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PRINCIPAL

FILED

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July 30, 2002

JUL 31 2002

Secretary of the Public Service Commission
Missouri Public Service Commission
200 Madison, Suite 100
Jefferson City, Missouri 65101

Missouri Public
~~Service Commission~~
Via Federal Express
833736654560

Re: In the matter of the Application of Western Communications, Inc. for
Approval of Transfer of Assets and Subscribers of Logix Communications
Corp. and for Waiver of Commission Rule 33.150

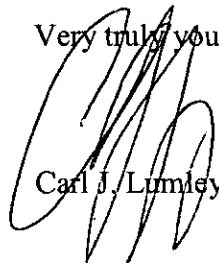
Dear Secretary of the Commission:

Enclosed please find for filing with your office the following in connection with the above-referenced matter:

1. Original and nine (9) copies of the public version of the Application for Approval of Transfer of Assets and Subscribers and for Waiver of Commission Rule 33.150
2. Original and nine (9) copies of the complete (Highly Confidential) version of the Application for Approval of Transfer of Assets and Subscribers and for Waiver of Commission Rule 33.150, under seal
3. An original and nine (9) copies of the Motion for Protective Order
4. An original and nine (9) copies of the Motion for Expedited Treatment

Upon your receipt, please process and return a file stamped copy to the undersigned. If you have any questions, please contact me.

Very truly yours,



Carl J. Lumley

CJL:dn

FILED

JUL 31 2002

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the matter of the Application of)
Western Communications, Inc.)
For Approval of the Transfer of Assets and)
Subscribers of Logix Communications Corp.)
and for Waiver of)
Commission Rule 33.150.)

Case No. Missouri Public Service Commission

APPLICATION FOR APPROVAL OF TRANSFER OF ASSETS AND SUBSCRIBERS AND FOR WAIVER OF COMMISSION RULE 33.150

COMES NOW Western Communications Inc. ("Western"), by the undersigned counsel, and hereby applies pursuant to Sections 392.300 and 392.540 RSMo, and 4 CSR 240-2.060, 2.015 and 33.150, for approval of the transfer of assets and subscribers of Logix Communications Corporation (Logix) in Missouri to Western and for waiver of the Commission's rule regarding authorization and verification of changes in telecommunications providers by subscribers (4 CSR 240-33.150). In support of its application Western states as follows:

1. Western is a corporation duly organized and existing under and by virtue of the laws of the State of Texas. It is engaged in the process of registering as a foreign corporation in Missouri under the name Logix Communications and will file its Missouri certificate of authority as soon as possible as supplemental Exhibit A to this Application. Western's principal place of business is currently located at 1330 Post Oak Blvd, Suite 301, Houston, Texas 77056 and its main telephone number is (713) 850-0990. It has pending before the Commission an Application for Certificates of Service Authority to Provide Basic Local, Local Exchange, Exchange Access, and Interexchange Telecommunications Services and for Competitive Classification.

2. Logix has been duly authorized to provide basic local, local exchange, exchange access, and interexchange telecommunications services under certificates issued and tariffs approved by the Commission, and Logix and its services have been classified as competitive by the

Commission. Logix's principal place of business is currently located at 14101 Wireless Way, Oklahoma City, Oklahoma 73134 and its main telephone number is (888) 505-6949.

3. All inquiries, correspondence, communications, pleadings, notices, orders and decisions relating to the case should be addressed to:

Carl J. Lumley
Leland B. Curtis
Curtis, Oetting, Heinz, Garrett & O'Keefe, P.C.
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105
(314) 725-8788
(314) 725-8789 (FAX)
clumley@cohgs.com
lcurtis@cohgs.com

and

Susan C. Gentz
Bradford W. Bayliff
Casey & Gentz, L.L.P.
919 Congress Avenue, Suite 1060
Austin, Texas 78701
(512) 225-0027
(512) 480-9200 (FAX)
sgentz@phonelaw.com
bbayliff@phonelaw.com

Notice, correspondence, communications, orders, decisions, and other papers may be served upon the undersigned attorneys and such service shall be deemed to be service upon Applicants in this matter.

3. Logix filed for protection under Chapter 11 of the United States Bankruptcy Code earlier this year. During the course of the bankruptcy proceeding, Western and Logix made and entered into that certain Asset Purchase Agreement (a copy of which is submitted herewith under seal as Exhibit B and incorporated herein by reference) under which Logix agrees to sell and Western agrees to purchase assets (as defined therein (Section 1.1) and specifically including

customer relationships), used by Logix to operate as a local and long distance telephone and internet service provider in several states including Missouri. Under the agreement, the parties are to close the transaction on the first business day after satisfying all conditions set forth in Article VIII of the Asset Purchase Agreement, subject to termination as described in Article IX. Upon closing, Logix would cease all operations in Missouri as a provider of telecommunications and internet services. The transaction has been duly authorized by the shareholders and directors of Western and Logix. The transaction has also been orally approved by the Bankruptcy Court sitting in the Southern District of Texas (Houston Division) and a copy of the Sale Order will be filed as supplemental Exhibit C as soon as possible.

4. Western seeks Commission approval of the aforesaid transaction (as well as the aforesaid certificates of authority by separate application), in satisfaction of conditions to closing. Upon satisfaction of all such conditions in a timely manner, Western and Logix will proceed with the closing and the assets and subscribers will be transferred to Western. Western will then commence with the provision of service in Missouri under the name Logix Communications pursuant to the authority to be granted by this Commission.

5. The proposed transaction is in the public interest because Western will maintain and/or increase the level of competition in Missouri consistent with the legislative goals set forth in the Federal Telecommunications Act of 1996 and Chapter 392 RSMo. Prompt approval of this application also will improve the availability of innovative, high quality, and reliable telecommunications services within the State of Missouri. As indicated, the proposed transaction will bring the assets, customers and many employees of Logix out of the bankruptcy proceeding.

6. Western has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer services or rates, which action,

judgment or decision has occurred within three (3) years of the date of this application. Western has no overdue annual reports or assessment fees.

7. The transaction will not have any impact on the tax revenues of any political subdivision.

8. Financial information regarding Logix's past operations and Western's prospective operations is submitted herewith as Exhibit D, under seal to the extent appropriate pursuant to the Motion for Protective Order filed herein, which Exhibit is incorporated herein by reference.

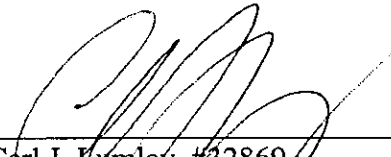
9. To facilitate the transaction, and to enable a seamless transition, Western seeks a waiver of the Commission's rule (33.150) regarding authorization and verification of changes in telecommunications providers. Western submits that the proposed transaction provides good cause for the Commission to grant such a waiver. As soon as all regulatory approvals are obtained and the transaction is closed, Western proposes immediately to commence providing service to Logix's customers, upon the same rates, terms, and conditions by adopting Logix's current tariffs. Customers will be promptly notified of the anticipated change in providers at least 30 days before the closing, including: the anticipated date on which Western will become the provider; that customers will receive the same rates and services after the change as before subject to subsequent changes in accordance with law (including notice as required); that no action will be required on their part to continue to obtain such services but also that they are free to change providers; that they will become Western subscribers on the transfer date unless they select a different provider before the transfer date even if they have arranged a preferred carrier freeze; that existing freezes will be lifted and arrangements will have to be made if new freezes are desired; that they should not be charged any fees for the change and that Western will issue credits in the event another carrier imposes any such fees; and that customers with questions or complaints will be able to

contact Western toll-free. Customers will be transferred under an exemption from federal regulations concerning such transfers that has been promulgated by the FCC. A copy of Western's exemption filing with the FCC, including the notice sent to customers, will be filed as supplemental Exhibit E as soon as possible

10. Western has filed herewith a Motion for Expedited Treatment, seeking approval of this application by August 23, 2002 in order to meet the closing conditions of the asset acquisition transaction with Logix.

WHEREFORE, Western Communications Inc. respectfully requests that the Commission approve the transfer of assets and subscribers from Logix to Western on an expedited basis, grant a waiver of compliance with the Commission's rule (33.150) regarding authorization and verification of the change in telecommunications providers pursuant to that transaction, and grant such other and further relief as it may deem meet and proper.

Respectfully submitted,



Carl J. Lumley, #32869
Leland B. Curtis, #20550
Curtis, Oetting, Heinz, Garrett & O'Keefe, PC
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105
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(512) 225-0027
(512) 480-9200 (FAX)
sgentz@phonelaw.com
bbayliff@phonelaw.com


Attorneys for Western
Communications Inc.

Certificate of Service

A true and correct copy of the foregoing document was mailed this 30 day of July, 2002, by placing same in the U.S. Mail, postage paid to:

Office of Public Counsel
P.O. Box 7800
Jefferson City, Missouri 65102

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102



A handwritten signature in black ink is written over a horizontal line. The signature is stylized and appears to be the initials 'SG' or similar.

STATE OF TEXAS

)

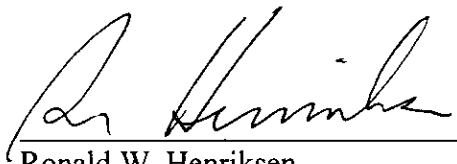
) SS.

COUNTY OF HARRIS

)

VERIFICATION

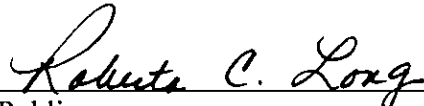
I, Ronald W. Henriksen, first being duly sworn, state on my oath that I am over the age of twenty-one years, sound of mind, and the President of Western Communications Inc. I am authorized to act on behalf of Western Communications Inc., regarding the foregoing application. I have read the application and I am informed and believe the matters contained therein are true. Further, I hereby confirm that Carl J. Lumley and Leland B. Curtis of Curtis, Oetting, Heinz, Garrett & O'Keefe, P.C. are authorized to sign all pleadings and documents necessary to receive the approval of the Missouri Public Service Commission of the foregoing application, and to represent Western Communications Inc. in this proceeding.



Ronald W. Henriksen
President

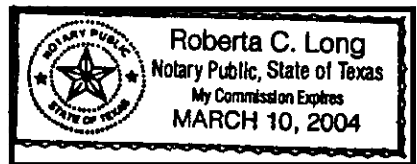
On this 29th day of July, 2002, before me, a Notary Public, personally appeared Ronald W. Henriksen, and being first duly sworn upon his oath stated that he is over twenty-one, sound of mind and the President of applicant Western Communications Inc. and that he/she signed and foregoing document as President, and the facts contained therein are true and correct according to the best of his/her information, knowledge and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year above-written.



Notary Public

My Commission Expires: 3/10/04



ASSET PURCHASE AGREEMENT

BY AND BETWEEN

WCI, INC.

AND

LOGIX COMMUNICATIONS CORPORATION

Chapter 11 debtor in possession



NP

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT, dated as of May __, 2002 (this "Agreement"), is entered into by and between WCI, INC., a Texas corporation (the "Purchaser"), and LOGIX COMMUNICATIONS CORPORATION, an Oklahoma corporation (the "Seller"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Article XI of this Agreement.

WHEREAS, the Seller is engaged in the business of providing long distance and local voice and data communications services (the "Business"), which business is comprised of two divisions referred to as the "CLEC Division" and the "Fiber Division";

WHEREAS, on February 28, 2002 (the "Petition Date"), the Seller and its parent corporation, Logix Communications Enterprises, Inc., an Oklahoma corporation, filed a voluntary petition (the "Petition") for relief commencing a case (the "Chapter 11 Case") under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. Sections 101 et seq. (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Bankruptcy Court"), Jointly Administered Case No. 02-32105-H5-11; and

WHEREAS, the Purchaser desires to purchase from the Seller, and the Seller desires to sell, convey, assign and transfer to the Purchaser, substantially all of the assets of the Seller relating to the Business, other than those used exclusively in the Fiber Division, which assets constitute substantially the entirety of the assets of the CLEC Division, all in the manner and subject to the terms and conditions set forth herein and in accordance with Sections 105, 363 and 365 of the Bankruptcy Code;

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein, the parties hereto agree as follows:

ARTICLE I PURCHASE AND SALE OF ASSETS

Section 1.1 Purchase and Sale of Assets.

On the terms and subject to the conditions set forth in this Agreement, at the Closing the Seller shall sell, assign, transfer, convey and deliver to the Purchaser, and the Purchaser shall purchase and accept from the Seller, all right, title and interest in and to all of the assets, properties, rights, contracts, Customers, intellectual properties, and claims owned or used by the Seller in conducting the Business, including those listed below (except for, and only except for, the Excluded Assets (as defined in Section 1.2 of this Agreement)), wherever located, whether tangible or intangible, as the same shall exist at the Closing, free and clear of all Encumbrances other than those Encumbrances listed in Section 3.12(d) of the Seller Disclosure Schedule and made a part of the Assumed Liabilities (collectively referred to herein as the "Assets"):

(a) the accounts of (i) all of the Seller's customers which, at the Closing Date, are end-users of the Seller for any of its telecommunications, data or Internet services provided in connection with the Business, (ii) all customers and other Persons from whom third-party verified verbal authorizations or written letters of authorization or other appropriate evidence of authority to switch carriers ("*LOAs*") have been obtained by the Seller but which have not yet been provisioned and (iii) all carriers, Internet service providers and other Persons utilizing the services of the Business, on an unbundled network element ("*UNE*"), resale or other basis (all such customers and other Persons are referred to herein as "*Customers*");

(b) the names "Logix" and "American Telco" and all other trademarks, trade names, service marks and service names used by the Seller in connection with servicing the Customers or otherwise in connection with the Business (other than those that do not include the word "Logix" (the "*Names*"), and all goodwill associated therewith and the right to sue for, and all remedies against, all past, present or future infringements thereof and, in connection therewith, the right to use the Names in connection with servicing the Customers or otherwise in connection with the Business and the right to represent to third parties that the Purchaser is the successor to the Business other than the Fiber Division;

(c) the Seller's Carrier Identification Codes and all of the Seller's right, title and interest in and to all other intangible telecommunications assets owned or used by the Seller in connection with the Business, including, without limitation, telecommunications numbering codes, NXX codes, location routing codes, carrier identification codes, all of the Seller's 800/888 Responsible Organization rights and interest, all telephone numbers used by or assigned to the Seller's Customers and/or accounts and other operating codes;

(d) all furnishings, furniture, fixtures, office supplies, vehicles (including all certificated motor vehicles), spare parts, tools, machinery, equipment, computers, switches, back-up or standby generators and other tangible personal property, including, without limitation, any domestic or international cable, satellite or other telecommunications systems and any equipment used for furnishing of any telecommunications services;

(e) all (i) billed and unbilled accounts receivable, all carrier access bills, all deposits (including security deposits, Customer deposits and deposits relating to Assumed Liabilities) and all other security or collateral for such accounts receivable and all guaranties thereof (collectively, the "*Trade Receivables*") and (ii) except to the extent transferred under Section 1.1(g) of this Agreement, all claims and rights against or payments from any Person with respect to damages, losses or defects relating to tangible Assets;

(f) all ownership, leasehold and other interests in the real property used in the Business including all buildings and switches (including related premises leases) located thereon, any fixtures attached thereto and any and all rights appurtenant thereto;

(g) all Intellectual Property of the Seller, including, without limitation, the Names and all other Intellectual Property described in Section 3.16(a) of the Seller Disclosure Schedule, and all of the Seller's right, title and interest therein, including, without limitation, all of the goodwill

of the Business appurtenant thereto, the rights to sue for, and remedies against, past, present and future infringements thereof and the rights of priority and protection of interests therein under applicable laws;

(h) all marketing brochures and materials and other printed or written materials in any form or medium relating to the Seller's ownership or operation of the Business that the Seller is not required by law to retain and duplicates of any such materials that the Seller is required by law to retain;

(i) all rights and claims under all warranties, representations and guarantees made by suppliers, vendors, manufacturers and contractors in connection with the operation of the Business;

(j) all Permits held by the Seller and all rights of the Seller with respect thereto, and where and to the extent any such Permits and/or rights are not freely transferable by the permittee, all right, title and interest of the Seller in such Permits and/or rights to the fullest extent such right, title and interest may be transferred without breach or violation thereof;

(k) other than Contracts of which the Purchaser elects not to take an assignment pursuant to the provisions of Section 7.2 of this Agreement, all rights and incidents of interest as of the Closing in and to all leases, agreements and other Contracts (including the Seller's distributor agreements with its agents, resellers and independent distributors) and contractual rights and obligations of the Seller (collectively, the "*Assumed Contracts*"), including, without limitation, indefeasible rights of use or agreements to obtain minutes of use or other measures of capacity and agreements relating to the purchase or provision of frame relay services and/or facilities, including, without limitation, purchasing, sales, co-location, interconnection, traffic sharing and mutual compensation agreements; and

(l) other than to the extent described in Section 1.1(l) of the Seller Disclosure Schedule with respect to records applicable law prohibits being transferred to Purchaser and other than records relating exclusively to the Excluded Assets specified in Section 1.2(h) of this Agreement or the Excluded Liabilities, all books and records of the Business (in whatever medium such books and records are preserved), including, without limitation, those relating to the Assets, the Assumed Contracts or the Transferred Employees (except for records relating to prospective Transferred Employees who do not give any necessary consent contemplated by Section 6.3(d) of this Agreement with respect to the release of such records), and all plans, surveys, maps, drawings, designs, data processing records, employment and personnel records (except for records relating to prospective Transferred Employees who do not give any necessary consent contemplated by Section 6.3(d) of this Agreement with respect to the release of such records), laboratory and testing files and records, Customer lists, files, and records, advertising and marketing data and records, credit records, records relating to suppliers, work papers relating to preparation of the Financial Statements and other data (provided that the Purchaser shall permit the Seller to make and retain copies of any such books and records on or prior to the Closing as may be required by applicable law);

(m) all credits, prepaid expenses, deferred charges, Tax refunds (other than (i) pending Tax refund claims arising out of or attributable to and offsets asserted by the Seller prior to the Closing with respect to Taxes incurred prior to the Closing and (ii) Tax refunds arising out of "net operating loss carry-forwards"), advance payments and prepaid items of the Seller relating to the Assets;

(n) all claims or causes of action relating to the Assets or the Business and any counterclaims, set-offs or defenses the Seller may have with respect to the Assumed Contracts or the Assumed Liabilities;

(o) all goodwill relating to the Assets and the Business;

(p) all computer software programs and databases (including source codes) owned or developed internally by the Seller and the right to use all computer software programs and databases licensed to (subject to applicable restrictions) or leased by the Seller, including, without limitation, Customer billing software and switch operation software;

(q) all insurance claims or insurance payments, and all proceeds thereof, in respect of the Assets, the operations of the Business or the Assumed Liabilities on account of losses arising prior to the Closing Date (other than insurance payments spent by the Seller to repair or replace any item that is included as an Asset that was the subject of such claim;

(r) all right, title and interest of the Seller in and to the telephone numbers used by the Seller in the conduct of the Business;

(s) whatever right, title and interest the Seller can transfer, if any, with respect to all property interests and related rights and interests, whether real, personal or mixed, and other assets and rights of any kind, both tangible and intangible, that have been (but no longer are) used in the Business, or operated or owned by the Seller, that were so used, owned or operated during the five (5) year period prior to the Petition Date, other than assets disposed of in the ordinary course of business on or before 180 days prior to the Petition Date (such dispositions not including, however, any dispositions to any affiliates of the Seller) and other than those assets listed in Section 1.2 of this Agreement or any Section of the Seller Disclosure Schedule related thereto as being part of the Excluded Assets; and

(t) any and all other assets, property interests and related rights and interests, whether real, personal or mixed, as to assets or rights of any kind, both tangible and intangible, that are not otherwise listed above but are owned, claimed or used by the Business or the Seller.

Notwithstanding the foregoing, the Assets exclude the Excluded Assets (as defined in Section 1.2 of this Agreement and, where applicable, described in the Section of the Seller Disclosure Schedule related thereto) but only the Excluded Assets.

