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RECORDATION REQUESTED BY:

Arizona Central Credit Union
2020 N. Central Ave.
Phoenix, AZ 85004



Doc# 2304734007 Fee \$88.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 02/16/2023 09:19 AM PG: 1 OF 9

WHEN RECORDED MAIL TO:

Arizona Central Credit Union
2020 N. Central Ave
Phoenix, AZ 85004

FOR RECORDER'S USE ONLY

**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

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THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is entered into as of this 15th day of ~~January~~ ^{February}, 2023 among ARIZONA CENTRAL CREDIT UNION, whose address is 2020 N. Central Ave., PO Box 11650, Phoenix, AZ 85004, Attention: Business Financial Services ("Lender"), CLARENDEUX LLC, an Illinois limited liability company, whose address is 305 Pitt Street, Mount Pleasant, SC 29464 ("Landlord"), and LET'S TALK MOBILE, LLC, a Florida limited liability company, whose address is 800 S. Douglas Road, Suite 450, Coral Gables, FL, Attn: Brett Beveridge ("Tenant").

WITNESSETH:

WHEREAS, Landlord and Tenant are parties to that certain Lease Agreement dated April 24, 2019, as amended and supplemented from time to time (collectively, the "Lease"), pertaining to certain premises (the "Premises") at 4401 N Clarendon Street, Chicago, IL 60640.

WHEREAS, Lender has made or agreed to make a loan secured by, among other things, a lien (the "Mortgage") upon the real property described in Exhibit A attached hereto (which includes the Premises); and

WHEREAS, Tenant and Lender wish to enter into this Agreement to define their obligations to one another under the terms of the Lease and the Mortgage.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

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- 1) ESTOPPEL. Landlord and Tenant hereby certify to and agree with Lender that as of the date of this Agreement, Lender is relying on all of the following certifications and agreements of Landlord and Tenant as consideration for Lender executing this Agreement:
- a. As of the Effective Date, the Lease is in full force and effect and is the valid and binding obligation of Tenant, enforceable in accordance with its terms.
 - b. All requirements for the commencement and validity of the Lease have been satisfied.
 - c. To the best of Tenant's actual knowledge (without any duty of inquiry), Tenant is not in default under the Lease beyond any applicable notice and cure period.
 - d. To the best of Tenant's actual knowledge (without any duty of inquiry), (i) there are no defenses, counterclaims or setoffs against rents or charges due or which may become due under the Lease, (ii) no claim by Tenant of any nature exists against Landlord under the Lease, and (iii) all obligations of Landlord have been fully performed.
 - e. To the best of Landlord's actual knowledge (without any duty of inquiry), (i) there are no defenses, counterclaims or setoffs against rents or charges due or which may become due under the Lease, (ii) no claim by Landlord of any nature exists against Tenant under the Lease, and (iii) all obligations of Tenant have been fully performed.
 - f. None of the rent, which Tenant is required to pay under the Lease, has been prepaid more than one month in advance.
 - g. Tenant has not assigned, mortgaged, sublet, encumbered or otherwise transferred any or all of its interest under the Lease.
- 2) SUBORDINATION. Subject to the terms of this Agreement, the Lease is and will be subject and subordinate to the lien of the Mortgage and to all renewals, modification, consolidation, replacements and extensions of the Mortgage, to the full extent of amounts secured thereby and interest thereon. The foregoing notwithstanding, and notwithstanding anything in the Mortgage or other loan documents, in no event will any of Tenant's trade fixtures, inventory, equipment, furniture and furnishings, accounts, books or records or other assets be or become subject or subordinate to the lien in favor of Lender.
- 3) NON-DISTURBANCE. So long as Tenant is not in default under the Lease beyond any applicable notice and cure period, Tenant's possession, use and enjoyment of the Premises and the related Common Area, including, but not limited to, related signage, will not be interfered with, disturbed or diminished, or otherwise affected in any manner as a result of any act or omission of Landlord, and all rights and privileges of Tenant under the Lease, and any renewals, modifications, or extensions thereof, will be recognized by Lender and any Successor Landlord (defined in paragraph 3 below). The enforcement of the Mortgage shall not (i) terminate the Lease or disturb Tenant in the quiet and exclusive possession and use of the Premises, or (ii) affect Tenant's other rights and privileges arising under the Lease, or under any extensions or renewals thereof which may be

