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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DEBBIE MILLIRON, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

T-MOBILE USA, INC.,

Defendant.

Civil Action No. 08-04149 (JLL) (ES)

**PROPOSED PLAN OF ALLOCATION OF
SETTLEMENT PROCEEDS**

This Plan of Allocation shall apply to the Settlement Fund established by Article III.1 of the Stipulation and Agreement of Settlement (hereafter, the "Agreement"), the Non-Cash Compensation defined in Article III.3 of the Agreement, and the Proration Benefit defined in Article III.4 of the Agreement. All terms capitalized herein have the meanings defined in the Agreement.

1. **Use of Funds.** If and when the Settlement set forth in the Agreement becomes Effective, the Settlement Fund, net of any expenses paid or incurred pursuant to Article VI of the Agreement or any Taxes and Tax Expenses paid or incurred pursuant to Section 5 of the Escrow Agreement, shall be applied as follows:

(a) To pay all unpaid costs and expenses incurred in connection with providing notice to the Settlement Class, locating Settlement Class Members, administering and distributing the Settlement Fund or any portion thereof and processing Proofs of Claim;

(b) To pay Class Counsel's attorneys' fees, costs and expenses, including the fees of expert witnesses and consultants, and interest, if, and to the extent, allowed by the Court; and

(c) To pay an incentive award to the Class Representative if, and to the extent, allowed by the Court.

2. **The Claimant's Fund.** The balance of the Settlement Fund, less any reserves authorized by the Court (hereinafter, the "Claimant's Fund"), shall be distributed commencing within thirty (30) days and concluding within ninety (90) days after the Effective Date to Authorized Claimants (as defined in Paragraph 7, below) in accordance with this Plan of Allocation and other applicable orders which may be issued by the Court.

3. **The Non-Cash Compensation.** The Non-Cash Compensation shall be issued by T-Mobile USA, Inc. ("T-Mobile") commencing within thirty (30) days and concluding within ninety (90) days after the Effective Date to Authorized Claimants (as defined in Paragraph 7, below) in accordance with this Plan of Allocation and other applicable orders which may be issued by the Court. The benefit provided to Authorized Claimants receiving Allowed Claims pursuant to Paragraphs 8(c)(i) and 8(c)(ii) shall cease at the earlier of three (3) months or the date the Authorized Claimant ceases to be a party to a contract with T-Mobile.

4. **The Proration Benefit.** The Proration Benefit shall be applied by T-Mobile to the wireless service contracts of Authorized Claimants (as defined in Paragraph 7, below) commencing within thirty (30) days and concluding within ninety (90) days after the Effective Date in accordance with this Plan of Allocation and other applicable orders which may be issued by the Court.

5. **Allocation of the Claimant's Fund.** If the total of the aggregate Total Allowed Claims of all Authorized Claimants for cash claims exceeds the Claimant's Fund, the Claimant's Fund shall be allocated among Authorized Claimants who are entitled to cash claims, *pro rata*, in the proportion that the Allowed Claim of such Authorized Claimant bears to the total of the aggregate Total Allowed Claims of all Authorized Claimants, as computed by the Claims Administrator pursuant to this Plan of Allocation.

6. **Allocation of the Non-Cash Compensation.** If the face, retail value of the aggregate Total Allowed Claims of all Authorized Claimants for non-cash benefits exceeds two million dollars (\$2,000,000), the value of the Non-Cash Compensation shall be allocated among Authorized Claimants who are entitled to non-cash benefits, *pro rata*, in the proportion that the face, retail value of the Allowed Claim of such Authorized Claimant bears to the face, retail

value of the aggregate Total Allowed Claims of all Authorized Claimants for non-cash benefits, as computed by the Claims Administrator pursuant to this Plan of Allocation. Authorized Claimants shall receive non-cash benefits of the type to which they are entitled whose face, retail value is equivalent to their aforementioned *pro rata* share.

7. **Definitions of “Claimant” and “Authorized Claimant.”** “Claimant” shall be a Member of the Settlement Classes who has submitted a Proof of Claim that the Claims Administrator, in its sole discretion, determines to be timely and properly completed and signed. A Proof of Claim is timely if it is submitted within sixty (60) days after the Court has entered the Final Approval Order and Judgment. An “Authorized Claimant” shall be a Claimant who was not a member of the Suncom Settlement Class and whose Allowed Claim is (i) greater than zero, as computed pursuant to Paragraphs 8(a) and (b), (ii) a non-cash benefit, as provided in Paragraph 8(c), or (iii) the Proration Benefit, as provided in Paragraph 8(c).

8. **Calculation of “Allowed Claim.”**

(a) **“Allowed Claims” for Class Members Who Submit a Proof of Claim Form Asserting That They Paid Flat-Rate Early Termination Fees**

(i) “Allowed Claims” Where Claimant Submits Adequate Proof or T-Mobile Records Confirm Amount Paid. Where a Claimant paid in full one or more Flat-Rate Early Termination Fees during the Class Period, whether to T-Mobile, a collection agency, or other third party to whom T-Mobile assigned the rights to the ETF, the Claimant shall receive an Allowed Claim in the amount of one hundred and twenty-five dollars (\$125).

