

UNOFFICIAL COPY



Doc#: 0700531048 Fee: \$42.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/05/2007 11:20 AM Pg: 1 of 10

NCS-266345-FTM
BA 28/182 788

Prepared by
Robert W. Mouton
Locke Liddell & Stapp LLP
601 Poydras Street, Suite 2660
New Orleans, LA 70130
File: #590924/01360

Record and Return to:
Kathy Markalinski
First American Title Insurance Company
National Commercial Services
7370 College Parkway, Suite 104
Fort Myers, FL 33907
Phone: 1.800.585.2906
Fax: 1.239.938.8885
File: #NCS-266345-FTM
Unison Site: #341421

NON-DISTURBANCE AND ATTORNMENT AGREEMENT AND PARTIAL RELEASE OF ASSIGNMENT OF LEASES AND RENTS

THIS AGREEMENT (the "Agreement") is made as of the 20 day of December, 2006 ("Effective Date"), by and among Great Lakes Bank NA, formerly known as First National Bank of Blue Island, 13057 S. Western Avenue, Blue Island, Illinois 60406 (hereinafter referred to as "Lender"), T1 Unison Site Management LLC, a Delaware limited liability company (hereinafter referred to as "Unison"), whose address is 92 Thomas Johnson Drive, Suite 130, Frederick, Maryland 21702, and Great Lakes Trust Company, as Successor Trustee to First National Bank of Blue Island, as Trustee under Trust Agreement dated March 20, 1995 and known as Trust Number 95034 whose address is 13057 S. Western Avenue, Blue Island, Illinois 60406 (hereinafter referred to as "Site Owner").

WITNESSETH:

WHEREAS, Lender has made a loan to Site Owner (such loan and any renewal, substitution, extension or replacement thereof being hereinafter collectively called the "Loan") in the amount of Three Hundred Thousand and No/100 Dollars (\$300,000.00), which is secured by, *inter alia*, that certain Mortgage dated March 28, 1995 and recorded April 3, 1995 as document 95221943 and re-recorded November 21, 1995 as document 95808052, made by First National Bank of Blue Island, as Trustee under Trust Agreement dated March 20, 1995 and known as Trust Number 95034, to First National Bank of Blue Island, to secure an indebtedness in the amount of \$300,000.00, as modified by (i) Modification of Mortgage recorded March 7, 1996 as document 96174552; (ii) Modification of Mortgage recorded March 7, 1996 as document 96174553; (iii) Modification of Mortgage recorded January 10, 1997 as document 97022858; (iv) Modification of Mortgage recorded November 23, 1998 as document 08058147; and (v) Modification of Mortgage recorded June 23, 2003 as document 0317441042, together with an Assignment of Rents made by First National Bank of Blue Island, as Trustee under Trust Agreement dated March 20, 1995 and known as Trust Number 95034 to First National Bank of Blue Island recorded April 3, 1995 as document 95221944 and re-recorded November 21, 1995 as document 95808053 (such Mortgage and any and all other security interests encumbering the Site Owner's Property, as hereafter defined, securing the Loan and any renewal, substitution,

19012

UNOFFICIAL COPY

amendment, extension or replacement thereof being hereinafter collectively referred to as the "Mortgage"), upon the tract of land described in Exhibit "A" hereto (the "Site Owner's Property"); and

WHEREAS, a portion of the Site Owner's Property (the "Communication Site") is subject to an Easement and Assignment Agreement by and between Site Owner and Unison dated as of _____, 2006 (the "Communication Easement") in which said Communication Easement, the Site Owner has assigned to Unison all right, title and interest in and to the Leases set forth on Exhibit "B" hereto (the "Assigned Leases"); and

WHEREAS, the parties hereto desire to enter into this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged by the parties hereto, Lender, Unison and Site Owner hereby agree as follows:

