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9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 In Re: T-MOBILE USA, INC.

Case No.: _____

12
13 Respondent.

ASSURANCE OF DISCONTINUANCE

14 The Attorney General of the State of Arizona (the "Attorney General" or "Arizona
15 Attorney General") and Respondent, T-MOBILE USA, Inc. ("Carrier") hereby agree to the
16 entry of the following Assurance of Discontinuance or Voluntary Compliance
17 ("Assurance")¹ pursuant to Arizona Revised Statutes ("A.R.S.") § 44-1530 of the Arizona
18 Consumer Fraud Act, A.R.S. §§ 44-1521 to 44-1534.

19 **I. BACKGROUND**

- 20 1. The Attorneys General are responsible for enforcing their respective unfair and
21 deceptive acts and practices laws and other consumer protection laws in their
22 respective states.
- 23 2. Carrier is a Delaware corporation located at 12920 SE 38th Street, Bellevue,
24 Washington 98006. Carrier is a leading provider of mobile telephone services.

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26 ¹ This Assurance of Voluntary Compliance shall, for all necessary purposes, also be considered an Assurance of
Discontinuance.

1 3. The Attorneys General allege that the practice of placing charges on Consumers'
2 mobile telephone bills that have not been authorized by Consumers, known as
3 "cramming," is a major national problem.

4 4. The Attorneys General allege that Consumers who have been "crammed" often
5 complain about charges, typically about \$9.99 per month, for "premium" text message
6 subscription services such as horoscopes, trivia, and sports scores that they have never
7 heard of or requested.

8 5. The Attorneys General allege that cramming occurs when Carrier places charges on
9 Consumers' mobile telephone bills for Third-Party Products without Consumers'
10 knowledge and/or authorization.

11 6. The Attorneys General allege that many Consumers are unaware that their mobile
12 telephones can be used to make payments for Third-Party Products, and that
13 Consumers often pay Unauthorized Third-Party Charges without the knowledge that
14 the charges have been placed on their mobile telephone bills.

15 7. Carrier believes that it has fully and voluntarily cooperated with the Attorneys
16 General in their inquiries regarding the placement of unauthorized Third-Party
17 Charges on mobile telephone bills. Although Carrier denies any liability based upon
18 the allegations above, in order to resolve this dispute, Carrier has agreed to the terms
19 of this Assurance.

20 **II. DEFINITIONS**

21 8. The following definitions shall apply for purposes of this Assurance:

- 22 a. "Account Holder" means any individual or entity who is or was responsible for
23 paying all charges associated with all lines on that individual's or entity's mobile
24 phone account with Carrier.

- 1 b. “Attorneys General”² means the Attorneys General, or their designees, of the
2 Participating States.
- 3 c. “Bill” means a Consumer’s mobile telephone bill or prepaid mobile account, as
4 applicable.
- 5 d. “Block” means a restriction placed on a Consumer’s account that prevents one
6 or more lines from being used to purchase Third-Party Products and from
7 being billed for Third-Party Charges on the Consumer’s Bill.
- 8 e. A statement is “Clear and Conspicuous” if it is disclosed in such size, color,
9 contrast, location, duration, and/or audibility that it is readily noticeable,
10 readable, understandable, and/or capable of being heard. A statement may not
11 contradict or be inconsistent with any other information with which it is
12 presented. If a statement materially modifies, explains or clarifies other
13 information with which it is presented, then the statement must be presented in
14 proximity to the information it modifies, explains or clarifies, in a manner that
15 is readily noticeable, readable, and understandable, and not obscured in any
16 manner. In addition:
- 17 i. an audio disclosure must be delivered in a volume and cadence sufficient
18 for a consumer to hear and comprehend it;
- 19 ii. a television, or Internet disclosure must be of a type size, location, and
20 shade and remain on the screen for a duration sufficient for a Consumer to
21 read and comprehend it based on the medium being used; and
- 22 iii. a disclosure in a print advertisement or promotional material, including, but
23 without limitation, a point of sale display or brochure materials directed to

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² The Georgia Administrator of the Fair Business Practices Act, appointed pursuant to O.C.G.A. 10-1-395, is statutorily authorized to enforce Georgia’s Fair Business Practices Act of 1975 (“FBPA”). The Utah Division of Consumer Protection is statutorily authorized to enforce all statutes listed in Utah Code 13-2-6, including the Utah Consumer Sales Practices Act, Utah Code 13-11-1, *et seq.* Hawaii is represented by its Office of Consumer Protection, an agency that is not part of the state Attorney General’s Office, but which is statutorily authorized to undertake consumer protection functions, including legal representation of the State of Hawaii.