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effected in accordance with any option therefor contained in the Lease (which shall all be fully recognized and protected by Lender and shall not be disturbed, canceled, terminated, diminished, or otherwise interfered with by Lender under any circumstances), unless at the time of foreclosure Tenant is in default under the Lease beyond the expiration of any applicable notice and cure periods thereunder, and Lender so notifies Tenant in writing at or prior to the time of the foreclosure sale that the Lease will be terminated by foreclosure because of such default. If any action or proceeding is commenced by Lender for the foreclosure of the Mortgage or the sale of the Premises, Tenant will not be named as a party therein unless such joinder is required by law and Tenant is not thereby subjected or exposed to any liability, cost or expense, and such joinder will not result in the termination of the Lease or disturb Tenant's possession, use or enjoyment of the Premises. Any foreclosure, sale or other disposition of the Premises by or on behalf of Lender, whether in a judicial action or proceeding, trustee's sale or otherwise, will be made subject to all rights of Tenant under the Lease.

- 4) **ATTORNMENT.** If title to possession of or control of the Premises or any other interest therein, which includes the right to receive payment of rent or to enforce the performance of other obligations under the Lease, is transferred as a result of any trustee's sale, judicial foreclosure, deed in lieu of foreclosure or other proceedings pursuant to the Mortgage, Tenant will, upon written notice to it, attorn to the purchaser or transferee who acquires such title or other interest ("Successor Landlord") and will recognize such Successor Landlord as landlord under and subject to the terms and conditions of the Lease. Subject to each party's compliance with the terms of this Agreement, Tenant hereby waives the provisions of any statute or rule of law now or hereafter in effect that might give it any right or election to terminate the Lease by reason of any such foreclosure action or proceeding.
- 5) **PERFORMANCE BY TENANT.** If Tenant receives any written notice from Lender to pay rent or other sums or to render any other performance under the Lease to such Lender, Tenant will render performance in accordance with such notice without any duty of inquiry and despite any apparent information or notice to the contrary with the same force and effect as if such payment or performance were rendered to Landlord, and Landlord hereby releases and discharges Tenant of and from any liability to Landlord resulting from Tenant's payment of such rent to Lender in accordance with this Agreement or Lender's notice or instructions. Notwithstanding the foregoing, Tenant will have no obligation to pay to Lender rent or other sums or to render any other performance under the Lease to such Lender upon receipt of any writ, order or injunction of any court, or the automatic stay of proceedings imposed under federal bankruptcy law in any bankruptcy proceeding in which Landlord is the debtor.
- 6) **LENDER LIABILITY.** Upon transfer of the Premises to the Lender or Successor Landlord, Lender or Successor Landlord will have the same rights and obligations under the Lease as Landlord, and Tenant will have the same rights and remedies under the Lease against Lender or Successor Landlord as existed against Landlord, including for a breach of the Lease; provided, however, that Lender or Successor Landlord will not be:

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- a. subject to any offsets that Tenant might have against any prior landlord (including Landlord), except for: (i) offsets arising under the Lease with respect to costs and expenses (but not damages) incurred by Tenant after Tenant has notified Lender at the address above and given Lender an opportunity to cure as provided in this Agreement, or (ii) offsets arising from (y) a reconciliation or year-end adjustment of an estimated rental or other charge under the Lease, or (z) an audit of Landlord's business records, as provided in the Lease;
- b. bound by any Base Rent (as defined in the Lease) that Tenant paid for more than 1 month in advance; or
- c. obligated to reimburse Tenant for any security deposit, unless said security deposit is received by Lender; or
- d. bound by any amendment or modification of the material terms of the Lease (including modifications to rent, term or Premises size or location) made after the date hereof without Lender's consent, which consent will not be unreasonably withheld, conditioned or delayed, and it being agreed by Lender that consent will be deemed given unless Lender makes objection in writing and properly noticed to Tenant within 30 days from the date of Tenant's or Landlord's notice to Lender.

Provided, however, that nothing herein will excuse Lender or Successor Landlord from liability or responsibility for, or limit any right or remedy of Tenant with respect to, any breach or default which continues from and after the date when Lender obtains title to or takes possession or control of the Premises.