Section 1.2 Excluded Assets.

The following assets, properties and rights (the "*Excluded Assets*") are not included in the Assets:

- (a) all cash and cash equivalents of the Seller, other than cash or cash equivalents in respect of or included in the items described in Sections 1.1(e), (i), (k), (m), (n) or (q) of this Agreement, and the deposits, credits, prepaid expenses, deferred charges, advance payments, prepaid items, insurance claims or insurance payments of the Seller identified in Section 1.2(a) of the Seller Disclosure Schedule;
- (b) all accounts receivable from any affiliate of the Seller including, without limitation, those from Dobson Telephone Company and Logix Communications Enterprises, Inc., all of which receivables are identified in Section 1.2(b) of the Seller Disclosure Schedule;
- (c) the minute books and stock records of the Seller;
- (d) the "Fiber Assets," which are those assets, including accounts receivable, specifically listed on Section 1.2(d) of the Seller Disclosure Schedule;
- (e) Contracts of the Seller other than the Assumed Contracts, including, without limitation, all Contracts listed on Section 1.2(e) of the Seller Disclosure Schedule;
- (f) all causes of action that the Seller has under the Bankruptcy Code and any recoveries thereon, and any counterclaims, set-offs or defenses the Seller may have exclusively with respect to the Excluded Liabilities and all claims and causes of action specified in Section 1.2(f) of the Seller Disclosure Schedule;
- (g) all books and records of the Business relating exclusively to the Excluded Assets or the Excluded Liabilities (provided that the Seller shall deliver to the Purchaser at or prior to the Closing a photocopy, or, with respect to books and records not preserved in writing, a copy of the medium in which preserved, of such books and records);
- (h) the Seller's rights under the Seller's directors and officers insurance policies;
- (i) except to the extent provided in Section 1.2(i) of the Seller Disclosure Schedule, the Seller's rights to net operating loss carry forwards and carrybacks relating to the Business for all taxable periods ending on or prior to the Closing Date; and
- (j) the rights in Contracts described in Section 1.2(j) of the Seller Disclosure Schedule.

Section 1.3 Assumed Liabilities.

The Purchaser shall, effective as of the Closing Date, assume and perform the obligations accruing under the Assumed Contracts designated pursuant to Sections 5.10 and 7.2 of this

Agreement wholly with respect to periods after the Closing Date to the extent such obligations are set forth in the written contracts provided by the Seller to the Purchaser (the "*Assumed Liabilities*"). Other than the Assumed Liabilities, the Purchaser is not assuming and shall not be liable for any liabilities or obligations of the Seller; provided, however, that the Purchaser shall also pay all sales, use, value added, transfer, registration or similar taxes and/or charges arising out of or attributable to the transactions contemplated by this Agreement.

Section 1.4 Excluded Liabilities.

The Seller and the Purchaser expressly understand and agree that the Seller (a) shall be solely liable and responsible for all liabilities and obligations of the Seller other than the Assumed Liabilities (collectively, the "*Excluded Liabilities*").

Section 1.5 Purchase Price.

(a) In consideration for the Assets, the Purchaser shall pay (in accordance with Section 1.5(b)) a purchase price (the "*Purchase Price*") equal to the sum of (i) Ten Million Dollars (\$10,000,000.00), (ii) eighty-one percent (81%) of the gross amount of the Seller's accounts receivable as would be reflected on the Seller's balance sheet prepared in accordance with GAAP as of the Closing Date included in the Assets and purchased by the Purchaser pursuant to this Agreement that are not aged more than one hundred twenty (120) days as of the Closing Date and (iii) an amount equal to the cure amounts owing under any of the Assumed Contracts immediately prior to the Closing to the extent such amounts are listed as the cure amounts listed in Section 1.5 of the Seller Disclosure Schedule for the Assumed Contracts and such amounts are confirmed by an order of the Bankruptcy Court as being all of the amounts that are required to be paid in order to effect the assumption and assignment of the Assumed Contracts.

(b) The Purchaser shall pay the Purchase Price as follows:

(i) No later than one (1) Business Day following the day on which the Overbid Procedures Order is signed, the Purchaser shall pay to the Seller as an initial deposit (the "*Deposit*") toward the Purchase Price the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), which shall be held by the Seller in a separate interest bearing account for disbursement to the Seller or return to the Purchaser in accordance with the provisions of this Agreement. All interest earned on the Deposit for all periods prior to the Closing Date or the termination of this Agreement, including termination pursuant to Section 9.3(a) or (b) of this Agreement, shall be for the account of the Purchaser. If the Closing occurs, the Deposit and all such interest shall be retained by the Seller and shall be credited against the remaining balance of the Purchase Price due at the Closing. If this Agreement is terminated without the Closing taking place for any reason other than termination by the Seller pursuant to Section 9.3(a) or (b) of this Agreement, the Deposit and all accrued interest thereon shall be returned to the Purchaser without further order of the Bankruptcy Court.

(ii) At the Closing, the Purchaser shall pay, after giving effect to the credit described in Section 1.5(b)(i) of this Agreement, the remaining balance of the portion of the Purchase Price described in Sections 1.5(a)(i) of this Agreement to

- (A) the Escrow Agent an amount (the "*Escrow Amount*") equal to One Million Dollars (\$1,000,000) to be held and disbursed by the Escrow Agent in accordance with the Escrow Agreement to be executed on or prior to the Closing Date; and
- (B) the Seller in immediately available funds the remaining balance of the portion of the Purchase Price described in Sections 1.5(a)(i) of this Agreement.

(iii) At the Closing or, if the parties agree that it is not practicable to determine the actual amount of the Purchase Price payable under Section 1.5(a)(ii) of this Agreement, such other date as they may mutually agree, the Purchaser shall pay the amount specified in Section 1.5(a)(ii) of this Agreement to the Seller in immediately available funds.

(iv) At or in connection with the Closing, the Purchaser shall make the payments (against receipts and proofs of payment) described in Section 1.5(a)(iii) of this Agreement in accordance with the procedures described in Section 1.5 of the Seller Disclosure Schedule. To the extent provided in Section 1.5 of the Seller Disclosure Schedule, at the Closing the Seller shall be responsible for applying the payments so made by the Purchaser to discharge the cure amounts described in Section 1.5 of the Seller Disclosure Schedule with respect to the Assumed Contracts.

Section 1.6 License.

For a period of 120 days after the Closing Date, the Purchaser agrees to grant to the Seller a non-exclusive, fully-paid and non-transferable license to use the name "Logix" with respect to the operations of the Fiber Division in the same manner and to the same extent as the Fiber Division has historically used such name in its operations; provided, however, that within such 120 day period, the Seller will develop and begin to use a name that is not confusingly similar to "Logix" and that does not incorporate "Logix" (or any derivatives thereof).

Section 1.7 Allocation of Purchase Price.

Promptly following the Closing Date, the Purchase Price shall be allocated among the Assets in such amounts as shall be specified in a schedule (the "*Allocation Schedule*") to be prepared by the Purchaser, subject to the approval of the Seller (such approval not to be unreasonably conditioned, withheld or delayed), in accordance with Section 1060 of the Code and the applicable Treasury Regulations related thereto. If the Seller does not offer reasonable objections to such Allocation Schedule within thirty (30) days after the Purchaser delivers such Allocation Schedule to the Seller, the Allocation Schedule shall be deemed to be binding upon the Purchaser and the Seller. Each of the Purchaser and the Seller agrees to report the effect of

the transactions contemplated hereby on all applicable Tax Returns or filings in a manner consistent with the final Allocation Schedule. The Seller and the Purchaser will each file all Tax Returns, including IRS Form 8594, in a manner consistent with the Allocation Schedule and shall take no position in any Tax Return, Tax proceeding, Tax audit or otherwise which is inconsistent with the Allocation Schedule. Neither the Seller nor the Purchaser shall, after filing IRS Form 8594, revoke or amend IRS Form 8594 without the written consent of the other.

ARTICLE II THE CLOSING

Section 2.1 Closing.

The closing of the transactions contemplated by this Agreement (the "*Closing*") shall take place at the offices of Andrews & Kurth, Mayor, Day, Caldwell & Keeton, L.L.P., 600 Travis, Suite 4200, Houston, Texas 77002, at 10:00 a.m. local time on the first Business Day after the conditions set forth in Article VIII of this Agreement shall have been satisfied or waived or at such other time, day and place as shall be fixed by agreement among the parties (the date of the Closing being herein referred to as the "*Closing Date*"). The effective time of the Closing shall be deemed to be 12:01 a.m. local time on the Closing Date.

Section 2.2 Deliveries at Closing.

(a) At the Closing, the Seller shall deliver to the Purchaser:

(i) a duly executed bill of sale and such other duly executed instruments of conveyance, transfer and assignment as may be required to transfer to the Purchaser all of the Seller's right, title and interest in and to the Assets, including, without limitation, (A) applicable assignments of each lease as to real property leasehold interests held by the Seller, each in a form and substance reasonably acceptable to the Purchaser, (B) applicable assignments of the Names and the other Intellectual Property and (C) applicable assignments of the Assumed Contracts, which assignments shall include any consents of third parties required to assign such Assumed Contracts to the Purchaser, each in a form and substance reasonably acceptable to the Purchaser;

(ii) a certificate of the Seller certifying as to the continued accuracy of the representations and warranties (subject to any applicable materiality standards applicable thereto) of the Seller (other than representations and warranties made as of a specific date or time) and compliance with the covenants and conditions precedent to the Closing which are incumbent upon the Seller. With respect to representations and warranties made as of a specific date or time, such representations and warranties shall be updated in accordance with Section 5.12 of this Agreement, and such certificate shall certify that such representations and warranties were accurate (subject to any applicable materiality standards applicable thereto) as of such date or time and as so updated;

(iii) an incumbency certificate certifying as to the authority of the Seller's signatories to sign on behalf of the Seller;

(iv) a Seller Disclosure Schedule that is updated as of the Closing Date, or in the case of representations and warranties made as of a specific date or time, in accordance with Section 5.12 of this Agreement, which updated schedule shall reflect the Purchaser's determination pursuant to Section 7.2 of this Agreement as to which Contracts will be Assumed Contracts that the Purchaser will acquire hereunder; and

(v) certified copies of the 363 Order and the 365 Order and other certificates or evidences reasonably requested by the Purchaser to establish the approval of the transactions contemplated hereby by any and all corporate, private, governmental and judicial authority required to give the approvals set forth in Section 3.3 of the Seller Disclosure Schedule in order to consummate the actions and transactions contemplated hereby and to vest title in the Assets (free of all Encumbrances) to the extent contemplated by Section 1.1 of this Agreement.

(b) At the Closing, the Purchaser shall deliver to the Seller:

(i) such duly executed instruments as may be required to effectuate the assumption by the Purchaser of the Assumed Liabilities, including liabilities under the Assumed Contracts, and the grant of the license contemplated by Section 1.6 of this Agreement, and such other duly executed documents and certificates as may be required to be delivered by the Purchaser pursuant to the terms of this Agreement;

(ii) a certificate of the Purchaser certifying as to the continued accuracy of the representations and warranties (subject to any applicable materiality standards applicable thereto) of the Purchaser (other than representations and warranties made as of a specific date or time) and compliance with the covenants and conditions precedent to the Closing which are incumbent upon the Purchaser. With respect to representations and warranties made as of a specific date or time, such representations and warranties shall be updated in accordance with Section 5.12 of this Agreement, and such certificate shall certify that such representations and warranties were accurate as (subject to any applicable materiality standards applicable thereto) of such date or time and as so updated;

(iii) a certificate of the corporate secretary of the Purchaser certifying copies of the Purchaser's Board of Directors consents and/or meeting minutes evidencing authorization of the transactions contemplated herein;

(iv) an incumbency certificate certifying as to the authority of the Purchaser's signatories to sign on behalf of the Purchaser; and

(v) a Purchaser Disclosure Schedule that is updated as of the Closing Date.

(c) At the Closing, the obligations for payment of all real estate Taxes and assessments with respect to the real property of the Seller included in the Assets for the taxable period beginning before and ending after the Closing Date shall be apportioned between the Seller and the Purchaser as of the Closing Date in accordance with Section 164(d) of the Code.

All personal property, motor vehicle (including road use) and ad valorem Taxes levied or imposed upon the Assets by any governmental authority for the taxable period beginning before and ending after the Closing Date shall be apportioned or prorated on a per diem basis between the Seller and the Purchaser as of 11:59 p.m., Houston, Texas time., on the day before the Closing Date. If the actual amounts to be prorated are not known as of the Closing Date, the prorations shall be made on the basis of Taxes assessed for the prior taxable period. Except as set forth below, no proration shall be made for utility charges including, without limitation, water, wastewater, telephone, gas and electricity. The Seller shall terminate the Seller's accounts relating to the Business and the Assets being acquired by the Purchaser hereunder (but not the service itself) with the providers of all such services as of the Closing Date. The Seller shall not be required to terminate any accounts relating exclusively to the Excluded Assets. Prior to the Closing Date, the Purchaser shall make application to the service providers for the continuation of such services in the name of the Purchaser. It is anticipated that, in connection with all such utility services, the meters will be read on or about the Closing Date, and the Seller shall be responsible for paying the bills accruing for such services on or prior to the Closing Date, and the Purchaser shall be responsible for the payment of all such bills accruing after the Closing Date. If any such accounts are not paid in full and terminated, they shall be prorated as of the Closing Date with the Seller being charged and credited for all of the same up to the Closing Date and for all prior periods during the Seller's ownership and the Purchaser being charged and credited for all of the same on or after the Closing Date. If all amounts to be prorated are not known as of the Closing Date, the prorations shall be made on the basis of the last bill received immediately preceding the Closing. Except for those instances in which the Seller has not paid a utility account in full and terminated such account, in which case any deposit held by the applicable utility service provider shall be first applied to any outstanding amounts due and owing and any balance remaining shall then be returned to the Seller, the Seller shall keep and retain all rights to any deposits held by any utility service providers in connection with the real property included in the Assets. The provisions of this Section 2.2(c) shall survive the Closing. To the extent that the Purchaser or the Seller is entitled to an apportionment or pro ration pursuant to this Section 2.2(c), the other party agrees to pay such apportionment or pro ration promptly following the determination of the amount thereof, but in no event more than sixty (60) days following such determination.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE SELLER

Except as otherwise disclosed to the Purchaser in a schedule attached hereto and made a part hereof (which schedule contains appropriate references to identify the representations and warranties herein to which the information in such schedule relates) (the "*Seller Disclosure Schedule*"), the Seller represents and warrants to the Purchaser as follows:

Section 3.1 Organization.

The Seller is a corporation validly existing and in good standing under the laws of the State of Oklahoma and has the corporate power and authority and all necessary approvals, including, without limitation, governmental approvals, to own, lease and operate its properties and to carry on its business as it is now being conducted or presently proposed to be conducted.

The Seller is duly qualified as a foreign corporation do business, and is in good standing, in the jurisdictions listed in Section 3.1 of the Seller Disclosure Schedule.

Section 3.2 Authority Relative to this Agreement.

The Seller has the corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. Subject to the entry by the Bankruptcy Court of the 363 Order and the 365 Order in the Chapter 11 Case, this Agreement has been duly and validly executed and delivered by the Seller and (assuming this Agreement constitutes a valid and binding obligation of the Purchaser) constitutes a valid and binding agreement of the Seller, enforceable against the Seller in accordance with its terms, subject to general equitable principles.

Section 3.3 Consents and Approvals.

No consent, approval or authorization of, or declaration, filing or registration with, any United States or foreign federal, state, county, municipal or other governmental or regulatory authority or other Person is required to be made or obtained by the Seller in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, except for (a) consents, approvals, or authorizations of, or declarations or filings with, the Bankruptcy Court, (b) consents, approvals, authorizations, declarations or filings identified in Section 3.3 of the Seller Disclosure Schedule, including, without limitation, those with respect to the transfer of any Permits to the Purchaser and (c) consents, approvals, authorizations, declarations, filings or registrations, which, if not made or obtained, would not, individually or in the aggregate, have a Seller Material Adverse Effect. The items described in clauses (a) and (b) of this Section 3.3 are hereinafter referred to as the "*Governmental Requirements.*"

Section 3.4 No Violations.

Assuming that the consents, approvals, authorizations, declarations and filings referred to in Section 3.3 of this Agreement have been made or obtained and shall remain in full force and effect, neither the execution, delivery or performance of this Agreement by the Seller, nor the consummation by the Seller of the transactions contemplated hereby, nor compliance by the Seller with any of the provisions hereof, will (a) result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation, vesting, payment, exercise, acceleration, suspension or revocation) under any of the terms, conditions or provisions of any Contract, other obligation (including Assumed Liabilities) that could materially and adversely affect the Assets or result in a Seller Material Adverse Effect, (b) violate any order, writ, injunction, decree, statute, rule or regulation applicable to the Seller or any of the Assets, or Assumed Liabilities, (c) result in the creation or imposition of any Encumbrance on any of the Assets or (d) cause the suspension or revocation of any Permit necessary for the Purchaser to conduct the Acquired Business as currently conducted, except for violations, breaches, defaults, terminations, cancellations, accelerations, creations, impositions, suspensions or revocations that (i) would not, individually or in the aggregate, have a Seller Material Adverse Effect, (ii) are excused by or unenforceable as a result of the entry of

the 363 Order and the 365 Order or (iii) are set forth in Section 3.4 of the Seller Disclosure Schedule.

Section 3.5 Financial Statements.

Except as set forth in Section 3.5 of the Seller Disclosure Schedule, the audited consolidated balance sheets for the Seller for the fiscal years ended December 31, 1999 and 2000 and the related statements of income, changes in stockholders' equity and cash flow for each of the fiscal years then ended (including any related notes and schedules thereto) and the unaudited balance sheets for the Seller for the fiscal year ended December 31, 2001 and for the two (2) months ended February 28, 2002 and the related statements of income and cash flow for each of the periods then ended (including any related notes and schedules thereto) previously provided to the Purchaser (collectively, the "*Financial Statements*") fairly present, in conformity with generally accepted accounting principles ("GAAP") applied on a consistent basis (except as may be indicated in the notes thereto), the financial position of the Seller as of the dates thereof and the results of its operations and changes in its financial position for the periods then ended, subject, in the case of the balance sheet as of February 28, 2002 and related statements of income and cash flow for the two (2) month period then ended, to normal recurring year-end adjustments (the effect of which will not, individually or in the aggregate, be materially adverse) and the absence of notes (that, if presented, would not differ materially from those included in balance sheet for the fiscal year ended December 31, 2001).

Section 3.6 Absence of Certain Changes; Events Subsequent to Filing of Petition.

Except as set forth in Section 3.6 of the Seller Disclosure Schedule and except as reflected in the Financial Statements, since the Petition Date:

- (a) there has been no event or condition that has had (or is reasonably likely to result in) a Seller Material Adverse Effect other than the filing of the Chapter 11 Case;
- (b) the Seller has not taken any action that, if taken after the date hereof, would violate Section 5.1 of this Agreement;
- (c) the Seller has conducted its business and affairs in accordance with the requirements of the Bankruptcy Code; and
- (d) the Seller has in all material respects conducted its business in a commercially reasonable manner (by industry standard) designed to preserve the status quo of, if not enhance, the Business as of the Petition Date.

Section 3.7 Litigation.

Except as disclosed in the notes to the Financial Statements or as set forth in Section 3.7 of the Seller Disclosure Schedule, there is no suit, action, proceeding or investigation (whether at law or equity, before or by any federal, state or foreign commission, court, tribunal, board, agency or instrumentality, or before any arbitrator) pending or, to the best knowledge of the

Seller, threatened against or affecting the Seller, the outcome of which, in the reasonable judgment of the Seller, is likely, individually or in the aggregate, to have a Seller Material Adverse Effect, nor is there any judgment, decree, injunction, rule or order of any court, governmental department, commission, agency or instrumentality or any arbitrator outstanding against the Seller having, or that insofar as can reasonably be foreseen in the future may, individually or in the aggregate, have, a Seller Material Adverse Effect. None of the matters disclosed in the notes to the Financial Statements or set forth in Section 3.7 of the Seller Disclosure Schedule is a claim for personal injuries.

