

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF SBCW AND CINGULAR AS TO THEMSELVES, NEWCO AND THE TRANSFERRED NEWCO MEMBERSHIP INTEREST

Except as set forth in the disclosure schedule to this Agreement (the “**Cingular Disclosure Schedule**”) (it being agreed that Cingular will use commercially reasonable efforts to identify on the Cingular Disclosure Schedule by section number the section to which such disclosure relates, provided that disclosure of any item in such schedules shall be deemed disclosure with respect to any section of this Agreement to which the relevance of such item is reasonably apparent), Cingular and SBCW hereby jointly and severally represent and warrant to T-Mobile and Purchaser as follows:

3.1 Organization, Corporate Power. Cingular is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware and SBCW is a limited liability company validly existing and in good standing under the laws of Delaware. Each of SBCW and Cingular (i) has the limited liability company power and authority to own, lease and operate all of its assets and to carry on its business as it is now being conducted and (ii) is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the assets owned or leased by it makes such licensing or qualification necessary for the performance of its obligations under this Agreement and any Ancillary Agreement to which it is a party, except where the failure to be so licensed or qualified will not have, individually or in the aggregate, a Cingular Material Adverse Effect.

3.2 Authority. Each of Cingular and SBCW has the full limited liability company power and authority to execute, deliver and perform this Agreement and each of the Ancillary Agreements to which it will be a party and to perform its obligations hereunder and thereunder. At the time of the execution and delivery of any such Ancillary Agreement to which it is a party, each of Cingular and SBCW will have the full limited liability company power and authority to execute, deliver and perform such agreement. The execution, delivery and performance of this Agreement and each of the Ancillary Agreements to which Cingular and/or SBCW, as applicable, is or will be a party have been duly authorized and approved by all necessary limited liability company action on Cingular’s or SBCW’s part, as applicable, and no additional authorization or action is required in connection with the execution, delivery and performance by Cingular and SBCW of this Agreement or such Ancillary Agreements. This Agreement has been duly executed and delivered by Cingular and SBCW and is, and each Ancillary Agreement to which Cingular or SBCW will be a party will be, duly executed and delivered by Cingular and/or SBCW, as applicable, and will be the legal, valid and binding obligation of Cingular and/or SBCW, as applicable, enforceable against Cingular and/or SBCW, as applicable, in accordance with its terms, except to the extent that enforcement may be limited by applicable bankruptcy, insolvency and other Laws of general applicability affecting creditors’ rights and by general equity principles.

3.3 No Conflict. Neither the execution and delivery of this Agreement and any of the Ancillary Agreements to which Cingular and/or SBCW is or will be a party nor the performance

of any of the transactions contemplated hereby or thereby nor compliance with or fulfillment of the terms, conditions and provisions hereof or thereof will (i) violate any provision of the certificate of formation, limited liability company operating agreement or other charter documents of Cingular, SBCW or Newco, (ii) except as would not individually or in the aggregate have a Cingular Material Adverse Effect, violate, contravene, conflict with, or result in a breach of, constitute a default or event of default under, or constitute (or with the passage of time without further action will constitute) a mandatory prepayment or redemption event under, or result in the termination, cancellation or acceleration (whether after the filing of notice or lapse of time or both) of any right or obligation of Cingular, SBCW or any of their respective Affiliates under, or a loss of any benefit to which Cingular, SBCW or any of their respective Affiliates is entitled under, any Contract, lease, agreement, mortgage, covenant, loan, indenture, license, permit, instrument or undertaking to which Cingular, SBCW or any of their respective Affiliates is a party or by which Cingular, SBCW or any of their respective Affiliates is bound, (iii) result in the creation of any Lien upon the Transferred Newco Membership Interest or result in the creation of any Lien, except for Permitted Liens and except as would not individually or in the aggregate have a Cingular Material Adverse Effect, upon the Cingular Assets, or (iv) except as would not individually or in the aggregate have a Cingular Material Adverse Effect, violate or result in a breach of or constitute a default under any Law or Order or other restriction of any Governmental Body to which Cingular, SBCW, Newco, Cingular Sub or Facilities is subject.

3.4 The Transferred Newco Membership Interest. At Closing, SBCW will be the lawful and beneficial owner of the Transferred Newco Membership Interest and will have valid title thereto, free and clear of all Liens. The Transferred Newco Membership Interest will represent SBCW's entire ownership interest in Newco. There are no outstanding options, warrants, calls, conversion rights, commitments, agreements, contracts, understandings, restrictions, arrangements or rights of any character to which SBCW (or its Affiliates) is a party or by which SBCW (or its Affiliates) may be bound obligating SBCW (or any of its Affiliates) to deliver or sell, or cause to be delivered or sold, such Transferred Newco Membership Interest, or obligating such SBCW (or any of its Affiliates) to grant, extend, or enter into any such option, warrant, call, conversion right, conversion payment, commitment, agreement, contract, understanding, restriction, arrangement or right. There are no Liens with respect to the Transferred Newco Membership Interest and such interest shall be transferred free and clear of any Liens.

3.5 Consents and Approvals. To the Knowledge of SBCW or Cingular, except for the filing required under the HSR Act and any approvals of the FCC set forth in the Ancillary Agreements, and except for any consents required pursuant to any Cingular Leased Properties where a Governmental Body is lessor, no Governmental Approval is required to be made or obtained by SBCW or Cingular in connection with the execution and delivery by SBCW or Cingular, as applicable, of this Agreement or any Ancillary Agreement to which it is or will become a party, the consummation by SBCW or Cingular, as applicable, of the transactions contemplated hereby or thereby or the performance by SBCW or Cingular, as applicable, of its obligations contained herein or therein.

3.6 No Litigation. There is no litigation, claim, cause of action, or proceeding instituted or pending, or, to the Knowledge of SBCW or Cingular, threatened (or unasserted but considered probable of assertion and which if asserted would have at least a reasonable

possibility of an unfavorable outcome) by any Person or Governmental Body against SBCW, Cingular or any of their Affiliates, or against any director, employee or employee benefit plan of SBCW, Cingular or any of their Affiliates, or against any asset, interest, or right of any of them which, if adversely determined, would be reasonably likely to have a Cingular Material Adverse Effect, nor are there any Orders outstanding against SBCW, Cingular, or any of their Affiliates, that are reasonably likely to have a Cingular Material Adverse Effect.

3.7 No Brokers. No broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement or any of the Ancillary Agreements based upon arrangements made by or on behalf of SBCW, Cingular or Cingular Sub.

3.8 Newco. SBCW shall form Newco as a Delaware limited liability company prior to the Closing solely for the purpose of holding the membership interest in Facilities and Newco will not conduct any other activities. At the time of Closing, Newco will be a limited liability company duly organized, validly existing and in good standing under the laws of Delaware (i) with the power and authority to own, lease and operate all of its assets and to carry on its business as it is intended to be conducted and (ii) will be duly licensed or qualified to do business in each jurisdiction in which the nature of the business intended to be conducted by it or the character or location of the assets owned or leased by it makes such licensing or qualification necessary for the carrying out of its business. At all times prior to and at Closing, Newco will not (i) hold any assets other than the membership interest of Cingular Sub, (ii) conduct any operations other than receiving the SBCW Contribution, and (iii) have any liabilities other than those associated with the membership interest of Cingular Sub. At Closing, Newco will own the entire membership interest in Cingular Sub.

3.9 Facilities. To the Knowledge of SBCW or Cingular, there is no litigation, claim, cause of action, or proceeding instituted, pending, or, threatened (or unasserted but considered probable of assertion and which if asserted would have at least a reasonable possibility of an unfavorable outcome) by any Person or Governmental Body against Facilities which, if adversely determined, would be reasonably likely to have a material adverse effect on Facilities. Neither SBCW nor Cingular is aware of any material liability of Facilities that is not set forth in the audited consolidated balance sheet as of December 31, 2003 and the unaudited consolidated balance sheet as of December 31, 2002 and, in each case, the related consolidated statements of operations, cash flows and changes in members' capital for the fiscal years then ended of Facilities. To the Knowledge of Cingular and SBCW, the only assets and liabilities of Facilities are the membership interests in T-Mobile Sub and Cingular Sub. To the Knowledge of SBCW or Cingular, Facilities does not have, and since its formation has never had, any employees and is not a party to any union contract, collective bargaining agreement or any employment contract or arrangement. To the Knowledge of SBCW or Cingular, Facilities does not have, and since its formation has never had, any plan or Contract which is sponsored, maintained, contributed to or otherwise used by Facilities for the benefit of any current or former employees, officers or directors of Cingular Sub, which plan is: (i) an "employee benefit plan," as such term is defined in Section 3(3) of ERISA (including employee benefit plans, such as foreign plans, which are not subject to the provisions of ERISA), or (ii) a stock option plan, bonus plan or arrangement,

incentive award plan or arrangement, change in control or severance pay plan or policy, deferred compensation arrangement, executive compensation or supplemental income arrangement, and each other employee benefit plan or program which is not described in clause (i) of this sentence.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SBCW AND CINGULAR AS TO THE CINGULAR ASSETS AND CINGULAR SUB

Except as set forth in the Cingular Disclosure Schedule (it being agreed that Cingular will use commercially reasonable efforts to identify on the Cingular Disclosure Schedule by section number the section to which such disclosure relates, provided that disclosure of any item in such schedules shall be deemed disclosure with respect to any section of this Agreement to which the relevance of such item is reasonably apparent), Cingular and SBCW hereby jointly and severally represent and warrant to T-Mobile and Purchaser as follows:

4.1 Organization and Corporate Power. Cingular Sub is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware. Cingular Sub (i) has the limited liability company power and authority to own, lease and operate all of its assets and to carry on its business as it is now being conducted and (ii) is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the assets owned or leased by it makes such licensing or qualification necessary for the carrying out of its business, except where the failure to be so licensed or qualified will not have, individually or in the aggregate, a Cingular Material Adverse Effect.