1 Consumers, must appear in a type size, contrast, and location sufficient for
2 a Consumer to read and comprehend it.

3 f. "Commercial PSMS" means the use of PSMS to bill for Products.

4 g. "Consumer" means a current or former subscriber or purchaser of Products for
5 which Third-Party Charges are or were placed on the Consumer's Bill, whether
6 that person is the individual responsible for paying the Bill or has a device that
7 is billed to a shared account, and is a resident of one of the Participating States.
8 "Consumer" does not include any business entity or any state, federal, local, or
9 other governmental entity, if (1) the business entity or government entity, and
10 not the employees or individuals working for or with that business entity or
11 government entity, is solely liable to Carrier for payment of all charges billed
12 on that account, and (2) the ability to process Third-Party Charges through that
13 account is not available unless the business entity or government entity
14 affirmatively requests that certain or all mobile devices be provided the ability
15 to authorize placement of such Third-Party Charges.

16 h. "Effective Date" means the date that the Stipulated Order for Permanent
17 Injunction and Monetary Judgment in the case captioned *Federal Trade*
18 *Commission v. T-Mobile USA, Inc.*, (Case No. 2:14-cv-00967-JLR) ("FTC
19 Stipulated Order") is entered by the District Court for the Western District of
20 Washington. Provided, however, this agreement is binding upon execution.

21 i. "Express Informed Consent" means an affirmative act or statement giving
22 unambiguous assent to be charged for the purchase of a Third-Party Product
23 that is made by a Consumer after receiving a Clear and Conspicuous disclosure
24 of material facts.

25 j. "Participating States" means the following states and commonwealths:
26 Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut,

1 Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas,
2 Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota,
3 Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New
4 Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio,
5 Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South
6 Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West
7 Virginia, Wisconsin, and Wyoming, as well as the District of Columbia.

8 k. "Premium Short Messaging Service" or "PSMS" means a service that
9 distributes paid content to a Consumer using the Short Message Service and
10 Multimedia Messaging Service communication protocols via messages that are
11 routed using a Short Code, resulting in a Third-Party Charge.

12 l. "Product" means content and/or services that can be used on a mobile device
13 for which charges are placed on the Consumer's Bill. "Product" excludes
14 contributions to charities, candidates for public office, political action
15 committees, campaign committees, campaigns involving a ballot measure, or
16 other similar contributions. "Product" also excludes co-branded and white
17 label products where content and services are sold jointly and cooperatively by
18 Carrier and another entity, where the content and/or services are placed on the
19 Consumer's Bill as a Carrier charge, and Carrier is responsible for accepting
20 complaints, processing refunds, and other communications with the Consumer
21 regarding the charge. "Product" also excludes handset insurance, extended
22 warranty offerings, and collect-calling services.

23 m. "Short Code" means a common code leased from the CTIA Common Short
24 Code Administration that is composed of a set of numbers, usually 4 to 6
25 digits, to and from which text messages can be sent to and received using a
26 mobile telephone.

- 1 n. "Third Party" means an entity or entities, other than Carrier, that provides a
2 Product to Consumers for which billing is made through Carrier's Bills.
- 3 o. "Third-Party Charge" means a charge for the purchase of a Third-Party
4 Product placed on a Consumer's Bill.
- 5 p. "Third-Party Product" means a Product provided by a Third Party.
- 6 q. "Unauthorized Third-Party Charge" means a Third-Party Charge placed on a
7 Consumer's Bill without the Consumer's Express Informed Consent.

8 **III. APPLICATION**

- 9 9. The provisions of this Assurance shall apply to Carrier and its officers, employees,
10 agents, successors, assignees, merged or acquired entities, wholly owned subsidiaries,
11 and all other persons or entities acting in concert or participation with Carrier's
12 placement of Third-Party Charges in the Participating States.

13 **IV. ASSURANCE TERMS**

- 14 10. Commercial PSMS: Carrier shall not make available to Consumers the option to
15 purchase Products through Commercial PSMS and shall not bill charges for
16 Commercial PSMS.
- 17 11. Authorization of Third-Party Charges: Carrier shall begin developing and
18 implementing a system, which shall be fully implemented by Carrier no later than
19 March 1, 2015, to obtain Express Informed Consent before a Consumer is billed for
20 any Third-Party Charge. The Consumer's Express Informed Consent may be provided
21 to Carrier or to another person or entity obligated to Carrier to obtain such consent.
22 Carrier or other person or entity shall retain sufficient information to allow such
23 consent to be verified. If Express Informed Consent is not directly collected by
24 Carrier, Carrier shall implement reasonable policies and practices³ to confirm Express
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26 ³ For purposes of this Paragraph, for charges incurred through operating system storefronts, such reasonable policies and practices may, for example, consist of Carrier or its agents making a statistically valid random sample of purchases to demonstrate whether the storefront is collecting Express Informed Consent consistent with this agreement.