Section 3.8 No Related Person Transactions; Assets Complete.

(a) Except as described in Section 3.8(a) of the Seller Disclosure Schedule, to the Seller's knowledge none of the Related Persons of the Seller:

(i) currently has any interest in any property (whether real, personal, or mixed and whether tangible or intangible), used in or pertaining to the Seller's assets or business, or made any use of any such assets;

(ii) is currently conducting any business with the Seller, including acting as a lender or borrower or providing any goods or services to (or acquiring any goods or services from) the Seller;

(iii) currently owns (of record or as a beneficial owner) an equity interest or any other financial or profit interest in, a Person that has (A) had business dealings or a material financial interest in any transaction with the Seller, or (B) engaged in competition with the Seller with respect to any line of the products or services of the Seller in any market presently served by the Seller.

Except as described in Section 3.8(a) of the Seller Disclosure Schedule no Related Person of the Seller is a party to any Contract with, or has any claim or right against, the Seller. Except as described in Section 3.8(a) of the Seller Disclosure Schedule, to the Seller's knowledge none of the Related Persons of the Seller had any interest in, business relationship with, ownership or contractual relationship with the Seller not currently in effect, but entered into after January 1, 2002 and representing in value, cost or amount \$100,000 individually or \$500,000 in the aggregate.

(b) No Person other than the Seller and the lessors or licensors of Assets leased or licensed under Contracts described in Sections 3.15(a), (g), (h) and/or (l) of this Agreement and listed in the corresponding Sections of the Seller Disclosure Schedule related thereto has any interest in any of the Assets or other property or assets necessary for the conduct of the Acquired Business. The Assets constitute all of the material assets, properties and rights that were used to generate the revenue and to produce the financial results reflected in the statements of income, changes in stockholders' equity and cash flow included in the Financial Statements and reflected on the balance sheets included therein, except for assets, properties and rights disposed of during the periods covered by the Financial Statements and reflected therein or disclosed in

Section 3.8(b) of the Seller Disclosure Schedule, which dispositions were in the ordinary course of business and in accordance with the Seller's past practices.

Section 3.9 No Default.

Except as set forth in Section 3.9 of the Seller Disclosure Schedule, the Seller is not in violation or breach of, or default under (and no event has occurred that with notice or the lapse of time or both would constitute a violation or breach of, or a default under) any term, condition or provision of (i) any Contract (including any Assumed Liabilities or Assumed Contracts), (ii) any order, writ, injunction, decree, statute, rule or regulation applicable to the Seller or any of the Seller's properties or assets or (iii) any Permit necessary for the Seller to conduct its business as currently conducted, except for breaches, defaults or violations that (A) would not, individually or in the aggregate, have a Seller Material Adverse Effect or (B) are excused by or unenforceable as a result of the entry of the 363 Order. Section 1.5 of the Seller Disclosure Schedule sets forth a description of each violation, breach or default of the Seller in respect of the items described in Section 3.9 of the Seller Disclosure Schedule and all payments that must be made or other actions that must be taken in order to completely cure each such violation, breach or default.

Section 3.10 No Violation of Law.

Except as disclosed in Section 3.10 of the Seller Disclosure Schedule or the Financial Statements and except for violations, which, individually or in the aggregate, could not reasonably be expected to have a Seller Material Adverse Effect, the Seller is not in violation of, and has not been given notice or been charged with any violation of, any law, statute, order, rule, regulation, ordinance or judgment (including, without limitation, any applicable environmental law, ordinance or regulation) of any governmental or regulatory body or authority. Except as disclosed in Section 3.10 of the Seller Disclosure Schedule or the Financial Statements, no investigation or review by any governmental or regulatory body or authority is pending or, to the knowledge of the Seller, threatened, nor, to the knowledge of the Seller, has any governmental or regulatory body or authority indicated an intention to conduct the same, other than, in each case, those the outcome of which, as far as can reasonably be foreseen in the future, will not, individually or in the aggregate, have a Seller Material Adverse Effect, and the Seller has all permits, licenses, franchises, variances, exemptions, orders and other governmental authorizations, consents and approvals necessary to conduct its business as presently conducted, including, without limitation, all inter-exchange carrier ("*IXC*"), competitive access provider and local exchange carrier ("*LEC*") or competitive local exchange carrier ("*CLEC*") approvals required in connection with the Acquired Business (collectively, the "*Permits*"), except for permits, licenses, franchises, variances, exemptions, orders, authorizations, consents and approvals the absence of which, individually or in the aggregate, would not have a Seller Material Adverse Effect. The Seller is not in violation of the terms of any Permit, except for delays in filing reports or violations, which, in either case, individually or in the aggregate, would not have a Seller Material Adverse Effect.

Section 3.11 [Reserved.]

Section 3.12 Title to and Condition of Assets.

(a) Except as set forth in Section 3.12(a) of the Seller Disclosure Schedule:

(i) the Seller has good and valid title to the Assets free and clear of any Encumbrances;

(ii) the Seller does not own and never has owned any real property, and all real property held or used by the Seller in the conduct of the Business is held or used by the Seller pursuant to a lease or other contractual arrangement designated in Section 3.12(a)(iii) of the Seller Disclosure Schedule;

(iii) all real estate or equipment or other tangible personal property constituting any part of the Assets that is used or held by the Seller pursuant to any lease or other contractual arrangement other than by ownership is designated in Section 3.12(a)(iii) of the Seller Disclosure Schedule;

(iv) the Seller has provided the Purchaser complete and accurate copies of all leases or other contractual arrangements, including all amendments, supplements and other modifications thereto, listed in Section 3.12(a)(iii) of the Seller Disclosure Schedule, and none of such leases or other contractual arrangements has been amended, supplemented or otherwise modified since the date such copies were provided to the Purchaser;

(v) the Seller has valid leasehold interests in, or has other valid contractual rights to use, all of the Assets being acquired by the Purchaser hereunder of the type described in Section 3.12(a)(iii) of this Agreement;

(vi) the Seller is in peaceful and undisturbed possession of the space or estate under the leases or other agreements under which it is a tenant or entitled to use the properties of a type described in Section 3.12(a)(iii) of this Agreement; and

(vii) as to all properties being acquired by the Purchaser hereunder of the type described in Section 3.12(a)(iii) of this Agreement, either (A) the Seller is in no respect in default or delinquent in performing its obligations under such leases or other agreements, or (B) any such default or delinquency will be fully cured in accordance with Section 5.10 of this Agreement, or otherwise may not be asserted against the Purchaser or the Assets, as a result of the entry by the Bankruptcy Court of the 363 Order and the 365 Order, such that the Seller's rights in and under all such leases or other agreements shall vest in the Purchaser upon the Closing without reversion or diminution.

(b) Section 3.12(b) of the Seller Disclosure Schedule sets forth a complete and accurate list as of February 28, 2002, of all of the fixed assets of the Seller, whether owned or leased, including, without limitation, all furnishings, furniture, fixtures, office supplies, vehicles (including all certificated motor vehicles), spare parts, tools, machinery, equipment, computers, switches, back-up or standby generators and other tangible personal property of the Seller, other

than the fixed assets described on Section 1.2 (d) of the Seller Disclosure Schedule; provided, however, that no breach of the foregoing representation shall be deemed to occur if the listing of fixed assets set forth in Section 3.12(b) of the Seller Disclosure Schedule contains errors or is incomplete with respect to fixed assets of the Seller that, in the aggregate, had a historical cost basis, as reflected on the Seller's books and records, of \$5,000,000 or less (out of the approximately \$90,968,000 in fixed assets reflected on Section 3.12(b) of the Seller Disclosure Schedule).

(c) Except as would not reasonably be expected to have or result in a Seller Material Adverse Effect or except as set forth on Section 3.12(c) of the Seller Disclosure Schedule, the material Assets, both tangible and intangible, whether real or personal, whether owned or leased, conform to all applicable laws, ordinances and regulations, are in good working condition and repair in light of industry standards, with no material defects, with no need for maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost.

(d) Except as set forth in Section 3.12(d) of the Seller Disclosure Schedule, at the Closing, the Seller will convey to the Purchaser, and the Purchaser will acquire, all of the Assets, free and clear of any and all Encumbrances.

Section 3.13 Certain Regulatory Matters.

(a) Except as disclosed in Section 3.13(a) of the Seller Disclosure Schedule, there are no proceedings or, to the Seller's knowledge, investigations pending or threatened before any domestic or foreign court or any administrative, governmental or regulatory body (including, without limitation, those in which any of the following matters is being considered) which could reasonably be expected to have a Seller Material Adverse Effect:

- (i) reduction of rates charged to Customers;
- (ii) refunds of amounts previously charged to Customers;
- (iii) failure to meet any expense, infrastructure, service quality or other commitments previously made to or imposed by any administrative, governmental or regulatory body; or
- (iv) unauthorized switching of Customers (a/k/a "slamming") or inappropriate billing of Customers.

(b) The Seller has not transferred, sold any interest in, or otherwise diluted its control over any federal or state regulatory licenses, certificates, approvals or other authorizations under which it operates, and the transfer of such licenses, certificates, approvals and other authorizations, subject to regulatory approval, would not violate the terms of any Contract to which the Seller is a party or by which the Seller is bound, or impinge the rights of any third party, except as disclosed in Section 3.13(b) of the Seller Disclosure Schedule.

Section 3.14 [Reserved.]

Section 3.15 Contracts.

Section 3.15 of the Seller Disclosure Schedule contains a complete and accurate list of all Contracts (other than the Contracts identified in Section 1.2(d) of the Seller Disclosure Schedule as exclusively related to the Fiber Division) related to the Business or to which any of the Assets is subject or by which any of the Assets is bound that meet any of the descriptions set forth below:

- (a) any one lease for switches or any other machinery, equipment or other personal property involving payment by the Seller of aggregate rentals in excess of fifty thousand dollars (\$50,000) during the term of such leases;
- (b) any Contract for the purchase by the Seller of any materials or supplies or services in excess of fifty thousand dollars (\$50,000);
- (c) any Contract for the purchase by the Seller of equipment or any construction or other similar agreement involving any expenditure in excess of fifty thousand dollars (\$50,000);
- (d) any purchase order, agreement or commitment obligating the Seller to sell or deliver any products or services (i) at a price which does not cover the cost (including labor, materials and production overhead) plus the customary profit margin associated with such product or service or (ii) for more than fifty thousand dollars (\$50,000) to any one Customer or related group of Customers;
- (e) any Contract evidencing or related to any obligation or liability by which any Asset with a historical cost basis of fifty thousand dollars (\$50,000) or more was acquired or its acquisition was financed;
- (f) any joint venture, partnership or other cooperative arrangement or any other agreement involving a sharing of profits with any other Person;
- (g) any sales agency, brokerage, license, royalty, distribution or similar Contract currently in effect, pursuant to which (i) the Seller is or was obligated to pay or is entitled to receive more than fifty thousand dollars (\$50,000) during the term of such Contract or (ii) any Person has the right to manufacture, design, sell or distribute any products currently manufactured, designed, sold or distributed by the Seller;
- (h) any deed, lease, agreement or other instrument pursuant to which the Seller derives its right, title or interest in or to any material portions of its real properties or to any material rights of way or other means of access to its real properties;
- (i) any employment, consulting or similar Contract, any sales or commission agent Contract, any Employee Benefit Plans and any other written plan, Contract or policy for officers, directors or employees with respect to salaries, insurance, bonuses, incentive compensation,

pensions, deferred compensation, hospitalization, retirement payments, profit sharing, paid vacations or other benefits;

(j) [Reserved.];

(k) any Contract which requires the consent of any Person not a party hereto for the consummation of the transactions contemplated by this Agreement, including assumption and assignment of the Assumed Contracts;

(l) except for those Contracts listed on Sections 1.2(d) or 3.16(a) of the Seller Disclosure Schedule, any Contract upon which the Business is materially dependent including, without limitation, licenses or leases for the use of software programs or databases used for Customer billing or switch operations;

(m) any Contract pursuant to which the Seller has access to the telephone or other communications network (whether voice, data or video) of another Person for the purposes of providing services to Customers and any Contract for the resale of any network capacity of the Seller and all infeasible rights of use or agreements to obtain minutes of use or other measures of capacity;

(n) all Contracts relating to the purchase or provision of frame relay services and/or facilities (other than those listed on Section 1.2(d) of the Seller Disclosure Schedule), including, without limitation, purchasing, sales, co-location, interconnection, traffic sharing and mutual compensation agreements; and

(o) any other Contract related to the Acquired Business (other than Contracts excluded by an express exception from the descriptions set forth above or listed on Section 1.2(d) of the Seller Disclosure Schedule) which (i) provides for payment or performance by either party thereto having an aggregate value of fifty thousand dollars (\$50,000) or more or (ii) otherwise is or could reasonably be expected to be material to the Acquired Business.

True and complete copies of each such written Contract (or written summaries of the terms of any such oral Contract) have been or will be made available to the Purchaser (i) with respect to all Contracts deemed material to the Acquired Business by the Seller, on or prior to 5:00 p.m., Houston time, within five (5) days after the date that the Overbid Procedures Order has been approved by the Bankruptcy Court, and (ii) with respect to all other Contracts, on or prior to 5:00 p.m., Houston time, within ten (10) days after the Overbid Procedures Order has been so approved. Except as set forth in Section 3.15 of the Seller Disclosure Schedule, all of the Contracts described above are in full force and effect, no defaults on the part of the Seller or, to the knowledge of the Seller, any other party thereto exist under any of the Contracts described above, and the Seller has not received notice, nor does the Seller otherwise have knowledge, that any party to any such Contract intends to cancel, terminate, or refuse to renew such Contract or to exercise or decline to exercise any option or right thereunder. To the extent the Seller is (or with notice or the lapse of time or both, would be) in default under any Contract described above, the nature of each such default and the payments or other actions necessary to fully cure each such default are set forth in Section 3.15 of the Seller Disclosure Schedule.

Section 3.16 Intellectual Property and Other Intangible Property.

(a) Section 3.16(a) of the Seller Disclosure Schedule sets forth a complete and correct list of all of the material Intellectual Property used in the Business (other than the Intellectual Property included in the Excluded Assets and listed on Section 1.2(d) of the Seller Disclosure Schedule), including, without limitation, all computer software programs and databases (including source codes) owned or developed internally by the Seller and all other computer software programs and databases used by, licensed to (subject to applicable restrictions) or leased by the Seller, including, without limitation, Customer billing software and switch operation software, it being understood and agreed that all computer software programs and databases (including source codes) are considered to be part of the "material" Intellectual Property and, therefore, listed in Section 3.16(a) of the Seller Disclosure Schedule. The Seller has provided the Purchaser with access to copies of all of the documents relating to the foregoing Intellectual Property as requested by the Purchaser. Section 3.16(a) of the Seller Disclosure Schedule separately identifies each item of such material Intellectual Property that any third party owns and that the Seller uses pursuant to license, sublicense, Contract or permission and describes such relationship and lists such third party. The Seller has supplied the Purchaser with correct and complete copies of all such licenses, sublicenses, Contracts and permissions (as amended to date).

(b) The Seller owns or has the right to use, pursuant to license, sublicense, Contract or permission, all of the Intellectual Property and other intangible assets used by the Seller in and material to the operation of the Acquired Business as it is currently being conducted. To the Seller's knowledge, such Intellectual Property rights are all of the rights necessary to the conduct of the Acquired Business. Except as set forth in Section 3.16(b) of the Seller Disclosure Schedule, the Seller has full power and authority to transfer all of the rights of the Seller with respect to such Intellectual Property, including all licenses used in the Acquired Business, without consent or approval of any other Person (without any cure or payments being made) and without violating the terms of any license or other agreement.

(c) Except as set forth in Section 3.16(c) of the Seller Disclosure Schedule, (i) no proceedings have been instituted, nor to the knowledge of the Seller are any pending or threatened, which challenge any rights of the Seller in respect of the Intellectual Property or any other intangible property of the Seller used in the Acquired Business or the validity thereof; (ii) the Seller's use of any such rights and the operation of the Acquired Business as it is currently conducted do not infringe upon the Intellectual Property or other proprietary rights of any Person to the extent that such infringement, misappropriation conflict or violation would adversely affect the Assets, the Purchaser's continued use or ownership thereof following the Closing or would constitute an infringement, misappropriation, conflict or violation if the Purchaser continues to use the Assets in the same manner as the Seller uses them prior to the Closing Date, nor to the knowledge of the Seller do any facts exist which indicate a likelihood of any infringement or misappropriation by, or conflict with, any Person with respect to such rights; (iii) the Seller has not infringed upon, misappropriated or otherwise conflicted with or violated any proprietary rights of any Person to the extent that such infringement, misappropriation conflict or violation would adversely affect the Assets, the Purchaser's continued use or

ownership thereof following the Closing or would constitute an infringement, misappropriation, conflict or violation if the Purchaser continues to use the Assets in the same manner as the Seller uses them prior to the Closing Date, nor is the Seller aware of any such infringement, misappropriation, conflict or violation which will occur as a result of the transactions contemplated herein; and (iv) each item of Intellectual Property and all other intangible property owned or used by the Seller immediately prior to the Closing hereunder in connection with the Acquired Business will be owned or available for use by the Purchaser on identical terms and conditions immediately subsequent to the Closing hereunder.

Section 3.17 Employee Benefit Plans.

(a) Section 3.17 of the Seller Disclosure Schedule sets forth each Employee Benefit Plan that the Seller or any entity that is (or at any time has been) part of a controlled group of companies or businesses with the Seller within the meaning of Section 414 of the Code ("Related Company") maintains, to which the Seller or any Related Company contributes or with respect to which the Seller or any Related Company has or may have liability (each such Employee Benefit Plan a "Seller Employee Benefit Plan").

(b) To the Seller's knowledge, no action or omission has occurred with respect to any Seller Employee Benefit Plan that could in any way adversely affect the Acquired Business or the Assets.

(c) The Seller has furnished to the Purchaser true, complete and correct copies of: (i) each Seller Employee Benefit Plan; (ii) the most recently filed annual report on Form 5500 and the related summary annual report distributed to participants with respect to each such Seller Employee Benefit Plan (if any such report was required); (iii) all resolutions of the Seller's board of directors adopting, amending or terminating any Seller Employee Benefit Plan; (iv) the most recent summary plan description and each summary of material modifications thereto for each Seller Employee Benefit Plan if required by ERISA; (v) each trust agreement or other funding arrangement relating to any Seller Employee Benefit Plan; (vi) the most recent IRS determination letters or ruling issued with respect to each Seller Employee Benefit Plan; (vii) descriptions of all claims, lawsuits or similar actions filed and pending (other than for benefits in the normal course), with respect to each Seller Employee Benefit Plan; and (viii) a listing of all employees of the Seller that indicates for each employee the date of commencement of service, job title or brief job description and the amount of such employee's salary and bonus.

Section 3.18 Labor Matters.

Except as set forth in Section 3.18 of the Seller Disclosure Schedule: (a) The Seller is not a party to any collective bargaining agreement, and no such agreement is applicable to any employees of the Seller; (b) there are no controversies between the Seller and its employees that might reasonably be expected to have, individually or in the aggregate, a Seller Material Adverse Effect; (c) to the Seller's knowledge, there are no organizational efforts presently being made or threatened involving any employees of the Seller; and (d) there are no discrimination or harassment charges (relating to sex, sexual orientation, age, religion, race, national origin, ethnicity, disability or veteran status) pending or threatened, before any federal, state, local or

foreign government or any agency, authority or instrumentality thereof against the Seller that could in any way have a material adverse effect on the Acquired Business or the Assets, and there is no basis for any such charges.

Section 3.19 Trade Receivables; Other Claims.

