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Shelby Cnty Judge of Probate, AL  
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This Instrument was prepared by  
& after recording returned to  
Patches Estes  
SBA Network Service, Inc.  
5900 Broken Sound Parkway, NW  
Third Floor/Legal Department  
Boca Raton, Florida 33487  
PH: 1-800-487-7483 ext. 9453

Shelby County, AL 09/21/2005  
State of Alabama  
Deed Tax: \$93.00

## EASEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made this 8<sup>th</sup> day of August, 2005 ("Effective Date"), by and between GLENDA K. PAYNE, a single woman ("Site Owner") and SBA PROPERTIES, INC., a Florida corporation ("SBA"). All references hereafter to "SBA" and "Site Owner" shall include their respective heirs, successors, personal representatives, lessees, licensees and assigns.

## RECITALS

WHEREAS, Site Owner is the owner of that certain property ("Property") located in the County of Shelby, State of Alabama, which Property is more particularly described on Exhibit A attached hereto.

NOW, THEREFORE, for and in consideration of the sum of Ninety-Three Thousand and No/100 Dollars (\$93,000.00) and other good and valuable consideration, the receipt and sufficiency of which Site Owner does hereby acknowledge. Site Owner and SBA agree to the following:

1. Grant of Easement. Site Owner grants, transfers and conveys to SBA (1) an exclusive easement in, to, under and over the portion of the Property described on Exhibit B-1 ("Communications Easement") for the transmission and reception of any and all wireless communication signals and the construction, maintenance, repair, replacement, operation and removal of towers, antennas, buildings, fences, gates and related facilities (collectively, "Facilities") and any related activities and uses together with the right to enter the Property at any time, day or night, as may be required in connection with the foregoing uses, and (2) a non-exclusive easement in, to under and over portions of the Property described on Exhibit B-2 ("Access and Utility Easements;" Communication Easement and Access and Utility Easements, collectively "Easements") for unrestricted 24/7 vehicular and pedestrian ingress and egress to and from the Communications Easement and publicly dedicated roadway.
2. Use of Easements. SBA shall have the unrestricted right to lease, license, transfer or assign, in whole or in part, or permit the use of the Easements and/or its rights under this Agreement to any third parties including any lessee or licensee currently or in the future using the Facilities and the affiliates, agents, contractors, invitees and employees of SBA and/or SBA's lessees or licensees (collectively, "Customers").

3. Term. The term of this Agreement and the Easements shall be perpetual beginning on the Effective Date.
4. Termination. SBA may abandon the Easements for any reason or at any time by giving thirty (30) days' notice to Site Owner. This Agreement may not be terminated by Site Owner. If the communications tower located on the Leased Space shall not be used or occupied by any person for a period of three (3) continuous years, SBA shall, upon request of Site Owner, remove the tower from the Communications Easement and this Easement shall terminate.
5. Improvements; Utilities. SBA and its Customers, may, at their discretion and expense, construct such improvements in, to, under and over the Easements, consistent with the uses specified in Section 1. The Facilities and all improvements constructed or placed on the Easements by SBA and Customers shall remain the Property of SBA and its Customers, as applicable, and Site Owner shall possess no right, title or interest therein. In the event that utilities necessary to serve the Facilities cannot be installed within the Easements, Site Owner agrees to cooperate with SBA and to act reasonably and in good faith in granting SBA the right to locate such utilities on the Property without requiring the payment of additional fees. If necessary, Site Owner shall, upon SBA's request, execute and record a separate written easement with SBA or with the utility company providing the utility service to reflect such right. Site Owner agrees to cooperate with SBA in obtaining, at SBA's expense, all licenses and permits required for SBA's use of the Easements.
6. Removal. Within one hundred twenty (120) days of the termination of this Easement, Tenant will remove all such improvements: Footings, foundations and concrete will be removed to a depth of one foot below grade.
7. Taxes. SBA will pay prior to delinquency any personal property taxes assessed on the Facilities. Site Owner will pay prior to delinquency all real property taxes and all other fees and assessments attributable to the Property or any portion thereof. However, SBA will pay, as additional payment, any increase in real property taxes levied against the Communications Easement space which is directly attributable to SBA's use of the space, and Site Owner agrees to furnish proof of increase to SBA.
8. Representatives of Site Owner. Site Owner represents, warrants and agrees that: (i) it is the legal owner of indefeasible and marketable fee simple title to the Property with the right power and authority to enter into this Agreement and to grant the Easements to SBA, and any required consents and authorizations required, in connection with the execution and delivery of this Agreement have been obtained; (ii) except as disclosed on Exhibit C, no leases, mortgages, deeds of trust or other encumbrances affect the Property as of the Effective Date, (iii) Site Owner will comply with all governmental laws, rules and regulations applicable to the Property; and (iv) during the Term, Site Owner will not use or suffer or permit another person, corporation, company, or other entity to use the Property or any adjacent parcel of land now or hereafter owned,