4.2 No Conflict. Neither the execution and delivery of this Agreement and any of the Ancillary Agreements to which Cingular Sub is or will be a party nor the performance of any of the transactions contemplated hereby or thereby nor compliance with or fulfillment of the terms, conditions and provisions hereof or thereof will (i) violate any provision of the certificate of formation, limited liability company operating agreement or other charter documents of Cingular Sub, (ii) except as would not individually or in the aggregate have a Cingular Material Adverse Effect, violate, contravene, conflict with, or result in a breach of, constitute a default or event of default under, or constitute (or with the passage of time without further action will constitute) a mandatory prepayment or redemption event under, or result in the termination, cancellation or acceleration (whether after the filing of notice or lapse of time or both) of any right or obligation of Cingular Sub under, or a loss of any benefit to which Cingular Sub is entitled under, any Contract, lease, agreement, mortgage, covenant, loan, indenture, license, permit, instrument or undertaking to which Cingular Sub is a party or by which Cingular Sub is bound, (iii) except as would not individually or in the aggregate have a Cingular Material Adverse Effect, result in the creation of any Lien, except for Permitted Liens, upon the Cingular Assets, or (iv) except as would not individually or in the aggregate have a Cingular Material Adverse Effect, violate or result in a breach of or constitute a default under any Law or Order or other restriction of any Governmental Body to which Cingular Sub is subject. Except as would not individually or in the aggregate have a Cingular Material Adverse Effect, Cingular Sub has complied in all material respects with all Permits, Laws and Orders applicable to it and there are no violations or claimed violations known by Cingular Sub of any Permit, Law or Order.

4.3 Capitalization; Subsidiaries. Facilities is the sole member of Cingular Sub. There are no outstanding options, warrants, calls, conversion rights, commitments, agreements, contracts, understandings, restrictions, arrangements or rights of any character for or relating to the issuance, or sale of, or outstanding securities convertible into or exchangeable for, any membership interests of any class or other equity interests of Cingular Sub. Cingular Sub has no obligation to purchase, redeem, or otherwise acquire any of its membership interests or any other interests therein. All of the outstanding membership interests in Cingular Sub are duly and validly authorized and issued and are fully paid and non-assessable and not subject to any preemptive rights. There are no preemptive rights, rights of first refusal, put or call rights or obligations or anti-dilution rights with respect to the issuance, sale or redemption of the membership interests of Cingular Sub.

4.4 Financial Statements of Cingular Sub. SBCW has previously made available to Purchaser copies of the following financial statements of Cingular Sub: (a) audited balance sheets as of December 31, 2003 and 2002 and the related statements of operations, cash flows and changes in member's capital for the fiscal years then ended, certified by the independent certified public accountants of Cingular Sub (the audited balance sheet as of December 31, 2003 is attached hereto in Section 4.4 of the Cingular Disclosure Schedule and is hereafter referred to as the "**Base Balance Sheet**" and the related statements of operations, cash flows and changes in member's capital are attached hereto in Section 4.4 of the Cingular Disclosure Schedule); and (b) an unaudited balance sheet (the "**Interim Balance Sheet**") and the related statements of operations and cash flows and member's equity for the three months ended March 31, 2004 (attached hereto in Section 4.4 of the Cingular Disclosure Schedule). All of such financial statements referred to above were prepared in accordance with GAAP (subject to the absence of footnotes and normal year-end adjustments, none of which are material individually or in the aggregate, in the case of the unaudited statements), are prepared from and are consistent in all material respects with the books and records of Cingular Sub and fairly present in all material respects the financial position of Cingular Sub as of the dates thereof and the results of operations and cash flows of Cingular Sub for the periods shown therein.

4.5 No Undisclosed Liabilities. Except as set forth in Section 4.5 of the Cingular Disclosure Schedule, there are no liabilities or other obligations of Cingular Sub of a type required pursuant to GAAP to be reflected on a balance sheet that would reasonably be expected to have, individually or in the aggregate, a Cingular Material Adverse Effect other than: (i) liabilities accrued or reserved against on the Interim Balance Sheet or included in the Cingular Sub financial statements delivered prior to the date of this Agreement or reflected in the notes thereto; or (ii) liabilities incurred since the date of the Interim Balance Sheet that have been incurred in the Ordinary Course of Business of Cingular Sub.

4.6 No Material Adverse Change. Since the date of the Base Balance Sheet, Cingular Sub has conducted its business in the Ordinary Course of Business and, except as set forth in Section 4.6 of the Cingular Disclosure Schedule, there has not been any change in the financial condition, properties, assets, liabilities, business or operations of Cingular Sub, which change by itself, has had or is reasonably likely to have a Cingular Material Adverse Effect. Without limiting the generality of the foregoing, except as set forth in Section 4.6 of the Cingular

Disclosure Schedule, or as specifically approved by the Management Committee of Facilities, since the date of the Base Balance Sheet:

(a) Cingular Sub has not sold, leased, licensed, transferred, or assigned any of its assets, tangible or intangible outside the Ordinary Course of Business or, in the aggregate, in excess of \$500,000;

(b) Cingular Sub has not entered into any Contract (or series of related Contracts) outside the Ordinary Course of Business or in excess of \$500,000 to which Cingular Sub is a party or by which it is bound;

(c) No Person (including Cingular Sub) has accelerated, terminated, modified, or cancelled any Contract (or series of Contracts), or threatened in writing to do any of the above, outside the Ordinary Course of Business or involving more than \$500,000 to which Cingular Sub is a party or by which it is bound;

(d) Cingular Sub has not made any expenditure (or series of related expenditures) of more than \$500,000 or outside the Ordinary Course of Business;

(e) Cingular Sub has not made any capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person (or series of related capital investments, loans, and acquisitions) of more than \$500,000 or outside the Ordinary Course of Business;

(f) Cingular Sub has not created, incurred, assumed, or guaranteed more than \$500,000 in aggregate indebtedness for borrowed money and capitalized lease obligations, or outside the Ordinary Course of Business;

(g) Cingular Sub has not delayed or postponed the payment of accounts payable and other liabilities outside the Ordinary Course of Business;

(h) Cingular Sub has not cancelled, compromised, waived, or released any right or claim (or series of related rights and claims) either involving more than \$500,000 or outside the Ordinary Course of Business;

(i) Cingular Sub has not experienced any damage, destruction, or loss to its property or assets having a value of \$500,000 in the aggregate;

(j) Cingular Sub has not decommissioned or disabled a Site; and

(k) Cingular Sub has not committed to do any of the foregoing.

4.7 Tax Matters. Cingular Sub has timely and properly filed (taking into account extensions of time to file validly requested) all material Tax Returns required to be filed by it through the date hereof, and such Tax Returns are true, complete and correct in all material respects. Cingular Sub has paid or caused to be paid all Taxes shown as due and owing by it on such Tax Returns. All Taxes which Cingular Sub was or is required to withhold or collect have been withheld and collected and have been paid over to the proper governmental authorities.

Since the Formation Date, neither Cingular nor Cingular Sub has received notice of any audit or of any proposed deficiencies from the IRS or any other taxing authority relating to Cingular Sub (other than routine audits undertaken in the ordinary course and which have been resolved on or prior to the date hereof). There are in effect no waivers of applicable statutes of limitations with respect to any Taxes owed by Cingular Sub for any year. Neither the IRS nor any other taxing authority has asserted in writing or, to SBCW's or Cingular's Knowledge, threatened to assert against Cingular Sub any deficiency or claim for additional Taxes or interest thereon or penalties in connection therewith. Cingular Sub has no liability for Taxes of any other Person, including as a transferee or successor entity or under Treasury Regulation Section 1.1502-6. Cingular Sub is not a party to any Tax allocation or sharing arrangement. Cingular Sub is and at all times since the Formation Date has been properly classified as a disregarded entity for federal income tax purposes. Since the Formation Date, no claim has been made by an authority in a jurisdiction where Cingular Sub does not file Tax Returns that it is or may be subject to taxation by that jurisdiction.

4.8 Cingular Assets. Cingular and SBCW have: (i) complied with their obligations to contribute the Cingular Assets (as such term is defined, for purposes of this sentence only, in the Formation Agreement) to Cingular Sub pursuant to the Formation Agreement, (ii) retained all such Cingular Assets in Cingular Sub other than in the Ordinary Course of Business or as permitted by the Facilities LLC Agreement, and (iii) complied with their obligations pursuant to the Facilities LLC Agreement, including the obligation to provision the network in accordance with the Operating Standards (as defined in the Facilities LLC Agreement), in each case except as would not have a Cingular Material Adverse Effect. As of the Closing, the Cingular Assets, (a) from a technical standpoint, will be adequate to provide Wireless Services in accordance with the Operating Standards, except as would not have a Cingular Material Adverse Effect, and (b) except as otherwise provided in Section 4.10 include all assets, including towers, software licenses and leases materially necessary to provide such Wireless Services in substantially the same manner provided to subscribers as of the date hereof; provided that the Cingular Assets do not include (x) the assets set forth on Section 4.8 to the Cingular Disclosure Schedule (the "Excluded Assets"), (y) related FCC licenses, or (z) the service, technical, and support functions necessary to provide such Wireless Services as provided pursuant to the Technical Services Agreement. Certain services will be provided by Cingular pursuant to the Transition Services Agreement, and no representation or warranty is made in this Section 4.8 about such services. Cingular Sub owns no assets other than the Cingular Assets, except for certain of the Excluded Assets. The Cingular Assets include an inventory of spare parts in a quantity that Cingular Sub has maintained in the Ordinary Course of Business. Any prepaid service agreements and warranties will continue to be effective and will not be adversely affected by the transfer of the Transferred Newco Membership Interest, except as would not, individually or in the aggregate, have a Cingular Material Adverse Effect. No software that has been developed by Cingular Sub, Cingular or any Affiliate is materially necessary to provide Wireless Services in substantially the same manner as provided to subscribers as of the Closing.