1 Informed Consent shall be appropriately collected and documented by the person or
2 entity obligated to do so, and shall monitor and enforce those policies and practices to
3 confirm Express Informed Consent is appropriately collected and documented, and
4 where Express Informed Consent has not been appropriately collected and
5 documented, shall require remedial action (which may include, for example,
6 suspension, proactive credits, or retraining) or cease placing such charges on
7 Consumers' Bills. While the system described by this Paragraph is being developed
8 and implemented, Carrier shall take reasonable steps to obtain Express Informed
9 Consent before a Consumer is billed for any Third-Party Charge.

10 12. Purchase Confirmation for Third-Party Charges: Beginning no later than April 1,
11 2015, Carrier shall implement a system whereby the Consumer (and, for multiline
12 accounts, the Account Holder, if designated) will be sent a purchase confirmation
13 separate from the Bill of every Third-Party Charge, including recurring charges, that
14 will appear on his or her Bill. Any such purchase confirmation shall be sent within a
15 reasonable time following the purchase of a Third-Party Product or the recurrence of a
16 Third Party Charge, and shall identify Blocking options that Carrier makes available
17 to Consumers and/or provide access to such information. For multiline accounts,
18 Carrier may provide the Account Holder the option to elect not to receive such
19 purchase confirmations for purchases made on other lines.

20 13. Information on Blocking: Beginning no later than April 1, 2015, Carrier shall provide
21 a Clear and Conspicuous disclosure about Third-Party Charges and Blocking options
22 in informational material provided at or near the time of subscribing to service to the
23 extent Third Party Charges are offered and available with the service, and which is
24 provided in a context separate from the actual subscriber agreement document. Such
25 disclosure shall include or provide access to a description of Third-Party Charges,
26 how Third-Party Charges appear on Bills, and options available to Consumers to

1 Block Third-Party Charges. Consumers shall not incur any data or text charges for
2 receiving or accessing the information discussed in this Paragraph.

3 14. Billing Information and Format: Beginning no later than April 1, 2015:

4 a. Except for pre-paid mobile accounts, all Third-Party Charges shall be
5 presented in a dedicated section of the Consumer's Bill (or in a dedicated
6 section for each mobile line on the account, if the Bill sets forth charges by
7 each line) and shall be set forth in such a manner as to distinguish the Third-
8 Party Charges contained therein from Carrier's service, usage, and other
9 charges. This section of the Consumer's Bill shall contain a heading that
10 Clearly and Conspicuously identifies that the charges are for Third-Party
11 Products.

12 b. The Third-Party Charge billing section required by this Paragraph 14 shall
13 include a Clear and Conspicuous disclosure of a Consumer's ability to Block
14 Third-Party Charges, including contact and/or access information that
15 Consumers may use to initiate such Blocking. If Carrier includes a Third-Party
16 Charge billing section for each mobile line on the account, the Carrier shall
17 have the option to include the disclosure of a Consumer's ability to Block
18 Third-Party Charges in only the first Third-Party Charge billing section that
19 appears on the Bill, rather than in all Third-Party Charge billing sections.

20 15. Consumer Contacts: When a Consumer contacts Carrier with regard to a Third-Party
21 Charge incurred after the Effective Date, or a Block, Carrier shall:

22 a. provide the Consumer with access to a customer service representative who
23 shall have access to the Consumer's account information for at least the prior
24 twelve (12) months;

25 b. beginning no later than thirty (30) days after the Effective Date, for any
26 Consumer who claims that he or she did not authorize a Third-Party Charge

1 incurred after the Effective Date, either (1) provide the Consumer a full refund
2 or credit of any and all disputed Third-Party Charges not previously credited or
3 refunded to the Consumer, or (2) deny a refund if:

4 i. Carrier has information demonstrating that the Consumer provided Express
5 Informed Consent to the Third-Party Charge, offers to provide such
6 information to the Consumer, and, upon request, provides such information
7 to the Consumer; or

8 ii. the last disputed Third-Party Charge for the particular Product at issue
9 (either a single charge or a recurring charge) was incurred more than three
10 (3) months prior to when the Consumer contacted Carrier and Carrier is in
11 compliance with Paragraph 12 with respect to the charge

12 c. if the Consumer claims that he or she did not authorize a Third-Party Charge,
13 and the Consumer is a current customer of Carrier, offer the Consumer the
14 opportunity to Block future Third-Party Charges;

15 d. if the Consumer is not satisfied with the relief obtained under the process
16 contained in subparagraph (b) of this Paragraph 15:

17 i. offer the Consumer the opportunity to receive a full refund if the Consumer
18 submits his or her request in writing via U.S. Mail, email, or web based form
19 affirming that he or she did not authorize such charge, and provide such
20 refund, unless Carrier can demonstrate fraud or misrepresentation in
21 connection with the claim.

