


STATE OF ALABAMA )

SHELBY COUNTY )



20070711000326250 1/17 \$59.00  
Shelby Cnty Judge of Probate, AL  
07/11/2007 12:38:38PM FILED/CERT

### ASSIGNMENT OF LEASE

This Assignment of Lease (this "Agreement") is made effective as of June 22<sup>nd</sup>, 2007, by **C & C REALTY, LLC**, an Alabama limited liability company (collectively "Assignor"), and **CROWN CASTLE GT COMPANY LLC**, a Delaware limited liability company ("Assignee").

WHEREAS, Assignor is the Landlord (as successor in interest to G. Eugene Grater and Mary Ann Grater), under that certain Ground Lease Agreement dated February 7, 1994, by and between Assignor and Assignee, as Tenant, as successor in interest to GTE Wireless of The South Incorporated, a Virginia corporation, successor by merger to GTE Mobilnet of Birmingham Incorporated, successor by name change to Contel Cellular of Birmingham, Inc., a copy of which was recorded as Instrument No. 1995-05798 in the Office of the Judge of Probate of Shelby County, Alabama, a copy of which is attached hereto as Exhibit "A" (the "Tenant Lease"); and

WHEREAS, the Assignor has agreed to transfer and assign the Tenant Lease to the Assignee.

NOW, THEREFORE, in consideration of the premises, and the mutual covenants hereinafter to be kept faithfully by the parties hereto, the parties hereto agree as follows:

1. **Assignment.** The Assignor does hereby transfer, sell, convey and assign the Tenant Lease unto the Assignee including all security deposits, damage deposits, and other tenant deposits ("Security Deposits"), if any, and the right to collect rentals thereunder becoming due on or after the date of this Assignment of Lease. Assignee agrees to account to Assignor for the collection of any rents delinquent on the date of this Assignment of Lease, but Assignee shall not be required to take affirmative action to collect such delinquent rates, if any. All rents collected shall be applied first to current rent, and any excess shall be applied to delinquent rent, if any. Assignor specifically reserves the right to collect any rental delinquent as of the date hereof.

2. **Assumption.** The Assignee hereby assumes all of the obligations of the Assignor as landlord under the Tenant Lease accruing subsequent to the date hereof, including, specifically, the obligation to account to all tenants for Security Deposits, if any, paid by such tenant to the Assignor, and the Assignee does hereby indemnify and hold the Assignor harmless from and against any and all such liabilities, claims or causes of action arising after the date hereof in connection with the Tenant Lease.

3. **Miscellaneous.**

(a) Amendments. No amendment, modification or cancellation of this Agreement shall be valid unless in writing and signed by all the parties hereto.

(b) Headings. The Paragraph and Subparagraph headings hereof are inserted for convenience and reference only and shall not alter, define, or be used in construing the text of such Paragraphs or

Subparagraphs.

(c) Meaning of Particular Terms. Whenever used, the singular number shall include the plural and the plural the singular, and pronouns of one gender shall include all genders; and the words "Assignor" and "Assignee" shall include their respective heirs, personal representatives, successors and assigns.

(d) Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the State of Alabama.

(e) Invalidity of Particular Provisions. If any term or provision of this Agreement shall be determined to be illegal or enforceable, all other terms and provisions hereof shall nevertheless remain effective and shall be enforced to the fullest extent permitted by applicable law, and in lieu of such illegal or unenforceable provisions there shall be added automatically as part of this Agreement a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable.

(f) No Delay or Waiver. No delay on the part of the Assignee in exercising any right hereunder or any failure to exercise the same shall operate as a waiver of such right; nor in any event shall any modification or waiver of the provisions hereof be effective unless in writing; nor shall any such waiver be applicable except in the specific instance for which given.

(g) Execution in Counterparts. This Agreement may be executed, acknowledged and delivered in any number of counterparts, and each such counterpart shall constitute an original, but together such counterparts shall constitute only one instrument.

(h) Entire Agreement. No oral understandings or agreements exist between the parties, all of which oral understandings or agreements are merged herein and of no further force and effect.

**[Remainder of page intentionally left blank.]**



IN WITNESS WHEREOF, the undersigned have executed this Assignment of Lease as of the date first written above.