4.9 Title to Cingular Network Assets. Cingular Sub has good and marketable title to all of the owned Cingular Network Assets, and good, valid interests in the non-owned Cingular Network Assets, free and clear of all Liens other than Permitted Liens, except as would

not have a Cingular Material Adverse Effect. To the Knowledge of Cingular and SBCW, the Cingular Network Assets will not be materially adversely affected by the transfer of the Transferred Newco Membership Interest. Upon transfer of the Newco Membership Interest, the Cingular Network Assets shall be free and clear of all Liens, other than Permitted Liens, except as would not have a Cingular Material Adverse Effect.

4.10 Real Property; Leased Real Property.

(a) None of the Cingular Sub Distribution, the SBCW Distribution nor the transfer of the Transferred Newco Membership Interest (collectively, the “**Transfers**”) would result in a breach or default (including an event or circumstance which, with the passage of time or giving of notice, would constitute a default) of (i) more than fifteen percent (15%) of the Cingular Sub Leases for the Cingular In Service Properties or (ii) any of the Cingular Sub Leases for the Cingular Switch Properties.

(b) The material economic and legal provisions of the Cingular Sub Leases, taken as a whole, are customary for wireless telecommunications companies.

(c) Except where failure to so identify would not have a Cingular Material Adverse Effect, to the Knowledge of Cingular or SBCW, Section 4.10(b) to the Cingular Disclosure Schedule sets forth all of the material Cingular Fee Properties and the Cingular Leased Properties and shows with respect to each Cingular Leased Property, in all material respects, the expiration date of the current term, expiration date of the maximum available renewal term(s) and current annual lease payments amount; provided, however, that no commencement date is shown for Cingular Leased Permitting Sites where the lease term has not yet commenced.

(d) Except as disclosed in Section 4.10(d) of the Cingular Disclosure Schedule, to the Knowledge of SBCW and Cingular, none of Cingular Sub, SBCW or Cingular has received written notice from any lessor or sublessor (or representative, affiliate, predecessor, assignee, senior lienor or other party claiming by, through or under Cingular Sub, SBCW or Cingular) under any of the Cingular Sub Leases or with respect to any of the Cingular Leased Properties of a default by Cingular Sub which default remains uncured or of an event which, with notice, the passage of time or both, would be a default, to the extent that the existence of such default, individually or in the aggregate with all such defaults, would not have a Cingular Material Adverse Effect.

(e) Cingular Sub has good title to the Cingular Fee Properties, free and clear of any Liens, other than Permitted Liens. To the Knowledge of Cingular or SBCW, Cingular Sub (or, on the date hereof, a Cingular Affiliate, who on or prior to Closing will transfer its interest in any Cingular Sub Lease to Cingular Sub) holds the leasehold or other beneficial interest in or license to all of the Cingular Leased Properties, which Cingular Leased Properties, to the Knowledge of Cingular are free and clear of any Liens other than Permitted Liens.

(f) Except where failure to so identify would not have a Cingular Material Adverse Effect, to the Knowledge of Cingular or SBCW, (i) Schedule C-1 lists all of the

Cingular Switch Sites, and (ii) Schedule D-1 and Schedule D-2 to the Cingular Disclosure Schedule lists, respectively, (A) all Cingular Owned Permitting Sites and (B) all Cingular Non-Owned Permitting Sites. The parties agree that Cingular Non-Owned Permitting Sites may be added or deleted by Cingular Sub for valid business purposes reasonably related to the operation of the California/Nevada network, and not in anticipation of the AWE Merger.

(g) To the Knowledge of Cingular or SBCW, and other than the Cingular Permitting Sites, or as otherwise disclosed on Section 4.10(g) to the Cingular Disclosure Schedule, all improvements owned by Cingular Sub or its Affiliates at the Cingular In Service Properties conform in all material respects to all applicable Laws and to all restrictions or encumbrances included within the definition of Permitted Liens, except to the extent noncompliance with Laws or such restrictions or encumbrances would not, individually or in the aggregate, have a Cingular Material Adverse Effect.

(h) Neither Cingular Sub nor any of its Affiliates has received any written notice of any pending or, to the Knowledge of Cingular or SBCW, threatened condemnations, planned public improvements, annexation, special assessments, zoning or subdivision changes, or other adverse actions that would have, individually or in the aggregate, a Cingular Material Adverse Effect on Cingular Sub's or any Cingular Affiliate's interests in the Cingular In Service Properties.

(i) To the Knowledge of Cingular or SBCW, other than as to any Cingular Permitting Site and subject to Permitted Liens (excluding clause (g) of the definition thereof), there is no private restrictive covenant or governmental use restriction (including zoning) on all or any portion of the Cingular In Service Properties that prohibits the current use by Cingular Sub as contemplated by the applicable Cingular Sub Lease of any Cingular In Service Properties, except such restrictions as would not have, individually or in the aggregate, a Cingular Material Adverse Effect.

(j) To the Knowledge of Cingular or SBCW, other than Cingular Permitting Sites, (i) all licenses, permits and approvals required by any Governmental Authority for the occupancy and operation in accordance with the applicable Cingular Sub Lease of the Cingular In Service Properties have been obtained and are in full force and effect; and (ii) neither Cingular Sub nor any of its Affiliates has received any written notices of violations in connection with Cingular In Service Properties that remain uncured, or unaddressed, except as would not have, individually or in the aggregate, a Cingular Material Adverse Effect.

(k) To the Knowledge of Cingular or SBCW, none of Cingular Sub, Cingular, SBCW or a Cingular Affiliate has in its possession any studies or reports that indicate any uncorrected defects or deficiencies in the design or construction of any of the improvements on the Cingular Real Property Assets, individually or in the aggregate, except for such defects as would not have, individually or in the aggregate, a Cingular Material Adverse Effect and expressly excluding the Cingular Permitting Sites.

(l) Except for Permitted Liens (excluding clause (a) of the definition thereof) and to the Knowledge of Cingular or SBCW, Cingular Sub has not failed to pay when due any

taxes, assessments, or other charges owed by Cingular Sub in respect of any Cingular Fee Property or owed by Cingular Sub as to any Cingular Leased Property (or any Cingular Affiliate, as a lessee, with respect to any Cingular Leased Property, as of the date hereof) such that the ability to use the Cingular Real Property Assets is or would be adversely affected, except as would not, individually or in the aggregate, have a Cingular Material Adverse Effect.

(m) To the Knowledge of Cingular or SBCW, (other than in connection with casualty and condemnation and except for termination rights as may be required by Law), no Person has any right, interest, commitment, option, right of first refusal or any other agreement, whether oral or written, with respect to the purchase, assignment, transfer or termination of all or any portion of Cingular Sub's or any Cingular Affiliate's interest in the Cingular In Service Properties, except as would not, individually or in the aggregate, have a Cingular Material Adverse Effect.

(n) Following the Closing, Purchaser shall be able to access in all material respects the SBC Affiliated Switch Sites (and any cell sites comprising a part thereof) that are co-located on SBC Communications, Inc. premises and enjoy all the material benefits that Cingular Sub received while co-locating at those Sites; provided that Affiliate billing and related Affiliate conveniences shall not be provided. Access rights to the Affiliated Switch Sites will be granted either by assignment or, at Cingular's election, by providing replacement agreement(s) on materially the same terms as contained in the existing applicable Site documents, including a base rental rate of \$ 8.50 psf per annum with operating expenses (including taxes and insurance) paid and handled as provided in the existing applicable Site documents and an initial lease term of 5 years with four 5 year renewals (escalated to current market rate upon renewal). Notwithstanding the absence of Affiliate billing and related Affiliate conveniences in such replacement agreement(s), all provisions of the agreements for such Sites shall be commercially reasonable and industry standard for similarly-situated switch facilities.

(o) Any representation or warranty made by Cingular Sub in this Section 4.10 as to Cingular Real Property Assets that are held, on the date hereof, by a Cingular Affiliate shall be deemed made by Cingular on behalf of the correct party in interest.

4.11 Environmental Matters. To the Knowledge of Cingular or SBCW, except for such matters that, individually or in the aggregate, would not have a Cingular Material Adverse Effect:

(a) The Cingular Assets are, and have been, in compliance with all Environmental Laws. With respect to such Cingular Assets, there is no litigation pending or threatened before any Governmental Body in which Facilities or any of the Cingular Assets (or Cingular or SBCW) have been or, with respect to threatened litigation, may be named as a defendant (A) for alleged noncompliance (including by any predecessor) with or liability under any Environmental Law or (B) relating to the release, discharge, spillage, or disposal into the environment of any Hazardous Material, whether or not occurring at, on, under, adjacent to, or affecting (or potentially affecting) any of the Cingular Assets, nor is there any reasonable basis for any litigation of a type described in this sentence.

(b) During the period of Cingular Sub's ownership or operation of the Cingular Assets, there have been no releases, discharges, spillages, or disposals of Hazardous Material in, on, or under such properties. Prior to the period of Cingular Sub's ownership or operation of any of the Cingular Assets, there were no releases, discharges, spillages, or disposals of Hazardous Material in, on, or under any of the Cingular Assets.