(a) Section 3.19(a) of the Seller Disclosure Schedule sets forth the complete and accurate amount (on an aggregate basis) of all of the Trade Receivables as of the date of this Agreement. Section 3.19(a) of the Seller Disclosure Schedule also includes an aging as of each account receivable (on an aggregate basis) included in the Trade Receivables as of the date of this Agreement and separately sets forth the amount of Customer deposits (on an aggregate basis) included in the Trade Receivables as of the date of this Agreement, except for omissions of such amounts as would not reasonably be expected to have a Seller Material Adverse Effect.

(b) Except as set forth in Section 3.19(b) of the Seller Disclosure Schedule, all Trade Receivables arose from bona fide transactions in the ordinary course of business, and otherwise represent valid receivables in accordance with GAAP, and no such Trade Receivables are subject to any rights of setoff or counterclaims. To the best of the Seller's knowledge the Trade Receivables would be collectible in the ordinary course of business, without recourse to litigation or a collection agency, not later than one hundred twenty (120) days after the billing date thereof.

(c) Section 3.19(c) of the Seller Disclosure Schedule sets forth a list of all credits, prepaid expenses, deferred charges, advance payments, security deposits and prepaid items in favor of the Seller and included in the Assets, that are individually \$5,000 or more (other than items of similar description listed on Section 1.2(d) of the Seller Disclosure Schedule) (and, in each case, guaranties and other security from third parties relating thereto). Such list is accurate and complete in all material respects as of the date of this Agreement.

Section 3.20 Environmental Matters; Health and Safety and Other Laws.

The Seller is, and on the Closing Date will be, in material compliance with all federal, state and local laws, regulations, permits, orders and decrees, including, without limitation, those relating to protection of the environment and employee health and safety ("*Applicable Requirements*"). The Seller has not received any written notice to the effect that its operations are not in compliance with any of the Applicable Requirements or the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or other substance (including petroleum products) into the environment, and the Seller has no knowledge of any facts which could constitute the basis for any of the foregoing.

Section 3.21 Records.

The books and records of or relating to the Acquired Business and the Assets (including those items to be conveyed to the Purchaser pursuant to Section 1.1(l) of this Agreement) are, and on the Closing Date will be, complete and correct in all material respects, and there have

been, and will be, no material transactions which are required to be set forth therein which have not been so set forth.

Section 3.22 Disclosure.

The representations and warranties of the Seller contained in this Agreement, the Seller Disclosure Schedule, each exhibit, each schedule and certificate or other written statement delivered by or on behalf of the Seller pursuant to this Agreement are accurate, correct and complete in all material respects, do not contain any untrue statement of a material fact or, in light of the circumstances in which made, omit to state a material fact necessary in order to make the statements and information contained herein or therein not misleading. Any furnishing of information to the Purchaser by the Seller pursuant to, or otherwise in connection with, this Agreement, including, without limitation, any information contained in any document, Contract, book or record of the Seller to which the Purchaser shall have access or any information obtained by, or made available to, the Purchaser as a result of any investigation made by or on behalf of the Purchaser prior to or after the date of this Agreement shall not affect the Purchaser's right to rely on any representation, warranty, covenant or agreement made or deemed made by the Seller in this Agreement and shall not be deemed a waiver thereof.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

Except as otherwise disclosed to the Seller in a schedule annexed hereto (which schedule contains appropriate references to identify the representations and warranties herein to which the information in such schedule relates) (the "*Purchaser Disclosure Schedule*"), the Purchaser represents and warrants to the Seller as follows:

Section 4.1 Organization.

The Purchaser is a corporation validly existing and in good standing under the laws of the State of Texas and has the corporate power and authority and all necessary governmental approvals to own, lease and operate its properties and to carry on its business as it is now being conducted or presently proposed to be conducted.

Section 4.2 Authority Relative to this Agreement.

The Purchaser has the corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery and performance of this Agreement by the Purchaser and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate actions. This Agreement has been duly and validly executed and delivered by the Purchaser and (assuming this Agreement constitutes a valid and binding obligation of the Seller) constitutes a valid and binding agreement of the Purchaser, enforceable against the Purchaser in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditors' rights generally from time to time in effect and to general equitable principles. The Purchaser has delivered to the

Seller true, accurate and complete copies of its articles of incorporation and bylaws, as in effect on the date hereof, including all amendments thereto.

Section 4.3 Consents and Approvals.

No consent, approval or authorization of, or declaration, filing or registration with, any United States or foreign federal, state, county, municipal or other governmental or regulatory authority or other Person is required to be made or obtained by the Purchaser in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, except for consents, approvals, authorizations, declarations, filings or registrations which, if not obtained, would not, individually or in the aggregate, materially impair the ability of the Purchaser to perform its obligations hereunder or to consummate the transactions contemplated hereby (a "*Purchaser Material Adverse Effect*").

Section 4.4 No Violations.

Assuming that the consents, approvals, authorizations, declarations and filings referred to in Section 4.3 of this Agreement have been made or obtained and shall remain in full force and effect, neither the execution, delivery or performance of this Agreement by the Purchaser, nor the consummation by the Purchaser of the transactions contemplated hereby, nor compliance by the Purchaser with any of the provisions hereof, will (a) conflict with or result in any breach of any provisions of the articles of incorporation or bylaws of the Purchaser, (b) result in a violation or breach of, or constitute (with or without due notice or lapse of time) a default (or give rise to any right of termination, cancellation, acceleration, vesting, payment, exercise, suspension or revocation) under any of the terms, conditions or provisions of any note, bond, mortgage, deed of trust, security interest, indenture, license, contract, agreement, plan or other instrument or obligation to which the Purchaser is a party or by which the Purchaser or any of the Purchaser's properties or assets may be bound or affected, (c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to the Purchaser or any of the Purchaser's properties or assets, (d) result in the creation or imposition of any Encumbrance on any asset of the Purchaser, or (e) cause the suspension or revocation of any permit, license, governmental authorization, consent or approval necessary for the Purchaser to conduct its business as currently conducted, except, in the case of clauses (b), (c), (d) and (e), for violations, breaches, defaults, terminations, cancellations, accelerations, creations, impositions, suspensions or revocations that would not, individually or in the aggregate, have a Purchaser Material Adverse Effect or except as set forth in Section 4.4 of the Purchaser Disclosure Schedule.

Section 4.5 Subscription for Sufficient Funds.

The Purchaser has an executed subscription agreement with its shareholders pursuant to which the Purchaser's shareholders have committed to contribute to the capital of the Purchaser, on or before the Closing Date, immediately available funds in an amount sufficient to fund the full amount of the Purchase Price.

ARTICLE V
COVENANTS

Section 5.1 Conduct of Business by the Seller Pending the Closing.

(a) The Seller shall, from the date hereof until the Closing Date, (i) use commercially reasonable efforts to preserve intact its business organization, (ii) use commercially reasonable efforts to maintain the level of its Customer accounts, (iii) use commercially reasonable efforts to keep available the services of those of its officers, employees and consultants who are integral to the operation of its business as presently conducted, (iv) use commercially reasonable efforts to preserve its present relationships with significant Customers, significant suppliers and with other Persons with whom it has significant business relations and (v) otherwise conduct its business in a commercially reasonable manner, given the size, nature and complexity of the Business. In connection therewith, and without limiting the generality of the foregoing or the applicability of any other provisions hereof, the Seller shall use commercially reasonable efforts to (x) continue to operate its call centers used in the conduct of the Acquired Business, (y) maintain a level of Customer service for its Customers consistent with the level of such activities provided to its Customers as of the date of this Agreement and (z) preserve intact and continue to conduct marketing and sales activities and operations consistent with the level of those activities and operations as conducted as of the date of this Agreement.

(b) Without limiting the generality of Section 5.1(a) of this Agreement or the applicability of any other provisions hereof, except to the extent necessary to comply with the requirements of applicable laws and regulations, from the date hereof until the Closing Date, the Seller shall not, without the prior written consent of the Purchaser (which consent shall not be unreasonably withheld):

(i) adopt or propose any change in its certificate of incorporation or bylaws, except to change its corporate name to a name dissimilar to all of the Names;

(ii) merge or consolidate with any other Person or, except in the ordinary course of business and consistent with past practice, acquire a material amount of the assets or capital stock of any other Person;

(iii) lease (as lessor), license (as licensor or licensee) or lease as lessee real property leases (or personal property under leases requiring a commitment of \$25,000 or more in lease payments), or otherwise surrender, relinquish, encumber or dispose of any of the Assets, other than leases, licenses and the disposition of obsolete or damaged Assets in the ordinary course of business and consistent with past practice;

(iv) alter the manner of keeping its books, accounts or records relating to the Acquired Business or the Assets or change in any manner the accounting practices reflected therein, except for any change required by GAAP;

(v) change or alter in any material respect its methods of collecting Trade Receivables or make or agree to make any settlement concerning any Trade Receivables

that has the effect of creating an adjustment in rates or other arrangements, or imposing ongoing obligations, with respect to a Customer, as opposed to a settlement affecting only the Trade Receivable itself;

(vi) make any loans, advances or capital contributions to, or investments in, any other Person other than in cash;

(vii) make or commit to make any capital expenditures financed by leases in excess of \$10,000.00;

(viii) grant or make any mortgage or pledge or subject itself or any of the Assets to any Encumbrance that will not be discharged pursuant to the 363 Order and the 365 Order upon occurrence of the Closing;

(ix) fail to maintain insurance on the Assets and the Business in such amounts and against such risks and losses as are in effect on the date of this Agreement;

(x) agree or commit to do any of the foregoing;

(xi) take, or agree or commit to take, any action that would make any representation or warranty of the Seller hereunder inaccurate in any material respect at, or as of any time prior to, the Closing Date

(xii) omit, or agree or commit to omit, to take any action necessary to prevent any representation or warranty of the Seller hereunder from being inaccurate in any material respect at, or as of any time prior to, the Closing Date; and

(xiii) take, or agree or commit to take, or omit or agree or commit to omit, any action that would result in, or is reasonably likely to result in, any of the conditions set forth in Article VIII of this Agreement not being satisfied.

Section 5.2 Acquisition Proposal Procedures.

The Purchaser and the Seller acknowledge that this Agreement is the culmination of an extensive process undertaken by the Seller to identify and negotiate a transaction with a bidder who was prepared to pay the highest and best purchase price for the assets of the Seller while assuming or otherwise satisfying relevant liabilities in order to maximize value for the Seller's estate. The parties also acknowledge that, under the Bankruptcy Code, the Seller must take reasonable steps to demonstrate that it has sought to obtain the highest and best price possible for the Assets, including, but not limited to, giving notice of the transactions contemplated by this Agreement to creditors and other interested parties as ordered by the Bankruptcy Court, providing information about the Business to responsible bidders subject to appropriate confidentiality agreements, entertaining higher and better offers from responsible bidders and, if necessary, conducting an auction. To facilitate the foregoing, the Seller shall, within one (1) Business Day after the date of this Agreement, seek the entry of an order (the "*Overbid Procedures Order*") pursuant to a motion in form reasonably acceptable to the Purchaser, which:

(a) fixes the date, time and location of the hearing on the Sale Motion described in Section 5.5(a) of this Agreement (the "363 Hearing");

(b) provides that the Seller (i) shall give notice of the transactions contemplated by this Agreement and of the Auction procedure described in Section 5.2(c) below to all Persons and in such manner as the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and the Bankruptcy Court shall direct and (ii) may inform potential bidders only of the name and telephone number of other potential bidders that have contacted the Seller and indicated an interest in purchasing all or some of the Assets without disclosing any other information.

(c) provides that at 10:00 a.m., Houston, Texas time, on the second Business Day before the date set for the 363 Hearing, the Seller shall hold an auction (the "Auction") at the Houston offices of counsel for the Seller. In order for a Person or group of Persons to make a bid at the Auction, it or they shall serve a written bid on the Seller by 10:00 a.m., Houston, Texas time, on the third Business Day before the date set for the 363 Hearing. Any such bid shall include (i) appropriate evidence of its or their financial ability to consummate the transactions contemplated by its or their bid on or prior to the Closing Date and (ii) a certified or bank check payable to the Seller as a deposit in the amount of ten percent (10%) of its or their Overbid. Such written bid shall also include a covenant by the prospective bidder that, in the event such prospective bidder becomes the successful bidder at the Auction, such bidder shall, prior to the conclusion of the Auction, execute an asset purchase agreement in identical form to this Agreement, except as to price and necessary conforming changes to reflect a different Purchaser. In the event a Person seeking qualification to submit a competing bid seeks changes in the form of the asset purchase agreement, such requested changes shall be submitted in "redline" format at the same time as the written bid. Acceptance of any such requested changes to the asset purchase agreement shall be totally in the discretion of the Seller. In the event that any of the requested changes have not been accepted by the Seller in writing prior to the commencement of the Auction, the prospective bidder requesting such changes may elect to proceed without the requested changes, or shall not be qualified to participate in the Auction. No prospective purchaser will be permitted to bid at the Auction unless the Seller and Jay Alix & Associates ("Jay Alix"), the Seller's financial advisor, determine that the prospective purchaser is financially qualified. Only those Persons who submit timely written bids will be entitled to bid at the Auction, unless the Seller or the Bankruptcy Court determines otherwise. Prior to the commencement of the Auction, the Seller, in consultation with Jay Alix and the Committee, shall determine whether there is an all cash bid or combination of bids (collectively, an "Overbid") for the Assets of not less than \$1,000,000 in excess of the sum of the Purchase Price and the Break-Up Fee, after consideration of all adjustments and liabilities being assumed, which bid or bids the Seller wishes to accept. If the Seller determines there is such an Overbid, the Seller shall announce the amount of such Overbid and the name or names of the bidder or bidders. The Seller shall then ask whether any other Person wishes to make a further bid, which must be at least \$50,000.00 more than the then announced Overbid. If a Person makes such a bid, the Auction shall continue in the same manner until there is no further bid (or combination of bids) topping the previous bid (or combination of bids) by at least \$50,000.00. At such time as there is no further bidding, the Seller shall close the Auction and offer the Purchaser the right, exercisable for a period of four (4) hours, to acquire the Assets for the amount of the highest bid

plus \$50,000.00, upon the terms and conditions of this Agreement, except that the Purchaser shall receive pursuant to Section 1.5(b)(i) of this Agreement a credit from the Seller toward the Purchase Price in the amount of the Deposit plus all accrued interest thereon. The Purchaser or the highest bidder (or combination of bidders) shall be the successful purchaser(s), subject to the approval of the Bankruptcy Court at the 363 Hearing. The Purchaser shall be deemed a party in interest with standing to appear and be heard in connection with any motion, hearing or other proceeding relating to this Agreement or any Overbid.

(d) approves the following: (i) the Break-Up Fee provisions of Section 9.7 of this Agreement; (ii) the termination provisions contained in Sections 9.1, 9.2, 9.3, 9.4, 9.5 and 9.6 of this Agreement; (iii) the parties' conduct, including limitations on public announcements, contained in Section 5.4 of this Agreement; and (iv) the Purchaser's right to exclude certain assets and liabilities from the sale contained in Sections 7.2 and 7.3 of this Agreement.

The Seller shall request that the motion for approval of the Overbid Procedures Order and the Sale Motion be heard on an expedited basis by the Bankruptcy Court at the earliest time that the Bankruptcy Court will allow.

Section 5.3 Filings; Other Action.

Subject to the terms and conditions herein provided, as promptly as practicable after the expiration of the Due Diligence Period, the Seller and the Purchaser shall (a) use commercially reasonable efforts to cooperate with each other in (i) determining which filings are required to be made prior to the Closing Date with, and which material consents, approvals, permits or authorizations are required to be obtained prior to the Closing Date from, governmental or regulatory authorities of the United States, the several states or the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands and foreign jurisdictions in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and (ii) promptly after the Closing unless otherwise requested by the Purchaser, making all such filings and timely seeking all such consents, approvals, permits or authorizations, including, without limitation, all applicable state regulatory approvals, if any, required to be obtained for the transfer from the Seller to the Purchaser of the Assets, and (b) use commercially reasonable efforts to take, or cause to be taken, all other actions and do, or cause to be done, all other things necessary or appropriate to consummate the transactions contemplated by this Agreement, as soon as practicable. In connection with the foregoing, the Seller will provide the Purchaser, and the Purchaser will provide the Seller, with copies of all correspondence, filings or communications or memoranda setting forth the substance thereof between such party or any of its Representatives, on the one hand, and any governmental agency or authority or member of their respective staffs, on the other hand, with respect to this Agreement and the transactions contemplated hereby. The parties acknowledge that certain actions may be necessary with respect to the foregoing in making notifications and obtaining clearances, consents, approvals, waivers or similar third party actions that are material to the consummation of the transactions contemplated hereby, and each party agrees to take such commercially reasonable actions as are necessary to complete such notifications and obtain such clearances, approvals, waivers or third party actions, except where such consequence, event or

occurrence would not have a Purchaser Material Adverse Effect or a Seller Material Adverse Effect, as the case may be.

Section 5.4 Public Announcements.

Prior to the filing of the Sale Motion, the Purchaser and the Seller shall consult with each other before any party hereto issues any press release or otherwise makes any public statement with respect to the transactions contemplated by this Agreement, and no party shall issue any such press release or make any such public statement prior to such consultation except as may be required, upon the advice of counsel, by applicable law, in which case the parties shall use their reasonable efforts to consult with each other prior to issuing such a release or making such a public statement. Notwithstanding the foregoing, the Seller may deliver a redacted copy of this Agreement which does not make reference to the name of the Purchaser to the Committee. In addition, nothing contained herein will be deemed to restrict the Seller from performing its obligations under this Agreement or from complying with the Seller's obligations or fiduciary duties as a debtor or debtor in possession under the Bankruptcy Code or pursuant to any order of the Bankruptcy Court.

Section 5.5 Bankruptcy Actions.

(a) As soon as reasonably possible following the filing of the motion for entry of the Overbid Procedures Order pursuant to Section 5.2 of this Agreement, the Seller will file with the Bankruptcy Court a motion seeking approval of the 363 Order and the 365 Order (which orders may be combined into one document), all in form and substance reasonably satisfactory to the Seller and the Purchaser (the "*Sale Motion*").

(b) The Seller will provide the Purchaser with copies of all motions, applications, and supporting papers prepared by the Seller (including forms of orders and notices to interested parties) relating in any way to the Purchaser or the transactions contemplated by this Agreement as far in advance as practicable prior to the service and filing thereof in the Chapter 11 Case.

(c) The Seller shall promptly give appropriate notice in accordance with Rules 6004 and 6006 of the Bankruptcy Rules and any order of the Bankruptcy Court, and provide appropriate opportunity for hearing, to all parties entitled thereto, of all motions, orders, hearings or other proceedings relating to this Agreement or the transactions contemplated hereby; provided, however, that the Seller shall request that the motion for approval of the Overbid Procedures Order and the Sale Motion be heard on an expedited basis by the Bankruptcy Court at the earliest time that the Bankruptcy Court will allow.

Section 5.6 Tax Returns and Filings; Payment of Taxes.

The Seller shall prepare all Tax Returns of the Seller or with respect to the Assets or Business for periods ending on or prior to the Closing Date. The Seller shall be responsible for paying all Taxes of the Seller or with respect to the Assets or Business for periods ending on or prior to the Closing Date. All sales, gross receipts, transfer, filing, recordation and similar Taxes and fees (including all real estate transfer and gains Taxes and conveyance and recording fees, if

any), and all stamp Taxes, registration Taxes, excise Taxes, duties or other charges arising from or associated with the sale and transfer of the Assets as contemplated herein shall be borne by the Purchaser.

Section 5.7 Seller Employee Benefit Plans.