22 ii. this subparagraph (d) shall expire four (4) years from the Effective Date.

23 e. beginning no later than thirty (30) days after the Effective Date, not require the
24 Consumer to first contact the Third Party in order to receive a refund/credit of
25 any claimed Unauthorized Third-Party Charge, although this subparagraph
26 does not prohibit asking the Consumer if he or she has contacted the Third

- 1 Party and/or has already received a credit or refund from the Third Party for
2 some or all of the claimed Unauthorized Third-Party Charge; and
- 3 f. beginning no later than April 1, 2015, in the event a Consumer disputes a
4 Third-Party Charge as Unauthorized, until such time as the provisions of
5 Paragraph 15.b.i or ii are satisfied, not:
- 6 i. require the Consumer to pay the disputed Third-Party Charge, including
7 any related late charge or penalty;
- 8 ii. send the disputed Third-Party Charge to collection;
- 9 iii. make any adverse credit report based on non-payment of the disputed
10 Third-Party Charge; and/or
- 11 iv. suspend, cancel, or take any action that may adversely affect the
12 Consumer's mobile telephone service or functionality for any reason
13 related to non-payment of the disputed Third-Party Charge. The remedies
14 in this subparagraph 15(f) are inapplicable to Consumer complaints
15 involving dissatisfaction with purchases where the Consumer does not
16 dispute that Consumer authorized the purchase.

17 16. Training: For six (6) years after the Effective Date, Carrier shall conduct a training
18 program with its customer service representatives, at least annually, to administer the
19 requirements of this Assurance. To the extent that Carrier no longer permits Third-
20 Party Charges on Consumers' Bills, Carrier shall conduct one training program within
21 three (3) months of such cessation and shall have no further obligation to conduct
22 training programs under this Paragraph so long as Carrier does not permit Third-Party
23 Charges on Consumers' Bills.

24 17. Cooperation with Attorney General: Carrier shall, designate a contact to whom the
25 Attorney General may provide information regarding any concerns about
26 Unauthorized Third-Party Charges, and from whom the Attorney General may request

1 information and assistance in investigations. The information and assistance shall
2 include information regarding the identity of Third Parties placing charges on
3 Carrier's Bill, revenue from such Third Parties, refunds provided relating to such
4 Third-Parties, any audits conducted of such Third Parties (to the extent not protected
5 by attorney-client privilege or attorney work product), and any applications or other
6 information provided by Third parties, to the extent that Carrier has access to such
7 information. Consistent with Carrier's legal obligations to safeguard the confidential
8 or proprietary information of Consumers and Third Parties, Carrier shall provide such
9 information within a reasonable period and shall cooperate in good faith with such
10 requests, including investigating any reports of Unauthorized Third-Party Charges
11 Carrier receives from the Attorney General.

12 18. Information Maintained by Carrier: Beginning no later than April 1, 2015, Carrier
13 shall implement systems that allow it to maintain and report the refund/credit
14 information created pursuant to subparagraphs 15(b) and (d). Carrier shall maintain
15 such records for at least four (4) years from the date of their creation. Carrier's
16 obligation to maintain records for four (4) years from the date of their creation shall
17 continue after Carrier's obligation to provide the Quarterly Reports described in
18 Paragraph 19 expires.

19 19. Information Sharing with Attorneys General:

20 a. From April 1, 2015, Carrier shall, for at least four (4) years, provide a report to
21 the Office of the Vermont Attorney General every three (3) months ("Quarterly
22 Reports") documenting its compliance with the requirements of Paragraph 15.
23 Without limiting Carrier's obligations under Paragraph 15, the quarterly
24 reports shall include the following:

25 i. the total number of Consumer claims for unauthorized Third-Party Charges
26 for which Carrier has demonstrated that the purchaser provided Express

1 Informed Consent or for which Carrier has demonstrated that the claim was
2 untimely under subparagraph 15(b)(ii);

3 ii. all refunds/credits provided, in dollars, due to Carrier's inability to provide
4 proof of Express Informed Consent in response to such a claim by
5 Consumers;

6 iii. all other refunds/credits provided in dollars;

7 iv. for the claims and refunds/credits identified under subparagraphs 19(a)(i),
8 (ii), and (iii), above, the Third-Party Product, the Third Party, and the entity
9 responsible for ensuring Express Informed Consent from the Consumer, if
10 different than Carrier; and

11 v. a description of any remedial action taken by Carrier against Third Parties
12 for Unauthorized Third-Party Charges, including, but not limited to, any
13 actions taken to limit or terminate a Third Party's ability to place Third-
14 Party Charges on a Consumer's Bill. The description of any remedial
15 action provided under this subparagraph shall include: (a) the name and
16 contact information of such Third Party, (b) a description of the Product in
17 connection with which the remedial action was taken, (c) an indication of
18 whether the Product was suspended or terminated (and if the Product was
19 suspended, Carrier shall include the date or conditions for reinstatement),
20 and (d) the reason for the remedial action.