leased or managed by Site Owner, its successors or assigns, for the uses permitted herein or other uses similar thereto.

9. Insurance. SBA - SBA, at all times during the term(s) of this Agreement, will maintain in full force a comprehensive public liability insurance policy covering all of its operations, activities, liabilities and obligations on the Easements, having limits not less than One Million Dollars (\$1,000,000). On or before the Effective Date, SBA will give Site Owner a certificate of insurance evidencing that such insurance is in effect. SBA shall deliver to Site Owner a renewal certificate evidencing that such insurance is in effect within ten business days of Site Owner's request for such certificate. The insurance policy shall be issued by an insurance company authorized to do business in the state in which the Property is located and shall provide thirty days prior written notice to the SBA of any cancellation of such policy. Any insurance required to be provided by SBA may be provided by a blanket insurance covering the leased space and other properties by SBA provided that such blanket insurance policy complies with all of the other requirements with respect to the type and amount of insurance.
10. Environmental Covenants and Indemnity. Site Owner represents that it has not permitted or engaged in the use of, and has no knowledge of, any substance, chemical or waste (collectively "Substance") located on, under or about the Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Neither Site Owner nor SBA will introduce or use any such Substance on, under or about the Property in violation of any applicable law or regulation. No underground storage tanks for petroleum or any other Substance, or underground piping or conduits, are or have previously been located on the Property, and no asbestos-containing insulation or products containing PCB or other Substances have been placed anywhere on the Property by Site Owner or, to Site Owner's knowledge, by any prior owner or user of the Property. Site Owner and SBA shall each defend, indemnify, protect and hold the other party harmless from and against all claims, costs, fines, judgments and liabilities, including attorney's fees and costs, arising out of or in connection with the presence, storage, use or disposal of any Substance on, under or about the Property caused by the acts, omissions or negligence of the indemnifying party and their respective agents, contractors and employees. The foregoing indemnity shall survive any termination of this Agreement.
11. Assignment; Sublease. SBA may sublet or license all or part of the Easements or may assign or transfer this Agreement in whole or in part without Site Owner's consent. Upon such assignment, SBA shall be relieved of all liabilities and obligations under this Agreement.
12. Secured Parties. SBA may from time to time grant to certain lenders selected by SBA and its affiliates (the "Lender") a lien on and security interest in SBA's interest in this Agreement and all assets and personal property of SBA located on the Easements, including, but not limited to, all accounts receivable, inventory, goods, machinery and equipment owned by SBA ("Personal Property") as collateral security for the repayment of any indebtedness to the Lender. Should Lender exercise any rights of SBA under this Agreement, including the right to exercise any renewal option(s) or