**ASSIGNOR:**

**C & C REALTY, LLC**, an Alabama limited liability company

By: [Signature]  
Print Name: LARRY W PEARCE  
Its: President

STATE OF ALABAMA )  
 )  
Shelby COUNTY )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Larry W Pearce, whose name as PRESIDENT of C & C REALTY, LLC, an Alabama limited liability company, is signed to the foregoing Assignment of Lease and who is known to me, acknowledged before me on this day that, being informed of the contents of the Assignment of Lease, (s)he, in his(her) capacity as such He and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand on this the 22<sup>ND</sup> day of June, 2007.

[Signature: Mary T. Baker]  
Notary Public  
My Commission Expires: \_\_\_\_\_

[Notary Seal]

**MY COMMISSION EXPIRES FEBRUARY 28, 2008**

**ASSIGNEE:**

**CROWN CASTLE GT COMPANY LLC, a**  
Delaware limited liability company

By: [Signature]  
Name: R. Christopher Mooney  
Its: Director - Land Acquisition Operations

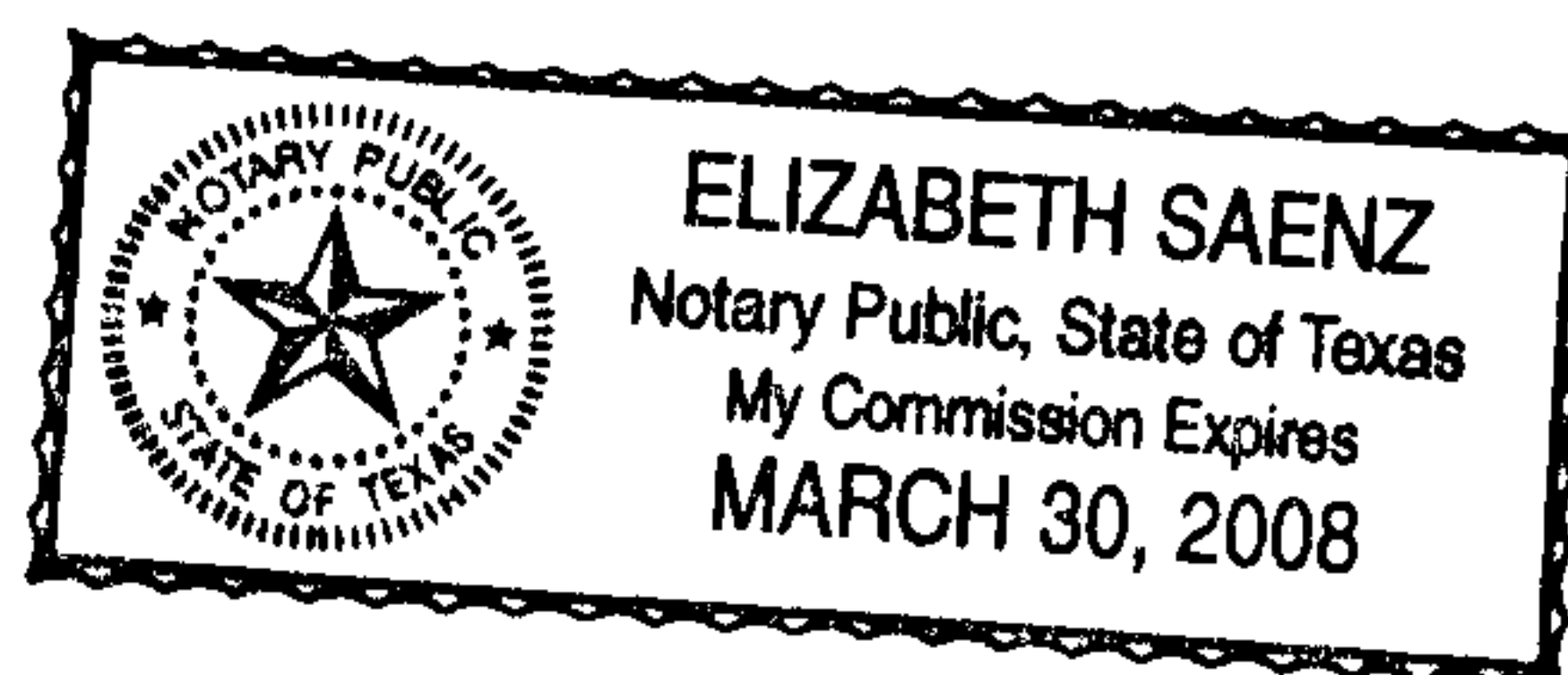
STATE OF Texas )  
Harris COUNTY )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that, R.C. Mooney, whose name as Director of **CROWN CASTLE GT COMPANY LLC**, a Delaware limited liability company, has signed the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand and official seal this 27 day of June, 2007.