21 b. Information in Quarterly Reports shall be presented on a national basis and
22 provided electronically in a format to be agreed to by the parties. Quarterly
23 Reports shall be provided within thirty (30) days of the end of each calendar
24 quarter.

1 **V. MONETARY PAYMENT**

2 20. Carrier shall pay Eighteen Million Dollars (\$18,000,000.00) to the Participating
3 States. For purposes of this Assurance, Carrier shall pay \$293,193.63 to the State of
4 Arizona, Office of the Attorney General. Payment shall be made no later than thirty
5 (30) days after the Effective Date. Said payment shall be used by the Arizona Attorney
6 General for purposes that may include, but are not limited to, attorneys' fees and other
7 costs of investigation and litigation, or to be placed in, or applied to, any consumer
8 protection law enforcement fund, including future consumer protection or privacy
9 enforcement, consumer education, litigation or local consumer aid fund or revolving
10 fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted
11 by state law, at the sole discretion of the Attorney General. Pursuant to A.R.S. § 44-
12 1531.01, the Arizona Attorney General shall deposit \$293,193.63 into the Consumer
13 Protection-Consumer Fraud Revolving Fund to be administered by the Attorney
14 General under the conditions and for the purposes provided in A.R.S. § 44-1531.01.

15 21. Within one hundred and twenty (120) days of the conclusion of the Consumer redress
16 period described in Section V of the FTC Stipulated Order resolving the concurrent
17 FTC investigation regarding Unauthorized Third-Party Charges, Carrier shall provide
18 the Attorneys General with a list containing the following information for each of the
19 Participating States: (a) the number of claims submitted to the Consumer redress
20 program by Consumers residing in the Participating State; (b) number of claims
21 submitted to the Consumer redress program by Consumers residing in the
22 Participating State for which Carrier made payment; and (c) the total amount paid to
23 Consumers residing in the Participating State pursuant to the Consumer redress
24 program.

25 22. The Participating States and Carrier recognize that, in addition to the payment
26 provided under Paragraph 20, Carrier has agreed to pay Four Million, Five-Hundred

1 Thousand Dollars (\$4,500,000.00) to the Federal Communications Commission
2 ("FCC") to resolve the concurrent FCC investigation regarding Unauthorized Third-
3 Party Charges.

4 23. The Participating States and Carrier recognize that Carrier has agreed to the
5 Consumer redress program contained in Section V of the FTC Stipulated Order,
6 which sets forth a detailed process for Consumer redress. This Assurance does not
7 alter, amend, replace, or expand the Consumer redress program set forth in Section V
8 of the FTC Stipulated Order.

9 24. As more fully set forth in the FTC Stipulated Order, Carrier shall make payments,
10 credits, and debt forgiveness to the Participating States, FTC, FCC, and Consumers in
11 an aggregate amount of no less than Ninety Million Dollars (\$90,000,000.00).

12 VI. RELEASE

13 25. Effective upon full payment of the amount due under Paragraph 20, the Attorney
14 General releases and discharges Carrier and its officers, employees, agents,
15 successors, assignees, affiliates, merged or acquired entities, parent or controlling
16 entities, and subsidiaries from any and all claims, suits, demands, damages,
17 restitution, penalties, fines, actions, and other causes of action that the Attorney
18 General could have brought under the Arizona Consumer Fraud Act, A.R.S. §§ 44-
19 1521 to 44-1534, both known and unknown, arising directly or indirectly out of or
20 related to billing, charging, disclosures, policies, practices, actions or omissions
21 related to PSMS or Unauthorized Third-Party Charges that were incurred prior to the
22 Effective Date. In the case of affiliates, acquired entities, or subsidiaries, this release
23 only covers conduct occurring during the time such entities are or were affiliates or
24 subsidiaries of Carrier. Nothing contained in this Paragraph shall be construed to limit
25 the ability of the Attorney General to enforce the obligations that Carrier and its
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1 officers, agents, servants and employees acting on its behalf, have under this
2 Assurance.

3 26. Nothing in this Assurance shall be construed to create, waive, or limit any private
4 right of action.