purchase option(s) set forth in this Agreement, Site Owner agrees to accept such exercise of rights by Lender as if same had been exercised by SBA, and SBA, by signing below, confirms its agreement with this provision. If there shall be a monetary default by SBA under this Agreement, Site Owner shall accept the cure thereof by Lender within fifteen (15) days after the expiration of any grace period provided to SBA under this Agreement. If there shall be a non-monetary default by SBA under this Agreement, Site Owner shall accept the cure thereof by Lender within thirty (30) days after the expiration of any grace period provided to SBA under this Agreement to cure such default. This Agreement may not be amended in any respect which would be reasonably likely to have a material adverse effect on Lender's interest therein or surrendered, terminated or cancelled, without the prior written consent of Lender. If this Agreement is terminated as result of an SBA default or is rejected in any bankruptcy proceeding, Site Owner will enter into a new lease with Lender or its designee on the same terms as this Agreement within 15 days of Lender's request made within 30 days of notice of such termination or rejection, provided Lender pays all past due amounts under this Agreement. The foregoing is not applicable to normal expirations of the term of this Agreement. Site Owner hereby agrees to subordinate any security interest, lien, claim or other similar right, including, without limitation, rights of levy or distraint for rent, Site Owner may have in or on the Personal Property, whether arising by agreement or by law, to the liens and/or security interests in favor of the Lender, whether currently existing or arising in the future. Nothing contained herein shall be construed to grant a lien upon or security interest in any of Site Owner's assets.

13. Estoppel Certificate. Each party shall, without further consideration and within ten (10) days after request by the other party, execute and deliver to the requesting party, or the party designated by requesting party, a statement certifying (i) that this Agreement is unmodified and in full force and effect (or, if there have been modifications, stating the modifications and that the modified Agreement is in full force and effect); (ii) whether or not, to the best knowledge of the responding party, the requesting party is in default in performance of any of its obligations under this Agreement, and, if so, specifying each such default; and (iii) any other information reasonably requested concerning this Agreement.
14. Condemnation. In the event of any condemnation of the Easements in whole or in part, SBA shall be entitled to file claims against the condemning authority for, and to receive, the value of the portion of the Property so taken on which the Easements are located, business dislocation expenses and any other award or compensation to which SBA may be legally entitled. Site Owner hereby assigns to SBA any such claims and agrees that any claims made by Site Owner will not reduce the claims made by SBA.
15. Covenant Running with the Land. The provisions of and covenants contained in this Agreement shall run with the land and shall bind and inure to the benefit of the Parties.



invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect; (e) upon the request of SBA, Site Owner shall execute a Memorandum of this Agreement and such plats or surveys as deemed reasonably necessary by SBA for recordation in the public records of the County in which the Property is located; (f) the paragraph headings of this Agreement have been inserted for convenience of reference only, and shall in no way modify or restrict the terms of this Agreement; and (g) this Agreement may be executed in any number of counterparts, each of which shall, when executed, be deemed to be an original and all of which shall be deemed to be one and the same instrument.

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

Witness:

**SITE OWNER**

Brenda K. Jensen  
Name:  
Glenda K. Payne  
Name:

Glenda K. Payne  
GLENDA K. PAYNE

STATE OF ALABAMA  
Jefferson COUNTY

I, Freida E Peoples, a Notary Public, in and for said County, in said State, hereby certify that Glenda K. Payne whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me in this day that, being informed of the conveyance, he/she, executed the same voluntarily on the same day the same bears date.

Given under my hand this the 29<sup>th</sup> day of July, 2005.