1. Non-Disturbance. So long as the Communication Easement is not terminated, Unison's use, possession or enjoyment of the Communication Site, including the collection of rents by Unison, pursuant to the Assigned Leases shall not be interfered with nor shall the easement granted by the Communication Easement be affected in any other manner in any exercise of any power of sale in the Mortgage, or by foreclosure or any action or proceeding instituted under or in connection with the Mortgage, except that the person or entity acquiring the interest of the Site Owner under the Communication Easement as a result of any such action or proceeding, and the successors and assigns thereof (hereinafter referred to as the "Purchaser") shall not be (a) liable for any act or omission of any prior site owner under the Communication Easement; or (b) subject to any offsets of defenses which Unison under the Communication Easement might have against the prior site owner under the Communication Easement; or (c) bound by any amendment or modification to the Communication Easement made without Lender's prior written consent. **Lender and Site Owner specifically acknowledge that Unison shall have the exclusive right to collect any and all rents due by Tenant(s) under the Assigned Leases, said Assigned Leases being more fully described on Exhibit "B" hereof and, by execution of this instrument, any Assigned Leases are specifically released from that certain Mortgage dated March 28, 1995 and recorded April 3, 1995 as document 95221943 and re-recorded November 21, 1995 as document 95808052, made by First National Bank of Blue Island, as Trustee under Trust Agreement dated March 20, 1995 and known as Trust Number 95034, to First National Bank of Blue Island, to secure an indebtedness in the amount of \$300,000.00, as modified by (i) Modification of Mortgage recorded March 7, 1996 as document 96174552; (ii) Modification of Mortgage recorded March 7, 1996 as document 96174553; (iii) Modification of Mortgage recorded January 10, 1997 as document 97022858; (iv) Modification of Mortgage recorded November 23, 1998 as document 08058147; and (v) Modification of Mortgage recorded June 23, 2003 as document 0317441042, together with an Assignment of Rents made by First National Bank of Blue Island, as Trustee under Trust Agreement dated March 20, 1995 and known as Trust Number 95034 to First national Bank of Blue Island recorded April 3, 1995 as document 95221944 and re-recorded November 21, 1995 as document 95308053 and any and all other security interests executed in connection with the aforesaid or otherwise securing the Loan.**

2. Unison Not To Be Joined In Foreclosure. So long as the Communication Easement is not terminated, Lender will not join Unison as a party defendant in any action or proceeding foreclosing the Mortgage unless such joinder is necessary to foreclose the Mortgage and then only for such purpose and not for the purpose of terminating the Communication Easement and in such event Lender shall reimburse Unison for all reasonable expenses incurred by Unison in connection therewith.

3. Attornment. In the event the exercise of the power of sale in the Mortgage, or in the event of foreclosure of the Mortgage, or in event of a conveyance of the Site Owner's Property in lieu of foreclosure, Unison agrees to attorn to and accept the purchaser at the foreclosure sale or the grantee under the conveyance in lieu of foreclosure as the site owner for the balance then remaining of the term of the Communication Easement, subject to all terms and conditions of said Communication Easement and the terms of this Agreement. Said attornment shall be effective and self-operative without the execution of any further instruments upon the succession by Purchaser to the interest of Site Owner under the Communication Easement. The respective rights and obligations of Unison and Lender upon such attornment, shall be and are the same as now set forth in the Communication Easement.

UNOFFICIAL COPY

4. Unison's Tower, Building and Equipment. Lender hereby acknowledges and agrees that the Mortgage and Assignment does not apply to Unison's Tower(s), Building(s) and Equipment and that removal of said Tower(s), Building(s) and Equipment is governed by the terms of the Communication Easement.

5. As to Site Owner and Unison. As between Site Owner and Unison, Site Owner and Unison covenant and agree that nothing contained herein nor anything done pursuant to the provisions hereof shall be deemed or construed to modify the Communication Easement.

6. As to Site Owner and Lender. As between Site Owner and Lender, Site Owner and Lender covenant and agree that nothing contained herein nor anything done pursuant to the provisions hereof shall be deemed or construed to modify the Mortgage.

7. Successors and Assigns. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon the parties hereto and their respective heirs, administrators, representatives, successors and assigns, including without limitation each and every holder of the Communication Easement or any other person having an interest therein and any purchaser of the Site Owner's Property, including without limitation at or after a foreclosure sale or conveyance in lieu of foreclosure.

