

# UNOFFICIAL COPY



## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT ("Agreement") made as of this 29th day of March, 2002 by and among Verizon Wireless ("Tenant") and INLAND MORTGAGE CORPORATION, an Illinois corporation ("Lender"), 2901 Butterfield Road, Oak Brook, Illinois 60523.

### RECITALS:

*re. All Cylinders LLC.*

1.1 Tenant is the tenant under a certain Lease dated June 21, 1991, between ~~AMP Property II, L.P.~~ ("Landlord") as successor in interest to American National Bank & Trust Company of Chicago, Trustee under Trust Agreement dated March 7, 1987 and known as Trust No. 104162-04 and Tenant, pertaining to and covering a portion of that certain real estate which is legally described on Exhibit A attached hereto and the buildings and improvements located thereon (the "Property").

1.2 Lender has made a loan (the "Loan") to Landlord secured by the Property.

### AGREEMENTS

**NOW THEREFORE**, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency whereof are acknowledged, Tenant and Lender covenant and agree as follows:

1. **Consent to Assignment:** Tenant hereby consents to the assignment by Landlord to Lender, pursuant to the assignment, of the Lease and all rents, issues, profits, royalties, contract rights, or otherwise in connection therewith.

2. **Subordination:** Said Lease, all extensions, modifications, replacements and renewals thereof (the "Lease"), and all of Tenant's rights and interests thereunder, shall be, are hereby made and shall remain completely subject and subordinate to that certain First Mortgage and Security Agreement dated \_\_\_\_\_, recorded with the office of The Recorder of Deeds of \_\_\_\_\_ County as Document No. \_\_\_\_\_, and all extensions, modifications, replacements and renewals thereof (the "Mortgage"); and all other documents, including an Assignment of Leases and Rents (the "Assignment"), and all extensions, modifications, replacements and renewals thereof, now or hereafter securing the Loan (the Mortgage, Assignment and other documents being together referred to herein as the "Loan Documents"), to the same extent as if the Loan Documents had been executed, delivered and recorded prior to execution of the Lease.

3. **Attornment:** If Lender obtains title to the Premises through foreclosure, exercise of the power of sale or deed in lieu of foreclosure under the Mortgage, or by any other method, and Lender succeeds to the interest of Landlord under the Lease, or Lender takes possession of the Premises in accordance with the assignment, then Tenant agrees to continue occupancy of the Premises under the same terms of the Lease for the balance of the Lease term, including all extensions and renewals, to the same extent and with the same force as if Lender were the Landlord under the Lease. Lender shall be entitled to, but not obligated, to exercise the claims, rights, powers, privileges, options, and remedies of the Landlord under the Lease and shall be further entitled to the benefits of, and to receive and enforce performance of, all covenants to be performed by Tenant under the Lease as though Lender were named therein as the Landlord. Lender shall not, by virtue of the Assignment or this Agreement, be or become subject to any liability or obligation to Tenant under the Lease or otherwise, until Lender shall have obtained title to the Premises. Tenant agrees to recognize the rights of the Lender under the Assignment and agrees that it will not modify any terms of the Lease or terminate the Lease without Lender's consent. Lender shall not be bound by any amendment or modification of the Lease made without such consent, that requires its consent as described herein.

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4. **Payment or Rent:** Tenant shall not pay an installment of rent or any part thereof more than thirty (30) days prior to the due date of such installment. Lender shall be entitled to recover from Tenant as rent under the Lease any payment of rent or additional rent made by Tenant to Landlord more than one month in advance. After an officer of Lender certifies to Tenant, in writing via certified mail, that the Lease rental should be paid to Lender, Tenant shall pay to Lender, or in accordance with the directions of Lender, all rentals and other monies due and to become due to the Landlord under the Lease. Landlord hereby expressly authorizes Tenant to make such payments to Lender and hereby releases and discharged Tenant from any liability to Landlord on account of such payments. Landlord agrees that any rental payments Tenant makes to Lender pursuant to Lender's notice and demands shall be applied towards Tenant's obligations under the Lease regardless of whether or not Lender is or was entitled to demand (and/or receive) such rental payments. Furthermore, in connection elsewhere herein, Landlord and its successors and assigns hereby agree to indemnify and hold harmless Tenant against any expenses, claims, losses or damages incurred by Tenant resulting from or arising out of claims by Landlord, its successors and assigns that such rental payments should not have been, or cannot be made to the Lender, or the like.