[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_

[SEAL]



THIS INSTRUMENT PREPARED BY:  
Matthew W. Barnes, Esq.  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
420 North 20th Street, Suite 1600  
Birmingham, Alabama 35203-5202

**After recording return to:**

Shirley Arnold  
**Stewart Title NTS**  
**1980 Post Oak, Suite 610**  
**Houston, Texas 77056**  
SN# 4 67531295

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**Exhibit "A"**

**Ground Lease Agreement**

**(See Attached)**



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## GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (the "Lease"), is made and entered into on this 7<sup>th</sup> day of Feb, 1994, by and between G. EUGENE GRATER AND MARY ANN GRATER, husband and wife (the "Lessor"), and CONTEL CELLULAR OF BIRMINGHAM, INC. (the "Lessee").

## WITNESSETH

WHEREAS, Lessor is the owner of that certain parcel of land (the "Lessor's Property") located in Section 13, Township 21 South, Range 3 West, Shelby County, Alabama; and

WHEREAS, Lessor desires to lease to Lessee and Lessee desires to lease from Lessor a portion of Lessor's Property being approximately located as shown and highlighted in red on Exhibit A attached hereto (the "Premises"), and all improvements, if any, located thereon.

NOW, THEREFORE, in consideration of the premises and of the mutual obligations, agreements, representations and warranties herein contained, the parties hereby agree to the following terms, covenants and conditions:

1. **Lease of the Premises.** Upon the terms and conditions hereinafter set forth, Lessor hereby lets, leases and demises to Lessee and Lessee leases and accepts from Lessor the Premises, together with a right-of-way for ingress, egress over and along Lessor's existing driveway to a point agreed to mutually by Lessor and Lessee. Lessor agrees to grant Lessee a further right of way from the Lessor's existing driveway to the Premises. Lessor further agrees to grant easements and rights-of-way necessary for or required for the provision of utility services to the Premises. Lessor agrees to grant such further rights-of-way and easements at no additional charge.

2. **Term; Options to Renew.**

(a) The initial term of this Lease shall be for a period of five years beginning on the later of (i) the first day of July, 1994, or (ii) the date of all Approvals (as defined below) become final (the "Rent Commencement Date") and terminating on the fifth anniversary of the Rent Commencement Date, unless sooner terminated pursuant to the provisions hereof and subject to the options to renew hereinafter set forth (the "Initial Term").

(b) Further, Lessee is hereby granted the option to renew the Initial Term of this Lease on the same terms and conditions for four additional five-year periods following the Initial Term by giving Lessor notice at least 90 days prior to the date that the then-current Term (as hereinafter defined) would otherwise end. The Initial Term and all renewal terms that become effective through Lessee's exercise of its options to renew, as aforesaid, are hereinafter collectively referred to as the "Term."

(c) Should Lessee exercise all of its options to renew the Term of this Lease, and should this Lease remain in full force and effect at the end of the Term of this Lease (as so renewed), this Lease shall continue in force and effect upon the same covenants, terms and conditions for a further period of one year, and for successive annual periods thereafter, until and unless terminated by either party giving to the other written notice of its intention to so terminate at least 90 days prior to the date of expiration of the then-current Term of this Lease. Rental adjustments shall be made during any such additional period(s) pursuant to the provisions of Section 3(b) hereof.

Inst # 1995-05798

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SHELBY COUNTY JUDGE OF PROBATE  
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### 3. Rent.

(a) In consideration of the lease of the Premises by Lessor to Lessee, Lessee shall pay to Lessor, commencing upon the Rent Commencement Date, the sum of \$500.00 per month. The foregoing amount (as the same may be adjusted as hereinafter provided) is hereinafter referred to as "Rent", and is payable in advance commencing upon the Rent Commencement Date and continuing on the first day of each month thereafter, to Lessor or to such other person, firm or entity as Lessor may, from time to time, designate in writing at least 30 days in advance of any Rent payment date.