8. Title of Paragraphs. The titles of the paragraphs of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

9. Provisions Binding. The terms and provisions hereof shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns, respectively, of Lender, Unison and Site Owner.

10. Governing Law. This Agreement shall be interpreted and governed by the laws of the State in which the Site Owner's Property is located.

11. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be considered properly given if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, or by delivering same in person to the addressee addressed as set forth below. Notice so mailed shall be deemed effective upon its deposit. Notice given in any other manner shall be deemed effective only if and when delivered to the addressee.

For Lender:

Great Lakes Trust Company, as Successor Trustee to First National Bank of Blue Island
13057 S. Western Avenue
Blue Island, Illinois, 60406

For Site Owner:

Great Lakes Trust Company, as Successor Trustee to First National Bank of Blue Island
13057 S. Western Avenue
Blue Island, Illinois, 60406

For Unison:

T1 Unison Site Management LLC
92 Thomas Johnson Drive, Suite 130
Frederick, Maryland 21702

12. Counterparts. This Agreement may be signed in multiple counterparts, each of which is an original, but all of which comprise one Agreement.

UNOFFICIAL COPY

[SIGNATURE PAGES FOLLOW]

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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

WITNESSES:

Deborah Bernacy
Print Name: DEBORAH BERNACY

Michael H. Hensler
Print Name: MICHAEL H HENSLE

"LENDER":

Great Lakes Bank NA formerly known as
~~GREAT LAKES TRUST COMPANY AS~~
~~SUCCESSOR TRUSTEE FOR FIRST NATIONAL~~
~~BANK OF BLUE ISLAND, AS TRUSTEE UNDER~~
~~TRUST AGREEMENT DATED MARCH 20, 1995~~
~~AND KNOWN AS TRUST NUMBER 95034~~

By: Jeffrey B. Glass
Print Name: Jeffrey B Glass
Title: Vice President

Address: 13057 S. Western Avenue
City: Blue Island
State: Illinois
Zip: 60406
Tel: (708) 283-7261
Fax:

STATE OF Illinois)
COUNTY OF Cook) ss.

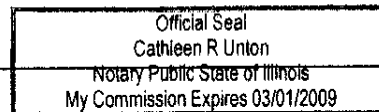
Before me, a notary public in and for said State, appeared Great Lakes Trust Company as Successor
Trustee in First National Bank of Blue Island as Trustee under Trust Agreement dated March 20, 1995 and known
as Trust Number 95034, by and through its Vice President, known to me, or proven to me, who
is duly authorized to act on behalf of the Site Owner of the Easement described in the foregoing Easement and
Assignment Agreement, executed and acknowledged said instrument as his/her free act and deed on behalf of said
Site Owner.

Given under my hand and seal this 19th day of December, 2006.

My commission expires: 3-1-09

Cathleen R. Unton
Notary Public

[SEAL]



UNOFFICIAL COPY

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

WITNESSES:

Deborah M. Derkacy

Print Name: DEBORAH M. DERKACY

Michael Hruskac

Print Name: MICHAEL HRUSKAC

"SITE OWNER":

GREAT LAKES TRUST COMPANY, AS SUCCESSOR TRUSTEE TO FIRST NATIONAL BANK OF BLUE ISLAND, AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 20, 1995 AND KNOWN AS TRUST NUMBER 95034

By: *Robert T. Bresnahan*

Print Name: ROBERT T. BRESNAHAN

Title: V.P. + T.O.

Address: 13057 S. Western Avenue
City: Blue Island
State: Illinois
Zip: 60406
Tel: _____
Fax: _____

Executed and delivered by the Great Lakes Trust Company, N.A. not in its individual capacity, but solely in the capacity herein described, for the purpose of binding the herein described property, and it is expressly understood and agreed by the parties hereto, anything herein to the contrary notwithstanding, that each and all of the understandings and agreements herein made are made and intended not as personal understandings and agreements of the trustee, or for the purpose of binding the trustee personally, but executed and delivered by the trustee solely in the exercise of the powers conferred upon it as such trustee, and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforced against the trustee on account hereof, or on account of any undertaking or agreement herein contained, either expressed or implied, all such responsibility, if any, being hereby expressly waived and released by all other parties herein, and those claiming through, or under them.