Freida E Peoples  
Notary Public



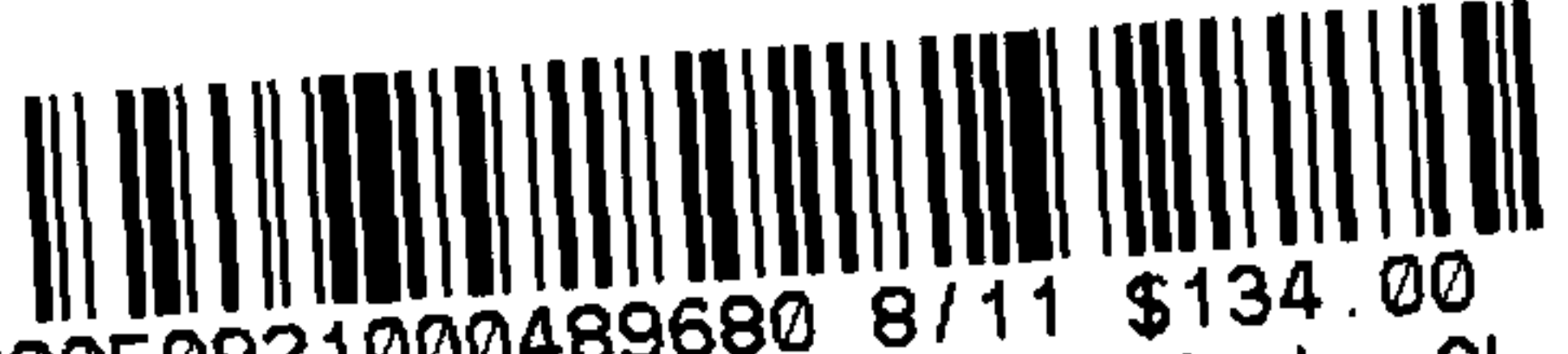
  
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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Property located at 542 Kent Dairy Road, located in Shelby County, Tennessee.



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EXHIBIT B-1

COMMUNICATIONS EASEMENT

A Parcel of land lying in the Northwest Quarter of the Northeast Quarter of Section 16, Township 21 South, Range 3 West, Shelby County, Alabama being more particularly described as follows:

Commencing at a 1.5" open top pipe at the northeast corner of a parcel of land as recorded in Instrument No. 1993-40489 in the Office of the Judge of Probate, Shelby County, Alabama, said pipe also being at the intersection of the east line of said Northwest Quarter of the Northeast Quarter and the south right-of-way of County Road 26 (80 r/w); thence run S 00°18'39" E along the east line of said parcel of land and the east line of said Northwest Quarter and also along an old wire fence line a distance of 412.40 feet to a point; thence run S 89°41'21" W a distance of 9.70 feet to a 5/8" rebar set (19753) and the Point of Beginning; thence run S 00°22'57" E a distance of 100.00 feet to a 5/8" rebar set (19753); thence run S 89°46'57" W a distance of 100.00 feet to a 5/8" rebar set (19753); thence run N 00°22'57" W a distance of 100.00 feet to a 5/8" rebar set (19753); thence run N 89°46'57" E a distance of 100.00 feet to the Point of Beginning. Said described property contains 0.23 acres, more or less.

EXHIBIT B-2

ACCESS AND UTILITY EASEMENTS

**40' INGRESS/EGRESS & UTILITY EASEMENT**

A Parcel of land lying in the Northwest Quarter of the Northeast Quarter of Section 16, Township 21 South, Range 3 West, Shelby County, Alabama being more particularly described as follows:

Commencing at a 1.5" open top pipe at the northeast corner of a parcel of land as recorded in Instrument No. 1993-40489 in the Office of the Judge of Probate, Shelby County, Alabama, said pipe also being at the intersection of the east line of said Northwest Quarter of Northeast Quarter and the south right-of-way of County Road 26 (80 r/w); thence run S 00°18'39" E along the east line of said parcel of land and the east line of said Northwest Quarter and also an old wire fence a distance of 412.40 feet to a point; thence run S 89°41'21" W a distance of 9.70 feet to a 5/8" rebar set (19753) at the northeast corner of above described 100' X 100' Lease Parcel; thence run S 89°46'57" W along the north line of said Lease Parcel a distance of 100.00 feet to a 5/8" rebar set (19753); thence run S 00°22'57" E along the west line of said Lease Parcel a distance of 24.12 feet to the Point of Beginning of an Ingress/Egress and Utility Easement, being 40 feet in width and 20 feet each side of the following described centerline; thence run N 63°03'56" W a distance of 53.06 feet to a point; thence run S 83°09'39" W a distance of 30.10 feet to a point; thence run N 54°34'04" W a distance of 18.02 feet to a point; thence run N 03°55'02" W a distance of 46.85 feet to a point; thence run N 01°54'59" W a distance of 261.82 feet to a point; thence run N 02°36'18" E a distance of 103.81 feet, more or less to a point on the south right-of-way of said County Road No. 26 and the Point of Ending. Said described easement contains 0.47 acres, more or less, and lies in the NW1/4 of NE1/4 of section 16, T-21-S, R-3-W, Shelby County, Alabama.

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EXHIBIT C

TITLE ENCUMBRANCES