

NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made as of the 28th day of February, 1995 by and among DANTRACT, INC., an Alabama corporation (hereinafter together with its successors and assigns called "Groundlessor"), which has an office at 200 Office Park Drive, Suite 100, Birmingham, Alabama 35223, CDS BIRMINGHAM L.L.C., a Georgia limited liability company (hereinafter called "Tenant"), which has an office c/o Cauble and Company, 1355 Peachtree Street, N.E., Suite 500, Atlanta, Georgia 30309-3269, and SOUTHTRUST BANK OF ALABAMA, NATIONAL ASSOCIATION, a national banking association (hereinafter called "Landlord"), which has an office at P.O. Box 2554, Birmingham, Alabama 35290.

Inst # 1995-07802

W I T N E S S E T H:

WHEREAS, Tenant has entered into that certain Ground Sublease Agreement (the "Lease") dated February 28, 1995 with Landlord, which Lease demises certain premises (the "Premises") located on the real property described on Exhibit A attached hereto and made a part hereof (the "Property");

WHEREAS, Groundlessor is the lessor under that certain Ground Lease Agreement with Landlord, as lessee, dated November 19, 1991, as amended by Addendum to Ground Lease dated November 17, 1993 (the "Ground Lease") on the Property and certain additional property; and

WHEREAS, Groundlessor, Landlord and Tenant have reached certain agreements regarding the Lease and the Ground Lease hereinafter set forth in this Agreement.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), the covenants and agreements herein contained and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Groundlessor, for itself and its successors and assigns, hereby covenants and agrees with Tenant that, in the event the Ground Lease is terminated by Groundlessor for any reason whatsoever, or in the event Landlord exercises its termination rights under Paragraph 4 of the Ground Lease, then, in either such event, so long as Tenant is not in default under the Lease beyond any applicable cure period: (a) the Lease shall, in accordance with its terms, remain in full force and effect as a direct lease between Groundlessor and Tenant, with the same force and effect as if originally entered into with Groundlessor; and (b) Tenant's possession of the Premises and, except as herein otherwise provided, Tenant's rights and privileges under the Lease shall not be diminished, interfered with or disturbed by Groundlessor by such termination of the Ground Lease; provided that the rights of possession of Tenant are subject to all the

03/28/1995-07802
08:17 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
007 MCD 23.50

terms of the Lease; and further provided that Groundlessor (i) shall not be bound by any amendment or modification to the Lease, or waiver of any provision of the Lease, which has not been consented to in writing by Groundlessor, or (ii) bound by any payment of rent made by Tenant to Landlord more than 30 days in advance.

2. Tenant, for itself and its successors and assigns, agrees that, upon any termination of the Ground Lease, it will attorn to and recognize the Groundlessor as its landlord for the unexpired balance (and any extensions or renewals, whether previously, at that time or thereafter exercised by Tenant) of the term of the Lease, subject to and in accordance with the terms and conditions set forth in the Lease.

3. Groundlessor and Tenant covenant and agree that upon any termination of the Ground Lease and provided Tenant is not in default under the Lease beyond any applicable cure period, Groundlessor and Tenant, upon the request of either, will execute and deliver a new lease (the "New Lease") between Groundlessor and Tenant for the balance of the term of the Lease, and otherwise containing the same terms, covenants, conditions, limitations and agreements as the Lease and Paragraphs 1 and 2 hereof including without limitation the covenants for rent, but subject to the rights, if any, of parties then in possession (actual or constructive) of all or any part of the Premises; and Groundlessor shall take such action as necessary to cause each holder of a mortgage, deed of trust or similar security instrument creating a lien on or security interest in and to Groundlessor's fee simple title to the Property (a "Mortgage") to subordinate such Mortgage to the New Lease so that any foreclosure of such Mortgage or other taking or conveyance of title to the Property by the holder of such Mortgage shall be subject to the terms of the New Lease.

4. Groundlessor hereby approves and consents to the terms of the Lease, a complete copy of which has been provided to Groundlessor and a short form Memorandum of which is attached hereto as Exhibit B. Groundlessor has joined in the execution of the Lease for the purpose of indicating its approval and consent thereto, including, without limitation, its consent to Tenant as the tenant thereunder and to the use of the Premises as a retail sales, installation, and service center for pagers and portable telephones. Groundlessor acknowledges that certain terms of the Lease conflict with the terms of the Ground Lease and agrees that to the extent the provisions of the Lease conflict with Groundlessor's rights under the Ground Lease, the provisions of the Lease shall control so long as the Lease is in effect. Groundlessor agrees that no default or event of default will be deemed to have occurred under the Ground Lease by virtue of any such conflict so long as Tenant has complied with the terms of the Lease. Groundlessor agrees that the last sentence of

paragraph 8.09 of the Ground Lease which reads "The survey shall show a state of facts which does not render title unmarketable" shall be interpreted to mean that the survey shall show the Tenant has not created any encroachments in constructing the New Building, as such term is defined in the Lease.

5. Landlord acknowledges that certain terms of the Lease conflict with the terms of the Ground Lease and agrees that no default or event of default will be deemed by Landlord to have occurred under the Lease by virtue of such conflict, so long as Tenant has complied with the terms of the Lease.