STATE OF ILLINOIS)
COUNTY OF COOK) ss.

Before me, a notary public in and for said State, appeared Great Lakes Trust Company, as Successor Trustee to First National Bank of Blue Island, as Trustee under Trust Agreement dated March 20, 1995 and known as Trust Number 95034, by and through its V.P. + T.O. known to me, or proven to me, who is duly authorized to act on behalf of the Site Owner of the Easement described in the foregoing Easement and Assignment Agreement, executed and acknowledged said instrument as his/her free act and deed on behalf of said Site Owner.

Given under my hand and seal this 19th day of Dec, 2006.

My commission expires: 3/1/09

Patricia J. Jacobson
Notary Public

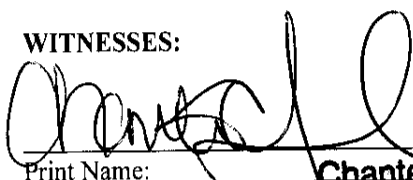
[SEAL]

UNOFFICIAL COPY

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

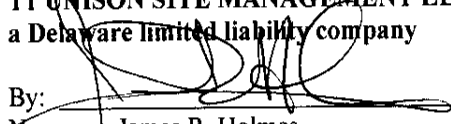
"UNISON":

WITNESSES:


Print Name: Chante Land


Print Name: Pascale Andre

**T1 UNISON SITE MANAGEMENT LLC,
a Delaware limited liability company**

By: 
Name: James R. Holmes
Title: Vice President/Secretary

Address: 92 Thomas Johnson Drive, Suite #130
City: Frederick
State: Maryland
Zip: 21702
Tel: (646) 452-5455
Fax: (301) 360-0635


STATE OF NEW YORK

COUNTY OF NEW YORK

On the 14 day of December in the year of 2006, before me, the undersigned, a Notary Public in and for said state, personally appeared James R. Holmes, Vice President/Secretary of T1 Unison Site Management LLC, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the individual or the entity upon behalf of which the individual acted, executed the instrument.

WITNESS my hand and official seal.

Signature: _____
My Commission Expires: _____
Commission Number: _____


Pamela T. Lee
Notary Public, State of New York
No. 02LE6009395
Qualified in Suffolk County
Commission Expires July 6, 2007

UNOFFICIAL COPY

EXHIBIT "A"

Site Owner's Property

PARCEL 1:

THOSE PORTIONS OF BLOCK 1 IN ROBINSON'S ADDITION TO BLUE ISLAND, A SUBDIVISION IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 37 NORTH, RANGE 13, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE EAST LINE OF SAID BLOCK 1, 140 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE WEST 150 FEET; THENCE SOUTH 71 8/12 FEET; THENCE EAST 150 FEET; THENCE NORTH 71 8/12 FEET TO THE POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE NORTH 7 FEET OF THE EAST 120 FEET OF THE SOUTH 100 FEET OF THE EAST 1/2 OF BLOCK 1 ROBINSON'S ADDITION TO BLUE ISLAND, A SUBDIVISION IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS (EXCEPT FROM SAID TRACT OF LAND THE WEST 5 FEET RESERVED FOR ALLEY).

13114 Western Ave
Blue Island, IL

24-36-404-012

UNOFFICIAL COPY

EXHIBIT "B"

Description of Assigned Leases

That certain Communication Site Lease Agreement (Building) dated May 14, 2001 between First National Bank of Blue Island, not personally, but as Trustee under Trust Agreement dated March 20, 1995 and known as Trust Number 95034, as Lessor, Kevin F. McDermott and Deborah E. McDermott as beneficiaries of said trust, and Nextel West Corp., a Delaware corporation, d/b/a Nextel Communications, Lessee as evidenced by the Memorandum of Lease dated May 14, 2001 and recorded June 22, 2001 as Document No. 0010547425

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

After recording, please return to ↙

**First American Title
Insurance Company
National Commercial Services**
7370 College Parkway, Suite 104
Fort Myers, Florida 33907

2106345