5 27. Notwithstanding any term of this Assurance, any and all of the following forms of
6 liability are specifically reserved and excluded from the release in Paragraph 25 as to
7 any entity or person, including Carrier:

8 a. any criminal liability that any person or entity, including Carrier, has or may
9 have to the State of Arizona.

10 b. any civil or administrative liability that any person or entity, including Carrier,
11 has or may have to the State of Arizona under any statute, regulation or rule
12 not expressly covered by the release in Paragraph 25 above, including but not
13 limited to, any and all of the following claims:

14 i. state or federal antitrust violations;

15 ii. state or federal securities violations; and

16 iii. state or federal tax claims.

17 **VII. GENERAL PROVISIONS**

18 28. The parties understand and agree that this is a compromise settlement of disputed
19 issues and that the consideration for this Assurance shall not be deemed or construed
20 as: (a) an admission of the truth or falsity of any claims or allegations heretofore made
21 or any potential claims; (b) an admission by Carrier that it has violated or breached
22 any law, statute, regulation, term, provision, covenant or obligation of any agreement;
23 or (c) an acknowledgement or admission by any of the parties of any duty, obligation,
24 fault or liability whatsoever to any other party or to any third party. This Assurance
25 does not constitute a finding of law or fact, or any evidence supporting any such
26 finding, by any court or agency that Carrier has engaged in any act or practice

1 declared unlawful by any laws, rules, or regulations of any state. Carrier denies any
2 liability or violation of law and enters into this Assurance without any admission of
3 liability. It is the intent of the parties that this Assurance shall not be used as evidence
4 in any action or proceeding, except an action to enforce this Assurance.

5 29. Unless otherwise specifically provided, all actions required pursuant to this Assurance
6 shall commence as of the Effective Date. In the event that Carrier acquires any new
7 entity, Carrier shall take immediate steps to cease billing charges for all Commercial
8 PSMS. With respect to such entities, Carrier shall provide the Consumer with access
9 to a customer service representative who shall have access to the Consumer's account
10 information related to Third-Party Charges for at least the prior twelve (12) months. If
11 such information is not available, Carrier shall have twelve (12) months to come into
12 compliance with Paragraph 15(a) with respect to such entities and, while coming into
13 compliance, respond to the Consumer's inquiry within ten (10) days using any
14 available information. As to all other requirements contained in this Assurance,
15 Carrier shall have a reasonable period of time, which in no event shall exceed six (6)
16 months, in which to bring said entity into compliance with this Assurance and during
17 that period, Carrier shall take reasonable steps to obtain Express Informed Consent
18 before a Consumer is billed for any Third-Party Charge.

19 30. Nothing in this Assurance limits Carrier's right, at its sole discretion, to provide
20 refunds or credits to Consumers in addition to what is required in this Assurance.

21 31. Nothing in any provision of this Assurance shall be read or construed to require
22 Carrier (a) to share customer proprietary network information ("CPNI") with any
23 person not legally entitled to receive CPNI; (b) to share customer information in such
24 a way that it would violate any applicable law or privacy policy; or (c) to grant more
25 than one full refund for any single Unauthorized Third-Party Charge. Carrier shall not
26 amend its privacy policy to excuse its compliance with the reporting, tracking, or

1 other provisions of this Assurance related to the sharing of customer information
2 unless required by law.

3 32. Carrier understands that the Attorney General may file and seek court approval of this
4 Assurance. Should such an approval be obtained, the court shall retain jurisdiction
5 over this Assurance for the purpose of enabling the parties to apply to the court at any
6 time for orders and directions as may be necessary or appropriate to enforce
7 compliance with or to punish violations of this Assurance. Neither party will object
8 on the basis of jurisdiction to enforcement of this Assurance under this Paragraph.

9 33. As consideration for the relief agreed to herein, if the Attorney General of a
10 Participating State determines that Carrier has failed to comply with any of the terms
11 of this Assurance, and if in the Attorney General's sole discretion the failure to
12 comply does not threaten the health or safety of the citizens of the Participating State
13 and/or does not create an emergency requiring immediate action, the Attorney
14 General will notify Carrier in writing of such failure to comply and Carrier shall then
15 have ten (10) business days from receipt of such written notice to provide a good faith
16 written response to the Attorney General's determination. The response shall include
17 an affidavit containing, at a minimum, either:

- 18 a. a statement explaining why Carrier believes it is in full compliance with the
19 Assurance; or
20 b. a detailed explanation of how the alleged violation(s) occurred; and (i) a
21 statement that the alleged breach has been addressed and how; or (ii) a statement
22 that the alleged breach cannot be reasonably addressed within ten (10) business
23 days from receipt of the notice, but (1) Carrier has begun to take corrective action
24 to address the alleged breach; (2) Carrier is pursuing such corrective action with
25 reasonable and due diligence; and (3) Carrier has provided the Attorney General
26 with a detailed and reasonable timetable for addressing the alleged breach.