5. **Interpretation:** This Agreement shall inure to the benefit of and shall be binding upon Tenant and Lender, and their respective heirs, personal representatives, successors and assigns. If any one or more of the provisions of the Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Lender, not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been included. This Agreement shall be governed by and construed according to the laws of Illinois.

6. **Representations:** Tenant states as of the date of this Agreement and to its actual knowledge,

(a) All duties of an inducement nature required to the Landlord by the Lease have been fulfilled.

(b) The Lease is in full force and effect. There is no existing default on the part of the Landlord or Tenant in the Lease terms, nor does there exist any fact or condition, which, with the giving of notice or passage of time, or both, would constitute a default under the Lease. The Lease constitutes the entire rental agreement between Landlord and Tenant for the Lensed Premises and has not been amended, modified, supplemented or superseded.

(c) To the best of its knowledge, Tenant does not now have or hold any claim against Landlord which might be set off or credited against future accruing rents.

7. **Notices of Default and Right to Cure:** In the event the Tenant sends written notice to Landlord of a default by Landlord under the Lease and Landlord fails to cure the default within the time specified in the notice, then, following expiration of the applicable cure period, Tenant shall send written notice of such uncured default by registered or certified mail, return receipt requested, by personal delivery or by nationally recognized overnight courier service to Lender at the address set forth below. Following receipt of such notice, Lender shall have the right, but not obligation, to remedy such default within thirty (30) days; provided, however, if the uncured default is such that possession and control of the Property is necessary to effectuate the cure, then Lender shall have such additional time to cure such default as may be necessary to either (a) obtain possession and control of the Property and thereafter cure the default or (b) obtain the appointment of a receiver and give such receiver a reasonable period of time in which to cure the default. Lender's notice address is as follows:

Inland Mortgage Corporation  
2901 Butterfield Road  
Oak Brook, Illinois 60523  
Attention: Mr. Robert H. Baum, General Counsel

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8. **Non-Disturbance.** Lender agrees that in the event of a default by Landlord under the terms of the Note, the Assignment, the Mortgage or any of the other Loan Documents, and the exercise by Lender of any or all its remedies set forth therein, the Lease shall continue in full force and effect in accordance with the covenants, agreements, terms, conditions, and warranties thereof and Lender shall not disturb the rights and interests of the Tenant thereunder so long as the Tenant shall not be in default beyond any applicable notice and cure period under any of the covenants, agreements, terms, conditions, and warranties set forth in the Lease. In consideration of the agreements of Tenant contained herein, Lender agrees that in the event of foreclosure or other right asserted under the Mortgage by the holder thereof, provided Tenant is not in default under the terms of the Lease beyond any applicable notice and cure period, said Lease and the rights of Tenant thereunder shall continue in full force and effect and shall not be terminated or disturbed, except in accordance with the provisions of the Lease and the holder of such Mortgage or any person claiming thereunder shall be bound to Tenant under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof, which may be effected in accordance with any option therefor in the Lease with the same force and effect as if the holder of such Mortgage or any person claiming thereunder were the Landlord under the Lease.

IN WITNESS WHEREOF, the parties who have caused this Agreement to be duly executed the day and year first above written.

TENANT:

John Kurzick

By:

Name: JOHN A. KURZICK  
 Its: HOLM HUB NETWORK - UP

ATTEST:

By: Kay M. Schlecht  
 Name: KAY M. SCHECHT  
 Its: TRANSACTION COORDINATOR

LENDER:

INLAND MORTGAGE CORPORATION, an Illinois corporation

By: Arthur Renda  
 Name: ARTHUR RENDA  
 Its: SENIOR LOAN ORIGINATOR

ATTEST:

By: Paul P. Gross

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Name: \_\_\_\_\_  
Its: \_\_\_\_\_

LANDLORD:

ALL CYLINDERS, LLC  
an Illinois limited liability company  
By: [Signature]  
Name: LOUIS C. WADDLE  
Its: MANAGER

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF Illinois )  
COUNTY OF Cook ) SS.

I, LATONYA ELLIS, a notary public in and for said County, in the State aforesaid. DO HEREBY CERTIFY that JOHN A. KUZMAK of said company, both personally known to me to be the same persons whose names are subscribed to the foregoing Agreement, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said Subordination, Non-Disturbance and Assignment Agreement on behalf of said company for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 28th day of March, 2002

"OFFICIAL SEAL"  
LATONYA NICOLE ELLIS  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 2/20/2005

[Signature]  
Notary Public

STATE OF Illinois )  
COUNTY OF Cook ) SS.

