

Mail to: Wasatch Commercial Management
299 So Main Street, Suite 2400
Salt Lake City, UT. 84111

ENT 118542:2016 PG 1 of 6
Jeffery Smith
Utah County Recorder
2016 Nov 23 11:28 AM FEE 20.00 BY SW
RECORDED FOR North American Title - Salt L
ELECTRONICALLY RECORDED

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is dated as of the 2nd day of September, 2016, by and between ZB, N.A., dba Zions First National Bank, a national banking association ("Lender"), and CUSTOM CELLULAR, INC., a Missouri corporation ("Tenant").

RECITALS

A. Tenant has entered into a certain lease (the "Lease") dated as of September 2, 2016, with Cornerstone Orem, LLC, a Utah limited liability company ("Landlord"), of a portion of the real estate legally described on Exhibit 1 attached hereto and incorporated herein. The leased premises described in the Lease are hereinafter referred to as the "Premises".

B. Lender has made a loan to Landlord, which loan is secured by (i) a mortgage and security agreement dated June 18, 2015 (the "Mortgage"), recorded against the Premises and (y) an assignment of leases and rents dated June 18, 2015 (the "Assignment"), recorded against the Premises.

For mutual consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Tenant agrees that the Lease is and shall be subject and subordinate to the lien of the Mortgage and to the lien of the Assignment and to all renewals, amendments, modifications, consolidations, replacements and extensions thereof, now or hereafter executed, to the full extent of all amounts secured thereby, said subordination to have the same force and effect as if the Mortgage, the Assignment, and such renewals, modifications, consolidations, replacements and extensions thereof had been executed, acknowledged, delivered and recorded prior to the Lease, and amendments or modifications or any notice thereof. Notwithstanding anything contained in this Agreement to the contrary, neither this Section 1 nor the Mortgage or the Assignment shall apply to Tenant's inventory, trade fixtures, furniture, furnishings, equipment, machinery, or other personal property at any time placed or installed on the Premises.

2. Lender agrees that, so long as Tenant is not in default of the Lease beyond any applicable grace, notice, and/or cure period: (a) Tenant shall not be named or joined as a party in any action, suit, sale, or proceeding that may be instituted by Lender to foreclose or seek other remedies under the Mortgage or the Assignment, unless applicable law requires Tenant to be made a party thereto as a condition to Lender's proceeding against Landlord or prosecuting such rights and remedies, in which case Lender may join Tenant only for such purpose and not terminate the Lease, pursue remedies against Tenant, or otherwise adversely affect Tenant's rights under the Lease or this Agreement; (b) the Lease, the leasehold estate granted by the Lease, Tenant's right to quiet enjoyment, Tenant's possession and use of the Premises, and any of Tenant's other rights under the Lease or in and to the Premises, shall not be affected in any manner by (i) the exercise by Lender of any of its rights under the Mortgage or the Assignment, (ii) any transfer of Landlord's interest in the Premises by foreclosure, sale, or other action or proceeding for the enforcement of the Mortgage or the Assignment or deed in lieu thereof, (iii) any other proceeding instituted or action taken in connection with the Mortgage, the Assignment, or the loan(s) secured thereby, or (iv) Lender's taking possession of the Premises pursuant to the Mortgage or the Assignment.

3. Tenant agrees that, in the event of a foreclosure of the Mortgage by Lender, the acceptance of a deed in lieu of foreclosure by Lender, or Lender's exercise of any of its rights under the Mortgage or Assignment, Tenant will attorn to and recognize Lender as its landlord under the Lease for

the remainder of the term of the Lease (including all extension periods which have been or are hereafter exercised) upon the same terms and conditions as are set forth in the Lease, and Tenant hereby agrees to perform all of the obligations of Tenant pursuant to the Lease. Lender shall recognize all of the rights and options of Tenant under the Lease and the Lease shall continue in full force as a direct lease between Tenant and Lender, and the respective executory rights and obligations of Tenant and Lender, to the extent of the then remaining balance of the term of the Lease and any extensions and renewals thereunder, shall be and are the same as set forth therein.

4. Tenant agrees that, in the event Lender succeeds to the interest of Landlord under the Lease:

(a) Except for Tenant's right to any allowance owed under the Lease, Lender shall not be liable in damages for any act or omission of any prior landlord (including Landlord), provided nothing herein shall derogate from the obligation of Lender to perform all of the obligations of Landlord pursuant to the Lease once Lender succeeds to the interest of Landlord under the Lease;

(b) Lender shall not be liable for the return of any security deposit unless such security deposit is actually received by Lender;

(c) Except for (x) prepayments required by the Lease, (y) potential rent offset rights in lieu of Tenant's receipt of any allowance owed under the Lease, or (z) payments actually received or approved by Lender, Lender shall not be bound by any rent or additional rent which Tenant might have prepaid for more than one (1) month in advance under the Lease;

(d) Lender shall not be bound by any amendments or modifications of the Lease prohibited by the Mortgage or the Assignment and made without the consent of Lender (which consent shall not be unreasonably withheld, delayed, or conditioned) which have the effect of (x) reducing rent, (y) decreasing the term, or (z) canceling the Lease prior to its expiration (except as a result of either the exercise of a right to terminate as set forth in the Lease or as provided by law, or as a result of a default of Landlord); and

(e) Except for (x) potential rent offset rights in lieu of Tenant's receipt of any allowance owed under the Lease and/or (y) negotiated offsets and/or defenses specifically provided for in the Lease, Lender shall not be subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord).