(b) There shall be an adjustment of the Rent during each year of the Term on each anniversary of the Rent Commencement Date (each such date being hereafter referred to as an "Adjustment Date"). Such adjustments shall result in the Rent being increased at the rate of the increase in the Consumer Price Index (as hereinafter defined) from the Rent Commencement Date to the first Adjustment Date and thereafter from one Adjustment Date to the next subsequent Adjustment Date; provided that any such increase shall be capped and shall be no greater than five percent. As used herein, "Consumer Price Index" means the Consumer Price Index for All Urban Consumers for the U.S. City Average for all Items (1982-1984 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics. If the manner in which the Consumer Price Index is determined by the Bureau of Labor Statistics shall be substantially revised (including a change in the base index year), an adjustment shall be made by Lessor in such revised index which would produce results equivalent, as nearly as possible, to those which would have been obtained if the Consumer Price Index had not been so revised. If the Consumer Price Index shall become unavailable to the public because publication is discontinued or otherwise, or if equivalent data is not readily available to enable Lessor to make the adjustment referred to in the preceding sentence, Lessor will substitute therefor a comparable index based upon changes in the cost of living or purchasing power of the consumer dollar published by any other governmental agency, or if no such index shall be available, then a comparable index published by a major bank or other financial institution or by a university or a recognized financial publication.

### 4. Use of the Premises.

(a) Lessee may use the Premises for the purpose of constructing, maintaining, securing and operating a communications facility, including required antennas, and for any other uses which are incidental thereto, or for any other lawful purpose. At Lessee's sole expense, a security fence shall be placed around the perimeter of the Premises. Lessor may, at Lessee's sole expense, construct Lessee's facility on the Premises to meet Lessee's needs and Lessee shall maintain the Premises in a reasonable condition throughout the Term, reasonable wear and tear and damage from casualty and condemnation excepted.

(b) Lessee's obligations hereunder are expressly conditioned upon Lessee's obtaining all of the certificates, permits, licenses, zoning, variances and other approvals which may be required from any federal, state or local authority for Lessee to construct and operate its communications facility and/or any easements which are required from Lessor and any third parties (collectively the "Approvals"). Lessor shall cooperate with Lessee, but at no expense to Lessor, in its efforts to obtain the Approvals, and Lessor shall take no action which will adversely affect the status of the Premises with respect to Lessee's proposed uses thereof. If following reasonable commercial efforts by Lessee and through no fault of Lessee (i) any application by Lessee for any one of the Approvals is finally denied, rejected, cancelled, expires or lapses or is otherwise withdrawn or terminated, or (ii) if there shall exist any matters affecting Lessor's title to the Premises which prevents Lessee from using the Premises for Lessee's intended purposes, then Lessee shall have the right to immediately terminate this Lease.

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(c) In addition to the right to terminate this Lease pursuant to Section 4(b), Lessee shall have the right, prior to the earlier of (i) the commencement of construction of improvements upon the Premises by Lessee or (ii) the 180th day of the Initial Term, to terminate this Lease by the payment of the sum of \$1,000.00, in addition to the Rent otherwise due and payable prior to the termination hereof, which sum represents the Rent which would otherwise be due and payable during the first year of the Term, but for the early termination of this Lease. Lessor acknowledges that the sum of \$1,000.00 constitutes good and valuable consideration for the execution of this Lease by Lessor, and Lessor further acknowledges and agrees that Lessor's damages, if any, are difficult to ascertain, and the foregoing amount constitutes a reasonable estimate thereof and is not intended as a penalty.

5. **Termination.** Notice of Lessee's exercise of its right to terminate this Lease shall be given to Lessor as provided in Section 13 hereof. Upon Lessor's receipt of such a termination notice, this Lease shall terminate, and, unless Lessee has failed to remove its improvements from the Premises, such termination shall relieve both parties of any further rights, duties, obligations or liabilities under this Lease.

Lessee, prior to or upon the expiration or termination of this Lease, shall remove its personal property, fixtures, building and security fence from the Premises and shall restore the Premises to as near its original condition as is reasonably practicable, reasonable wear and tear and damage from casualty or condemnation excepted.

6. **Assignment and Subletting.**

(a) Lessee shall not voluntarily assign or encumber its interest in this Lease or in the Premises, or sublease all or any part of the Premises, without Lessor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Consent by Lessor to any assignment shall be deemed to be unreasonably withheld if the proposed assignee is of such financial standing and responsibility at the time of such assignment as to give reasonable assurance of the payment of all Rent and other amounts reserved in this Lease and compliance with all of the terms, covenants, provisions and conditions of this Lease. Such assignment shall not operate to release Lessee of its liabilities and obligations arising hereunder after the date of such assignment.