(ii) “Allowed Claims” Where Claim Form Does Not Include Adequate Proof of Payment and T-Mobile Records Do Not Show Payment. Where a Claimant asserts but cannot prove that he or she paid in full one or more Flat-Rate Early Termination Fees during the

Class Period, whether to T-Mobile, a collection agency, or other third party to whom T-Mobile assigned the rights to the ETF, but the Claimant certifies under penalty of perjury in the Proof of Claim form that he or she paid in full one or more such fees during the Class Period, the Claimant shall receive an Allowed Claim in the amount of twenty-five dollars (\$25) if the Claimant was charged such a fee or fees during the Class Period, and the Claimant certifies under penalty of perjury in the Proof of Claim Form that the charging of the fee and/or the partial payment caused him or her harm.

(b) “Allowed Claims” for Class Members Who Submit a Proof of Claim Form Asserting That They Were Charged But Did Not Pay in Full Flat-Rate Early Termination Fees

Where the Claimant was charged but did not pay in full one or more Flat-Rate Early Termination Fees during the Class Period, the Claimant shall receive an Allowed Claim in the amount of twenty-five dollars (\$25). Notwithstanding the foregoing, the Claimant shall receive no Allowed Claim if the Claimant received a credit of such fee or fees within thirty (30) days of its assessment.

(c) “Allowed Claims” for Class Members Subject to a Flat-Rate ETF

Where a Proof of Claim Form asserts that a Claimant was not charged a Flat-Rate Early Termination Fee and includes an attestation, sworn under penalty of perjury, that the Claimant was party to a contract with T-Mobile as of the date that the court preliminarily approved the settlement that permitted the assessment of a Flat-Rate Early Termination Fee and has been harmed because a Flat-Rate Early Termination Fee was or has the potential to be assessed and/or believes that he or she should not be subject to a Flat-Rate Early Termination Fee will be entitled to an Allowed Claim of one of the following: (i) fifty (50) bonus minutes each month for three

(3) months; (ii) one hundred (100) bonus text messages each month for three (3) months; (iii) “T-Mobile HotSpot” access for seven (7) days; or (iv) the Proration Benefit. Notwithstanding the foregoing, a Claimant shall receive an Allowed Claim under this paragraph of “T-Mobile HotSpot” access if either the Claimant is no longer a party to a post-paid contract for wireless service with T-Mobile at the time non-cash benefits are distributed or the Claimant has selected the Proration Benefit and is no longer a party to a post-paid contract for wireless service with T-Mobile that includes a Flat-Rate ETF provision at the time the Proration Benefit would be applied.

(d) **Limitations on Allowed Claims.** Claimants who receive an Allowed Claim pursuant to Paragraph 8(a)(i) shall not be entitled to receive Allowed Claims under Paragraphs 8(a)(ii), 8(b) or 8(c). Claimants who receive an Allowed Claim pursuant to Paragraph 8(a)(ii) shall not be entitled to receive Allowed Claims under Paragraphs 8(a)(i), 8(b), or 8(c). Claimants who receive an Allowed Claim pursuant to Paragraph 8(b) shall not be entitled to receive Allowed Claims under Paragraphs 8(a)(i), 8(a)(ii), or 8(c). Claimants who receive an Allowed Claim pursuant to any subdivision of Paragraph 8(c) shall not be entitled to receive Allowed Claims under Paragraphs 8(a)(i), 8(a)(ii), or 8(b) or any other subdivision of Paragraph 8(c). If the Settlement Administrator cannot determine whether a Claimant is entitled to receive a benefit or which benefit a Claimant seeks, the Claimant will not receive an Allowed Claim.

9. The Claimant’s Fund shall be allocated and distributed only to Authorized Claimants who receive benefits pursuant to Paragraphs 8(a) and 8(b).

10. In determining whether a fact has been proven for purposes of this Plan of Allocation, the Claims Administrator shall use a preponderance of the evidence standard.

Evidence that may be considered by the Claims Administrator in making this determination includes but is not limited to materials submitted by Claimants with their Claim Forms and records made available by t-Mobile in connection with the Settlement to effectuate notice.

11. Class Counsel shall present to the Court an application for leave to distribute the Net Settlement Fund in accordance with this Plan of Allocation and other applicable Orders of the Court, and for an order providing that the Court retains jurisdiction to allow or disallow the claim of any person who does not submit a Proof of Claim form as required herein.

12. In any distribution of funds pursuant to this Plan of Allocation, no check shall be issued in an amount less than five dollars (\$5).

13. Any amounts remaining in the Settlement Fund after distribution has been made to Authorized Claimants and all expenses have been paid shall be conveyed to City Year, Inc. and/or one or more other charitable organizations jointly proposed by plaintiff and T-Mobile and approved by the Court. If the face, retail value of the aggregate Total Allowed Claims of all Authorized Claimants for non-cash benefits is less than two million dollars (\$2,000,000), "T-Mobile Hotspot" access will be conveyed to the same charitable organization(s), such that the total face, retail value of the non-cash benefits distributed to Authorized Claimants and the charitable organization(s) is two million dollars (\$2,000,000).

14. The Court may, for good cause, extend any of the deadlines set forth in this Plan of Allocation without further notice to the Settlement Class Members.

DATED: February 9, 2009

CARELLA BYRNE BAIN GILFILLAN
CECCHI STEWART & OLSTEIN, PC

By: /s/ James E. Cecchi
JAMES E. CECCHI

DATED: February 9, 2009

FREED & WEISS LLC

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PAUL M. WEISS

DATED: February 9, 2009

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