4.12 Litigation. There is no litigation, claim, cause of action, or proceeding instituted or pending, or, to the Knowledge of SBCW or Cingular, threatened (or unasserted but considered probable of assertion and which if asserted would have at least a reasonable possibility of an unfavorable outcome) by any Person or Governmental Body against Cingular Sub, or against any Cingular Asset which, if adversely determined, would be reasonably likely to have a Cingular Material Adverse Effect, nor are there any Orders outstanding against Cingular Sub that are reasonably likely to have a Cingular Material Adverse Effect. Except as set forth in Section 4.4, Section 4.5, Section 4.9 or Section 4.10, to the Knowledge of SBC or Cingular, there are no claims with respect to the Cingular Assets or Cingular Sub and there are no acts that may give rise to claims by third parties with respect to Cingular Sub for acts or omissions that occurred prior to Closing, which, with respect to any Claim, if adversely determined would be reasonably likely to have a Cingular Material Adverse Effect.

4.13 Employees; Employee Plans. Cingular Sub does not have, and since its formation has never had, any employees and is not a party to any union contract, collective bargaining agreement or any employment contract or arrangement. However, Cingular has a collective bargaining agreement with the Communications Workers of America which presently covers the employees who provide functions related to the development, operations and maintenance of the Cingular Assets. Except as disclosed on Section 4.13 of the Cingular Disclosure Schedule, Cingular Sub does not have, and since its formation has never had, any plan which is sponsored, maintained or contributed to Cingular Sub for the benefit of any current or former employees, officers or directors of Cingular Sub, which plan is: (i) an "employee benefit plan," as such term is defined in Section 3(3) of ERISA (including employee benefit plans, such as foreign plans, which are not subject to the provisions of ERISA), or (ii) a stock option plan, bonus plan or arrangement, incentive award plan or arrangement, change in control or severance pay plan or policy, deferred compensation arrangement, executive compensation or supplemental income arrangement, and each other employee benefit plan or program which is not described in clause (i) of this sentence. However, individuals who provide functions related to the development, operations and maintenance of the Cingular Assets do receive benefits from "plans" (as defined above) from Cingular or an Affiliate of Cingular.

4.14 Material Contracts; No Violation.

(a) Section 4.14 of the Cingular Disclosure Schedule lists each Contract to which Cingular Sub is a party, or by which the Cingular Assets are bound, affected or benefited, with any Person or Governmental Body that (i) has aggregate future liability or anticipated receipts in excess of \$500,000, (ii) is not terminable without penalty on one hundred twenty (120) or fewer days' notice, or (iii) restricts the ability of Cingular Sub to compete or do business in any market. The Contracts listed in Section 4.14 of the Cingular Disclosure Schedule are referred to herein as the "**Material Contracts**"; provided, however, that Section 4.14 of the Cingular Disclosure Schedule does not list contracts for Excluded Assets.

(b) To the Knowledge of Cingular and SBCW, all Material Contracts are valid, binding, and in full force and effect and are enforceable by Cingular Sub in accordance with their terms subject to applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization or other similar Laws relating to creditors' rights and general principles of equity, whether at equity or at law. Cingular Sub has performed all obligations required to be performed by it to date under the Material Contracts and it is not (with or without the lapse of time or the giving of notice, or both) in breach or default thereunder, except where any such failure, breach or default has not and would not reasonably be expected to result in a Cingular Material Adverse Effect. To the Knowledge of Cingular and SBCW, no other party to any of the Material Contracts is (with or without the lapse of time or the giving of notice, or both) in breach or default in any material respect thereunder. At Closing, Cingular shall have provided to Purchaser a copy of each Material Contract and such copies shall be true, complete and correct in all material respects.

4.15 Compliance with FAA and FCC Tower and Cell Site Requirements.

(a) All required filings with the FCC and the FAA relating to all of the Sites and microwave paths of Cingular Sub, including but not limited to those necessary to comply with all FAA and FCC Tower Registration filing requirements under FCC Rule Part 17 and the FCC's NEPA regulations (FCC Rule Part 1.1307-11), have been made and all such sites and path facilities were constructed and are currently operated in all respects as represented to the FCC or the FAA in currently effective filings. Modifications to such Sites and microwave paths have been preceded by the submission to the FCC or the FAA of all required filings, in each case, except as would not, individually or in the aggregate, reasonably be expected to have a Cingular Material Adverse Effect.

(b) All transmission towers located on property owned or leased by Cingular Sub are obstruction-marked and lighted to the extent required by, and in accordance with, the rules and regulations of the FAA, including but not limited to FAA Advisory Circular No: 70/7460-1K and any applicable conditions of any FAA Determination of No Hazard to Air Navigation. Appropriate notification to the FAA has been made for each transmission tower located on property owned or leased by Cingular Sub, in each case, except as would not, individually or in the aggregate, reasonably be expected to have a Cingular Material Adverse Effect.

(c) To the extent that any Site or microwave path is not in full compliance with any applicable FAA or FCC rule or requirement, Cingular shall inform T-Mobile at the earliest practicable date of the identity and location of the site and the particularities of the compliance abnormality.

(d) For Sites and microwave paths not yet constructed at the Closing Date, Cingular shall provide to T-Mobile all information available relating to FAA and FCC requirements, including the Tower Registration filing requirements under FCC Rule Part 17 and the FCC's NEPA regulations (FCC Rule Part 1.1307-11).

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser and T-Mobile hereby jointly and severally represent and warrant to Cingular and SBCW as follows:

5.1 Status and Investment Intent. Purchaser is acquiring the Transferred Newco Membership Interest for its own account for investment purposes only and not with a view to, or with any present intention of, resale, distribution or other disposition thereof. Purchaser has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of its investment in Newco and is capable of bearing the economic risks of such investment, including a complete loss of its investment in Newco.

5.2 Organization and Corporate Power. T-Mobile is a corporation duly organized, validly existing and in good standing under the laws of Delaware and Purchaser is a corporation validly existing and in good standing under the laws of Delaware. Each of T-Mobile and Purchaser (i) has the power and authority to own, lease and operate all of its assets and to carry on its business as it is now being conducted and (ii) is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the assets owned or leased by it makes such licensing or qualification necessary for the performance of its obligations under this Agreement and any Ancillary Agreement to which it is a party, except where the failure to be so licensed or qualified will not have, individually or in the aggregate, a material adverse effect on such Party's ability to perform its obligations hereunder or thereunder.

5.3 Authority. Each of T-Mobile and Purchaser has the full power and authority to execute, deliver and perform this Agreement and each of the Ancillary Agreements to which it will be a party and to perform its obligations hereunder and thereunder. At the Closing, each of T-Mobile and Purchaser shall have the full power and authority to perform this Agreement and each of the Ancillary Agreements to which it will be a party and to perform its obligations hereunder and thereunder. At the time of the execution and delivery of any such Ancillary Agreement to which it is a party, each of T-Mobile and Purchaser will have the full power and authority to execute, deliver and perform such agreement. The execution, delivery and performance of this Agreement and each of the Ancillary Agreements to which T-Mobile and/or Purchaser, as applicable, is or will be a party have been duly authorized and approved by all necessary action on T-Mobile's or Purchaser's part, as applicable, and no additional authorization or action is required in connection with the execution, delivery and performance by T-Mobile or Purchaser of this Agreement or such Ancillary Agreements. At the Closing, the execution, delivery and performance of this Agreement and each of the Ancillary Agreements to which T-Mobile and/or Purchaser, as applicable, is or will be a party shall be duly authorized and approved by all necessary action on T-Mobile's or Purchaser's part, as applicable, and no additional authorization or action shall be required in connection with the execution, delivery and performance by T-Mobile or Purchaser of this Agreement or such Ancillary Agreements. This Agreement has been duly executed and delivered by T-Mobile and Purchaser and is (and each Ancillary Agreement to which T-Mobile or Purchaser will be a party will be, duly executed and delivered by T-Mobile and/or Purchaser, as applicable, and will be) the legal, valid and binding

obligation of T-Mobile and/or Purchaser, as applicable, enforceable against T-Mobile and/or Purchaser, as applicable, in accordance with its terms, except to the extent that enforcement may be limited by applicable bankruptcy, insolvency and other Laws of general applicability affecting creditors' rights and by general equity principles.

5.4 No Conflict. Neither the execution and delivery of this Agreement and any of the Ancillary Agreements to which T-Mobile and/or Purchaser is or will be a party nor the performance of any of the transactions contemplated hereby or thereby nor compliance with or fulfillment of the terms, conditions and provisions hereof or thereof will (i) violate any provision of the certificate of formation, limited liability company operating agreement or other charter documents of T-Mobile or Purchaser, (ii) except as would not individually or in the aggregate have a material adverse effect on such party's ability to perform its obligations hereunder, violate, contravene, conflict with, or result in a breach of, constitute a default or event of default under, or constitute (or with the passage of time without further action will constitute) a mandatory prepayment or redemption event under, or result in the termination, cancellation or acceleration (whether after the filing of notice or lapse of time or both) of any right or obligation of T-Mobile, Purchaser or any of their respective Affiliates under, or a loss of any benefit to which T-Mobile, Purchaser or any of their respective Affiliates is entitled under, any Contract, lease, agreement, mortgage, covenant, loan, indenture, license, permit, instrument or undertaking to which T-Mobile, Purchaser or any of their respective Affiliates is a party or by which T-Mobile, Purchaser or any of their respective Affiliates is bound, or (iii) except as would not individually or in the aggregate have a material adverse effect on such Party's ability to perform its obligations hereunder or thereunder, violate or result in a breach of or constitute a default under any Law or Order or other restriction of any Governmental Body to which T-Mobile, Purchaser or Facilities is subject.