(b) Notwithstanding the provisions of the preceding Section 6(a), Lessee shall be entitled, without obtaining Lessor's consent, to assign this Lease or to sublease the Premises to any "affiliate" of Contel Cellular Inc., a Georgia corporation, or to any partnership in which Contel Cellular Inc. or any "affiliate" of Contel Cellular Inc. participates. As used herein, an "affiliate" of Contel Cellular Inc., as the case may be, shall mean any entity which controls, is controlled by, or is under common control with, Contel Cellular Inc. and any entity which acquires all or substantially all of the assets or issued and outstanding shares of capital stock of Contel Cellular Inc.

7. **Fire or Other Casualty; Condemnation.**

(a) In the event any improvements constructed by Lessee are substantially damaged or destroyed by fires or other casualty, Lessee shall have the right either to terminate this Lease by giving written notice thereof to Lessor within 60 days after such fire or other casualty or to repair, reconstruct and restore such improvements. In the event Lessee elects to reconstruct or restore such improvements, Rent shall abate during the period of repair or reconstruction in the same proportion to the total Rent as the portion of the improvements rendered unusable bears to the entire improvements; provided that such period of rental abatement shall not exceed 90 days.

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(b) Lessor expressly agrees that (if reasonably required) during any period of repair, restoration or reconstruction, Lessee may temporarily relocate its operation to and use and/or construct upon adjoining property owned or controlled by Lessor within five days of the date of occurrence of any casualty, if any, which is equally suitable for Lessee's purposes. The exact site to which Lessee may temporarily relocate will be determined by Lessor, and it may be upon any adjoining property owned or controlled by Lessor, provided that Lessee reasonably approves the site as equally suitable for Lessee's intended uses, and provided that all Approvals are obtained by Lessee, with the cooperation of Lessor if necessary; and further, provided that such use does not interfere with Lessor's or Lessor's tenant's ongoing use of the adjoining property.

(c) Should Lessor, at any time during the Term of this Lease, receive notice that all or any part of the Premises may be taken by virtue of a proceeding of eminent domain, Lessor shall, within 30 days of the date of receipt of such notice, provide Lessee with notice of such pending proceeding.

#### 8. Insurance.

(a) To the extent that there are improvements located upon Lessor's Property, it shall be Lessor's responsibility to maintain in full force and effect throughout the Term of this Lease fire and extended coverage, vandalism and malicious mischief insurance and sprinkler leakage insurance in an amount equal to the full replacement cost of any improvements which are in existence on Lessor's Property as of the date of this Lease or which are otherwise installed by or at the expense of Lessor. To the extent that Lessor fails or refuses to maintain insurance, the failure to maintain insurance shall be solely at the risk of Lessor. To the extent that Lessor's Property is unimproved, Lessor shall not be required to maintain the foregoing insurance, but the failure to maintain hazard insurance on Lessor's Property shall be solely at the risk of Lessor.

(b) Lessee shall maintain in full force and effect throughout the Term of this Lease (i) personal property insurance in an amount sufficient to fully protect all personal property owned or controlled by Lessee from theft, fire, or other loss or damage while upon the Property; and (ii) commercial general liability insurance (in an amount not less than \$1,000,000.00) with respect to death or injury to person or damage to property occurring on or about the Premises or arising out of any act or omission of Lessee. All such policies shall have a provision that they will not be cancelled unless 30 days prior written notice has been delivered to Lessor. Lessee shall deliver to Lessor copies of certificates evidencing such coverage prior to the Rent Commencement Date and at or prior to the time of expiration of the policies referenced in such certificate.

#### 9. Mutual Release; Waivers of Subrogation.

(a) It is the intention of the parties that each party shall maintain insurance on their respective properties in reasonably sufficient amounts. Therefore, each party hereby releases the other and waives all claims, actions and causes of action against the other party with respect to any and all liability, damage, cost, expense or loss to the releasing party's property resulting from any cause or hazard with respect to which the releasing party is obligated to maintain insurance pursuant to Section 8 of this Lease or otherwise maintains insurance with respect to the property, or Lessor's Property or any other property adjoining the Premises, including, without limitation, any loss or damage resulting from any loss of the use of any property; provided that if Lessor is not required to maintain insurance pursuant to Section 8, or, should Lessor fail or refuse to maintain the insurance required in Section 8, Lessor hereby releases Lessee and Lessee's partners, affiliates, agents and employees from, and waives all claims, actions and causes of action against Lessee with respect to, any and all liability, damage, cost, expense or loss to Lessor's Property that would have been covered by hazard insurance had Lessor maintained the same.

