

**NON-DISTURBANCE, ATTORNMENT, AND ESTOPPEL AGREEMENT**

6525526

This Agreement is made and entered into this 4th day of December, 1996, by and among WEB SERVICE COMPANY, INC. (hereinafter "Tenant"), WLA ARCON, INC., a California corporation (hereinafter "Landlord"), and KEY BANK OF UTAH, a Utah banking corporation (hereinafter "Bank").

**RECITALS**

A. On or about October 10, 1994, Tenant and Landlord entered into a certain lease (hereinafter the "Lease") wherein Landlord agreed to lease to Tenant, and Tenant agreed to rent from Landlord, certain real property and improvements (hereinafter the "Premises") located on or about the real property more fully described in Exhibit "A" hereto.

B. A memorandum of the Lease was recorded against that certain real property described in attached Exhibit "A".

C. As a condition precedent to extending credit to Landlord, Bank has required, among other things, that Tenant execute this Agreement.

D. Tenant and Bank desire to establish and confirm certain rights, obligations and priorities with respect to their respective interests by means of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the parties agree as follows:

i. Incorporation of Recitals. All of the terms and representations set forth in the above Recitals are hereby incorporated by this reference.

ii. Non-Disturbance of Lease. So long as no default has occurred under the Lease and continued to exist for such period of time (after notice, if any, required by the terms of the Lease) as would entitle Landlord to terminate the Lease or would cause, without any further action of Landlord, the termination of the Lease or would entitle Landlord to dispossess Tenant thereunder, Bank agrees that the Lease shall not be terminated nor shall Tenant's use, possession, or enjoyment of the Premises be interfered with by Bank nor shall the leasehold estate granted by the Lease be affected by Bank in any other manner in or as a result of any foreclosure or other action or proceeding instituted under or in connection with any security agreement, deed of trust, or mortgage given to Bank to secure the Indebtedness.

iii. Attornment to Bank. If the interest of Landlord in the Premises or under the Lease shall be transferred to Bank or any other purchaser (Bank and such purchaser being hereinafter collectively referred to as the "Purchaser") by reason of foreclosure or exercise of power of sale or other proceedings for enforcement of any security agreement, deed of trust, or mortgage or by reason of a deed-in-lieu of foreclosure, Tenant shall be bound to the Purchaser under all of the terms, conditions, and covenants contained in the Lease for the balance of the term thereof, together with all extensions or renewals as may be effected in accordance with the terms of the Lease, to the same extent, and with the same force and effect as if the Purchaser were the landlord under the Lease. Tenant does hereby attorn to the Purchaser, as its landlord, with said attornment to be effective and self-operative without the execution of any further instruments upon the Premises or under the Lease. The respective rights and duties of the Purchaser upon such attornment, to the extent of the then remaining balance of the term of the Lease and any extensions or renewals thereof, shall be and are the same as now set forth in the Lease except as may be otherwise expressly provided herein.

iv. Duties of Purchaser. Upon acquiring title to the Property or the Lease and for such period as it holds such title, the Purchaser shall be obligated to perform and honor all of the terms and provisions of the Lease; provided, however, the Purchaser shall not be: (a) liable for any act or omission of Landlord or its successors prior to the Purchaser's acquisition of title, (b) bound by any payment of rent which Tenant might have paid to Landlord for more than one month in advance of the then current month but which has not been delivered to the Purchaser, (c) subject to any claims, liens, offsets or defenses which Tenant might have against Landlord or its successors; or (d) bound by any amendment or modification to the Lease made without its prior written consent. Purchaser shall not be liable to Tenant for any security deposit unless Landlord specifically transfers the security deposit to Purchaser.

v. Estoppel. Tenant represents, warrants, and certifies to Bank that:

(1) Tenant is the lessee or tenant under the Lease and that the same has not been modified, changed, altered, or amended in any respect and is the only lease agreement and represents the entire understanding between Tenant and Landlord as it relates to the Premises.

(2) The Lease is not in default, is in full force and effect, and Tenant is not entitled to any lien, credit, offset, or reduction in rent.

(3) There are no actions or proceedings, whether voluntary or otherwise, pending or threatened against Tenant under the bankruptcy laws of the United States or under any other laws providing relief to debtors.

(4) Tenant ratifies the Lease in all respects.

(5) Tenant has no option to purchase the Premises or otherwise receive title the same, except as may be set forth in the Lease. Any purchase payments made to acquire the Premises shall be tendered and payable to Bank.