"OFFICIAL SEAL"  
SUSAN COSTELLO  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 6/19/2004

I, Susan Costello, a notary public in and for said County, in the State aforesaid. DO HEREBY CERTIFY that LOUIS C. WADDLE of said company, both personally known to me to be the same persons whose names are subscribed to the foregoing Agreement, appeared before me this day in person and acknowledged that they signed, sealed

Property of COOK COUNTY Clerk's Office

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## Exhibit A

### Legal Description

#### PARCEL 1:

THAT PART OF LOT 6 IN ROEHL HEIRS SUBDIVISION OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTH 5 ACRES OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF A LINE PARALLEL TO AND 705.07 FEET EASTERLY OF THE WEST LINE OF SAID SECTION 28 (MEASURED ALONG A LINE PARALLEL TO THE SOUTH LINE OF LOT 4 IN OWNERS' SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 28 (EXCEPT THE SOUTH 7.50 CHAINS THEREOF), ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT 217047), AND SOUTH OF A LINE PARALLEL TO AND 580.36 FEET SOUTHERLY OF THE NORTH LINE OF LOT 4 IN SAID ROEHL HEIRS' SUBDIVISION (MEASURED ALONG THE WEST LINE OF SECTION 28 AFORESAID).

#### PARCEL 2:

THAT PART OF LOT 4 IN OWNERS' SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE SOUTH 7.50 CHAINS THEREOF), ACCORDING TO THE PLAT RECORDED AS DOCUMENT NO. 217047, DESCRIBED AS FOLLOWS:

(I) BOUNDED ON THE SOUTH BY A LINE PARALLEL TO AND 494.26 FEET NORTHERLY OF THE SOUTH LINE OF SAID LOT 4 (MEASURED ALONG A LINE PARALLEL TO THE NORTH AND SOUTH CENTER LINE OF THE SOUTHWEST 1/4 OF SECTION 26 AFORESAID)

(II) BOUNDED ON THE WEST BY A LINE PARALLEL TO AND 705.07 FEET EASTERLY OF THE WEST LINE OF SECTION 28 AFORESAID (MEASURED ALONG THE SOUTH LINE OF SAID LOT 4)

(III) BOUNDED ON THE NORTH BY THE SOUTH LINE OF LOT 6 IN ROEHL HEIRS SUBDIVISION OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTH 5 ACRES OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 28 AFORESAID

(IV) BOUNDED ON THE EAST BY THE EAST LINE OF SAID LOT 4

#### PARCEL 3:

THAT PORTION OF LOT 4 OF OWNERS SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF A LINE WHICH IS PARALLEL TO AND 639.07 FEET EASTERLY OF THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 28 AFORESAID (MEASURED ALONG A LINE PARALLEL TO THE SOUTH LINE OF SAID LOT 4) ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT 217047, (EXCEPT THAT PART OF PARCEL 3 WHICH FALLS WITHIN PARCEL 4 DESCRIBED BELOW) ALL IN COOK COUNTY, ILLINOIS.

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## Legal Description (continued)

### PARCEL 4:

THAT PART OF LOT 4, LYING SOUTH OF A LINE PARALLEL TO AND 280.36 FEET SOUTHERLY OF THE NORTH LINE OF SAID LOT 4, MEASURED ALONG THE WEST LINE OF SECTION 28

THAT PART OF LOT 5, LYING SOUTH OF A LINE PARALLEL TO AND 280.36 FEET SOUTHERLY OF THE NORTH LINE OF LOT 4 IN ROEHL HEIRS SUBDIVISION (MEASURED ALONG THE WEST LINE OF SECTION 28) AND LYING WEST OF A LINE PARALLEL TO AND 639.07 FEET EASTERLY OF THE WEST LINE OF SAID SECTION 28 (MEASURED ALONG A LINE PARALLEL TO THE SOUTH LINE OF LOT 4) IN OWNERS SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 28 (EXCEPT THE SOUTH 7.50 CHAINS THEREOF), ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT 217047)

THAT PART OF LOT 6, LYING WEST OF A LINE PARALLEL TO AND 639.07 FEET EASTERLY OF THE WEST LINE OF SAID SECTION 28, (MEASURED ALONG A LINE PARALLEL TO THE SOUTH LINE OF LOT 4) IN OWNERS SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 28 (EXCEPT THE SOUTH 7.50 CHAINS THEREOF), ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT 217047)

ALL IN ROEHL HEIRS SUBDIVISION OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTH 5 ACRES OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 7300 North Linder, Skokie, Illinois

P.I.N. No.: 10-28-308-024-0000, 10-28-308-027-0000  
10-28-312-011-0000, 10-28-312-017-0000

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