5.5 Consents and Approvals. To the Knowledge of Purchaser or T-Mobile, except for the filing required under the HSR Act and any approvals of the FCC set forth in the Ancillary Agreements, no Governmental Approval is required to be made or obtained by Purchaser or T-Mobile in connection with the execution and delivery by Purchaser or T-Mobile of this Agreement or any Ancillary Agreement to which it is or will become a party, the consummation by Purchaser or T-Mobile of the transactions contemplated hereby or thereby or the performance by Purchaser or T-Mobile of its obligations contained herein or therein.

5.6 No Litigation. There is no litigation instituted or pending, or, to the Knowledge of Purchaser or T-Mobile, threatened (or unasserted but considered probable of assertion and which if asserted would have at least a reasonable possibility of an unfavorable outcome) against Purchaser, T-Mobile or any of their Affiliates, or against any director, employee or employee benefit plan of Purchaser, T-Mobile or any of their Affiliates, or against any asset, interest, or right of any of them which, if adversely determined, would be reasonably likely to have a material adverse effect on the ability of Purchaser or T-Mobile to consummate the transactions contemplated by this Agreement, nor are there any Orders outstanding against Purchaser, T-Mobile, or any of their Affiliates, that are reasonably likely to have a material adverse effect on the ability of Purchaser or T-Mobile to consummate the transactions contemplated by this Agreement.

5.7 Facilities. To the Knowledge of T-Mobile or Purchaser, there is no litigation, claim, cause of action, or proceeding instituted, pending, or, threatened (or unasserted but considered probable of assertion and which if asserted would have at least a reasonable possibility of an unfavorable outcome) by any Person or Governmental Body against Facilities which, if adversely determined, would be reasonably likely to have a material adverse effect on Facilities. Neither T-Mobile nor Purchaser is aware of any material liability of Facilities that is not set forth in the audited consolidated balance sheet as of December 31, 2003 and unaudited consolidated balance sheet as of December 31, 2002 and, in each case, the related consolidated statements of operations, cash flows and changes in members' capital for the fiscal years then ended of Facilities. To the Knowledge of T-Mobile and Purchaser, the only assets and liabilities of Facilities are the membership interests in T-Mobile Sub and Cingular Sub. To the Knowledge of T-Mobile or Purchaser, Facilities does not have, and since its formation has never had, any employees and is not a party to any union contract, collective bargaining agreement or any employment contract or arrangement. To the Knowledge of T-Mobile or Purchaser, Facilities does not have, and since its formation has never had, any plan or Contract which is sponsored, maintained, contributed to or otherwise used by Facilities for the benefit of any current or former employees, officers or directors of Cingular Sub, which plan is: (i) an "employee benefit plan," as such term is defined in Section 3(3) of ERISA (including employee benefit plans, such as foreign plans, which are not subject to the provisions of ERISA), or (ii) a stock option plan, bonus plan or arrangement, incentive award plan or arrangement, change in control or severance pay plan or policy, deferred compensation arrangement, executive compensation or supplemental income arrangement, and each other employee benefit plan or program which is not described in clause (i) of this sentence.

5.8 No Brokers. No broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement or any of the Ancillary Agreements based upon arrangements made by or on behalf of T-Mobile or Purchaser.

5.9 Financial Capability. Each of T-Mobile and Purchaser will have, as of the Closing, requisite cash, cash equivalents, equity commitments or other sources of financing available to consummate the transactions and perform the obligations contemplated by this Agreement and the Ancillary Agreements.

ARTICLE VI

COVENANTS OF THE PARTIES; ADDITIONAL AGREEMENTS

6.1 Conduct of Business.

(a) Each of Cingular and SBCW shall, between the date hereof and the Closing Date, cause Cingular Sub to carry on its business in the Ordinary Course of Business. Cingular and SBCW shall, and shall cause Cingular Sub to, except as specifically approved by the Management Committee of Facilities:

(i) make and fund all capital or operating expenses as defined in the Operating Standards of the Facilities LLC Agreement in accordance with the terms of the

Facilities LLC Agreement (including the continuing obligations set forth in Section 6.17); and maintain, improve and operate the Cingular Assets consistent with past practice as may be reasonably necessary to maintain the reliability and quality standards, footprint coverage and network capacity of the Cingular Assets;

(ii) the extent consistent with the Ordinary Course of Business, to preserve intact its present business organization and preserve its relationships with customers, suppliers, distributors, and others having business dealings with it;

(iii) keep in full force and effect the material insurance policies covering Cingular Sub and the Cingular Assets (or replacement policies providing substantially the same coverage) to the extent consistent with the Ordinary Course of Business; and

(iv) make all payments in a timely manner with respect to all Cingular Sub Leases and renew all Cingular Sub Leases as they become due in the Ordinary Course of Business.

Notwithstanding the foregoing, Cingular and SBCW may transfer out of Cingular Sub any or all of the Excluded Assets as may be permitted by the Facilities LLC Agreement, and immediately prior to the Closing, may transfer out of Cingular Sub any remaining Excluded Assets.

(b) Prior to the Closing, Cingular shall take all actions reasonably requested by Purchaser to ensure that Purchaser and its Affiliates have access to the BSC/Switching facilities and cell sites in California/Nevada co-located on SBC Communications, Inc. premises, to the extent and as permitted by the Cingular Sub Leases subject to reasonable advance notice and reasonable security measures.

(c) Prior to the Closing, except as set forth in the following sentence, each Party covenants and agrees not to (and shall cause its Affiliates not to) enter voluntarily into any contract, instrument or agreement with any third party which would require any consent to close the transactions contemplated hereby, or reasonably be expected to result in any Governmental Body requiring any such contract, instrument or agreement. Cingular agrees that, to the extent further agreements are required by any Governmental Body, Cingular shall use commercially reasonable efforts to ensure that any contract, instrument or agreement entered into by Cingular with a Governmental Body will not require any additional third party consent to close the transactions contemplated hereby.

6.2 Breach of Representations and Warranties (Cingular and SBCW). Except as specifically permitted by this Agreement, neither Cingular nor SBCW will knowingly take any action that would cause or constitute a breach of any of the respective representations or warranties set forth in Articles III and IV or that would cause any of such representations or warranties to be inaccurate in any material respect. In the event of, and promptly after becoming aware (after the date of this Agreement) of, the occurrence after the date of this Agreement of or the pending or threatened occurrence of any event that would cause or constitute such a breach or inaccuracy, Cingular and SBCW will give detailed notice thereof (a “**Change Notice**”) to Purchaser and will use their reasonable best efforts to prevent or remedy promptly such breach or

inaccuracy. Delivery to Purchaser before Closing of any such Change Notice shall not affect Purchaser's rights under this Agreement, including termination rights under Article X and indemnification rights under Article IX.

6.3 Breach of Representations and Warranties (T-Mobile and Purchaser).

Except as specifically permitted by this Agreement, neither T-Mobile nor Purchaser will knowingly take any action that would cause or constitute a breach of any of the representations or warranties set forth in Article V or that would cause any of such representations or warranties to be inaccurate in any material respect. In the event of, and promptly after becoming aware of, the occurrence of or the pending or threatened occurrence of any event that would cause or constitute such a breach or inaccuracy, T-Mobile and Purchaser will give detailed notice thereof to SBCW and Cingular and will use their reasonable best efforts to prevent or remedy promptly such breach or inaccuracy. Delivery to SBCW and Cingular before Closing of any such notice shall not affect SBCW's and Cingular's rights under this Agreement, including termination rights under Article X and indemnification rights under Article IX.

6.4 Expenses. All costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, including expenses of legal counsel, accountants, brokers, finders and other advisors, which have acted on its behalf in connection therewith, shall be paid by the Party incurring such expense.

6.5 Further Assurances. In case at any time after the Closing Date any further action is reasonably necessary or desirable to carry out the purposes of this Agreement or to vest Purchaser with full title to the Transferred Newco Membership Interest or any of the Cingular Assets, each Party shall take all such reasonably necessary action at the request of the other Party hereto. T-Mobile and Purchaser acknowledge that the Cingular Assets do not include the Excluded Assets. To the extent title in the Excluded Assets is transferred to T-Mobile or Purchaser along with the Transferred Newco Membership Interest at Closing, T-Mobile and Purchaser agree to, at any time after the Closing Date, take any action reasonably necessary or desirable to transfer title in the Excluded Assets to Cingular, SBCW or one of their Affiliates. Following Closing, Cingular shall cooperate with and provide reasonable assistance to T-Mobile in effecting any transfer of the Permitting to T-Mobile. Prior to the Closing, Cingular shall, at its expense, obtain for Purchaser the right to use any copies of software included in the Cingular Assets that are materially necessary to provide Wireless Services in the same manner as provided to subscribers as of the Closing. Purchaser shall be responsible for all fees and obligations to a third party for rights beyond those obtained for Purchaser by Cingular in the preceding sentence (including without limitation fees associated with continuing use rights, maintenance, support, modifications, updates, and new releases of such software that are obtained following the Closing); provided, further, that Purchaser shall have no obligation to pay or reimburse any amounts or fees for rights in such software paid by Cingular prior to the Closing. Cingular may not make any commitments on behalf of Purchaser in obtaining the necessary rights referenced in this Section 6.5.

