal action or proceeding is commenced to interpret or enforce the terms of, or obligations arising out of, this Agreement, or to recover damages for the breach thereof, the party prevailing in any such action or proceeding shall be entitled to recover from the non-prevailing party all reasonable attorneys' fees, costs and expenses incurred by the prevailing party.

(e) Any notices or communications required or permitted to be given or made hereunder shall be deemed to be so given or made when in writing and delivered in person or sent by United States registered or certified mail, postage prepaid, or by nationally recognized overnight courier service, directed to the parties at the following addresses listed above or to such other address as such party may from time to time designate in writing to the other party. Notices or communications mailed in the U.S. mail shall be deemed to be served on the third business day following mailing, notices or communication served by hand or by overnight courier shall be deemed served upon receipt.

<EXECUTION PAGE FOLLOWS>

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Witnesses:

LENDER:

Mi *Victor Levin*
Print Name: _____

FIRSTMERIT BANK, N.A., a national banking association

By: *[Signature]*
Name: ANIL MERRANI
Title: VP

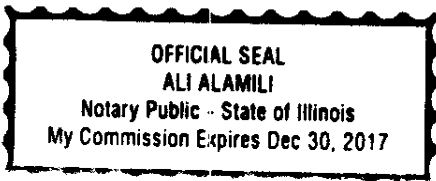
Print Name: _____

State of IL
County of Cook

The foregoing instrument was acknowledged before me this 9 day of April, 2014 by ANIL MERRANI as VP of FirstMerit Bank, N.A., a national banking association, who is personally known to me or has produced STATE ID as identification.

WITNESS my hand this 9 day of April, 2014.

[NOTARIAL SEAL]



Ali Alamili
Print Name: Ali Alamili
NOTARY PUBLIC - State of IL
Commission Number: 796543
My Commission Expires: Dec 30, 2017

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IN WITNESS WHEREOF, this Agreement has been signed and delivered as of the date and year first above set forth.

TENANT:

SBA SITE MANAGEMENT LLC, a Florida limited liability company

By: _____

Neil Seidman
Senior Vice President

Print Name: Sybil James

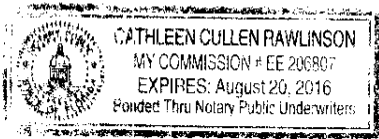
Print Name: Samela Gentry

State of Florida
County of Palm Beach

The foregoing instrument was acknowledged before me this 16th day of April, 2014 by Neil Seidman, Senior Vice President of SBA Site Management LLC, a Florida limited liability company, on behalf of the corporation. He is personally known to me.

WITNESS my hand this 16th day of April, 2014.

[NOTARIAL SEAL]



Print Name: Cathleen Cullen Rawlinson
NOTARY PUBLIC - State of Florida
Commission Number: _____
My Commission Expires: _____

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EXHIBIT "A"

Legal Description of the Premises

LOTS 4, 5 AND 6 IN BLOCK 2 IN GALLUP AND SCHIESSWOHL'S ADDITION TO ROGERS PARK, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 31, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.

Permanent Index Number: 11-31-414-049

Commonly known as: 6542 North Clark Street, Chicago, Illinois 60626

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EXHIBIT "B"

Leases

- Microwave Lease Agreement dated June 26, 2009, by and between Clear Wireless LLC, a Nevada limited liability company and Burrows Building, LLC, a successor in interest to L&L Building Corporation
- Lease Agreement dated December 21, 1998 by and between L & L Building Corp. and 21st Century Telecorp Group, Inc., an Illinois corporation
- PCS Site Agreement dated on or about November 25, 1997 by and between L & L Building Corp. and SprintCom, Inc., a Kansas corporation, as amended
- Rooftop Lease with Option dated on or about April 3, 2003 by and between Burrows Building LLC and VoiceStream GSMI Operating Company

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