1 34. Nothing herein shall prevent the Attorney General from agreeing in writing to provide
2 Carrier with additional time beyond the ten (10) business day period to respond to the
3 notice provided under Paragraph 33.

4 35. Nothing herein shall be construed to exonerate any contempt or failure to comply with
5 any provision of this Assurance after the date of its entry, to compromise the authority
6 of the Attorney General to initiate a proceeding for any contempt or other sanctions
7 for failure to comply, or to compromise the authority of a court to punish as contempt
8 any violation of this Assurance. Further, nothing in this Paragraph shall be construed
9 to limit the authority of the Attorney General to protect the interests of the
10 Participating State or the people of the Participating State.

11 36. The Participating States represent that they will seek enforcement of the provisions of
12 this Assurance with due regard to fairness.

13 37. Carrier shall designate one or more employees to act as the primary contact for the
14 Attorney General for purposes of assisting the Attorney General in investigations. The
15 contact employee(s) designated by Carrier pursuant to this Paragraph shall be capable
16 of receiving and processing subpoenas, statutory investigative demands, or other legal
17 process requesting information pertaining to the placement of Third-Party Charges on
18 Consumers' Bills. Carrier shall provide the Attorney General with the name(s),
19 address(es), telephone number(s), facsimile number(s) and electronic mail address(es)
20 of each such employee.

21 38. This Assurance is intended to supplement, and does not supplant or in any way
22 restrict, the Attorney General's subpoena power and/or investigative authority
23 pursuant to applicable law.

24 39. This Assurance does not supplant or in any way restrict the Attorney General's
25 powers to investigate the prevalence of Unauthorized Third-Party Charges or the
26

1 extent to which this Assurance has affected the prevalence of Unauthorized Third-
2 Party Charges in his/her jurisdiction.

3 40. This Assurance does not supplant or in any way restrict Carrier's legal rights and
4 ability to demand formal legal process to protect its Consumers' privacy rights and/or
5 to protect Carrier from potential liability for disclosing or sharing such information
6 without legal process.

7 41. The only persons with rights under this Assurance are the parties to the Assurance,
8 namely Carrier and the Attorney General. No third party (including third parties that
9 meet the definition in 8(n)) is entitled to claim rights under this Assurance and no
10 provision of this Assurance is enforceable by any person or entity not a party to the
11 Assurance. The agreement in this Assurance has no third-party beneficiaries.

12 42. This Assurance represents the full and complete terms of the settlement entered by the
13 parties hereto.

14 43. All parties participated in the drafting of this Assurance.

15 44. This Assurance may be executed in counterparts, and a facsimile or .pdf signature
16 shall be deemed to be, and shall have the same force and effect as, an original
17 signature.

18 45. All notices under this Assurance shall be provided to the following address via first
19 class or electronic mail:

20 For the Arizona Attorney General:

21 Dena R. Benjamin, Assistant Attorney General
22 Office of the Attorney General
23 1275 West Washington Street
24 Phoenix, AZ 85007-2997
25 Telephone: (602) 542-3725
26 consumer@azag.gov

1 For Carrier:

2 David A. Miller
3 General Counsel
4 T-Mobile USA, Inc.
5 12920 SE 38th Street
6 Bellevue, WA 98006

7 46. Any failure by any party to this Assurance to insist upon the strict performance by any
8 other party of any of the provisions of this Assurance shall not be deemed a waiver of
9 any of the provisions of this Assurance, and such party, notwithstanding such failure,
10 shall have the right thereafter to insist upon the specific performance of any and all of
11 the provisions of this Assurance.

12 47. If any clause, provision, or paragraph of this Assurance shall, for any reason, be held
13 illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall
14 not affect any other clause, provision, or paragraph of this Assurance and this
15 Assurance shall be construed and enforced as if such illegal, invalid, or unenforceable
16 clause, provision, or paragraph had not been contained herein.

17 48. Nothing in this Assurance shall be construed as relieving Carrier of the obligation to
18 comply with all local, state and federal laws, regulations, or rules, nor shall any of the
19 provisions of this Assurance be deemed to be permission to engage in any acts or
20 practices prohibited by such laws, regulations, or rules.