(a) The Seller will honor and timely pay all benefit claims in accordance with plan provisions under plans in force prior to the Petition Date or approved by the Bankruptcy Court thereafter and that are submitted by employees of the Seller for payment within ninety (90) days after the Closing for all self-funded Seller Employee Benefit Plans. From and after the date hereof, the Seller shall take all actions necessary to assure that the Purchaser is not subject to any liabilities of any nature whatsoever, as a successor-in-interest or otherwise, as a result of any of the Seller Employee Benefit Plans.

(b) Without limiting Section 5.7(a) of this Agreement and to avoid having any Transferred Employees disadvantaged by the consummation of the transactions contemplated hereby or by receiving or accepting offers of employment by the Purchaser, the parties have agreed that the Seller will pay to each Transferred Employee, at Closing, an amount equal to any severance payment, change of control payment, stay bonus payment or other similar benefit (i) that would have been or is triggered on confirmation of a plan of reorganization or liquidation, a sale of assets, transfer of stock, merger or other similar transaction, (ii) that would have been or is payable if an employee remains with the Seller through any set period of time during 2002 and/or (iii) that is conditioned, in whole or in part, on whether employment has been offered by an acquiror. Such payments shall be made by the Seller regardless of whether any condition that would have relieved the Seller of any obligation for making any such payment may have occurred prior to or in connection with the Closing, may have occurred or occurs as a result of the consummation of the transactions contemplated hereby and/or may have occurred or occurs by the offer of employment or actual employment by the Purchaser with respect to any Transferred Employee.

(c) The provisions of this Section 5.7 shall survive the Closing.

Section 5.8 Notification of Certain Matters.

The Seller and the Purchaser shall each give prompt notice to the other of the following:

(a) the occurrence or non-occurrence after the date hereof of any event whose occurrence or non-occurrence would be likely to cause either (i) any representation or warranty of such party contained in this Agreement to be or become untrue or inaccurate in any material respect at any time from the date hereof through the Closing, or (ii) directly or indirectly, a Seller Material Adverse Effect with respect to the Seller or a Purchaser Material Adverse Effect with respect to the Purchaser, as the case may be;

(b) any material failure of such party, or any officer, director, employee or agent of such party, to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder;

(c) any notice of, or other communication relating to, termination or cancellation of any Material Customer relationship or any Contract;

(d) any notice or other communication from any third party alleging that the consent of such third party is or may be required in connection with the transactions contemplated by this Agreement; and

(e) any objection to the motions to approve the Overbid procedure or to approve the transactions contemplated by this Agreement or the initiation of any legal action or proceeding with respect to the transactions contemplated by this Agreement, including, without limitation, any motion to require the Seller to assume or reject executory contracts;

provided, however, that the delivery of any notice pursuant to this Section 5.8 shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice hereunder.

Section 5.9 Additional Matters.

Subject to the terms and conditions herein provided, each of the parties hereto agrees to use commercially reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper, or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement, including, without limitation, using commercially reasonable efforts to obtain all necessary waivers, consents and approvals in connection with the Governmental Requirements and to effect all necessary registrations and filings.

Section 5.10 Cure of Defaults.

(a) The Seller has prepared and submitted, as of the date hereof, a list (the "Preliminary Draft of Section 1.5") of any and all cure amounts owing or to be owed under any of the Contracts listed in any Section of the Seller Disclosure Schedule or that otherwise relate to the Business (other than those listed in Section 1.2(d) of the Seller Disclosure Schedule) (the "Seller Contracts"), which Preliminary Draft of Section 1.5 also contains a list of all Seller Contracts, whether or not included in any other sections of the Seller Disclosure Schedule. The Seller represents and warrants that such Preliminary Draft of Section 1.5 is, in all material respects, a true, complete and accurate listing of all amounts that would, if the Seller Contracts were assumed and assigned as of the date hereof, be payable. The Preliminary Draft of Section 1.5 shall be attached to the Sale Motion (as defined in Section 5.5(a) of this Agreement) for purposes of fixing and determining the cure amounts pursuant to the 365 Order. If the Seller determines that any amounts listed on the Preliminary Draft of Section 1.5 should be corrected or changed at any time prior to the time when the Purchaser designates which Seller Contracts will be Assumed Contracts pursuant to Section 7.2 of this Agreement, the Seller shall immediately notify the Purchaser in writing of any such corrections or changes.

(b) As soon as the Purchaser designates which Seller Contracts will be Assumed Contracts pursuant to Section 7.2 of this Agreement, the Seller shall prepare a revised

Preliminary Draft of Section 1.5 that will set forth any and all cure amounts owing or to be owed as of the Closing Date under any of the Seller Contracts so designated as being Assumed Contracts, which revised Preliminary Draft of Section 1.5 shall be subject to the Purchaser's review and approval (subject to the limitations described below). The Seller shall submit the revised Preliminary Draft of Section 1.5 to the Purchaser no later than two (2) Business Days prior to the 363 Hearing. The Seller shall be deemed to represent and warrant that such revised Preliminary Draft of Section 1.5 is a true, complete and accurate listing of all cure amounts payable with respect to the Seller Contracts so designated as being Assumed Contracts as of the Closing Date. The Purchaser shall have the opportunity to review the revised Preliminary Draft of Section 1.5. If the amounts set forth therein do not vary from the aggregate amounts shown on the Preliminary Draft of Section 1.5 submitted on the date hereof by more than \$100,000 in the aggregate, and the revised Preliminary Draft of Section 1.5 is otherwise complete and accurate, the Purchaser shall approve the revised Preliminary Draft of Section 1.5 conditioned upon the confirmation by the Bankruptcy Court in the 365 Order that the amounts so shown on the revised Preliminary Draft of Section 1.5 are all of the amounts that are required to be paid in order to effect the assumption and assignment of the Assumed Contracts. Upon the approval by the Purchaser, and the confirmation by the Bankruptcy Court, such revised Preliminary Draft of Section 1.5 shall become Section 1.5 of the Seller Disclosure Schedule. If the cure amounts set forth on the revised Preliminary Draft of Section 1.5 do vary from the aggregate amounts shown on the Preliminary Draft of Section 1.5 submitted on the date of this Agreement by more than \$100,000 in the aggregate or the Bankruptcy Court otherwise finds that the cure amount for any particular Assumed Contract varies by more than \$15,000 from the amount shown on the revised Preliminary Draft of Section 1.5, the Purchaser may elect to exclude additional Seller Contracts, and such additional excluded Seller Contracts shall not become Assumed Contracts under Section 7.2 of this Agreement at the Closing. Nothing in this Section 5.10(b) shall limit or otherwise adversely affect the Purchaser's right to terminate this Agreement in accordance with Section 9.4 of this Agreement.

(c) The Purchaser shall deliver the Purchaser Disclosure Schedule to the Seller within five (5) Business Days after the Overbid Procedures Order has been approved by the Bankruptcy Court.

Section 5.11 Satisfaction or Discharge of Encumbrances.

Between the date hereof and the Closing, the Seller shall take all actions necessary, including, without limitation, transferring the Encumbrances to the proceeds of sale or the payment of money, to satisfy or discharge all Encumbrances on the Assets so that, at the Closing, the Assets are transferred to the Purchaser free and clear of all Encumbrances. The failure of the Seller to comply with the provisions of this Section 5.11 by the Closing Date shall be a breach of the Seller's obligations hereunder and shall entitle the Purchaser to terminate this Agreement and to receive the Break-Up Fee.

Section 5.12 Duty to Update.

From and after the date of this Agreement up to and including the Closing Date, the Purchaser and the Seller shall update the Purchaser Disclosure Schedule and the Seller

Disclosure Schedule, respectively, as necessary to make the same true, accurate and complete (subject to any materiality standards applicable thereto) following the occurrence or non-occurrence of any event that would obligate such party to provide the other with notice in accordance with Section 5.8(a) of this Agreement. Additionally, the Purchaser and the Seller shall update the Purchaser Disclosure Schedule and the Seller Disclosure Schedule, respectively, as necessary to make the same true, accurate and complete (subject to any materiality standards applicable thereto) as of the Closing Date; provided, however, that with respect to the representations and warranties of the Seller that are made as of a specific time or date contained in Section 3.5 with respect to Financial Statements as of certain dates, Section 3.12(b) with respect to fixed assets lists and Section 3.19 with respect to lists of Trade Receivables), the Seller shall update all relevant portions of the Seller Disclosure Schedule as of the Closing with respect to (a) matters covered by Section 3.5 by providing financial statements (balance sheet and statement of operations) through the end of the calendar month immediately preceding the Closing Date and (b) as to all other matters by providing supplements through the most recent practicable date, but in any event as of a date not less recent than fifteen (15) days prior to the Closing Date). Notwithstanding the foregoing, to the extent that any update of, revision to, or supplement to the Purchaser Disclosure Schedule or the Seller Disclosure Schedule relates to any condition, event, circumstance, arrangement or matter in existence as of the date of this Agreement, no such update, revision, or supplement shall be deemed to cure any breach of any representation or warranty of the Purchaser or the Seller (as applicable) made in this Agreement or affect any of the Purchaser's or the Seller's (as applicable) remedies with respect thereto.

ARTICLE VI ADDITIONAL POST-CLOSING COVENANTS

Section 6.1 Further Assurances.

In addition to the provisions of this Agreement, from time to time after the Closing Date, the Seller and the Purchaser will execute and deliver such other instruments of conveyance, transfer or assumption, as the case may be, and will use commercially reasonable efforts to take such other actions as may be reasonably requested to implement more effectively the conveyance and transfer of the Assumed Contracts and other Assets to the Purchaser and the assumption of the Assumed Liabilities by the Purchaser, including, without limitation, the filing with any state public utility commissions or other regulatory agencies of applications for nunc pro tunc approval of the transfers of the Assets (including Permits) and the Assumed Contracts from the Seller to the Purchaser. If any of the Assumed Contracts requires the consent of any party thereto which is not obtained, the Seller shall use all commercially reasonable efforts to otherwise provide the benefits of such Assumed Contract to the Purchaser without breach thereof. With respect to the books and records of the Seller, the originals of which are either acquired by the Purchaser or retained by the Seller hereunder, from time to time after the Closing Date, each party who has possession of the originals of any such books or records shall, upon reasonable request of the other party, provide, at no additional cost, the other party with access to and/or copies of such books and records as may be reasonably requested and obtained without unreasonable efforts.

Section 6.2 Third Party Rights.

No provision of this Agreement shall create any third party beneficiary rights in any employee or former employee of the Seller or any other persons or entities (including, without limitation, any beneficiary or dependent thereof) in respect of continued employment (or resumed employment) for any specified period of any nature or kind whatsoever, and no provision of this Agreement shall create such third party beneficiary rights in any such persons or entities in respect of any benefits that may be provided, directly or indirectly, under any Employee Benefit Plan or otherwise.

Section 6.3 Employment of the Seller's Employees.

(a) Notwithstanding any provision of this Agreement or the Confidentiality Agreement to the contrary, from and after the date of this Agreement, the Purchaser shall have the right to discuss the terms of employment and other matters, including, without limitation, the transactions contemplated by this Agreement, with the employees, agents and consultants of the Seller and to offer to hire, and effective as of the Closing, to hire and employ any or all of the Seller's employees, in the Purchaser's sole discretion. All contact by the Purchaser with employees of the Seller during such employees' regular work hours with the Seller for the purpose of discussing the employment of such employees by the Purchaser must be coordinated with the Seller.

(b) Section 6.3 of the Purchaser Disclosure Schedule shall contain a list of all of the Seller's employees the Purchaser will hire and employ effective as of the Closing, which list shall be prepared by the Purchaser in its sole discretion (each such employee that accepts the Purchaser's offer individually referred to herein as a "*Transferred Employee*" and all such employees collectively referred to herein as the "*Transferred Employees*"). Effective as of the Closing, the Seller shall terminate and unconditionally release each Transferred Employee from any and all contractual restrictions or other obligations related to his or her employment with the Seller, including, without limitation, any employment agreements and any non-competition and non-solicitation covenants or agreements relating to the Acquired Business, whether contained therein or otherwise, without penalty to the Transferred Employees. The Purchaser shall not be required to, and shall not, assume any employment contracts or other agreements or obligations of the Seller with any Transferred Employee regarding or related to his or her employment with the Seller, including, without limitation, any change of control payments triggered by the filing of the Petition, the execution of this Agreement or the consummation of the transactions contemplated hereby and any arising under any of the Seller Employee Benefit Plans.

(c) The terms and conditions of employment to be offered to the Transferred Employees shall be established in the Purchaser's sole discretion. However, the Purchaser shall provide substantially similar medical benefits, including insurance, subject to applicable waiting periods, to the Transferred Employees that the Purchaser provides to its other similarly situated employees. Section 6.3(c) of the Purchaser Disclosure Schedule (which will be prepared by the Purchaser and delivered to the Seller at the Closing) will set forth the service credits for eligibility, vesting and benefits with respect to its Employee Benefit Plans that it will offer the Transferred Employees. In additions, Section 6.3(c) of the Purchaser Disclosure Schedule will

set forth the procedures for offering either conversion or "roll-over" options, if any, with respect to the accounts of the Transferred Employees with the Seller Employee Benefit Plans. In no event shall the Purchaser be deemed to adopt or assume any of the Seller Employee Benefit Plans or any trust, insurance contract, annuity contract or other funding arrangement that the Seller has established with respect thereto, unless the Purchaser otherwise specifically agrees to do so in Section 6.3(c) of the Purchaser Disclosure Schedule. Unless the Purchaser so specifically adopts and assumes a Seller Employee Benefit Plan, the Seller shall be responsible for the maintenance, termination and winding up of any Seller Employee Benefit Plan.

(d) Section 6.3(d) of the Purchaser Disclosure Schedule, which will be prepared by the Purchaser and subject to the Seller's approval (which approval will not be unreasonably withheld, conditioned or delayed) will set forth the procedures for obtaining any necessary consents from prospective Transferred Employees as to the release of their employment and other records.

Section 6.4 Master LOAs and TSAs.

The Seller shall execute and deliver to the Purchaser on the Closing Date, or upon the request of the Purchaser thereafter, master letters of authorization ("*MLOAs*") and appropriate transfer of services agreements ("*TSAs*") as may be requested by the Purchaser. The Seller will use commercially reasonable efforts to assist the Purchaser to obtain all necessary consents for the assignment of the Assumed Contracts and the Customers to the Purchaser and agrees from time to time to execute all appropriate documents of transfer reasonably requested by EXCs, LECs, CLECs, governmental agencies or bodies, vendors or the Purchaser, including, without limitation, TSAs and MLOAs, in order to evidence the transactions contemplated by this Agreement. The Purchaser shall, at its expense, prepare for review and execution by the Seller and file all such regulatory filings required by the Purchaser for the transfer of the Assets to the Purchaser pursuant to this Agreement, and the Seller agrees to provide to the Purchaser all information and render such other assistance as may be reasonably required in connection therewith. Any and all costs associated with obtaining such regulatory approvals as the Purchaser shall require shall be borne by the Purchaser as they may relate to the transfer of the Assets; provided, however, that the Purchaser will not be responsible for any costs related to any separate filings that are not required for the transfer of the Assets which the Seller may be required to file to terminate its authority to render telecommunications services. The Seller shall promptly notify the Purchaser of any notice received by the Seller from any vendor providing services with respect to Customer accounts of such vendor's intention or threat to terminate service to or take other action adversely affecting any Customer account. The Seller shall notify and coordinate with the Purchaser prior to sending any notice or otherwise communicating with Customers in connection with the transfer of Customers to the Purchaser or the discontinuance of service by the Seller.

Section 6.5 Corporate Name.

(a) Prior to the Closing, the Seller will cooperate with the Purchaser to assist the Purchaser to qualify to do business in any jurisdiction with any consents to use of name that are necessary to so qualify with a corporate name containing the name "Logix," or any other of the

Names. Promptly following the Closing, the Seller, at its sole cost and expense, shall promptly take such commercially reasonable actions (and shall make all filings with all government entities, including, without limitation, the applicable Secretaries of State) as are necessary to discontinue using the name "Logix," and all of the other Names, or any confusingly similar names as part of the Seller's corporate name. In connection therewith, the Seller will take such actions as may be required to notify all the telephone companies and all listing agencies of the termination or expiration of the Seller's right to use any telephone number and any classified and other telephone directory listings associated with the Names and to authorize the transfer of the same to the Purchaser.

(b) The Seller hereby acknowledges that, from and after the Closing Date, the Purchaser will be the owner of the Names, and any goodwill associated therewith shall inure to the exclusive benefit of the Purchaser. The Seller further agrees that after the Closing Date, the Seller will not, directly or indirectly, at any time use any of the Names, whether in connection with the Excluded Assets or Excluded Liabilities or otherwise, except that the Seller may state that it formerly was known by such Names when, but only when, legally required to do so.

Section 6.6 Regulatory Filings.

To the extent that regulatory filings, including, without limitation, annual reports, must be made following the Closing but before all regulatory approvals are obtained, the Seller will be responsible for making all such filings. If the employees of the Seller who have responsibility for such filings and other actions become employees of the Purchaser after the Closing, the Purchaser shall make such employees available to the Seller, at no additional cost, to the extent reasonably necessary to enable the Seller to fulfill its obligations under this Section 6.6.

Section 6.7 Right to Use Office Space; Assistance of the Seller's Employees.

From the Closing Date and for a period not to exceed six (6) months thereafter, the Seller will, to the extent contractually permitted, make available to the Purchaser such office space at the Seller's offices located at 14101 Wireless Way, Oklahoma City, Oklahoma, as the Purchaser and the Seller shall mutually agree, on terms and conditions, including, without limitation, monthly rental and other charges, as the Purchaser and the Seller shall mutually agree. During such period, the Seller will make available to the Purchaser certain employees of the Seller (to be mutually agreed upon by the Purchaser and the Seller) who are not offered or who decline employment by the Purchaser but who desire to assist the Purchaser with its transition during such period.

ARTICLE VII DUE DILIGENCE REVIEW

Section 7.1 Due Diligence Review.

At any time from and after the date of this Agreement up to the time the Auction contemplated by Section 5.2(c) of this Agreement commences (the "*Due Diligence Period*"), the Purchaser may terminate this Agreement in its sole and absolute discretion in the manner set

forth in Section 9.5 of this Agreement without liability hereunder. During the Due Diligence Period, the Purchaser and its authorized officers, directors, employees, agents, attorneys, financial advisors, accountants, consultants or affiliates (each individually a "Representative," and collectively, "Representatives") may conduct the following types of inspections:

(a) Inspection of the physical condition and use of the switches and other tangible personal property of the Seller and the real property owned or leased by the Seller, at the Purchaser's sole cost, including, without limitation, the availability of access, co-location arrangements (completed and/or in-progress or otherwise contracted for), utility services, zoning, environmental risks, engineering and soil conditions. For the purpose of conducting physical inspections, the Seller shall provide the Purchaser and its authorized Representatives, full reasonable access to such premises at all reasonable times (including on non-Business Days) during the Due Diligence Period, and the Purchaser shall conduct such inspections in a manner not unreasonably disruptive to the operation of such premises or the Business and shall coordinate all such inspections through the Seller. If reasonably practicable in the circumstances, the Purchaser shall not enter such premises or contact any tenants without the presence of a Representative of the Seller. The Seller shall assist the Purchaser in obtaining estoppel certificates from any tenants, landlords or mortgagees. In the event the Purchaser desires to conduct any physically intrusive due diligence, such as sampling soils, building materials or the like, the Purchaser shall provide at least forty-eight (48) hours' prior notice thereof to the Seller. The Purchaser shall, in performing such due diligence, comply with any and all applicable laws, ordinances, rules, regulations (including health, safety and security regulations) and contracts applicable to such premises and such procedures, and the Purchaser shall not engage in any activities which would violate any permit, license or environmental law, ordinance, rule, regulation or contract. The Purchaser agrees to indemnify the Seller against and hold the Seller harmless from any loss, damage, liability or expenses (including reasonable attorneys fees) arising out of or attributable to the activities of the Purchaser in the conduct of the Purchaser's due diligence investigation.