- 7) NOTICE OF LANDLORD DEFAULT. Tenant will give to Lender, by certified or registered mail or by overnight courier with a nationally recognized courier service, a copy of any notice of default served by Tenant upon Landlord under the Lease, at Lender's address set forth above, and Lender will have the same right, but will have no obligation, to cure any such default on behalf of Landlord as is provided in the Lease.
- 8) LEASE TERMINATION. If Tenant notifies Lender that Tenant intends to terminate the Lease because of Landlord's default, the Lease will not terminate until Lender has had a reasonable period of time after such notice in which to cure said default not to exceed 30 days ("Initial Cure Period"), which period will run concurrently with any notice or cure period given to Landlord; provided, however, that if, due to the nature of the default, Lender is unable, through the exercise of commercially reasonable efforts, to complete such cure within the Initial Cure Period, Lender will be entitled to such additional time as may be reasonably necessary to cure such default, only if and so long as the following conditions are satisfied: (i) Lender has notified Tenant in writing of its intent to cure Landlord's default; (ii) Lender has commenced such cure within the Initial Cure Period; and (iii) Lender diligently pursues such cure to completion.

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- 9) OTHER DOCUMENTS. Each of Lender, Landlord and Tenant agrees to reasonably execute and deliver to the others such further documents and assurances confirming the foregoing as any of such parties may reasonably request.
- 10) ASSIGNS. The terms "Lender", "Landlord" and "Tenant" include such parties and their assigns.
- 11) CONDITION. The parties agree that this Agreement will be valid and binding upon any party only after fully executed, acknowledged and delivered by all of the parties hereto.
- 12) EXECUTION OF COUNTERPARTS. This document may be executed in multiple identical counterparts each of which will be deemed to be an original and all of which will together constitute one and the same instrument.
- 13) AUTHORITY. Any person who signs this Agreement on behalf of Landlord and Tenant represents and warrants that he or she has authority to execute this agreement.
- 14) WAIVE JURY. All parties to this Agreement hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.
- 15) GOVERNING LAW. This agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Illinois without regard to its conflicts of law provisions. This agreement has been accepted by Lender in the State of Illinois.

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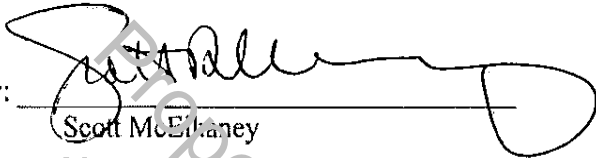
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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (Continued)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first referenced above.

LANDLORD:

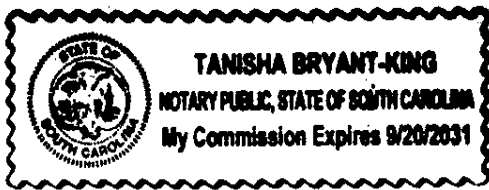
CLARENDEUX LLC,
an Illinois limited liability company

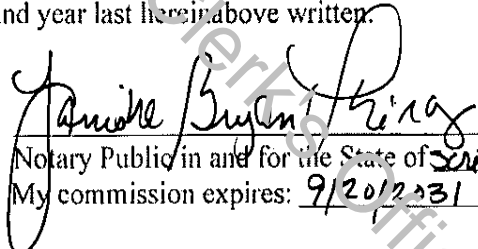
By: 
Scott McElhane
Manager

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON ss.

THIS IS TO CERTIFY that on this 16TH day of January, 2023, before me, the undersigned, a notary public in and for the State of SOUTH CAROLINA, duly commissioned and sworn as such, personally appeared Scott McElhane, known to me to be the Manager of CLARENDEUX LLC, and he acknowledged to me that he executed the foregoing instrument on behalf of said limited liability company freely and voluntarily for the uses and purposes therein mentioned by authority of said limited liability company.

WITNESS my hand and official seal the day and year last hereinabove written.




Notary Public in and for the State of SOUTH CAROLINA
My commission expires: 9/20/2031

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EXHIBIT A

REAL PROPERTY DESCRIPTION:

THE WEST 103 FEET OF THE SOUTH 147 FEET (EXCEPT THE NORTH 14 FEET OF THE EAST 51.6 FEET THEREOF) OF LOT 4 IN SCHOOL TRUSTEE'S SUBDIVISION OF SECTION 16, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address commonly known as:
4401-4415 N. Clarendon Ave.
Chicago, IL 60640

Pin# 14-16-103-006-0000

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