(6) Upon notice by Bank, Tenant will pay all rental payments or other monies due Landlord under the Lease, however the same may be designated, directly to Bank at such place as Bank may direct, and will not assert against Bank any setoff, defense, or counterclaim which Tenant may claim against Landlord.

(7) Subject to Paragraph 4, above, the Purchaser shall have no liability or responsibility with respect to any security deposit required under the Lease.

vi. Subordination. Subject to the terms of this Agreement, the Lease now is, and shall at all times continue to be, subject and subordinate in all respects to any deed of trust, mortgage, security agreement, or assignment given in connection with or as security for the Indebtedness, including any renewals, extensions, or modifications thereof.

vii. Termination of Lease. Tenant and Landlord agree with Bank that neither shall seek to terminate the Lease by reason of any act or omission of the other until written notice is given to Bank, by registered or certified mail, return receipt requested, setting forth the grounds upon which such termination is sought. Such notice shall be given to Bank at Key Bank Tower, Suite 2009, 50 South Main Street, Salt Lake City, Utah, 84144 at least thirty (30) days before the effective date of any termination. During such thirty (30) day period, Bank shall have the right, but not the obligation, to remedy or cure such default, such period may be extended provided that corrective action is instituted by or on behalf of Bank and diligently pursued until such default is corrected.

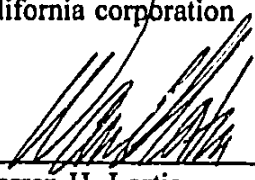
viii. General Provisions. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns, including, but not limited to, the Purchaser as such term is defined above. This Agreement shall be construed and interpreted in accordance with the laws of the State of Utah and may be amended only in writing executed by all the parties. This Agreement may be executed in several counterparts and all so executed shall constitute one agreement, binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

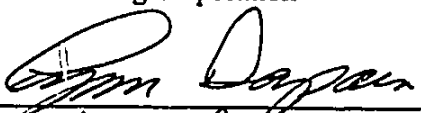
TENANT: WEB SERVICE COMPANY, INC.

By \_\_\_\_\_  
Its \_\_\_\_\_

LANDLORD: WLA ARCON, INC.,  
a California corporation

By   
Warren H. Lortie  
Its President

BANK: KEY BANK OF UTAH,  
a Utah banking corporation

By   
Its Vice Pres.

STATE OF UTAH                    )  
  ): ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_, by \_\_\_\_\_, the \_\_\_\_\_, of \_\_\_\_\_, a \_\_\_\_\_.

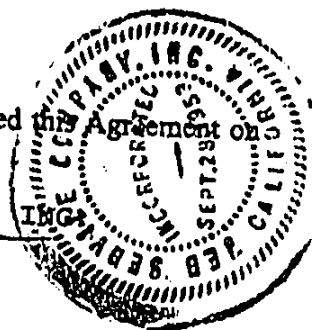
\_\_\_\_\_  
Notary Signature and Seal

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

"THIS DOCUMENT WAS SIGNED IN COUNTERPARTS"

TENANT:

WEB SERVICE COMPANY, INC.



By [Signature]  
Its JAMES L. HUNTER, VICE PRESIDENT

LANDLORD:

WLA ARCON, INC.,  
a California corporation

By [Signature]  
Warren H. Lortie  
Its President

BANK:

KEY BANK OF UTAH,  
a Utah banking corporation

By [Signature]  
Its Vice Pres.

STATE OF UTAH )  
COUNTY OF \_\_\_\_\_ : ss.  
\_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_.

Notary Signature and Seal

BK7554PG1771

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of CALIFORNIA

County of LOS ANGELES

On DECEMBER 5, 1996 before me, TARA DAVID-JONES, NOTARY PUBLIC

Date

Name and Title of Officer (e.g., "Jane Doo, Notary Public")

personally appeared JAMES L. HUNTER

Name(s) of Signer(s)

personally known to me ~~OR~~  ~~proved to me on the basis of satisfactory evidence~~ to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

*Tara David Jones*  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

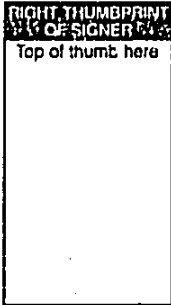
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

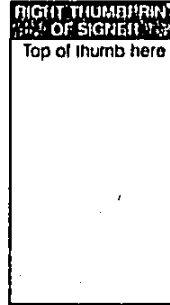
- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