(b) Inspection of all existing documentation and materials relevant to the ownership and operation of the Business or the Assets (including the switches), including, without limitation, all existing leases and amendments thereto, all existing vendor and service contracts, prior Tax bills, existing permits, licenses and certificates of occupancy, existing operating statements, existing plans and specifications, existing owner's title policies and surveys of the related premises, insurance policies, operating statements for the last three (3) years, environmental reports, leasing reports, correspondence, brokerage agreements, litigation affecting the premises and maintenance records, all of which shall be made available to the Purchaser upon the commencement of the Due Diligence Period at the premises, at reasonable times for inspection and copying by the Purchaser at the Purchaser's expense. Section 7.1(b) of the Seller Disclosure Schedule sets forth a summary list of information about the Seller's Customers specifying the number of Customers in each state and the number of Customers by type of services provided by the Seller but not the identities of the Customers.

Section 7.2 Assumption of Contracts.

No later than three (3) Business Days prior to the 363 Hearing, the Purchaser shall notify the Seller in writing as to Seller Contracts listed as provided in Section 5.10 of this Agreement that the Purchaser does not desire to assume at the Closing, which Seller Contracts shall not become Assumed Contracts. All other Contracts relating to the Business (other than those relating exclusively to the Fiber Division) shall be deemed to be Assumed Contracts, provided that the revised Preliminary Draft of Section 1.5 becomes Section 1.5 of the Seller Disclosure Schedule as provided in Section 5.10(b) of this Agreement.

Section 7.3 Designation of Assets.

Except as provided in Section 7.2 of this Agreement, within twenty (20) Business Days after the expiration of the Due Diligence Period, the Purchaser shall notify the Seller in writing whether it wishes not to acquire any specific Assets, in which event such designated items shall be deemed to be Excluded Assets for all purposes of this Agreement. Any designation pursuant to this Section 7.3 shall not result in any adjustment to the Purchase Price.

**ARTICLE VIII
CONDITIONS PRECEDENT**

Section 8.1 Conditions Precedent to Obligations of the Seller and the Purchaser.

The respective obligations of each party to effect the transactions contemplated by this Agreement shall be subject to the satisfaction (or mutual waiver) at or prior to the Closing Date of the following conditions:

(a) no statute, rule, regulation, executive order, decree, ruling or preliminary or permanent injunction shall have been enacted, entered, promulgated or enforced by any federal or state court or governmental authority of competent jurisdiction that prohibits, restrains, enjoins, or restricts the consummation of the transactions contemplated by this Agreement;

(b) no claim, action, suit, arbitration, inquiry proceeding or investigation (each, an "Action") shall have been commenced by or before any United States federal, state or local or any foreign government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal or judicial or arbitral body against the Purchaser or the Seller, seeking to restrain or materially and adversely alter the transactions contemplated by this Agreement that, in the reasonable good faith determination of either party, is likely to render it impossible or unlawful to consummate such transactions; provided, however, that the provisions of this Section 8.1(b) shall not apply to a party that directly or indirectly solicited or encouraged any such Action; and

(c) the 363 Order and the 365 Order shall each have been entered by the Bankruptcy Court.

Section 8.2 Conditions Precedent to Obligation of the Seller.

The obligation of the Seller to effect the transactions contemplated by this Agreement shall be subject to the satisfaction (or waiver by the Seller) at or prior to the Closing Date of the following additional conditions:

(a) the Purchaser shall have performed in all material respects its obligations under this Agreement required to be performed by it at or prior to the Closing Date;

(b) with respect to those representations and warranties qualified by any materiality standard, the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all respects, and with respect to all other representations and warranties, such representations and warranties shall be true and correct in all material respects, in each case as of the date of this Agreement and as of the Closing Date as if made at and as of such date, and in either case, all representations and warranties of the Purchaser made as of a specific time and/or date shall be deemed to be made as of the time specified in Section 5.12 of this Agreement, which shall be deemed to be as of the Closing Date when updated in accordance with Section 5.12 of this Agreement; and

(c) the Purchaser shall have delivered to the Seller all items required to be delivered by it pursuant to Section 2.2 of this Agreement.

Section 8.3 Conditions Precedent to Obligation of the Purchaser.

The obligation of the Purchaser to effect the transactions contemplated by this Agreement shall be subject to the satisfaction (or waiver by the Purchaser) at or prior to the Closing Date of the following additional conditions:

(a) the Seller shall have performed in all material respects its obligations under this Agreement required to be performed by it at or prior to the Closing Date;

(b) with respect to those representations and warranties qualified by any materiality standard, the representations and warranties of the Seller contained in this Agreement shall be true and correct in all respects, and with respect to all other representations and warranties, such representations and warranties shall be true and correct in all material respects, in each case as of the date of this Agreement and at and as of the Closing Date as if made at and as of such date, and in either case, all representations and warranties of the Seller made as of a specific time and/or date shall be deemed to be made as of the time specified in Section 5.12 of this Agreement, which shall be deemed to be as of the Closing Date when updated in accordance with Section 5.12 of this Agreement;

(c) no event, occurrence, fact, condition, change, development or effect shall have occurred, exist or come to exist since the date of this Agreement, including, without limitation, any of the foregoing reflected by the updated Seller Disclosure Schedule, that, individually or in the aggregate, has constituted or resulted in, or would reasonably be expected to constitute or result in, a Seller Material Adverse Effect;

(d) the Overbid Procedures Order shall have been entered by the Bankruptcy Court in substantially the form contemplated by this Agreement;

(e) each of the 363 Order and the 365 Order shall have been entered by the Bankruptcy Court and each shall have become a Final Order in the Chapter 11 Case by June 24, 2002; provided, however, that this condition shall be deemed waived by the Purchaser if the Auction occurs after June 24, 2002 and the Purchaser is the successful bidder at such Auction;

(f) except for declarations, registrations and filings to be made by the Seller after the Closing pursuant to Section 5.3 of this Agreement, the Seller shall have made all necessary declarations, registrations and filings, and, except for approvals, clearances, consents, authorizations and waivers in connection with the Governmental Requirements to be obtained after making the declarations, registrations and filings to be made by the Seller after the Closing pursuant to Section 5.3 of this Agreement, the Seller shall have received all necessary approvals, clearances, consents, authorizations and waivers in connection with the Governmental Requirements, including, without limitation, all those necessary or advisable to transfer the Permits to the Purchaser, except, in either case, where the failure to do so would not, individually or in the aggregate, have a Seller Material Adverse Effect;

(g) no Permits shall be revoked or shall fail to be transferred to the Purchaser without additional expense and subject to no additional restrictions or burdens on the permittee, except in each case for such matters as would not, individually or in the aggregate, have a Seller Material Adverse Effect;

(h) the (i) Seller shall have obtained all approvals, clearances, consents, authorizations and waivers from third parties necessary for the assignment to and assumption by the Purchaser of the Assumed Contracts and for the consummation of all of the other transactions contemplated by this Agreement, including, without limitation, all of the foregoing listed in either of Section 3.3 or Section 3.16(b) of the Seller Disclosure Schedule and (ii) to the extent not covered by an Assumed Contract, the Purchaser shall have obtained substitute arrangements (under existing or new Contracts with the Purchaser), consents or approvals (on terms no less favorable than as are currently available to the Purchaser with respect to its arrangements, Contracts or customers) such that any carrier currently providing network services to the Seller (or any sales agent or distributor currently under contract to the Seller) transfers service with respect to all of the Seller's Customers immediately prior to the Closing to the Purchaser in such a manner that on, through and immediately following the Closing all such Customers are receiving continued and uninterrupted service through the Purchaser as they had received from the Seller prior to the Closing;

(i) the Purchaser shall be satisfied in its sole and absolute discretion with the results of its due diligence review and examination of the Seller, the Business and the Assets; provided, however, that this condition shall be deemed waived by the Purchaser upon commencement of the Auction;

(j) the Seller shall have delivered to the Purchaser all the items required to be delivered by the Seller pursuant to Section 2.2 of this Agreement; and

(k) unless otherwise ordered by the Bankruptcy Court, the licensors of all software, programs and databases which are, or during the past sixty (60) days have been, used by the Seller in the Acquired Business shall have consented, at no cost to the Purchaser and in a manner reasonably satisfactory to the Purchaser, to the transfer and assignment from the Seller to the Purchaser of the Seller's rights and interest in and to the use of such software, programs and databases under the applicable licenses, including, without limitation, the use of all hardware and other equipment owned by other Persons and leased or licensed to or otherwise used by the Seller.

ARTICLE IX TERMINATION, AGREEMENT AND WAIVER

Section 9.1 Termination by Mutual Consent.

This Agreement may be terminated at any time prior to the Closing Date by mutual written agreement of the Purchaser and the Seller.

Section 9.2 Termination by Either Purchaser or Seller.

This Agreement may be terminated at any time prior to the Closing Date by either the Purchaser or the Seller if a United States federal or state court of competent jurisdiction or a United States federal or state governmental, regulatory or administrative agency or commission shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement, other than a denial of the Sale Motion and either (a) thirty (30) days shall have elapsed from the issuance of such order, decree, ruling or other action and such order, decree, ruling or other action has not been removed or (b) such order, decree, ruling or other action shall have become final and non-appealable, provided that the party seeking to terminate this Agreement pursuant to this clause shall have used all reasonable efforts to remove such order, decree, ruling or other action.

Section 9.3 Termination by Seller.

This Agreement may be terminated at any time on or prior to the Closing Date by the Seller if:

(a) a condition precedent to the obligations of the Seller hereunder to be fulfilled by the Purchaser has not been fulfilled by the time stated herein for such condition to be fulfilled or, if no such time is stated, by the Closing Date;

(b) there has been a material breach of any of the representations, warranties, covenants or agreements set forth in this Agreement on the part of the Purchaser, which breach is

not curable or, if curable, is not cured within thirty (30) days after written notice of such breach is given by the Seller to the Purchaser;

(c) the Board of Directors of the Seller has withdrawn, modified or changed in a manner adverse to the Purchaser its approval or recommendation of this Agreement in order to approve and permit the Seller to execute a definitive agreement relating to an Overbid in accordance with Section 5.2 of this Agreement; or

(d) the Closing does not occur by July 1, 2002, except if such failure is caused by the Seller's actions or inactions in breach of its obligations under this Agreement.

Section 9.4 Termination by Purchaser.

This Agreement may be terminated at any time on or prior to the Closing Date by the Purchaser if:

(a) a condition precedent to the obligations of the Purchaser hereunder to be fulfilled by the Seller has not been fulfilled by the time stated herein for such condition to be fulfilled or, if no such time is stated, by the Closing Date;

(b) there has been a material breach of any of the representations, warranties, covenants or agreements set forth in this Agreement on the part of the Seller, which breach is not curable or, if curable, is not cured within thirty (30) days after written notice of such breach is given by the Purchaser to the Seller;

(c) the Board of Directors of the Seller has withdrawn, modified or changed in a manner adverse to the Purchaser its approval or recommendation of this Agreement in order, or the Seller otherwise determines, to approve and permit the Seller to execute a definitive agreement relating to an Overbid;

(d) since the date of this Agreement, there have been one or more events causing a Seller Material Adverse Effect;

(e) the Closing does not occur by June 24, 2002, except if such failure is caused by the Purchaser's actions or inactions in breach of its obligations under this Agreement;

(f) the 363 Order and the 365 Order have not been entered by the Bankruptcy Court by June 13, 2002; or

(g) the occurrence of any of the following after the date of this Agreement:

(i) the total number of Access Equivalent Lines ("AELs") of the Seller as of April 30, 2002 decreases by more than twenty percent (20%);

(ii) the total number of DIRECT - T AELs of the Seller as of April 30, 2002 decreases by more than twenty-five percent (25%);

(iii) the total number of UNE AELs of the Seller as of April 30, 2002 decreases by more than forty percent (40%); or

(iv) the total number of Data Line AELs of the Seller as of April 30, 2002 decreases by more than thirty percent (30%);.

Section 9.5 Termination by Purchaser On or Prior to Expiration of Due Diligence Period.

This Agreement may be terminated at any time on or prior to the expiration of the Due Diligence Period by the Purchaser by delivering to the Seller a written notice of termination of this Agreement on or before the end of the Due Diligence Period.

Section 9.6 Effect of Termination and Abandonment.

In the event of termination of this Agreement by a party pursuant to this Article IX, written notice thereof shall as promptly as practicable be given to the other party to this Agreement, and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further action by either of the parties hereto. If this Agreement is terminated as provided herein, there shall be no liability or obligation on the part of the Seller, the Purchaser or their respective Representatives, and all obligations of the parties shall terminate, except for the obligations of the parties pursuant to Sections 5.7, 9.6, 9.7, 9.8, 10.4, 10.5 and 10.10 of this Agreement. If this Agreement is terminated by the Seller pursuant to Section 9.3(a) or (b) of this Agreement, the Deposit shall be forfeited to the Seller as liquidated damages (it being agreed that, in such event, it will not be possible to calculate the Seller's actual damages), with all accrued interest thereon to be paid to the Purchaser. If the Purchaser terminates this Agreement pursuant to Section 9.4 of this Agreement (other than pursuant to Section 9.4(e) or Section 9.4(g) or solely because of the non-fulfillment of any of the conditions specified in Section 8.3(d), (f), (g), (h), (i) or (k) of this Agreement which non-fulfillment is not caused by any act or omission of the Seller) or if the Seller terminates this Agreement pursuant to Section 9.3(c) or (d) of this Agreement, the Purchaser shall be entitled to the Break-Up Fee to the extent provided in Section 9.7 of this Agreement.

Section 9.7 Break-Up Fee.

The Seller acknowledges and agrees that the Purchaser's negotiation and execution of this Agreement have resulted from a substantial investment of management time and have required significant commitment of financial and other resources by the Purchaser, and that the negotiation and execution of this Agreement have provided value to the Seller. Therefore, if a Break-Up Fee Event occurs, the Seller shall pay the sum of Six Hundred Thousand Dollars (\$600,000.00) to the Purchaser as a break-up fee (the "*Break-Up Fee*"); provided, however, that the Seller shall not be obligated to pay the Break-Up Fee if, prior to the occurrence of the Break-Up Fee Event, the Agreement has validly been terminated solely pursuant to Section 9.1 of this Agreement by the Seller and the Purchaser, pursuant to Section 9.2 of this Agreement by either the Purchaser or the Seller or pursuant to Section 9.3(a) or (b) of this Agreement by the

Seller. The Seller shall pay the Break-Up Fee simultaneously with the occurrence of a Break-Up Fee Event without further order of the Bankruptcy Court. The Seller's obligation to pay the Break-Up Fee shall constitute an administrative expense of the Seller under Sections 503(b) and 507(a)(1) of the Bankruptcy Code. Notwithstanding the foregoing, if this Agreement is terminated by reason of an Overbid, the Seller shall pay the Break-Up Fee to the Purchaser at the closing of the Overbid transaction out of the purchase price paid to the Seller pursuant to such Overbid transaction.

(c) The payment of the Break-Up Fee will be the Purchaser's sole remedy for any breach by the Seller of the Seller's obligations to consummate the transactions contemplated by this Agreement, and such payment will be the Seller's sole obligation in such event. The Seller's retention of the Deposit and all interest accrued thereon will be the Seller's sole remedy for any breach by the Purchaser of the Purchaser's obligations to consummate the transactions contemplated by this Agreement.

Section 9.8 Indemnification.

(a) All representations, warranties, covenants, agreements, obligations and undertakings contained in this Agreement and in any other document delivered pursuant hereto shall be deemed to be material and to have been relied upon by the parties hereto. All representations and warranties contained herein shall merge into and shall not survive the Closing, except for those of the Seller contained in Sections 3.5, 3.8, 3.9, 3.12(c), 3.15, 3.16(b), 3.16(c) and, in so far as it relates to matters covered by any of the foregoing Sections, 3.22 of this Agreement, which shall survive the Closing for a period of ninety days after the Closing Date; provided, however, that if a claim has been made prior to such 90th day with respect to a breach of such a representation or warranty, such representation or warranty shall survive as to such claimed breach until the claim has been finally resolved. All covenants, agreements, obligations and undertakings contained herein shall merge into the Closing, except that those contained in Sections 2.2(c), 5.3, 5.6, 5.7, 6.1, 6.4, 9.8, 10.4, 10.5 and 10.10 of this Agreement shall survive the Closing for the period specified in such covenant, agreement, obligation or undertaking or, if no period is so specified, for the period for which indemnification claims may be made pursuant to Section 9.8(e) of this Agreement.

(b) If the Closing occurs, the Seller shall indemnify, defend and hold harmless the Purchaser from and against, and shall reimburse the Purchaser, solely through the return to the Purchaser of funds constituting the Escrow Amount pursuant to the terms of the Escrow Agreement, for any Purchaser Damages (as hereinafter defined) which may be sustained, suffered or incurred by the Purchaser, whether as a result of or in connection with or attributable to (i) the conduct of the Business by the Seller on or prior to the Closing Date, (ii) the Excluded Liabilities or the Excluded Assets or (iii) the breach of any of the Seller's representations or warranties contained in Sections 3.5, 3.8, 3.9, 3.12(c), 3.15, 3.16(b), 3.16(c) or, in so far as it relates to matters covered by any of the foregoing Sections, 3.22 of this Agreement or any of the Seller's covenants, agreements, obligations or undertakings contained Sections 2.2(c), 5.3, 5.6, 5.7, 6.1, 6.4 or 9.8 of this Agreement; provided, however, that the Seller shall not have any obligation to indemnify the Purchaser from, and no claim against the Escrow Amount may be made, with respect to Purchaser Damages resulting from, arising out of, relating to, in the nature

of, or caused by the breach (or alleged breach) of a representation or warranty or covenant listed above unless and until the Purchaser has suffered or would reasonably be expected to suffer Purchaser Damages by reason of all such breaches (or alleged breaches) in excess of an aggregate deductible of \$250,000 (at which point the Seller will be obligated to indemnify the Purchaser from and against, and the Purchaser shall be entitled to receive from the Escrow, the amount of Purchaser Damages in excess of such deductible); and provided further that to avoid the application of "double materiality" to the determination of such Purchaser Damages and such deductible, none of the materiality limitations or qualifications (including those relating to Seller Material Adverse Effect) shall be taken into account in computing the deductible or allowing or awarding reimbursement or indemnification for such Purchaser Damages after the deductible has been reached. "Purchaser Damages" as used in this Agreement means the dollar amount of any loss, damage, expense or liability (including, without limitation, reasonable attorneys' fees) sustained, suffered or incurred by the Purchaser, reduced by any amounts actually received by the Purchaser (net of any deductibles, fees and expenses, but excluding any premiums) from any recovery made by the Purchaser from a third party in respect thereof.

(c) The Escrow Agreement shall provide, among other things, that: (i) upon the occurrence of the Closing, the Escrow Amount shall be paid by the Purchaser to the Escrow Agent and retained by the Escrow Agent for a period of ninety (90) days (the "*Escrow Period*") to secure the Seller's indemnification obligations set forth in Section 9.8(b) of this Agreement; (ii) from time to time during the Escrow Period, the Escrow Agent shall pay to the Purchaser the amount of Damages or other indemnification obligations of the Seller under Section 9.8(b) of this Agreement as to which the Purchaser has properly made a claim under Section 9.8(e) of this Agreement and as to which there is no dispute; (iii) upon the expiration of the Escrow Period, the Escrow Agent deliver to the Seller the remaining balance of the Escrow Amount; provided, however, that the portion of the Escrow Amount equal to the amount of Damages or other indemnification obligations as to which the Purchaser has properly made a claim under Section 9.8(e) of this Agreement shall be retained by the Escrow Agent until such claim has been resolved. The Escrow Agreement shall further provide that as soon as all such claims have been resolved, the Escrow Agent shall deliver to the Purchaser the amount, if any, to which it has been determined that the Purchaser is entitled in respect of such claims, and that the Escrow Agent shall thereafter deliver to the Seller any remaining portion of the Escrow Amount being retained by the Escrow Agent and not required to satisfy such claims.