6.6 Public Announcements. Each Party shall not, without the approval of the other Parties, (i) make any press release or other public announcement concerning the transactions contemplated by this Agreement or any Ancillary Agreement and (ii) shall keep confidential and

not disclose, and shall cause their respective Affiliates and directors, officers and employees of such Party and its Affiliates to (and shall instruct any of its other agents, advisors, consultants, other than counsel or auditors who are bound by an ethical obligation of confidentiality, and independent contractors to whom disclosure may be made in connection with the negotiation and performance of this Agreement or any Ancillary Agreement to) keep confidential and not disclose, any of the terms and conditions of this Agreement or any Ancillary Agreement to any third party, in each case except as and to the extent that any such Party shall be so obligated by Law or the rules of any stock exchange or automated securities quotation system, judicial process, taxing authority or regulatory requirements (including any filing required by the Securities Act, the Securities Exchange Act or German securities laws), in which case the other Parties shall be so advised and the Parties shall use their reasonable best efforts to cause a mutually agreeable release or announcement to be issued. Nothing contained in the foregoing shall preclude communications or disclosures necessary to implement the provisions of this Agreement or any Ancillary Agreement, or to comply with applicable accounting, Securities Act, Securities Exchange Act, German securities laws, and other regulatory disclosure obligations; provided that the disclosing Party shall to the extent practicable provide the other Parties with reasonable advance notice of such regulatory disclosure and comply with reasonable instructions (so long as provided in a timely manner) from the non-disclosing Party designed to obtain confidential treatment for such materials. Moreover, nothing in this Agreement shall preclude (i) disclosure of the existence or copies of this Agreement or any Ancillary Agreement to the Department of Justice, or (ii) the disclosure of the existence of this Agreement, any Ancillary Agreement or the transactions contemplated hereby to the FCC, in each instance as may be reasonably necessary to implement the provisions of this Agreement or any Ancillary Agreement or to comply with regulatory disclosure obligations; or (iii) disclosure of the existence or copies of this Agreement or the Ancillary Agreements to AWE, provided that AWE shall have agreed to maintain such information in confidence pursuant to the terms of a written agreement.

6.7 Certain Taxes. Purchaser and SBCW shall each pay or cause to be paid at the Closing or, if due thereafter, promptly when due, one-half of all gross receipts taxes, transfer taxes (including any real estate excise or similar tax), sales taxes, stamp taxes, and any similar Taxes, but excluding any Federal, State or local income taxes, payable in connection with the consummation of the transactions as contemplated by this Agreement (the "**Transfer Taxes**"). The Parties agree to cooperate so as to minimize the Transfer Taxes and also in the execution and filing of any Tax Returns with respect to Transfer Taxes, including, but not limited to, providing any and all information and signatures as may be required.

6.8 Waiver of Transfer Restrictions. T-Mobile and SBCW hereby waive, and T-Mobile shall cause Omnipoint to waive, to the extent necessary to effect the transactions described herein, the transfer restrictions applicable to the Facilities LLC Agreement.

6.9 HSR Act. Each Party shall (i) file, or cause to be filed, as promptly as practicable but in no event later than the fifteenth (15th) Business Day after the date of this Agreement, (A) all reports and other documents required to be filed by such Party under the HSR Act with the Federal Trade Commission and the United States Department of Justice concerning the transactions contemplated hereby, and (ii) promptly comply with or cause to be complied with any requests by the Federal Trade Commission or the United States Department of Justice for

additional information concerning such transactions. Each Party agrees to request, and to cooperate with the other Party in requesting, early termination of any applicable waiting period under the HSR Act. The Parties shall share equally the costs of all HSR Act filings.

6.10 Access to Cingular Employees. Beginning on the date of this Agreement until the Closing, Cingular will provide access to T-Mobile to interview and, in its sole discretion, to hire, (with such hiring effective no sooner than upon the termination of the applicable Transition Service (as defined in the Transition Services Agreement) under the Transition Services Agreement) employees of Cingular or its Affiliates who provide functions related to the development, operations and maintenance of the Cingular Assets. Cingular shall identify the employees who may be contacted by T-Mobile, provided access to such employees shall be coordinated through a designated Cingular contact.

6.11 Transition Services. Cingular shall provide or shall cause its Affiliates to provide to T-Mobile and its Affiliates the transition services as set forth in the Transition Services Agreement.

6.12 Gateway Switching. As soon as reasonably possible following the Closing, but in no event later than six (6) months following the Closing, Cingular shall implement Gateway Switching functionality in California/Nevada (in a manner substantially the same as that which it has done in the New York BTA). Cingular hereby agrees that, following such implementation, Cingular long distance and voice mail services will be routed through such Gateway Switches.

6.13 No Opposition. T-Mobile, on behalf of itself and its Affiliates, agrees not to object to or oppose the AWE Merger, provided that T-Mobile or its Affiliates may respond to requests for information from and otherwise cooperate with any Governmental Body, provided that in connection with any such response or cooperation, neither T-Mobile nor any Affiliate shall object to or oppose the AWE Merger. The parties hereto further acknowledge and agree that no party has received or will receive any compensation or consideration pursuant to this Agreement or any other Ancillary Agreement, or otherwise, in exchange for forbearance from filing a petition to deny the AWE Merger at the FCC.

6.14 Co-location. T-Mobile agrees to use commercially reasonable efforts to provide Cingular co-location on Facilities' Sites (California/Nevada and New York BTAs), to the extent permitted by any leases to which such Facilities Sites are subject. Cingular agrees to use commercially reasonable efforts to provide T-Mobile co-location on Cingular Sites (which shall include the AWE sites following the closing of the AWE Merger) in California/Nevada if the Closing of this Agreement does not occur as a result of a Qualifying Divestiture, to the extent permitted by any leases to which such Cingular Sites are subject.

6.15 Mobile Network Code.

(a) T-Mobile will broadcast MNC 170 only on the California/Nevada network beginning at Closing and ending on the earlier of Cingular using 60 billion minutes of airtime (measured on the same basis as contemplated to be measured in the Wholesale Agreement) on the California/Nevada network or two (2) years from the Closing (the "**Initial Period**"). T-

Mobile will have the option to broadcast MNC 170 for up to one more year following this Initial Period (the “**Follow-on Period**”). T-Mobile shall notify Cingular no later than sixty (60) days prior to the end of the Initial Period of T-Mobile’s intent regarding the option.

(b) No later than six (6) months following the Closing, Cingular will cease broadcasting the MNC 170 code in the Seattle market (and any other market where it broadcasts MNC 170) during the period when T-Mobile will broadcast MNC 170 in California/Nevada. During the period following Closing through the time when Cingular ceases broadcasting MNC 170 in the Seattle (and any other) market, in such markets Cingular will LAC-restrict for international roaming traffic a minimum of 25 countries (the “**Restricted List**”) specified by T-Mobile as set forth on Section 6.15(b) to the Cingular Disclosure Schedule. Cingular will use commercially reasonable efforts to add more countries to the Restricted List in the order specified in the Restricted List.

(c) During the Initial Period and any Follow-on Period, Cingular will take all actions reasonably requested by T-Mobile in order to ensure that T-Mobile has the right to the benefits of owning MNC 170, including the right to offer third-party roaming and obtain all revenues associated with broadcasting MNC 170 in California/Nevada, including, without limitation, communicating with any roaming data clearinghouse, any financial clearinghouse, and any third party roaming service provider.

(d) Also during the Initial Period and any Follow-on Period, (i) T-Mobile will continue to broadcast Cingular’s alpha code with the MNC 170 as currently in operation in California/Nevada and (ii) T-Mobile and Cingular will use commercially reasonable efforts to optimize T-Mobile’s customers experience regarding the alpha display.

(e) T-Mobile will not sell SIM cards with the MNC 170 as the home network.

(f) Subject to compliance with applicable laws and Section 6.15(c), T-Mobile will have the right to represent MNC 170 and negotiate rates for MNC 170 on a serve only basis. Subject to compliance with applicable laws and Section 6.15(c), Cingular will have the right to negotiate rates for all Cingular customers having MNC 170 as their home network and acknowledges that all incollect charges associated with Cingular subscribers having MNC 170 as their home network will be the responsibility of Cingular. Cingular and T-Mobile shall jointly inform the roaming data clearinghouses and financial clearinghouses as necessary of the rights of the parties in this Section 6.15(f).

(g) Notwithstanding Section 6.15(f), in the event that T-Mobile cannot re-associate the visitor roaming traffic for MNC 170 to a T-Mobile specific PLMN code for visitor roaming partner settlement purposes, T-Mobile will have the right to represent PLMN code USAPB and direct the necessary incollect files to Cingular through a mutually agreed upon settlement and/or clearinghouse procedures.

(h) Cingular acknowledges that all incollect charges associated with Cingular subscribers having MNC170 as their home network will be the responsibility of Cingular regardless of the mechanism for transferring the incollect traffic files to Cingular.

(i) Cingular and T-Mobile shall work together to test and approve all processes established under this Section 6.15 among Cingular, T-Mobile and any clearinghouse (e.g. roaming data or financial) prior to implementation in a production environment.