6. Any and all notices, elections, or demands permitted or required to be made under this Agreement shall be in writing, and shall be delivered personally, or sent by overnight courier service by a company regularly engaged in the business of delivering business packages (such as FedEx or Airborne), or sent by registered or certified mail to the other party at the address set forth hereinabove, or at such other address as may be specified in writing from time to time by either party to the other. A copy of any such notice must be sent to Groundlessor at the address set forth hereinabove, or at such other address as may be specified in writing from time to time by Groundlessor, with a copy to Bruce L. Gordon, Gordon, Silberman, Wiggins & Childs, P.C., 1400 SouthTrust Tower, Birmingham, Alabama 35203. The date of personal delivery or, if sent by mail or overnight courier, then the date of delivery or refusal thereof as evidenced by the carrier's or courier's receipt, shall be the effective date of such notice, election, or demand.

7. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

8. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, the parties hereto have executed, sealed and delivered this Agreement as of the day and year first above written.

[SIGNATURES ON NEXT PAGE]

"Groundlessor"

DANTRACT, INC., an Alabama corporation

By: [Signature]
Name: Charles W. Daniel
Title: President

(AFFIX CORPORATE SEAL)

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles W. Daniel, whose name is President of DANTRACT, INC., an Alabama corporation, is signed to the foregoing Non-Disturbance and Attornment Agreement, and who is known to me, acknowledged before me on this date that, being informed of the contents of the Non-Disturbance and Attornment Agreement, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

March Given under my hand and seal of office this 1st day of ~~February~~, 1995.

[Signature]
Notary Public
[NOTARIAL SEAL]

My commission expires:

2-13-99

[SIGNATURES CONTINUED ON NEXT PAGE]

[SIGNATURES CONTINUED FROM PREVIOUS PAGE]

"Landlord"

SOUTHTRUST BANK OF ALABAMA,
NATIONAL ASSOCIATION, a
national banking association

By:

Robert L. Henderson
Name: Robert L. Henderson
Title: Sr. V.P.

(AFFIX SEAL)

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Robert L. Henderson, whose name is Sr. Vice President of SOUTHTRUST BANK OF ALABAMA, a National Association national banking association, is signed to the foregoing Non-Disturbance and Attornment Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of this Non-Disturbance and Attornment Agreement, he/she as such officer, and with full authority, executed the same voluntarily for and as the act of said association.

~~February~~ Given under my hand and seal of office this 1st day of March, 1995.

Kathy N. Goodle
Notary Public

[NOTARIAL SEAL]

My commission expires:

3/15/96

[SIGNATURES CONTINUED ON NEXT PAGE]

[SIGNATURES CONTINUED FROM PREVIOUS PAGE]

"Tenant"

CDS BIRMINGHAM, L.L.C., a
Georgia limited liability
company ~~to be formed~~ ^{by: Cable Development Services Co., its Manager}

By: Eben Hardie III

Name: EBEN HARDIE III

Title: PRESIDENT

(AFFIX SEAL)

GEORGIA
STATE OF ALABAMA)
GWINNETT
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County
in said State, hereby certify that EBEN HARDIE III, whose
name is PRESIDENT of CDS BIRMINGHAM, L.L.C, a Georgia
Limited Liability company, is signed to the foregoing Non-
Disturbance and Attornment Agreement, and who is known to me,
acknowledged before me on this day that, being informed of the
contents of this Non-Disturbance and Attornment Agreement,
he/she, in his capacity is such duly authorized
PRESIDENT, executed the same voluntarily on the day the
same bears date.

Given under my hand and seal of office this 24th day of
February, 1995.

Margaret E. Keeler
Notary Public

[NOTARIAL SEAL]

My commission expires:
Notary Public, Gwinnett County, Georgia
My Commission Expires February 9, 1997

EXHIBIT "A"

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the Southwest 1/4 of the Southwest 1/4 of Section 32, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of Section 32, Township 18 South, Range 1 West, and run in a Northerly direction along the West line of said section a distance of 1167.35 feet to a point on the Northeasterly right-of-way line of Old Highway #280, said point being on a curve to the right having a radius of 1472.40 feet and a central angle of $1^{\circ}38'40''$; thence $110^{\circ}59'$ to the right (angle measured to tangent) in a Southeasterly direction along the Northeasterly right-of-way line of said highway and along the arc of said curve a distance of 42.25 feet to the POINT OF BEGINNING, said point being on the Easterly right-of-way line of U.S. Highway #280; thence $109^{\circ}33'21''$ to the left (angle measured from tangent) in a Northeasterly direction along the Easterly right-of-way line of said highway, a distance of 68.96 feet to a point on the Southerly right-of-way line of said highway, said point being on a curve to the right having a radius of 2699.79 feet and a central angle of $4^{\circ}56'39''$; thence $87^{\circ}17'27''$ to the right (angle measured to tangent) in an Easterly direction along the Southerly right-of-way line of said highway and along the arc of said curve a distance of 232.97 feet to a point; thence $87^{\circ}08'03''$ to the right (angle measured to tangent) in a Southeasterly direction a distance of 156.85 feet to a point on the Northeasterly right-of-way line of line of Old Highway #280; thence $106^{\circ}41'02''$ to the right in a Northwesterly direction along the Northeasterly right-of-way line of said highway a distance of 178.08 feet to the P.C. (point of curve) of a curve to the left having a radius of 1472.40 feet and a central angle of $2^{\circ}13'44''$; thence in a Northwesterly direction along the Northeasterly right-of-way line of said highway and along the arc of said curve a distance of 57.28 feet to the POINT OF BEGINNING.

Containing 26,016 square feet or 0.597 acres.

Inst # 1995-07802

03/28/1995-07802
08:17 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
007 MCD 23.50