(d) If the Closing occurs, the Purchaser shall indemnify, defend and hold harmless the Seller from and against any Seller Damages (as hereinafter defined) which may be sustained, suffered or incurred by the Seller, whether as a result of or in connection with or attributable to (i) the conduct of the Acquired Business by the Purchaser subsequent to the Closing Date, (ii) arising or accruing with respect to the Assumed Liabilities or the Assets subsequent to the Closing Date or (iii) any other express indemnification obligation of the Purchaser set forth in this Agreement, except to the extent that in any case covered by (i) or (ii), such Seller Damages relate to matters, arrangements or conditions existing as of the Closing Date or matters, arrangements or conditions arising out of or attributable to breaches by the Seller of the representations, warranties or covenants of the Seller. The Purchaser's responsibilities under this Section 9.8(d) shall be limited to any amount equal to the Escrow Amount and shall terminate and be of no further force or effect ninety (90) days after the Closing Date (provided that if a

claim has been made prior to such 90th day, the Purchaser's indemnity obligations pursuant to this Section 9.8(d) shall survive with respect to such claim until such claim is finally resolved); provided, however, that the Purchaser shall not have any obligation to indemnify the Seller from, and no claim against the Purchaser may be made, with respect to Seller Damages resulting from, arising out of, relating to, in the nature of, or caused by any event for which the Purchaser is otherwise obligated to indemnify the Seller pursuant to this Section 9.8(d) unless and until the Seller has suffered or would reasonably be expected to suffer Seller Damages by reason of such event in excess of an aggregate deductible of \$250,000 (at which point the Purchaser will be obligated to indemnify the Seller from and against, and the Seller shall be entitled to receive from the Purchaser the amount of Seller Damages in excess of such deductible; provided further that to avoid the application of "double materiality" to the determination of such Seller Damages and such deductible, none of the materiality limitations and qualifications (including those relating to Purchaser Material Adverse Effect) shall be taken into account in computing the deductible or allowing or awarding reimbursement or indemnification for such Seller Damages after the deductible has been reached. "Seller Damages" as used in this Agreement means the dollar amount of any loss, damage, expense or liability (including, without limitation, reasonable attorneys' fees) sustained, suffered or incurred by the Seller, reduced by any amounts actually received by the Seller (net of any deductibles, fees and expenses, but excluding any premiums) from any recovery made by the Seller from a third party in respect thereof.

(e) In the event either party seeks indemnification hereunder, it shall give written notice to the other party of the facts and circumstances giving rise to the claim and the amount of the claim for which it is seeking indemnification within ninety (90) days after the Closing Date, and neither party shall have any indemnification obligation hereunder with respect to any event occurring after the expiration of such 90-day period. Such notice shall contain a description in reasonable detail of the basis for such claim for indemnification to the extent known to the party requesting indemnification. In such event, the indemnifying party shall have the right to defend against any third-party claim against the party requesting indemnification with counsel of the indemnifying party's choice reasonably satisfactory to the party requesting indemnification.

(f) Any indemnification payment made hereunder shall be deemed to be a reduction in the Purchase Price.

ARTICLE X GENERAL PROVISIONS

Section 10.1 Notices.

All notices, claims, demands and other communications hereunder shall be in writing and shall be deemed given upon (a) facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand or (c) the expiration of five (5) Business Days after the day when mailed by registered or certified mail (postage prepaid, return receipt requested), addressed to the respective parties at the following addresses (or such other address for a party as shall be specified by like notice):

If to the Purchaser, to

WCI, Inc.
1330 Post Oak Blvd., Suite 301
Houston, Texas 77056
Attn: President and Chief Executive Officer
Telecopier: (713) 418-2198

with copies to

Andrews & Kurth, Mayor, Day, Caldwell & Keeton, L.L.P.
600 Travis Street, Suite 4200
Houston, Texas 77002
Attn: Jeff C. Dodd and Michael Dalton
Telecopier: (713) 225-7047

If to the Seller, to

Logix Communications Corporation
14101 Wireless Way
Oklahoma City, Oklahoma 73134
Attn: Craig T. Sheetz, President and Chief Executive Officer
Telecopier: (405) 516-8292

with copies to

Winstead Sechrest & Minick, P.C.
5400 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270
Attn: Joseph Epstein and Connie S. Stamets
Telecopier: (214) 745-5390

Section 10.2 Descriptive Headings.

The headings contained in this Agreement are for reference purposes only and shall not affect in any way the construction or interpretation of this Agreement.

Section 10.3 Entire Agreement; Assignment.

(a) This Agreement (including the Exhibits, if any, the Purchaser Disclosure Schedule, the Seller Disclosure Schedule, and the other documents and instruments referred to herein), together with the Confidentiality Agreement, constitute the entire agreement between the parties and supersede all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. The parties each acknowledge and agree that, except as otherwise provided in this Agreement, the continued validity of the

Confidentiality Agreement will not be affected by the execution, delivery or performance of this Agreement and that the information exchanged in connection with the negotiation, implementation and performance of this Agreement will be subject to the terms and conditions of the Confidentiality Agreement.

(b) The rights and obligations of the Purchaser under this Agreement with respect to any specified Assets may be assigned by the Purchaser to any third party, subject to the assumption by such assignee of the obligations of the Purchaser hereunder with respect to such specified Assets. After any such assignment, the assignee shall be deemed to be the Purchaser with respect to such specified Assets for all purposes of this Agreement; provided, however, that the Purchaser shall guarantee the performance of all of the obligations of such assignee hereunder.

Section 10.4 Governing Law; Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without regard to the rules of conflict of laws of the State of Texas or any other jurisdiction. Each of the parties hereto irrevocably and unconditionally consents to and agrees to submit to the jurisdiction of the courts of the State of Texas and the United States of America located in the State of Texas, County of Harris (the "*Texas Courts*") for any litigation arising out of or relating to this Agreement or the transactions contemplated thereby (and agrees not to commence any litigation relating thereto except in such courts), waives any objection to the laying of venue of any such litigation in the Texas Courts and agrees that venue in any such litigation shall lay exclusively in the Texas Courts and agrees not to plead or claim in any such litigation that (a) it is not personally subject to the jurisdiction of any Texas Court, (b) it or its property is immune from legal process issued by any Texas Court or (c) such litigation brought in any Texas Court has been brought in an inconvenient forum.

Section 10.5 Expenses.

Except as expressly provided otherwise in this Agreement, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses, whether or not the transactions contemplated by this Agreement are consummated.

Section 10.6 Amendment.

This Agreement may not be amended except by an instrument in writing signed by each of the parties hereto.

Section 10.7 Waiver.

At any time prior to the Closing Date, the parties hereto may (a) extend the time for the performance of any of the obligations or other acts of a party hereto, (b) waive any inaccuracies in the representations or warranties contained herein or in any document delivered pursuant hereto and (c) waive compliance with any of the agreements or conditions contained herein. Any

agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party.

Section 10.8 Counterparts; Effectiveness.

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. This Agreement shall become effective when each party hereto shall have received a counterpart thereof signed by both parties hereto.

Section 10.9 Severability; Validity; Parties in Interest.

If any provision of this Agreement or the application thereof to any person or circumstance is held invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances, shall not be affected thereby, and to such end, the provisions of this Agreement are agreed to be severable. Nothing in this Agreement, expressed or implied, is intended to confer upon any person not a party to this Agreement any rights or remedies of any nature whatsoever under or by reason of this Agreement.

Section 10.10 Enforcement of Agreement.

The parties hereto agree that irreparable damage would occur in the event that any provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached. Accordingly, the parties agree that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any state or federal court in the State of Texas, this being in addition to any other remedy to which they are entitled at law or in equity.

**ARTICLE XI
DEFINITIONS**

Section 11.1 Defined Terms.

As used herein, the terms below shall have the following meanings:

"Acquired Business" has the meaning set forth in the definition of the term "Seller Material Adverse Effect."

"Action" has the meaning set forth in Section 8.1(b) of this Agreement.

"Agreement" has the meaning set forth in the Preamble to this Agreement.

"Allocation Schedule" has the meaning set forth in Section 1.7 of this Agreement.

"Applicable Requirements" has the meaning set forth in Section 3.20 of this Agreement.

"Assets" has the meaning set forth in Section 1.1 of this Agreement.

"Assumed Contracts" has the meaning set forth in Section 1.1(k) of this Agreement.

"Assumed Liabilities" has the meaning set forth in Section 1.3 of this Agreement.

"Auction" has the meaning set forth in Section 5.2(c) of this Agreement.

"Bankruptcy Code" has the meaning set forth in the Recitals to this Agreement.

"Bankruptcy Court" has the meaning set forth in the Recitals to this Agreement.

"Bankruptcy Rules" has the meaning set forth in Section 5.2(b) of this Agreement.

"Break-Up Fee" has the meaning set forth in Section 9.7 of this Agreement.

"Break-Up Fee Event" means the occurrence of any of the following: (a) the termination of this Agreement by the Purchaser pursuant to Section 9.4 of this Agreement (other than pursuant to Section 9.4(e) or Section 9.4(g) or solely because of the non-fulfillment of any of the conditions specified in Section 8.3(d), (f), (g), (h), (i) or (k) of this Agreement which non-fulfillment is not caused by any act or omission of the Seller); (b) the termination of this Agreement by the Seller pursuant to Section 9.3(c) or (d) of this Agreement; or (c) the execution by the Seller, or the trustee in bankruptcy for the Seller, of an agreement providing for the sale of all or any material portion of the Business (other than Excluded Assets) or of an equity interest in the Seller, or any business combination of the Seller, involving any party other than the Purchaser, or any approved debt restructuring plan not involving the Purchaser.

"Business" has the meaning set forth in the Recitals to this Agreement.

"Business Day" means a day other than a Saturday, a Sunday or a day on which banks are required or authorized to be closed in the City of Houston, Texas.

"Chapter 11 Case" has the meaning set forth in the Recitals to this Agreement.

"CLEC" has the meaning set forth in Section 3.10 of this Agreement.

"CLEC Division" has the meaning set forth in the recitals to this Agreement.

"Closing" has the meaning set forth in Section 2.1 of this Agreement.

"Closing Date" has the meaning set forth in Section 2.1 of this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

"Committee" means the Official Committee of Unsecured Creditors of the Seller appointed in the Chapter 11 Case.

"Confidentiality Agreement" means that certain Confidentiality Agreement, dated March 12, 2002, by and among an affiliate of the Purchaser, the Seller and Logix Communications Enterprises, Inc.

"Contract" means any contract, agreement, understanding or arrangement (whether written or oral) entered into by the Seller and including all conditional and executory contracts, agreements, understandings and arrangements.

"Customers" has the meaning set forth in Section 1.1(a) of this Agreement.

"Deposit" has the meaning set forth in Section 1.5(a) of this Agreement.

"Due Diligence Period" has the meaning set forth in Section 7.1 of this Agreement.

"Employee Benefit Plan" means any (a) qualified or nonqualified Employee Pension Benefit Plan (including any Multiemployer Plan), (b) Employee Welfare Benefit Plan or (c) other fringe benefit, plan, program or arrangement, whether or not subject to ERISA, including any severance or change of control contract, agreement or arrangement.

"Employee Pension Benefit Plan" has the meaning set forth in Section 3(2) of ERISA.

"Employee Welfare Benefit Plan" has the meaning set forth in Section 3(l) of ERISA.

"Encumbrances" means mortgages, pledges, liens, charges, encumbrances, defects, judgments, abstracts, security interests, claims (including claims of lessors, sub-lessors, licensors and sub-licensors), options and restrictions (including restrictions set forth in applicable leases, sub-leases, licenses and/or sub-licenses) of all kinds.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Escrow Agent" means a Person to be determined by mutual agreement of the Purchaser and the Seller.

"Escrow Agreement" means that certain Escrow Agreement by and among the Purchaser, the Seller and the Escrow Agent to be executed on or before the Closing Date.

"Escrow Amount" has the meaning set forth in Section 1.5(b) of this Agreement.

"Escrow Period" has the meaning set forth in Section 9.8(c) of this Agreement.

"Excluded Assets" has the meaning set forth in Section 1.2 of this Agreement.

"Excluded Liabilities" has the meaning set forth in Section 1.4 of this Agreement.

"Fiber Assets" has the meaning set forth in Section 1.2(d) of this Agreement.

"Fiber Division" has the meaning set forth in the recitals to this Agreement.

"Final Order" means an order of the Bankruptcy Court in the Chapter 11 Case which shall not have been reversed, stayed, modified or amended and with respect to which (a) the time to appeal from or seek review or rehearing of such order shall have expired; and (b) no motion for rehearing, reconsideration, amendment or new trial is pending .

"Financial Statements" has the meaning set forth in Section 3.5 of this Agreement.

"GAAP" has the meaning set forth in Section 3.5 of this Agreement.

"Governmental Requirements" has the meaning set forth in Section 3.3 of this Agreement.

"Intellectual Property" means (a) inventions, whether or not patentable, whether or not reduced to practice and whether or not yet made the subject of a pending patent application or applications, (b) ideas and conceptions of potentially patentable subject matter, including, without limitation, any patent disclosures, whether or not reduced to practice and whether or not yet made the subject of a pending patent application or applications, (c) national (including the United States) and multinational statutory invention registrations, patents, patent registrations and patent applications (including all reissues, divisions, continuations, continuations-in-part, extensions and reexaminations) and all rights therein provided by multinational treaties or conventions and all improvements to the inventions disclosed in each such registration, patent or application, (d) copyrights (registered or otherwise) and registrations and applications for registration thereof, and all rights therein provided by multinational treaties or conventions, (e) computer software, including, without limitation, source code, operating systems and specifications, data, data bases, files, documentation and other materials related thereto, data and documentation, (f) trade secrets and confidential, technical or business information (including ideas, formulas, compositions, inventions, and conceptions of inventions whether patentable or unpatentable and whether or not reduced to practice), (g) whether or not confidential, technology (including know-how and show-how), manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals, technical data, copyrightable works, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information, (h) copies and tangible embodiments of any of the foregoing, in whatever form or medium, (i) trademarks (registered or otherwise), service marks (registered or otherwise) and registrations and applications for registration thereof, and all rights therein provided by multinational treaties and conventions, and trade names and brand names (j) all licenses of any of the foregoing, (k) all rights to obtain and rights to apply for patents, and to register trademarks and copyrights and (l) all rights to sue and recover and retain damages and costs and attorneys' fees for present and past infringement of any of the foregoing.

"LXC" has the meaning set forth in Section 3.10 of this Agreement.

"Jay Alix" has the meaning set forth in Section 5.2(c) of this Agreement.

"LEC" has the meaning set forth in Section 3.10 of this Agreement.

"LOA" has the meaning set forth in Section 1.1(a) of this Agreement.

"Material Customer" means a Customer who has, with respect to any three (3) consecutive month period during the past twelve (12) months, incurred charges of, or been billed, an average of at least five thousand dollars (\$5,000) per month with respect to such 3 consecutive month period, to the extent such charges or billing relate to services of the Seller other than those provided by the Fiber Division.

"MLOA" has the meaning set forth in Section 6.4 of this Agreement.

"Multiemployer Plan" has the meaning set forth in Section 3(37) of ERISA.

"Names" has the meaning set forth in Section 1.1(b) of this Agreement.

"Overbid" has the meaning set forth in Section 5.2(c) of this Agreement.

"Overbid Procedures Order" has the meaning set forth in Section 5.2 of this Agreement.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Permits" has the meaning set forth in Section 3.10 of this Agreement.

"Person" means any natural person, firm, partnership, association, corporation, company, limited liability company, trust, business trust or other entity.

"Petition" has the meaning set forth in the Recitals to this Agreement.

"Petition Date" has the meaning set forth in the Recitals to this Agreement.

"Preliminary Draft of Section 1.5" has the meaning set forth in Section 5.10(a) of this Agreement.

"Purchase Price" has the meaning set forth in Section 1.5 of this Agreement.

"Purchaser" has the meaning set forth in the Preamble to this Agreement.

"Purchaser Damages" has the meaning set forth in Section 9.8(b) of this Agreement.

"Purchaser Disclosure Schedule" has the meaning set forth in Article IV of this Agreement.

"Purchaser Material Adverse Effect" has the meaning set forth in Section 4.3 of this Agreement.

"Related Company" has the meaning specified in Section 3.17(a) of this Agreement.

"Related Person" means, with respect to any Person, an "affiliate" of such Person within the meaning of Rule 12b-2 of the rules and regulations promulgated by the U.S. Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended.

"Representative" has the meaning set forth in Section 7.1 of this Agreement.

"Sale Motion" has the meaning specified in Section 5.5(a) of this Agreement.

"Seller" has the meaning set forth in the Preamble to this Agreement.

"Seller Contracts" has the meaning set forth in Section 5.10(a) of this Agreement.

"Seller Damages" has the meaning set forth in Section 9.8(d) of this Agreement.

"Seller Disclosure Schedule" has the meaning set forth in Article III of this Agreement.

"Seller Employee Benefit Plan" has the meaning set forth in Section 3.17(a) of this Agreement.

"Seller Material Adverse Effect" means any events, conditions or matters in respect of the Assets and the Assumed Liabilities (collectively, the *"Acquired Business"*), other than the filing of the Chapter 11 Case, that (a) result in or are reasonably expected to result in a loss, cost or charge to the Acquired Business of \$100,000 or more individually or \$500,000 in the aggregate, or (b) taking into account all events, conditions or matters in respect of the Acquired Business (whether or not in connection with the same or any similar representation, warranty or matter) materially impair the ability of the Seller to perform its obligations under this Agreement or to consummate the transactions contemplated hereby.

"Tax" or *"Taxes"* means (a) all taxes (whether federal, state, local or foreign) based upon or measured by income and any other taxes, charges, fees, registration fees, revenue permit fees, levies or other assessments whatsoever, including, without limitation, gross receipts, franchise, profits, sales, use, occupation, value added, ad valorem, transfer, withholding, payroll employment, environmental, social security, disability, unemployment fund contributions, alternative or add-on minimum, estimated, excise or property taxes, universal service fees or charges, Telecom Infrastructure Reimbursement Fund assessments, equalization surcharges, FCC Common Carrier Regulatory Fees, North American Numbering Plan Surcharges or TRS Fund assessments, together with any interest, penalties or additions to tax imposed with respect to any of the foregoing and (b) any obligations under any agreements or arrangements with respect to any items described in clause (a) above.

"Tax Returns" means all federal, state, local and foreign tax returns, declarations, statements, reports, schedules, forms and information returns and any amended Tax Returns relating to Taxes.

"Texas Courts" has the meaning set forth in Section 10.4 of this Agreement.

"Trade Receivables" has the meaning set forth in Section 1.1(e) of this Agreement.

"Transferred Employees" has the meaning set forth in Section 6.3 of this Agreement.

"TSA" has the meaning set forth in Section 6.4 of this Agreement.

"363 Hearing" has the meaning set forth in Section 5.2(a) of this Agreement.