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(b) All policies of insurance obtained by either party with respect to the Premises, Lessor's Premises or any other property owned by Lessor adjoining the Premises shall include a clause or endorsement waiving the insurer's rights of subrogation against the other party, so long as the same is obtainable without extra cost, or if such extra cost is chargeable therefor, so long as the other party pays the extra cost. If extra cost is chargeable therefor, each party will advise the other thereof and the amount thereof, and the other party, as its election, may pay the same but shall not be obligated to do so.

#### 10. Utilities; Taxes.

(a) Lessee shall be responsible directly to the serving entities for all utilities required by Lessee's use of the Premises.

(b) Lessor shall be responsible for the payment of all ad valorem real property taxes for Lessor's Property, provided that Lessee shall reimburse Lessor for any increase in ad valorem taxes levied against the Premises as a result of the improvements constructed by Lessee. As a condition to Lessee's obligation to reimburse Lessor for such taxes, Lessor shall deliver to Lessee copies of all notices of assessment and reassessment in a timely manner so as to permit Lessee to file a timely notice of contest to any such assessment or reassessment. Lessee shall have the right to contest in good faith the amount of any such taxes and Lessor shall cooperate in good faith with Lessee in connection with any such contest.

#### 11. Indemnities.

(a) Subject to Section 9 above, Lessee shall indemnify Lessor against and hold Lessor harmless from any and all claims of liability for or loss from personal injury and/or property damage to the extent such claims result from or arise solely out of the use and/or occupancy of the Premises by Lessee. Notwithstanding the preceding, Lessee does not indemnify Lessor against any claim to the extent that it arises from or in connection with any act or omission of Lessor or of any agent, servant or employee of Lessor.

(b) Subject to Section 9 above, Lessor shall indemnify Lessee against and hold Lessee harmless from any and all claims of liability for or loss from personal injury and/or property damage to the extent such claims result from or arise out of the negligence or willful misconduct of Lessor.

#### 12. Lessee Defaults.

(a) The occurrence of any one or more of the following events shall constitute an 'Event of Default' hereunder by Lessee:

(i) The failure by Lessee to make any payment of Rent or any other payment required to be made by Lessee hereunder, as and when due, where such failure shall continue for a period of 30 days after written notice thereof is received by Lessee from Lessor.

(ii) The failure by Lessee to observe or perform any of the covenants or provisions of this Lease to be observed or performed by Lessee, other than as specified in Subsection 12(a)(i) above, where such failure shall continue for a period of 30 days after notice thereof is received by Lessee from Lessor; provided that it shall not be deemed an Event of Default by Lessee if Lessee shall commence to cure such failure within said 30-day period and thereafter diligently prosecute such cure to completion.





(b) If there occurs an Event of Default by Lessee, Lessor's remedy shall be to terminate this Lease and all rights of Lessee hereunder, to require Lessee to remove all improvements constructed by Lessee from the Premises, and to recover from Lessee the hereinbelow specified damages. In the event that Lessor shall elect to terminate this Lease due to an Event of Default, then Lessor may recover from Lessee:

(i) The unpaid Rent which had been earned at the time of such termination;  
plus,

(ii) The discounted present value of the Rent for the next five or any fewer remaining years of the Term after the time of such termination; plus,

(iii) Any other amount incurred by Lessor for its reasonable expenses (including reasonable attorneys' fees) incurred in connection with re-entering, repossessing, and repairing the Premises.

The discounted present value is computed by discounting such amount by utilizing a discount rate of seven percent.

### 13. Notices.

(a) All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, postage prepaid, addressed as follows (or to any other mailing address which the party to be notified may designate to the other party by such notice). Such notices shall be deemed effective and any applicable time periods shall commence to run only upon the earlier of (i) actual receipt by the addressee thereof or (ii) three days after the deposit thereof with the United States mail. Should Lessor or Lessee have a change of address, the other party shall immediately be notified as provided in this Section 13 of such change.

Lessor:

Mary Ann and G. Eugene Grater  
Post Office Box 1865  
Alabaster, Alabama 35007

Lessee:

Contel Cellular of Birmingham, Inc.  
3100 West End Avenue  
Suite 1100  
Nashville, Tennessee 37203

With copies to:

Mr. Thomas A. Ansley  
Sirote & Permutt, P.C.  
2222 Arlington Avenue South  
Birmingham, Alabama 35205

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#### 14. Title Matters; Brokers.