21 49. The parties understand that this Assurance shall not be construed as an approval of or
22 sanction by the Attorney General of Carrier's business practices, nor shall Carrier
23 represent the decree as such an approval or sanction. The parties further understand
24 that any failure by the Attorney General to take any action in response to any
25 information submitted pursuant to the Assurance shall not be construed as an approval
26 or sanction, of any representations, acts or practices indicated by such information,
nor shall it preclude action thereon at a later date.

1 50. Carrier shall not participate, directly or indirectly, in any activity or form a separate
2 entity or corporation for the purpose of engaging in acts or practices in whole or in
3 part in the State of Arizona that are prohibited by this Assurance or for any other
4 purpose that would otherwise circumvent any term of this Assurance. Carrier shall not
5 cause, knowingly permit, or encourage any other persons or entities acting on its
6 behalf to engage in practices from which Carrier is prohibited by this Assurance.

7 51. If the Attorney General determines that Carrier made any material misrepresentation
8 or omission relevant to the resolution of this investigation, the Attorney General
9 retains the right to seek modification of this Assurance.

10 52. In the event that any statute or regulation pertaining to the subject matter of this
11 Assurance is modified, enacted, promulgated, or interpreted by the federal
12 government or any federal agency, such as the FCC, such that Carrier cannot comply
13 with both the statute or regulation and any provision of this Assurance, Carrier may
14 comply with such statute or regulation, and such action shall constitute compliance
15 with the counterpart provision of this Assurance. Carrier shall provide advance
16 written notice to the Attorney General of Vermont of the inconsistent provision of the
17 statute or regulation with which Carrier intends to comply under this Paragraph, and
18 of the counterpart provision of this Assurance that conflicts with the statute or
19 regulation.

20 53. In the event that any statute or regulation pertaining to the subject matter of this
21 Assurance is modified, enacted, promulgated, or interpreted by a Participating State,
22 such that the statute or regulation is in conflict with any provision of this Assurance,
23 and such that Carrier cannot comply with both the statute or regulation and the
24 provision of this Assurance, Carrier may comply with such statute or regulation in the
25 Participating State, and such action shall constitute compliance with the counterpart
26 provision of this Assurance. Carrier shall provide advance written notice to both the

1 Attorney General of Vermont and the Attorney General of the Participating State, of
2 the inconsistent provision of the statute or regulation with which Carrier intends to
3 comply under this Paragraph, and of the counterpart provision of this Assurance that
4 is in conflict with the statute or regulation.

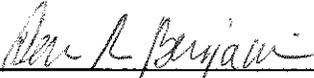
5 54. To seek a modification of this Assurance for any reason other than that provided for
6 in Paragraphs 52 or 53 of this Assurance, Carrier shall send a written request for
7 modification to the Attorney General of Vermont on behalf of the Participating States.
8 The Participating States shall give such petition reasonable consideration and shall
9 respond to Carrier within thirty (30) days of receiving such request. At the conclusion
10 of this thirty (30) day period, Carrier reserves all rights to pursue any legal or
11 equitable remedies that may be available to it.

12 55. To the extent that any of the provisions contained herein permit implementation
13 beyond the Effective Date, the parties have agreed to the delayed implementation of
14 such provisions based on Carrier's representation that it is currently unable to meet the
15 requirements of such provisions and that it needs the additional specified time to
16 develop the necessary technical capabilities to come into compliance with the
17 requirements of such provisions. Carrier agrees to make good-faith and reasonable
18 efforts to come into compliance with any such provisions prior to the implementation
19 dates set by such provisions to the extent commercially practicable.

20 56. Carrier shall pay all court costs associated with the filing of this Assurance, should the
21 Attorney General be required to file and seek court approval of this Assurance.

22 57. Pursuant to A.R.S. § 44-1530, a violation of this Assurance of Discontinuance within six
23 (6) years of the filing thereof constitutes prima facie evidence of a violation of A.R.S. §
24 44-1522. This court therefore retains jurisdiction over this action for purposes of
25 enabling the State of Arizona to enforce the terms of this Assurance.
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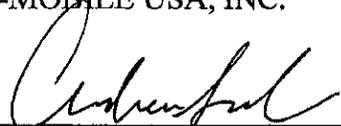
1 FOR THE ARIZONA ATTORNEY
2 GENERAL

3 By: 
4 Dena R. Benjamin
5 Assistant Attorney General
6 Office of the Attorney General

Dated:

12/19/14

6 FOR T-MOBILE USA, INC.

7 By: 
8 Laura J. Buckland/Andrew Sacks
9 Vice President, Legal Affairs

Dated:

12/17/2014

10 FOR T-MOBILE USA, INC.
11 Davis Wright Tremaine LLP

12 By: 
13 Wendy Kearns
14 State Bar No. 29040

Dated:

Dec 12, 2014

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16 #4229120 v.3
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