5. Tenant agrees to give Lender a copy of any notice of default under the Lease served upon Landlord at the same time as such notice is given to Landlord.

6. The terms and provisions of this Agreement shall be automatic and self-operative without execution of any further instruments on the part of any of the parties hereto. Without limiting the foregoing, Lender and Tenant agree, within thirty (30) days after request therefor by the other party, to execute an instrument in confirmation of the foregoing provisions, in form and substance reasonably satisfactory to Lender and Tenant, pursuant to which the parties shall acknowledge the continued effectiveness of the Lease in the event of such foreclosure or other exercise of rights.

7. Any notice to be delivered hereunder shall be in writing and shall be sent registered or certified mail, return receipt requested, postage prepaid, or overnight delivery by a nationally recognized overnight carrier which delivers only upon signed receipt of the addressee, or its agent. The time of the giving of any notice shall be the earlier of (a) the time of receipt thereof by the addressee or any agent of the addressee, except that in the event that the addressee shall refuse to receive any notice, or there shall

be no person available (during normal business hours) to receive such notice, the time of giving notice shall be deemed to be the time of such refusal or attempted delivery as the case may be, or (b) the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. All notices addressed to Lender or Tenant, as the case may be, shall be delivered to the respective addresses set forth opposite their names below, or such other addresses as they may hereafter specify by written notice delivered in accordance herewith:

If to Tenant: Custom Cellular, Inc.
 12250 Weber Hill Road, Suite 315
 St. Louis, MO 63127
 Attention: Rick Fessler

If to Lender: Zions First National Bank
 Real Estate Banking Group
 One South Main Street, Suite 470
 Attn: Jeffrey A. Holt

8. The term "Lender" as used herein includes any direct or more remote successor or assign of the named Lender herein, including without limitation, any purchaser at a foreclosure sale, and any successor or assign thereof, and the term "Tenant" as used herein includes any direct or more remote successor and assign of the named Tenant herein. Notices given to a Lender shall be deemed to have been given to a successor Lender.

9. As between Landlord and Tenant, Landlord and Tenant covenant and agree that nothing herein contained nor anything done pursuant to the provisions hereof shall be deemed or construed to modify the Lease.

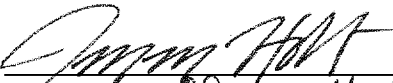
[SIGNATURE PAGE(S) TO FOLLOW]

**COUNTERPART SIGNATURE PAGE TO
SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

Executed under seal as of the day and year first above written.

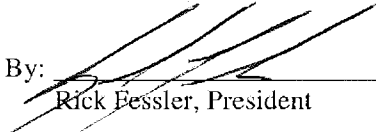
“LENDER”

ZB, N.A.,
dba Zions First National Bank

By: 
Printed Name: Jeffrey Holt
Title: Senior Vice President

“TENANT”

CUSTOM CELLULAR, INC.

By: 
Rick Fessler, President

[NOTARY BLOCKS APPEAR ON NEXT PAGE]

STATE OF Utah)
)
COUNTY OF Salt Lake) SS.

Personally appeared before me, a Notary Public in and for the above County and State, Jeffrey Holt, known personally by me and acknowledged by me to be on the date of execution the Senior Vice President of First First Nat Bank and he/she executed the foregoing for and on behalf of said Company.

Witnesses by hand and this notary seal, this 19 day of November, 2019

Christy Mae Ginn
Notary Public in and for the State and aforesaid County

Christy Mae Ginn
(Printed Name of Notary)

My Commission Expires: 5/14/2019



STATE OF Missouri)
)
COUNTY OF St Louis) SS.

Personally appeared before me, a Notary Public in and for the above County and State, Rick Fessler, known personally by me and acknowledged by me to be on the date of execution, the President of Custom Cellular, Inc. and he executed the foregoing for and on behalf of said corporation by authority of its Board of Directors.

Witnesses by hand and this notary seal, this 25th day of October, 2016

Jonathan Sutter
Notary Public in and for the State and aforesaid County

Jonathan Sutter
(Printed Name of Notary)

My Commission Expires: 02/03/2020



Exhibit A

Legal Description

LOT 2, PLAT "B", OREM RETAIL CENTER, ACCORDING TO THE OFFICIAL PLAT THEREOF, ON FILE AND RECORDED ON June 19, 2015, AS MAP NO. 14653 AND AS ENTRY NO 54179:2015, IN THE OFFICE OF THE UTAH COUNTY RECORDER, STATE OF UTAH.

The Real Property Tax Identification Number Is: _____

48:181:0001

COURTESY RECORDING

This document is being recorded solely as a courtesy and an accommodation to the parties names herein. North American Title, LLC hereby expressly disclaims any responsibility or liability for the accuracy of the content thereof.