

Nonnye Grant

130066-TX

From: Nonnye Grant
Sent: Monday, April 01, 2013 10:49 AM
To: Toni Earnhart
Subject: RE: AstroTel, Inc.

Toni, per your email, will print the attachments regarding the bankruptcy notice, so that they can be given a Document number and be placed in docket 130066-TX. Thanks,
Nonnye

From: Toni Earnhart
Sent: Monday, April 01, 2013 10:42 AM
To: Nonnye Grant
Subject: FW: AstroTel, Inc.

Using this email,

Can you please add the attached pdf documents to the docket filing for AstroTel, Inc.

*Toni Joy Earnhart, Regulatory Analyst
Florida Public Service Commission
Office of Telecommunications
2540 Shumard Oak Blvd.
Tallahassee, FL 32399
Phone 850-413-6532
Fax 850-413-6533*

From: Mike Ray, MBA, CNE, CTE [mailto:mike@tntelecom.net]
Sent: Monday, April 01, 2013 9:34 AM
To: Toni Earnhart
Subject: RE: AstroTel, Inc.

No problem, thank you. Attached are the two documents that I believe you needed.

Thank you,

Mike

Mike Ray, MBA, CNE, CTE
Terra Nova Telecom, Inc.
11523 Palm Brush Trail #401
Lakewood Ranch, FL 34202
DIRECT: 941 600-0207

DOCUMENT NUMBER-DATE

01568 APR-1 2013

FPSC-COMMISSION CLERK

4/1/2013

130066-7x

BI (Official Form 1)(4/10)

**United States Bankruptcy Court
Middle District of Florida**

Voluntary Petition

Name of Debtor (if individual, enter Last, First, Middle): Astro Tel, Inc.	Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all) 59-3751984	Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all)
Street Address of Debtor (No. and Street, City, and State): 820 First Street West Bradenton, FL	Street Address of Joint Debtor (No. and Street, City, and State):
ZIP Code 34208	ZIP Code
County of Residence or of the Principal Place of Business: Manatee	County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address): 1767 Lakewood Ranch Blvd. Suite 304 Bradenton, FL	Mailing Address of Joint Debtor (if different from street address):
ZIP Code 34211	ZIP Code

Location of Principal Assets of Business Debtor (if different from street address above):

Type of Debtor (Form of Organization) (Check one box) <input type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input checked="" type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)	Nature of Business (Check one box) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input checked="" type="checkbox"/> Other <hr/> Tax-Exempt Entity (Check box, if applicable) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).	Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input checked="" type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding Nature of Debts (Check one box) <input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input checked="" type="checkbox"/> Debts are primarily business debts.
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Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.	Check one box: <input checked="" type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). Check if: <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,343,300 (amount subject to adjustment on 4/01/13 and every three years thereafter). Check all applicable boxes: <input type="checkbox"/> A plan is being filed with this petition. <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
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Statistical/Administrative Information <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors. Estimated Number of Creditors <input checked="" type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> OVER 100,000 Estimated Assets <input checked="" type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion Estimated Liabilities <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input checked="" type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion	THIS SPACE IS FOR COURT USE ONLY
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Voluntary Petition <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s): Astro Tel, Inc.	
All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)			
Location Where Filed: - None -	Case Number:	Date Filed:	
Location Where Filed:	Case Number:	Date Filed:	
Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)			
Name of Debtor: - None -	Case Number:	Date Filed:	
District:	Relationship:	Judge:	
<p style="text-align:center;">Exhibit A</p> <p>(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)</p> <p><input type="checkbox"/> Exhibit A is attached and made a part of this petition.</p>	<p style="text-align:center;">Exhibit B</p> <p>(To be completed if debtor is an individual whose debts are primarily consumer debts.)</p> <p>I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b).</p> <p>X _____ Signature of Attorney for Debtor(s) (Date)</p>		
Exhibit C			
Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?			
<input type="checkbox"/> Yes, and Exhibit C is attached and made a part of this petition. <input checked="" type="checkbox"/> No.			
Exhibit D			
(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)			
<input type="checkbox"/> Exhibit D completed and signed by the debtor is attached and made a part of this petition.			
If this is a joint petition:			
<input type="checkbox"/> Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.			
Information Regarding the Debtor - Venue (Check any applicable box)			
<input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.			
<input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.			
<input type="checkbox"/> Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.			
Certification by a Debtor Who Resides as a Tenant of Residential Property (Check all applicable boxes)			
<input type="checkbox"/> Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)			
_____ (Name of landlord that obtained judgment)			
_____ (Address of landlord)			
<input type="checkbox"/> Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and			
<input type="checkbox"/> Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.			
<input type="checkbox"/> Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).			