"363 Order" means an order of the Bankruptcy Court, in form and substance reasonably satisfactory to the Purchaser and the Seller, approving and authorizing the sale of the Acquired Business and the Assets by the Seller to the Purchaser under this Agreement pursuant to, inter alia, Sections 105 and 363 of the Bankruptcy Code. The 363 Order shall provide that: (a) this Agreement and the transactions contemplated hereby, including, without limitation, the transfer of the Assets by the Seller to the Purchaser as provided in this Agreement are approved and authorized; (b) as of the date the 363 Order is entered, the Seller had good and indefeasible title to the Assets; (c) the transfer of the Assets by the Seller to the Purchaser is or will be a legal, valid and effective transfer of the Assets, notwithstanding any requirement for approval or consent by any entity (as defined in Section 101(15) of the Bankruptcy Code); (d) the transfer of the Assets by the Seller to the Purchaser vests the Purchaser with good and indefeasible title to the Assets free and clear of all liens, claims and Encumbrances (including, without limitation, claims and Encumbrances (i) that purport to give to any entity (as defined in Section 101(15) of the Bankruptcy Code) a right or option to effect any forfeiture, modification, right of approval, right of first refusal, repurchase or termination of the Seller's or the Purchaser's interest in the Assets or any similar rights or (ii) in respect of Taxes) except those expressly assumed by the Purchaser hereunder, and any such liens or claims which existed prior to the Closing or which arise as a result of any Seller Employee Benefit Plan shall attach to the Purchase Price paid to the Seller; (e) the transfer of the Assets is in exchange for consideration being paid by the Purchaser that constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession or the District of Columbia; (f) the transfer of the Assets, including, without limitation, the Customers and their accounts, does not and will not subject the Purchaser to any liability by reason of such transfer under the laws of the United States, any state, territory or possession thereof or the District of Columbia based, in whole or in part, directly or indirectly, on any theory of law, including, without limitation, any theory of successor or transferee liability; (g) the Purchaser is authorized to be designated as the presubscribed IXC for all Customers of the Seller as of the Closing Date and will endow the Purchaser with all legal right to implement such designation immediately without Customer consent; and (h) any carrier currently providing network services to the Seller or any sales agent or distributor currently under contract to the Seller is prohibited from interfering with or impairing (i) the transfer of Customers to the Purchaser, (ii) the Purchaser's continued service after Closing or (iii) the transfer of Customers to any underlying carrier

designated by the Purchaser. The 363 Order shall further provide that (s) the Bankruptcy Court retains jurisdiction to enforce the provisions of this Agreement in all respects, including, without limitation, retaining jurisdiction to protect the Purchaser against any of the Excluded Liabilities; (t) the provisions of the 363 Order are non-severable and mutually dependent; (u) the transactions contemplated by this Agreement are undertaken by the Purchaser in good faith, as that term is used in Section 363(m) of the Bankruptcy Code, and the Purchaser is entitled to the rights and protection granted thereby; (v) there exist exigent business reasons for the sale of the Assets to the Purchaser; (w) the sale is in the best interests of the debtor's (Seller's) estate, its creditors, its Customers and its equity security holders and is otherwise in the public interest; (x) there has been such notice as is appropriate in the particular circumstances given to all parties required by law to receive notice of the sale and such opportunity for hearing as is appropriate in the particular circumstances; (y) the Acquired Business and the Assets have been adequately marketed and will lose value absent a sale; (z) all of the requirements of Section 363 of the Bankruptcy Code have been met; and (aa) the order is not stayed under Rule 6004(g) of the Bankruptcy Rules. The 363 Order shall not impose any material obligations on the Purchaser or the Seller not contemplated in this Agreement.

"365 Order" means an order or orders of the Bankruptcy Court, in form and substance reasonably satisfactory to the Purchaser and the Seller, approving the assumption and assignment of all Assumed Contracts by the Seller pursuant to Section 365 of the Bankruptcy Code as of the Closing Date. The 365 Order shall specifically fix and determine all cure amounts due under Section 365 of the Bankruptcy Code and shall provide that (a) all defaults of the Seller under the Assumed Contracts arising or accruing prior to the Closing (without giving effect to any acceleration clauses or any default provisions in such contracts of a kind specified in Section 365(b)(2) of the Bankruptcy Code) have been cured or will be promptly cured by the Seller such that the Purchaser shall have no liability or obligation with respect to any default or obligation arising or accruing prior to the Closing, except as may otherwise be specifically agreed as set forth in this Agreement; (b) any actual pecuniary loss resulting from a default by the Seller has been or will be promptly compensated by the Seller to the extent ordered by the Bankruptcy Court such that the Purchaser shall have no liability or obligation with respect to any default or obligation arising or accruing prior to the Closing; (c) the Purchaser has provided adequate assurance of future performance of the Assumed Contracts within the meaning of Section 365(f)(2) of the Bankruptcy Code; (d) the Assumed Contracts (other than Excluded Liabilities) will be transferred to and remain in full force and effect for the benefit of the Purchaser, notwithstanding any provisions in such Assumed Contracts or in applicable law (including, without limitation, those described in Sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibit, restrict or limit in any way such assignment or transfer (e) the order is not stayed under Rule 6006(d) of the Bankruptcy Rules; and (f) there has been such notice as is appropriate in the particular circumstances given to all parties required by law to receive notice of the sale and such opportunity for hearing as is appropriate in the particular circumstances.

SCHEDULES TO ASSET PURCHASE AGREEMENT

The Schedules to the Asset Purchase Agreement contain voluminous information and are not attached to the version of the Asset Purchase Agreement filed with the Court or served on creditors and parties in interest. True and correct copies of the Schedules hereto will be provided to any party that makes a written request to the Debtors' counsel for the same.

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AMENDMENT NO. 1 TO ASSET PURCHASE AGREEMENT

THIS AMENDMENT NO. 1 TO ASSET PURCHASE AGREEMENT (this "Amendment") is entered into by and between WCL, INC., an assumed name of Western Communications, Inc., a Texas corporation (the "Purchaser"), and LOGIX COMMUNICATIONS CORPORATION, an Oklahoma corporation (the "Seller"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in that certain Asset Purchase Agreement by and between the Purchaser and the Seller and dated as of May 13, 2002 (the "Purchase Agreement").

WHEREAS, the Purchaser and the Seller entered into the Purchase Agreement on May 13, 2002; and

WHEREAS, the Purchaser and the Seller now wish to amend the Purchase Agreement to reflect changes requested by the Committee and to conform the Purchase Agreement to the Overbid Procedures Order approved by the Bankruptcy Court on May 22, 2002;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Purchaser and the Seller hereby agree that the Purchase Agreement is amended as follows:

1. Section 5.2(c) of the Purchase Agreement is hereby amended to read as follows:

(c) provides that at 10:00 a.m., Houston, Texas time, on the second Business Day before the date set for the 363 Hearing, the Seller shall hold an auction (the "Auction") at the Houston offices of counsel for the Seller. In order for a Person or group of Persons to make a bid at the Auction, it or they shall serve a written bid on the Seller by 10:00 a.m., Houston, Texas time, on the third Business Day before the date set for the 363 Hearing. Any such bid shall include (i) appropriate evidence (in the form of sworn affidavits or declarations under penalty of perjury) of its or their financial ability to consummate the transactions contemplated by its or their bid on or prior to the Closing Date and (ii) a certified or bank check payable to the Seller as a deposit in the amount of ten percent (10%) of its or their Overbid. Such written bid shall also include a covenant by the prospective bidder that, in the event such prospective bidder becomes the successful bidder at the Auction, such bidder shall, prior to the conclusion of the Auction, execute an asset purchase agreement in identical form to this Agreement, except as to price equal to the amount of the winning Overbid and any necessary conforming changes to reflect a different purchaser. Any Person seeking qualification to submit a competing bid who desires to know the Aggregate Preliminary Cure Amount submitted by the Purchaser to the Seller pursuant to Section 7.2 of this Agreement shall notify the Seller in writing of such Person's request for such information no later than 5:00 p.m. Houston, Texas time on the fifth Business Day before the date set for the 363 Hearing, and the Seller will provide such information in writing to any Person so requesting such information

no later than 2:00 p.m. Houston, Texas time, on the fourth Business Day before the date set for the 363 Hearing. In the event a Person seeking qualification to submit a competing bid seeks changes in the form of the asset purchase agreement, such requested changes shall be submitted in "redline" format at the same time as the written bid. Acceptance of any such requested changes to the asset purchase agreement shall be totally in the discretion of the Seller. In the event that any of the requested changes have not been accepted by the Seller in writing prior to the commencement of the Auction, the prospective bidder requesting such changes may elect to proceed without the requested changes, or shall not be qualified to participate in the Auction. No prospective purchaser (other than the Purchaser) will be permitted to bid at the Auction unless the Seller and Jay Alix & Associates ("*Jay Alix*"), the Seller's financial advisor, determine that the prospective purchaser is financially qualified and that the prospective purchaser's bid constitutes an Overbid. Only the Purchaser and those Persons who submit timely written Overbids will be entitled to bid at the Auction, unless the Seller or the Bankruptcy Court determines otherwise. Prior to the commencement of the Auction, the Seller, in consultation with Jay Alix and the Committee, shall determine whether there is an all cash bid or combination of bids (collectively, an "*Overbid*") for the Assets of not less than \$1,000,000 in excess of the Purchase Price, after consideration of all adjustments and liabilities being assumed, which Overbid the Seller wishes to accept. The Seller, in consultation with the Committee, shall identify at the Auction all Persons who timely submitted written Overbids. If the Seller determines there is such an Overbid, the Seller shall announce the amount of such Overbid, including the cash component and any Aggregate Preliminary Cure Amount attributable to such Overbid, and the name or names of the bidder or bidders. The Seller shall then ask whether the Purchaser or any other Person wishes to make a further bid, which must be at least \$100,000 more than the then announced Overbid. In the Auction, the Purchaser and any other Person who submitted an Overbid may bid on the same basis and terms as any prior bids as long as such further bid (or combination of bids) is at least \$100,000 more than the previous bid (or combination of bids), and the Auction shall continue in the same manner until there is no further bid (or combination of bids) topping the previous bid (or combination of bids) by at least \$100,000. At such time as there is no further bidding, the Seller shall declare the Auction closed, upon the terms and conditions of this Agreement, except that the Purchaser shall receive pursuant to Section 1.5(b)(i) of this Agreement a credit from the Seller toward the Purchase Price in the amount of the Deposit plus all accrued interest thereon. If (a) there are no qualified Overbids submitted, or (b) there are one or more qualified Overbids submitted and the Auction commences, the Purchaser, if it is the highest bidder, or the highest bidder (or combination of bidders) at such Auction shall be the successful bidder(s) (the "*Original Successful Bidder*"), subject to the approval of the Bankruptcy Court at the 363 Hearing and subject to reopening the Auction before the Bankruptcy Court as described below in Section 5.2(d) of this Agreement. The Purchaser shall be deemed a party in interest with standing to

appear and be heard in connection with any motion, hearing or other proceeding relating to this Agreement or any Overbid.

2. Section 5.2(d) of the Purchase Agreement is hereby redesignated as Section 5.2(e) of the Purchase Agreement, and the Purchase Agreement is hereby amended by adding the following as a new Section 5.2(d) of the Purchase Agreement:

(d) provides that at the 363 Hearing, if there are contracts remaining on the Original Successful Bidder's list of Assumed Contracts which are subject to a dispute as to cure amounts, once the Bankruptcy Court has adjudicated those cure amounts, if the Original Successful Bidder is entitled under Section 5.10(b) of this Agreement to exclude additional Seller Contracts from the Assumed Contracts and the Original Successful Bidder elects to do so, and if the aggregate cure amount of the remaining Assumed Contracts after exclusion of such additional Seller Contracts is less than ninety percent (90%) of the Aggregate Preliminary Cure Amount used by the Original Successful Bidder at the Auction, the Auction will be reopened for higher and better bids by the Purchaser or other Persons that submitted qualified Overbids. However, in such a case where the Auction is required to be reopened under the preceding sentence, prior to any such reopening of the Auction, the Seller may, after consultation with the Committee, offer the Assets to the party who submitted the second-highest and best bid at the Auction (the "*Back-Up Bidder*") for the purchase price last offered by the Back-Up Bidder at the Auction, without adjustment. Should the Back-Up Bidder elect to accept such offer, the Back-Up Bidder will become the successful bidder. If the Back-Up Bidder does not elect to accept such offer, the Seller may, at its sole option after consultation with the Committee, either (i) sell the Assets to the Original Successful Bidder at the purchase price (including the aggregate cure amount of the remaining Assumed Contracts after exclusion of the additional Seller Contracts described above) offered by the Original Successful Bidder (such purchase price is herein referred to as the "*Modified Purchase Price*"), or (ii) reopen bidding by adjourning the hearing on the Sale Motion and conducting a new Auction in accordance with the procedures described in Section 5.2(c) of this Agreement at a time and place established by the Bankruptcy Court at the 363 Hearing; provided, however, that the amount of the opening bid at such new Auction must be at least \$100,000 in excess of the Modified Purchase Price. If the Back-Up Bidder does not elect to accept the offer described above and the Seller elects to reopen bidding and conduct a new Auction but no bid that is at least \$100,000 in excess of the Modified Purchase Price is made at the new Auction, the Original Successful Bidder shall be entitled to purchase the Assets at the Modified Purchase Price. A sale to the Original Successful Bidder, the Back-Up Bidder or any subsequent successful bidder at such new Auction shall be deemed to be a sale made pursuant to an Overbid for all purposes of this Agreement (including for the purposes of the payment of the Break-Up Fee) unless the Purchaser is the purchaser in such sale.

3. Section 7.2 of the Purchase Agreement is hereby amended to read as follows:

Section 7.2 Assumption of Contracts.

No later than 10:00 a.m., Houston, Texas time, on the fourth Business Day before the date set for the 363 Hearing, the Purchaser shall provide the Seller with a list setting forth the Seller Contracts listed on the Preliminary Draft of Section 1.5 that the Purchaser wishes to assume as the Assumed Contracts, which list shall include the cure amounts that the Purchaser contemplates paying to assume such Assumed Contracts (the aggregate total of such cure amounts is herein referred to as the "*Aggregate Preliminary Cure Amount*"). The Seller and Jay Alix alone shall maintain such list on a confidential basis; provided, however, that the Seller and Jay Alix may disclose the Aggregate Preliminary Cure Amount only (without disclosing any part of the list of Assumed Contracts the Purchaser proposes to assume) to other prospective bidders, so that such prospective bidders may tender qualified competing Overbids with such information in accordance with the procedures set forth in Section 5.2(c) of this Agreement. No Contracts relating to the Business other than those designated by the Purchaser as Assumed Contracts pursuant to this Section 7.2 shall be deemed to be Assumed Contracts, provided that the revised Preliminary Draft of Section 1.5 becomes Section 1.5 of the Seller Disclosure Schedule as provided in Section 5.10(b) of this Agreement.

4. The first paragraph of Section 9.7 of the Purchase Agreement is hereby redesignated as Section 9.7(a) of the Purchase Agreement, and such provision is hereby amended to read as follows:

Section 9.7 Break-Up Fee.

(a) The Seller acknowledges and agrees that the Purchaser's negotiation and execution of this Agreement have resulted from a substantial investment of management time and have required significant commitment of financial and other resources by the Purchaser, and that the negotiation and execution of this Agreement have provided value to the Seller. Therefore, if a Break-Up Fee Event occurs, the Seller shall pay the sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00) to the Purchaser as a break-up fee (the "*Break-Up Fee*"); provided, however, that the Seller shall not be obligated to pay the Break-Up Fee if, prior to the occurrence of the Break-Up Fee Event, the Agreement has validly been terminated solely pursuant to Section 9.1 of this Agreement by the Seller and the Purchaser, pursuant to Section 9.2 of this Agreement by either the Purchaser or the Seller or pursuant to Section 9.3(a) or (b) of this Agreement by the Seller. The Seller shall pay the Break-Up Fee simultaneously with the occurrence of a Break-Up Fee Event without further order of the Bankruptcy Court. The Seller's obligation to pay the Break-Up Fee shall constitute an administrative expense of the Seller under Sections 503(b) and 507(a)(1) of the Bankruptcy Code. In any event, if this Agreement is terminated

by reason of an Overbid, the Seller shall pay the Break-Up Fee to the Purchaser no later than the closing of the Overbid transaction.

5. Section 9.7(c) of the Purchase Agreement is hereby redesignated as Section 9.7(b) of the Purchase Agreement.

6. Section 11.1 of the Purchase Agreement is hereby amended by adding the following new defined term and definition immediately after the definition of "Action" and immediately preceding the definition of "Agreement":

"Aggregate Preliminary Cure Amount" has the meaning set forth in Section 7.2 of this Agreement.

7. Section 11.1 of the Purchase Agreement is hereby further amended by adding the following new defined term and definition immediately after the definition of "Auction" and immediately preceding the definition of "Bankruptcy Code":

"Back-Up Bidder" has the meaning set forth in Section 5.2(d) of this Agreement.

8. Section 11.1 of the Purchase Agreement is hereby further amended by adding the following new defined term and definition immediately after the definition of "MLOA" and immediately preceding the definition of "Multiemployer Plan":

"Modified Purchase Price" has the meaning set forth in Section 5.2(d) of this Agreement.

9. Section 11.1 of the Purchase Agreement is hereby further amended by adding the following new defined term and definition immediately after the definition of "Names" and immediately preceding the definition of "Overbid":

"Original Successful Bidder" has the meaning set forth in Section 5.2(c) of this Agreement.

10. Section 11.1 of the Purchase Agreement is hereby further amended by amending the definition of "Seller Material Adverse Effect" to read as follows:

"Seller Material Adverse Effect" means any events, conditions or matters in respect of the Assets and the Assumed Liabilities (collectively, the *"Acquired Business"*), other than the filing of the Chapter 11 Case, that (a) result in or are reasonably expected to result in a loss, cost or charge to the Acquired Business of \$250,000 or more individually or \$500,000 in the aggregate, or (b) taking into account all events, conditions or matters in respect of the Acquired Business (whether or not in connection with the same or any similar representation, warranty or matter) materially impair the ability of the Seller to perform its

obligations under this Agreement or to consummate the transactions contemplated hereby.

Except as expressly modified by this Amendment, the Purchase Agreement shall remain in full force and effect in accordance with the terms and provisions thereof. The provisions of this Amendment shall be effective retroactively to May 13, 2002, the date of the Purchase Agreement, as if such provisions had been part of the Purchase Agreement as executed by the Purchaser and the Seller on that date.

IN WITNESS WHEREOF, the Seller and the Purchaser have caused this Amendment to be executed on their behalf by their officers thereunder duly authorized this 23rd day of May 2002.

THE "PURCHASER"

WCI, INC., an assumed name of
WESTERN COMMUNICATIONS, INC.

By: 151
Name: Ron Henriksen
Title: President and Chief Executive Officer

THE "SELLER"

LOGIX COMMUNICATIONS CORPORATION

By: 151
Name: Craig T. Sheetz
Title: President and Chief Executive Officer


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First Quarter 2002 Financial Results

Logix Communications Enterprises, Inc. Unaudited Consolidated Financial Performance

| (& in millions) | Actual 3/31/01 | Actual 6/30/01 | Actual 9/30/01 | Actual 12/31/01 | Actual 3/31/02 |
|---------------------------------|-------------------|-------------------|-------------------|--------------------|-------------------|
| Local Data & Other CLEC Revenue | \$13.3 | \$14.3 | \$14.5 | \$15.0 | \$15.0 |
| Long Distance CLEC Revenue | 7.3 | 7.1 | 6.7 | 5.9 | 6.0 |
| Fiber Revenue | 1.3 | 1.3 | 1.4 | 1.3 | 2.0 |
| ILEC Revenue | 4.2 | 4.4 | 4.6 | 4.4 | 4.0 |
| Total Revenue | 26.1 | 27.1 | 27.2 | 26.6 | 29.0 |
| Cost of Service (1) | 16.9 | 16.5 | 13.2 | 15.3 | 14.0 |
| Selling, Operating, & Admin | 15.0 | 13.6 | 15.0 | 11.5 | 11.0 |
| Total Expense | 31.9 | 30.1 | 28.2 | 26.8 | 26.0 |
| Operating Profit (EBITDA) | (\$5.8) | (\$3.0) | (\$1.0) | (\$0.2) | \$3.0 |
| Capital Expenditures | 0.9 | 2.2 | 1.8 | 1.5 | 1.0 |
| Operating Cash Flow (2) | (6.7) | (5.2) | (2.8) | (1.6) | 1.0 |
| Gross Margin | 35% | 39% | 51% | 42% | 52% |
| Access Line Equivalents | 91,621 | 101,466 | 108,514 | 121,820 | 127,080 |

1) Cost of service restated and includes only wholesale network costs

2) Defined as EBITDA less capital expenditures