6.16 Continuing Obligations. During the period before the Closing, the Parties will continue to perform their respective obligations under the Facilities LLC Agreement and the Existing Ancillary Agreements, including but not limited to each of the parties satisfying their obligations for the construction of network and other assets as contained in the 2004 capital expenditure budgets in both the New York BTA and California/Nevada. Cingular, through SBCW, in its capacity as the incumbent operator of the California/Nevada network, acknowledges that pursuant to such obligation it will cause the incurrence of capital expenditures for the California/Nevada network for projects in 2004 in an amount that is not less than that set forth in the budget, which the Parties agree call for aggregate expenditures of no less than *. T-Mobile, through OmniPoint, in its capacity as the incumbent operator of the New York BTA network, shall cause the incurrence of capital expenditures for the New York BTA network in 2004 in an amount that is not more than that set forth in the Cingular approved budget for the New York BTA reduced for new Site development costs in Fairfield, Middlesex, Monmouth and Ocean Counties. These obligations, from the date of this Agreement until Closing, include all expenditures and operational activities relating to search ring release activities, leasing, permitting, and Site design and construction activities which shall be conducted at a level and in a manner consistent with past practice, and without regard to the prospective Closing. The obligations of the Parties, as members of Facilities, to fund the capital expenditures and operating expenses of Facilities through the Closing shall be shared in the manner required by the Facilities LLC Operating Agreement and the Existing Ancillary Agreements and must be settled in cash in the normal course until the Closing and thereafter any such obligations must be settled in accordance with the unwind provisions of the Facilities LLC Agreement.

6.17 Reasonable Access. Prior to Closing, Cingular will provide T-Mobile reasonable access to the Cingular Assets during normal business hours and information with respect thereto, including all Material Contracts, subject to reasonable confidentiality and reasonable security measures and as may be permitted by any Contracts to which the Cingular Assets may be bound. For a period of 4 years following the Closing, Purchaser shall provide Cingular and its Affiliates with reasonable access, both physical and electronic (through Cingular's own network), to certain facilities for the sole purpose of maintaining equipment and leased property located in such facilities on a 24/7 basis and subject to reasonable confidentiality and reasonable security measures and as may be permitted by any Contracts to which such facilities may be bound. Cingular and its Affiliates shall exercise normal and ordinary care in connection with its access to such facilities.

6.18 Contesting Governmental Approval. Cingular agrees to use commercially reasonable efforts to take the actions set forth in Schedule 6.18(b) attached hereto.

* Omitted information is the subject of a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934 and has been filed separately with the Securities and Exchange Commission.

6.19 Update of Schedule A and Schedule B. Prior to the Closing Date, Cingular and SBCW will supplement or amend Schedule A and Schedule B to reflect changes in the Cingular Assets.

6.20 Property Taxes.

(a) On or prior to June 30, 2004, T-Mobile and Cingular shall jointly prepare and agree to a schedule setting forth, with respect to each fiscal year of Facilities through 2003, (i) the total amount of property taxes accrued by each of Cingular Sub and T-Mobile Sub, (ii) the total amount of property taxes actually paid with respect to each of Cingular Sub and T-Mobile Sub, and (iii) the amount of property tax adjustment required as evidenced by contrasting (i) with (ii). The amounts so determined in accordance with clause (iii) shall be accounted for in the books and records of T-Mobile Sub and Cingular Sub, and shall then be allocated between the members (and their respective Affiliates) in the same manner as operating costs in proper proportion to their MOU's for each respective fiscal year. These cumulative adjustments shall be treated as adjustments to the next subsequent allocation of monthly operating expenses in accordance with the Operating Standards.

(b) Upon Closing the property tax payable shall be paid or settled by the members in accordance with the standard procedures for operating expenses pursuant to the Facilities LLC Agreement. As soon as practicable following the Closing, the Parties shall prepare a schedule similar to that described in subsection (a) above and shall undergo a similar process with respect to property taxes for all periods from January 1, 2004 through the Closing, prorating the cost of any taxes payable with respect to the year that includes Closing such that T-Mobile and its Affiliates bear all of the cost of such taxes for the portion of the year occurring post-Closing, and the Parties bear the cost of such taxes for the portion of the year pre-Closing in proper proportion to their MOUs. Based on such information and as soon as practicable after the completion of such schedule, the Party who, on a net basis, has funded (or Affiliate has funded) less property taxes than its allocable share shall make a cash payment to the Party who, on a net basis, has funded (or whose Affiliate has funded) property taxes in excess of its allocable share, to the extent of such excess. The period used for the cash true-up contemplated under this Section 6.20 shall be consistent with the period used for the accrual for accounting purposes.

Section 6.21 Transfer of Contingent Consent Leases.

(a) Cingular covenants to use commercially reasonable efforts to obtain any consents or default waivers required under Cingular Sub Leases in connection with the Transfers (each a "**Lease Consent**") prior to Closing, commencing within a reasonably prompt period following the mutual execution of this Agreement. Purchaser and Cingular shall cooperate and reasonably agree in advance upon the form of the consent letter(s) and the general process for obtaining Lease Consents. In addition, Cingular covenants to keep Purchaser reasonably well-informed of Cingular efforts to obtain Lease Consents, provide a monthly status report and, on request of Purchaser in writing, deliver copies of material correspondence under the Contingent Consent Leases and other material documentation sent or received with respect to such consent request, but not more frequently than monthly.

(b) “Commercially reasonable efforts” is defined and described in Schedule 6.21 attached.

(c) If Cingular cannot obtain a Lease Consent after using commercially reasonable efforts, then Cingular shall, unless Cingular elects to include the applicable Site in the Site Operating Agreement as provided in clause (d) below, for any such Contingent Consent Lease:

(i) provided a sublease is permitted under such Contingent Consent Lease without Cingular obtaining a Lease Consent, enter into a commercially reasonable, industry-standard, sublease with Purchaser passing through all the beneficial use rights and the same material and economic terms as the applicable Contingent Consent Lease, and the Parties shall act in good faith in agreeing upon the form of such sublease; or

(ii) grant to Purchaser co-location on a site or sites sufficient to provide at least the same coverage as Purchaser would have received had the Contingent Consent Lease been transferred to Purchaser. Cingular will be solely responsible for the cost of relocating and installing any equipment and the net present value (computed at the discount rate of *) of all payments associated with the co-location site(s) (through the initial and all extension terms of the applicable lease, with appropriate reimbursement to Cingular if Purchaser does not elect to exercise all such extension terms) to the extent such amount exceeds the net present value (computed at the discount rate of *) of all payments associated with the initial and all extension terms of the Contingent Consent Lease. The co-location agreement shall be, with respect to non-economic terms, on industry standard terms and conditions; or

(iii) (propose to Purchaser some other mutually acceptable arrangement or structure transferring the benefits of the Contingent Consent Lease that Purchaser accepts in its sole discretion.

(d) Immediately prior to the Closing, Cingular Sub (or its Affiliates, as applicable) shall (i) transfer to SBCW (or an Affiliate) (“**Contingent Site Sub**”) its entire interest in any such Contingent Consent Lease for which it has not received a Lease Consent unless Cingular has elected to and has satisfied its obligation to transfer the benefits of such Contingent Consent Lease pursuant to clause (c) and (ii) the parties will enter into an operating agreement (the “**Site Operating Agreement**”) to provide Purchaser the benefits of such Contingent Consent Lease (including all existing rights to access, use, operate, maintain, repair and replace equipment and all other personal property at such Contingent Consent Site and any associated utilities and grounding systems) following the Closing. The Site Operating Agreement shall also include such other commercially reasonable terms as may be appropriate in addition to those set forth herein; provided, however, that Purchaser shall not be entitled to more rights than as are expressly set forth in the Contingent Consent Leases. The Site Operating Agreement will provide that (1) Contingent Site Sub will comply in all material respects with the Contingent Consent Leases and exercise all currently existing extension options under the Contingent Consent Lease for so long as Purchaser shall desire, up to the maximum terms available, (2) Contingent Site Sub will assign to Purchaser all revenues derived from the

* Omitted information is the subject of a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934 and has been filed separately with the Securities and Exchange Commission.

Contingent Consent Leases (from collocation or subleases, for example, with Purchaser undertaking to perform all obligations related thereto), (3) Purchaser will pay all fees, costs, charges, rent or other amounts (including the premium on any bonds) as provided in such Contingent Consent Lease (but excluding charges due to Contingent Site Sub's negligence, willful misconduct or late rental payment, but only to the extent of such negligence, willful misconduct or late payment), (4) Purchaser shall conduct its operations on the Contingent Consent Site in compliance with, and subject to all of the terms, conditions and covenants of, the applicable Contingent Consent Lease, (5) the Parties may not assign or transfer their respective rights in the Site Operating Agreement without the reasonable consent of the other, provided that each may, upon written notice, assign its rights in whole or in part to any person or business entity that (w) controls or is controlled by or under common control with the assigning party; (x) is merged or consolidated with the assigning party; or (y) acquires all or substantially all of the ownership interest or FCC licenses of the assigning party with respect to the California/Nevada network, provided such assignee agrees to assume all of the assigned obligations under this Agreement and further provided that the assigning party shall not be released in connection with any such obligation; (6) Contingent Site Sub and Cingular will use their commercially reasonable efforts to support the validity of the relevant Contingent Consent Leases and (7) mutual indemnities as hereafter described. Purchaser shall indemnify and save Contingent Site Sub and its Affiliates harmless from and against any Damages and Expenses associated with or in anyway arising out of or resulting from any breach of this Site Operating Agreement by Purchaser or Purchaser's activities with respect to such Contingent Consent Site and/or the Contingent Consent Lease (but excluding Contingent Site Sub's failure to perform its obligations thereunder). Contingent Site Sub shall indemnify and save Purchaser and its Affiliates harmless from and against any and all Damages and Expenses associated with or in anyway arising out of or resulting from any breach of the Site Operating Agreement by Contingent Site Sub or Contingent Site Sub's activities with respect to such Contingent Consent Site and/or the Contingent Consent Lease (but excluding Purchaser's failure to perform its obligations thereunder). In the event either party fails to perform its obligations under the Site Operating Agreement, following ten (10) Business Days written notice (except in emergencies, which shall mean imminent personal injury, property damage or inability to operate the network equipment at the Site), the non-defaulting party shall, at its option, have the right to self-help with a right to reimbursement for the actual cost thereof from the other party. The Parties' indemnification obligations under this Section 6.21 are subject to Article IX hereof.