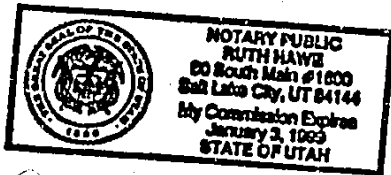


Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_

BK 7554 PG 1772

STATE OF UTAH )  
 : SS.  
COUNTY OF SALT LAKE )

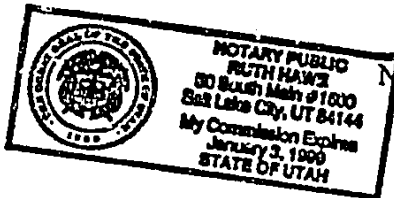
The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of December, 1996, by Warren H. Lortie, the President of WLA ARCON, INC., a California corporation.



Ruth Hawe  
Notary Signature and Seal

STATE OF UTAH )  
 : SS.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of December, 1996, by Lynn Despain, the Vice President of KEY BANK OF UTAH.



Ruth Hawe  
Notary Signature and Seal

EXHIBIT A

(Description of Subject Property)

BK7554PG1774



**EXHIBIT "A"**

Property located in Salt Lake County more particularly described as follows:

**PARCEL 1:**

Units 3, 7 through 9, inclusive, 12 through 15, inclusive, 19, 23, 27, 34 and 35, in Building A, contained within the WOOD CREST CONDOMINIUM PHASE 1, a Utah condominium project as identified in the Record of Survey Map recorded November 22, 1996 as Entry No. 6512529, in Book 96-11P, at Page 381 of Plats, (as said Record of Survey Map may have been amended and/or supplemented) and as further defined and described in the Declaration of Condominium of the Wood Crest Condominium Phase 1, recorded November 22, 1996 as Entry No. 6512532 (as said Declaration may have been amended and/or supplemented) in the Office of the Recorder of Salt Lake County, Utah.

Together with the appurtenant undivided interest in and to the common areas and facilities more particularly described in said Declaration and any amendments and/or supplements thereto.

**PARCEL 2:**

Units 1 through 45, inclusive, in Building C, contained within the WOOD CREST CONDOMINIUMS PHASE 2, a Utah condominium project as identified in the Record of Survey Map recorded November 22, 1996 as Entry No. 6512530, in Book 96-11P, at Page 382 of Plats, (as said Record of Survey Map may have been amended and/or supplemented) and as further defined and described in the Declaration of Condominium of the Wood Crest Condominium Phase 2, recorded November 22, 1996 as Entry No. 6512532 (as said Declaration may have been amended and/or supplemented) in the Office of the Recorder of Salt Lake County, Utah.

Together with the appurtenant undivided interest in and to the common areas and facilities more particularly described in said Declaration and any amendments and/or supplements thereto.

**PARCEL 3:**

Units 1 through 42, inclusive, in Building B, contained within the WOOD CREST CONDOMINIUMS PHASE 3, a Utah condominium project as identified in the Record of Survey Map recorded November 22, 1996 as Entry No. 6512531, in Book 96-11P, at Page 383 of Plats, (as said Record of Survey Map may have been amended and/or supplemented) and as further defined and described in the Declaration of Condominium of the Wood Crest Condominium Phase 3, recorded November 22, 1996 as Entry No. 6512532 (as said Declaration may have been amended and/or supplemented) in the Office of the Recorder of Salt Lake County, Utah.

Together with the appurtenant undivided interest in and to the common areas and facilities more particularly described in said Declaration and any amendments and/or supplements thereto.

SUBJECT TO all restrictions, reservations and other conditions of record as may be disclosed by a record examination of the title.

BK 7554 PG 1775

CONSENT, JOINDER AND AGREEMENT

The undersigned, by the execution hereof, evidence their agreement with the terms of the attached Non-Disturbance, Attornment and Estoppel Agreement.

SCV ASSOCIATES, LP, a Utah limited partnership

By WARREN H. LORTIE INVESTMENTS INC., a Utah corporation Its General Partner

By [Signature] Warren H. Lortie, President

STATE OF California )
COUNTY OF Orange ) ss.

6525526
12/11/96 4:05 PM 127.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
HERRILL TITLE
REC BY: D KILPACK DEPUTY - WI

The foregoing instrument was acknowledged before me this 11th day of December, 1996, by Warren H. Lortie, president of Warren H. Lortie Investments, Inc., a Utah corporation, the General Partner of SCV Associates, LP, a Utah limited partnership.

Judith A. Branca
Notary Signature and Seal

