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FOR RECORDER'S USE ONLY

PREPARED BY:

Justine Kang
Merrill Lynch Business Financial
Services Inc.
222 North LaSalle Street
17th Floor
Chicago, Illinois 60601

TENANT SUBORDINATION AGREEMENT

BETWEEN

RAINBOW PLAY SYSTEMS OF ALABAMA, INC.
TENANT

AND

MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.
MLBFS





TENANT SUBORDINATION AGREEMENT

TENANT SUBORDINATION AGREEMENT (Agreement) dated as of August 29, 2002 between **RAINBOW PLAY SYSTEMS OF ALABAMA, INC. ("Tenant")** and **MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC. ("MLBFS")**.

Pursuant to one or more leases (as amended, extended or restated from time to time, and whether oral or written, the "Lease"), Tenant has leased from **CONTREC-USA, L.L.C. ("Landlord")** all or a portion of the real property and improvements thereon commonly known as 916 BELCHER DR., Pelham, AL 35124, and more fully described on Exhibit A attached hereto (the "Property"). Landlord has requested MLBFS to provide one or more credit facilities to or for the benefit of Landlord or an affiliated person or entity, which credit facilities will be secured by a mortgage upon the Property, and MLBFS has agreed to provide such credit facilities subject to, among other conditions, this Agreement being executed and delivered by Tenant.

Accordingly, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

- (1) **Representations Regarding Lease.** Tenant represents and warrants to MLBFS that (a) Tenant is in continuous possession of the premises leased under the Lease; (b) Tenant is, and, to the knowledge of Tenant, the Landlord is in full compliance with the terms and provisions of the Lease; (c) no default or event of default under the Lease exists or would exist with the giving of notice by one party to the other and/or the passage of time; (d) Tenant has no offsets or defenses to Tenant's performance under the Lease; (e) Tenant does not have the option to purchase the Property or any part thereof; (f) no rentals are accrued and unpaid under the Lease or have been prepaid by Tenant; and (g) Tenant has not assigned, sublet or otherwise transferred or disposed of any interest in the Lease or the premises leased under the Lease.
- (2) **Subordination of Lease.** Tenant agrees that all of Tenant's rights, title and interests in and under the Lease are and shall be subordinate to the lien and rights, title and interests of MLBFS in and to the Property, in the same manner as if the Lease had been entered into after the execution, delivery and recording of MLBFS' mortgage on the Property.
- (3) **Attornment.** Notwithstanding the foregoing subordination, at the election of MLBFS at the time of any foreclosure of MLBFS' mortgage, the Lease may be made prior to the lien of MLBFS' mortgage. In such event, Tenant agrees that: (a) it will attorn to MLBFS or any purchaser of the Property at a foreclosure sale as its new landlord, and (b) the Lease will continue in full force and effect as a direct lease between the Tenant and MLBFS or such purchaser, for the remaining term and upon all other terms and conditions set forth in the Lease; provided, however, that in no event will MLBFS any purchaser of the Property at a foreclosure sale be: (i) liable for any act or omission of Landlord; (ii) subject to any offsets or deficiencies which the Tenant might be entitled to assert against Landlord; or (iii) bound by any payment of rent or additional rent made by the Tenant to Landlord for more than one month in advance of such foreclosure.
- (4) **Nondisturbance.** MLBFS agrees that if and so long as Tenant is not in default under the Lease, neither MLBFS nor any other purchaser of the Property at a foreclosure sale for the benefit of MLBFS will interfere with the quiet use and enjoyment of the premises leased by Tenant under the Lease.
- (5) **Amendment; Modifications.** This Agreement may not be amended or modified other than by a written instrument signed by both MLBFS and Tenant, or by their respective successors in interest.
- (6) **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of MLBFS and Tenant and their respective successors and assigns.
- (7) **Warranty of Authority.** Each party signing this Agreement on behalf of one of the parties hereto personally warrants to the other party hereto that he or she has the full right, power and authority to do so, and that by signing this Agreement is binding such party hereto.

EXHIBIT A
ATTACHED TO AND PART OF TENANT SUBORDINATION AGREEMENT BETWEEN
RAINBOW PLAY SYSTEMS OF ALABAMA, INC. AND MERRILL LYNCH BUSINESS
FINANCIAL SERVICES INC.

Record Owner of Property: CONTREC-USA, L.L.C.

Common Address of Property: 916 BELCHER DR.
Pelham, AL 35124

Legal Description of Property: See attached legal description



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- (6) **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of MLBFS and Tenant and their respective successors and assigns.
- (7) **Warranty of Authority.** Each party signing this Agreement on behalf of one of the parties hereto personally warrants to the other party hereto that he or she has the full right, power and authority to do so, and that by signing this Agreement is binding such party hereto.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement as of the day and year first set forth above.

RAINBOW PLAY SYSTEMS OF ALABAMA, INC.

By: Sharon Core _____
Signature (1) Signature (2)
Sharon Core Norman S. Core
Printed Name Printed Name
Secretary President
Title Title

Accepted at Chicago, Illinois:

MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.

By: Justin Kang _____
Signature (1) Signature (2)
Justin Kang _____
Printed Name Printed Name
Documentation Manager _____
Title Title

Acknowledgment for Tenant

STATE OF Iowa }
COUNTY OF Marion } SS.

The Undersigned, a Notary Public in and for said County in the State aforesaid, **DOES HEREBY CERTIFY THAT** Sharon Core and _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as Sharon Core and Secretary, respectively, of **RAINBOW PLAY SYSTEMS OF ALABAMA, INC.** and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered said instrument as their own free and voluntary act, and as the free and voluntary act of said entity for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10 day of September AD, 2002

Doyle L. Walker
NOTARY PUBLIC

My Commission Expires:

[SEAL]

02-24-03

Acknowledgment for MLBFS

STATE OF ILLINOIS }
 } SS.
COUNTY OF COOK }

The Undersigned, a Notary Public in and for said County in the State aforesaid, **DOES HEREBY CERTIFY THAT** Sharon Core and _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as Secretary and _____, respectively, of **MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.**, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10 day of September AD, 2002

Doyle R. Walker
NOTARY PUBLIC

My Commission Expires:

02-24-03

[SEAL]

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Common Address of Property: 916 BELCHER DR.
Pelham, AL 35124

Legal Description of Property: See attached legal description

First American Title Insurance Company

SCHEDULE A – LEGAL DESCRIPTION

Agent's File No.: 141749

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Shelby Cnty Judge of Probate, AL
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A parcel of land located in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 1, Township 20, Range 3 West, Shelby County, Alabama, more particularly described as follows: Commence at the Southwest corner of said $\frac{1}{4}$ $\frac{1}{4}$ section; thence in a northerly direction along the west line of said $\frac{1}{4}$ $\frac{1}{4}$ section, a distance of 523.40 feet; thence 123 deg. 58 min. right in a southeasterly direction a distance of 811.42 feet; thence 95 deg. 42 min. 30 sec. left in a Northeasterly direction a distance of 420.83 feet to the point of beginning; thence continue along last described course a distance of 373.59 feet; thence 94 deg. 55 min. 30 sec. left in a Northwesterly direction a distance of 240.89 feet; thence 85 deg. 04 min. 30 sec. left in a Southwesterly direction a distance of 352.91 feet; thence 90 deg. left in a southeasterly direction a distance of 240.00 feet to the point of beginning; being situated in Shelby County, Alabama.