(e) From and after Closing, Cingular agrees to continue to use its commercially reasonable efforts to obtain Lease Consents not previously obtained and, if and upon receiving such Lease Consent, shall transfer and assign, for no further consideration, the relevant Contingent Consent Site to Purchaser or its designee. In the event that:

(i) at any time Cingular has a credible threat of an imminent loss of the use of any Contingent Consent Site pursuant to the terms of the Contingent Consent Lease or to incur any Damages related to its position as a lessee or otherwise pursuant to such Contingent Consent Lease (other than due to Contingent Site Sub's breach or default of such Contingent Consent Lease or a material breach of the Site Operating Agreement, in either event not caused by Purchaser, provided that Cingular's efforts to obtain any Lease Consent pursuant to this Section shall in no event be deemed a breach or default of such Contingent Consent Lease) and Cingular

notifies Purchaser of Cingular's election to remove the Contingent Consent Site from the terms of the Site Operating Agreement; or

(ii) the benefits of such Contingent Consent Site cease to be available to Purchaser in any material respect (other than due to Purchaser's breach or default of the applicable Contingent Consent Lease or a material breach of the Site Operating Agreement, in either event not caused by Cingular) and Purchaser notifies Cingular of Purchaser's election to remove the Contingent Consent Site from the terms of the Site Operating Agreement;

then, unless Cingular can provide uninterrupted benefits for such Contingent Consent Lease pursuant to any of the alternatives set forth in clauses (a), (c) or (d) above, Cingular shall, pay to Purchaser, as Purchaser's sole remedy under this Agreement for such failure to make the Contingent Consent Site available pursuant to the terms of this Section 6.21, an amount for each such Contingent Consent Site set forth on Schedule 6.21 hereto (the "**Site Loss Damage Amount**"), less any Damages and Expenses incurred by Cingular that are acknowledged, but not previously funded, by Purchaser. Upon payment of such amount, the Contingent Consent Site shall be removed from the Site Operating Agreement or an arrangement referenced in clause (c) (as applicable) and thereafter Purchaser shall have no further rights with respect to such Contingent Consent Site and Cingular shall have no further liability or obligations hereunder with respect to the loss of the economic benefits under the Contingent Consent Lease or the loss of the use of the applicable Contingent Consent Site, except for any indemnification or other obligations in this Agreement or the other Ancillary Agreements that expressly survive or any other indemnification obligations set forth in the Site Operating Agreement or any applicable site occupancy documents that expressly survive (other than Damages and Expenses for the loss of the economic benefits under the Contingent Consent Lease or the loss of the use of the applicable Contingent Consent Site). Purchaser shall have the right, at its expense, to remove all equipment and other personal property from any such Contingent Consent Site (unless otherwise prohibited by the terms of the Contingent Consent Lease). Notwithstanding anything to the contrary contained in this Agreement, no Site Loss Damage Amount shall be subject to the Threshold Amount or any separate threshold or count against the Maximum Amount or any other cap, except the aggregate Purchase Price shall apply as set forth in Section 9.6.

(f) Nothing in this Agreement shall be construed as an attempt to assign any Contingent Consent Lease that is by its terms non-assignable without the consent of the other party.

6.22 Contribution of Sites Held by a CA/NV Sublessor, as Cingular Affiliate. Contribution of CA/NV Sites.

(a) The CA/NV Master Sites and CA/NV Sites collectively are all of the Cingular Real Property Assets that are currently subject to the CA/NV Master Sublease having CA/NV Sublessor, a wholly owned subsidiary of Cingular, as sublessor. With respect to CA/NV Master Sites and CA/NV Sites and subject to Permitted Liens (including, the CA/NV Master Lease and/or underlying primary leases, as applicable), on or prior to Closing, Cingular, Cingular Sub and/or SBCW (as applicable) shall, at Cingular's cost and expense, cause Cingular Sub (or

Newco, as applicable) to acquire the interest of CA/NV Sublessor in the Cingular Real Property Assets subject to the CA/NV Master Sublease.

(b) Cingular covenants that, after the contribution of the CA/NV Sublessor's interest in the CA/NV Master Sites as contemplated above, the lease terms applicable to the CA/NV Master Sites shall be as set forth on the Schedule of Cingular Leased Properties attached hereto and that such terms shall not be materially less favorable than the lease terms applicable to such CA/NV Master Sites on the date hereof

Section 6.23 Building Coverage Sites.

(a) With respect to Building Coverage Sites, the parties acknowledge that cell equipment (commonly "picos") located in the Building Coverage Sites may be for the benefit of Cingular customers, Purchaser's customers or both. In that regard, prior to Closing, Cingular and Purchaser each agrees to use commercially reasonable efforts to identify and agree upon all Building Coverage Sites and investigate and procure documentation reasonably acceptable to both parties evidencing Building Coverage Site arrangements. Each of the Parties will bear its own costs in connection with this effort. From and after Closing, the terms of the Wholesale Agreement will govern the transition of the Building Coverage Sites.

(b) In connection with Section 6.23(a), pursuant to the Wholesale Agreement, to the extent it is determined (either before or after Closing during the transition period thereunder) that the cell and related equipment located at a Building Coverage Site is an Excluded Asset, Purchaser will be obligated under the Wholesale Agreement to assist Cingular in transitioning such Building Coverage Site, and Purchaser shall thereafter have no further rights and obligations with respect thereto (other than to assign any rights or interest it may have in such Building Coverage Site with respect to such Excluded Asset to Cingular (or its designee affiliate). Likewise if it is determined that the cell or related equipment located at such Building Coverage Site is not an Excluded Asset hereunder and is for the benefit of Purchaser's customers, then the parties shall use commercially reasonable efforts to transition such Building Coverage Sites to Purchaser; provided that, if it is determined that a Building Coverage Site is not an Excluded Asset but is also used for the benefit of Cingular, Purchaser agrees, to the extent reasonably practicable, also to maintain the Building Coverage Site for the benefit of Cingular, and the treatment and transitioning of such Building Coverage Site shall be handled as described in the Wholesale Agreement.

(c) Cingular and SBCW hereby jointly and severally represent and warrant to T-Mobile and Purchaser that, to the Knowledge of Cingular or SBCW, (i) except where failure to so identify would not have a Cingular Material Adverse Effect, there are no sites that would be a Building Coverage Site other than those sites set forth on Schedule F to this Agreement; (ii) except as disclosed in Section 4.10(d) of the Cingular Disclosure Schedule, none of Cingular Sub, SBCW or Cingular has received, in connection with a Building Coverage Site, written notice of violations that remain uncured or of a default by Cingular Sub which default remains uncured (or of an event which, with notice, the passage of time or both, would be a default), to the extent that the existence of such violations or default, individually or in the aggregate with all such defaults, would have a Cingular Material Adverse Effect; and (iii) none of Cingular Sub,

Cingular, SBCW or a Cingular Affiliate has in its possession any studies or reports that indicate any uncorrected defects or deficiencies in the design or construction of any improvements on Building Coverage Sites, except for such defects as would not have, individually or in the aggregate, a Cingular Material Adverse Effect.

Section 6.24 Global Lease Consent Acknowledgment.

Notwithstanding anything contained herein to the contrary but subject to Section 4.10(a) above, the parties acknowledge that the Cingular Sub Leases may not be transferable without first obtaining a Lease Consent and, further, that effecting the Transfers as contemplated under this Agreement in the absence of such Lease Consents would or could result in a default or breach under the Contingent Consent Leases. Accordingly and subject to Sections 4.10(a) and 6.21, the parties agree that (1) if, on the date hereof, Cingular's failure to obtain Lease Consents is the cause of a breach of any representation or default in the performance of its obligations under this Agreement, Cingular shall be deemed not to be in breach of such representation or in default of such obligation, and (2) to the extent, from and after the date hereof and as of the Closing Date, Cingular's failure to obtain Lease Consents is the cause of a breach of any representation or a default in the performance of its obligations under this Agreement, but Cingular has satisfied such representation or obligations pursuant to Section 6.21, then Cingular shall be deemed not to be in breach of such representation or in default in performance of such obligations.

Section 6.25 Cingular Leased Permitting Sites. Cingular covenants that it will not interfere with Cingular Leased Permitting Sites that have been released in connection with the 2002, 2003, or 2004 budget. Cingular specifically represents that prior to and after Closing, it will not in any way seek to stop working, or transfer work that has been performed in connection with Cingular Leased Permitting Sites (including but not limited to landlord relationship, lease drafts, zoning applications, and building permit applications).

ARTICLE VII

CLOSING CONDITIONS OF T-MOBILE AND PURCHASER

The obligations of T-Mobile and Purchaser to consummate the purchase of the Transferred Newco Membership Interest shall be subject to compliance by SBCW and Cingular, as applicable, with the following conditions, all or any of which may be waived in writing by the Purchaser or T-Mobile.

7.1 Illegality. No Governmental Body of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Law or Order (whether temporary, preliminary or permanent) or taken any other action that, in the reasonable opinion of Purchaser, based on the reasonable written opinion of its counsel, would (i) prohibit, prevent, enjoin or make illegal consummation of the transactions contemplated herein or in any Ancillary Agreement or (ii) impose a regulatory condition or regulatory expense on T-Mobile or Purchaser which, but for the consummation of the transactions contemplated herein or in any Ancillary Agreement, would not