(a) Lessor represents and warrants to Lessee that the Lessor is the sole person or entity that is vested with fee simple title to Lessor's Property and has full right and lawful authority to lease the Premises to Lessee. Lessor further covenants that there are no liens, encumbrances, mortgages or other defects affecting the Premises, except as are set forth in Exhibit B attached hereto.

(b) Lessor hereby represents and warrants to Lessee no joinder or approval of another person is required with respect to Lessor's right and authority to enter into this Lease.

(c) Each party hereby represents and warrants to the other that no party is entitled to a real estate commission or other fee resulting from the execution of this Lease or the transaction contemplated hereby, and each party hereby agrees to indemnify and hold the other harmless from and against any and all costs, damages and expenses (including attorney's fees) resulting directly or indirectly from any such claim and arising out of the actions of the indemnifying party.

(d) Lessee shall record this Lease, or a memorandum thereof executed by Lessor and Lessee, at its own expense in the office of the Judge of Probate in the county where the Premises is located. Prior to recordation of this Lease, the Lessee will have a survey completed of the Premises and the parties shall substitute a metes and bounds description of the Premises for Exhibit A.

#### 15. Hazardous Substances.

(a) Lessor warrants, represents and agrees (i) that neither Lessor nor, to the best of Lessor's knowledge, any third party has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any "Hazardous Material" (as defined in Section 15(b)) on, under, about or within the Premises in violation of any applicable law or regulation, and (ii) that Lessor will not and will not knowingly, permit any third party to, use, generate, store or dispose of any Hazardous Material on, under, about or within the Premises in violation of any applicable law or regulation. Lessee agrees that it will not use, generate, store, or dispose of any Hazardous Material on, under, about or within the Premises in violation of any law or regulation.

(b) Lessor and Lessee each agree to defend, indemnify and hold harmless the other, the other's partners, affiliates, agents and employees against any and all losses, liabilities, claims or costs (including reasonable attorney's fees and costs) arising in connection with the breach of any representation, warranty or agreement contained in Section 15(a). As used herein, "Hazardous Material" shall mean petroleum or any petroleum product, asbestos, and any other substance, chemical, or waste that is identified as hazardous, toxic, or dangerous in any applicable federal, state, or local law, rule or regulation.

#### 16. Miscellaneous Provisions.

(a) Lessor represents, covenants and warrants that Lessee, upon paying the Rent and performing the covenants herein provided, shall peaceably and quietly have, hold and enjoy the Premises. Lessor agrees that no other commercial or government antenna structure(s) will be erected upon any portion of any property adjoining the Premises that is owned or controlled by Lessor without Lessee's prior written consent, which consent shall not be unreasonably withheld or delayed; provided if in Lessee's sole opinion, any such proposed antenna will interfere with the operation of Lessee's business or the use of the Premises, Lessee may withhold its consent to such antenna in its sole discretion.

(b) This Lease and the performance hereof shall be governed, interpreted, construed and regulated by and under the laws of the State of Alabama.

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(c) This Lease and each and every covenant and condition of this Lease is intended to benefit the Premises and shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto.

(d) The parties agree that all of the provisions hereof shall be construed as both covenants and conditions, the same as if the words importing such covenants and conditions had been used in each separate paragraph.

(e) The language of all of the parts of this Lease shall be construed simply and according to its fair meaning, and this Lease shall never be construed against any party solely by reason of such party having drafted such agreement. It is explicitly understood and agreed to by the parties that each party has had an opportunity to consult with counsel of his choice before executing this Lease.

(f) At Lessor's option, this Lease shall be subordinate to any mortgage or deed to secure debt executed by Lessor which from time to time may encumber all or any part of the Premises, provided that every such holder of such instrument shall recognize (in writing and in a form acceptable to Lessee's counsel) the validity of this Lease in the event of a foreclosure of Lessor's interest and also Lessee's right to remain in occupancy and have access to the Premises as long as Lessee is not in default of this Lease. Lessee shall execute whatever instruments may reasonably be required to evidence this subordination, provided Lessor has delivered to Lessee an executed nondisturbance agreement providing that any mortgagee shall be bound by the conditions of this Lease and containing such other terms as are satisfactory to Lessee. If, as of the date of execution of this Lease, there is any deed to secure debt, mortgage, ground lease or other similar encumbrance affecting the Premises, Lessor agrees to obtain from the holder of such instrument an agreement that provides that Lessee shall not be disturbed in its possession, use and enjoyment of the Premises. Notwithstanding any other provision to the contrary contained herein, if Lessor fails to deliver any such nondisturbance agreement, Lessee shall, in addition to its other rights and remedies, be entitled to terminate this Lease by giving written notice thereof to Lessor.

(g) If any portion of this Lease is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion shall be deemed modified to the extent necessary in such court's opinion to render such portion enforceable and, as so modified, such portion and the balance of this Lease shall continue in full force and effect.

(h) If either party institutes any action or proceeding in court to enforce any provision(s) hereof, or any action for damages by reason of any alleged breach of any of the provisions hereof, then the prevailing party in any such action or proceeding shall be entitled to receive from the losing party such amount as the court may adjudge to be reasonable attorneys' fees for the services rendered to the prevailing party, together with its other reasonable litigation costs and expenses.

(i) In addition to the other remedies provided for in this Lease, Lessor and Lessee shall be entitled to immediate restraint by injunction of any violation or attempted or threatened violation of any of the covenants, conditions or provisions herein contained.

(j) Time is of the essence of this Lease.

(k) Each of the individuals executing this Lease on behalf of Lessee or Lessor hereby warrants and represents to the other party to this Lease that he or she has authority to enter into this Lease and to bind Lessee or Lessor, as the case may be, to the terms, covenants and conditions contained herein. Lessee and Lessor shall deliver to the other upon request all documents reasonably requested by the other evidencing such authority, including, without limitation, a copy of all corporate resolutions, consents or minutes reflecting that all requisite corporate or partnership action has been taken by Lessor and Lessee

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so as to authorize Lessor or Lessee to enter into this Lease and reflecting the authority of those persons or parties who execute agreements on behalf of Lessee or Lessor.

(I) This Lease contains all agreements, promises and understandings between Lessor and Lessee, and no verbal or oral agreements, promises or understandings shall or will be binding upon either Lessor or Lessee, and any addition, variation or modification to this Lease shall be void and ineffective unless made in writing and signed by the parties hereto.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Lease under seal on the day and year written below. The last party executing this Lease shall insert the date on page one hereof.

LESSOR:

  
G. Eugene Grater

  
Mary Ann Grater

LESSEE:

CONTEL CELLULAR OF BIRMINGHAM, INC.,  
a Washington corporation

  
Stephen R. Cook  
Vice President

STATE OF ALABAMA )

Shelby COUNTY )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that G. EUGENE GRATER AND MARY ANN GRATER, husband and wife, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of such instrument, they executed the same voluntarily on the day the same bears date.

GIVEN under my hand and seal, this 13<sup>th</sup> day of Jan, 1994.

[ NOTARIAL SEAL ]

  
Notary Public  
My Commission Expires FEBRUARY 13, 1998

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STATE OF TENNESSEE     )  
                                  ;  
DAVIDSON COUNTY         )

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Stephen R. Cook, whose name as Vice President of CONTEL CELLULAR OF BIRMINGHAM, INC., a corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and seal, this 7th day of Feb, 1994.

[ NOTARIAL SEAL ]

Donna J. Delaney  
Notary Public

My Commission Expires 11-25-95

## EXHIBIT A

A parcel of land situated in the Southwest Quarter of the Southeast Quarter of Section 12, township 21 South, Range 3 West, Huntsville Meridian, Shelby County, Alabama, being more particularly described as follows:

COMMENCE at the Southwest corner of the Southwest Quarter of the Southeast Quarter of Section 12, Township 21 South, Range 3 West, being an iron rebar; thence run South 88° 22' 30" East along the South boundary of said quarter-quarter for a distance of 409.18 feet to an iron rebar; thence leaving said South boundary, run North 02° 25' 39" East for a distance of 45.24 feet to a point, said point being the POINT OF BEGINNING; thence continue along said course North 02° 25' 39" East for a distance of 150.84 feet to a point; thence run South 87° 28' 59" East for a distance of 135.00 feet to a point; thence run South 02° 25' 39" West for a distance of 150.84 feet to a point; thence run North 87° 28' 59" West for a distance of 135.00 feet to the POINT OF BEGINNING.





**EXHIBIT B**

**Matters Affecting Premises**

Inst # 1995-05798

Inst # 1995-05798

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03/06/1995-05798  
03:33 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
012 NCD 61.50