<p>Voluntary Petition</p> <p><i>(This page must be completed and filed in every case)</i></p>	<p>Name of Debtor(s): Astro Tel, Inc.</p>
<p style="text-align: center;">Signatures</p> <p style="text-align: center;">Signature(s) of Debtor(s) (Individual/Joint)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct. [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. [If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b).</p> <p>I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p>X _____ Signature of Debtor</p> <p>X _____ Signature of Joint Debtor</p> <p>_____ Telephone Number (If not represented by attorney)</p> <p>_____ Date</p>	<p style="text-align: center;">Signatures</p> <p style="text-align: center;">Signature of a Foreign Representative</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.</p> <p>(Check only one box.)</p> <p><input type="checkbox"/> I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached.</p> <p><input type="checkbox"/> Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.</p> <p>X _____ Signature of Foreign Representative</p> <p>_____ Printed Name of Foreign Representative</p> <p>_____ Date</p>
<p style="text-align: center;">Signature of Attorney*</p> <p>X <u>/s/ Herbert R. Donica</u> Signature of Attorney for Debtor(s)</p> <p><u>Herbert R. Donica 841870</u> Printed Name of Attorney for Debtor(s)</p> <p><u>Donica Law Firm, P.A.</u> Firm Name</p> <p><u>106 S. Tampania Ave.</u> <u>Suite 250</u> <u>Tampa, FL 33609</u> Address</p> <p style="text-align: right;">Email: herb@donicalaw.com</p> <p><u>813-878-9790 Fax: 813-878-9746</u> Telephone Number</p> <p><u>December 16, 2010</u> Date</p> <p><small>*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.</small></p>	<p style="text-align: center;">Signature of Non-Attorney Bankruptcy Petition Preparer</p> <p>I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.</p> <p>_____ Printed Name and title, if any, of Bankruptcy Petition Preparer</p> <p>_____ Social-Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.)(Required by 11 U.S.C. § 110.)</p> <p>_____ Address</p> <p>X _____ Date</p> <p>Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.</p> <p>Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:</p> <p>_____ If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.</p> <p><small>A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. §110; 18 U.S.C. §156.</small></p>
<p style="text-align: center;">Signature of Debtor (Corporation/Partnership)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.</p> <p>The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p>X <u>/s/ Mike Ray</u> Signature of Authorized Individual</p> <p><u>Mike Ray</u> Printed Name of Authorized Individual</p> <p><u>President</u> Title of Authorized Individual</p> <p><u>December 16, 2010</u> Date</p>	<p>_____ Date</p> <p>Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.</p> <p>Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:</p> <p>_____ If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.</p> <p><small>A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. §110; 18 U.S.C. §156.</small></p>

B4 (Official Form 4) (12/07)

**United States Bankruptcy Court
Middle District of Florida**

In re **Astro Tel, Inc.**

Debtor(s)

Case No. _____

Chapter **11**

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

Following is the list of the debtor's creditors holding the 20 largest unsecured claims. The list is prepared in accordance with Fed. R. Bankr. P. 1007(d) for filing in this chapter 11 [or chapter 9] case. The list does not include (1) persons who come within the definition of "insider" set forth in 11 U.S.C. § 101, or (2) secured creditors unless the value of the collateral is such that the unsecured deficiency places the creditor among the holders of the 20 largest unsecured claims. If a minor child is one of the creditors holding the 20 largest unsecured claims, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

(1)	(2)	(3)	(4)	(5)
<i>Name of creditor and complete mailing address including zip code</i>	<i>Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted</i>	<i>Nature of claim (trade debt, bank loan, government contract, etc.)</i>	<i>Indicate if claim is contingent, unliquidated, disputed, or subject to setoff</i>	<i>Amount of claim [if secured, also state value of security]</i>
Chase P. O. Box 15298 Wilmington, DE 19850-5298	Chase P. O. Box 15298 Wilmington, DE 19850-5298			Unknown
Regions Bank P. O. Box 2224 Birmingham, AL 35246-0026	Regions Bank P. O. Box 2224 Birmingham, AL 35246-0026	Line of credit		29,000.00
Verizon Florida, LLC 1717 Arch St. 21st Floor Philadelphia, PA 19103	Verizon Florida, LLC 1717 Arch St. 21st Floor Philadelphia, PA 19103	Arbitration award	Contingent Unliquidated Disputed Subject to Setoff	505,000.00

B4 (Official Form 4) (12/07) - Cont.

In re Astro Tel, Inc.

Case No. _____

Debtor(s)

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS
(Continuation Sheet)

(1)	(2)	(3)	(4)	(5)
<i>Name of creditor and complete mailing address including zip code</i>	<i>Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted</i>	<i>Nature of claim (trade debt, bank loan, government contract, etc.)</i>	<i>Indicate if claim is contingent, unliquidated, disputed, or subject to setoff</i>	<i>Amount of claim [if secured, also state value of security]</i>

**DECLARATION UNDER PENALTY OF PERJURY
ON BEHALF OF A CORPORATION OR PARTNERSHIP**

I, the President of the corporation named as the debtor in this case, declare under penalty of perjury that I have read the foregoing list and that it is true and correct to the best of my information and belief.

Date December 16, 2010

Signature /s/ Mike Ray

Mike Ray
President

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571.

Astro Tel, Inc.
1767 Lakewood Ranch Blvd.
Suite 304
Bradenton, FL 34211

Herbert R. Donica
Donica Law Firm, P.A.
106 S. Tampania Ave.
Suite 250
Tampa, FL 33609

Chase
P. O. Box 15298
Wilmington, DE 19850-5298

Hardy L. Roberts, III, Esq.
Carlton Fields, P.A.
PO Box 3239
Tampa, FL 33601-3239

Regions Bank
P. O. Box 2224
Birmingham, AL 35246-0026

Verizon Florida, LLC
1717 Arch St.
21st Floor
Philadelphia, PA 19103

130066-TX

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:) Case No. 8:10-bk-29992-MGW
)
Astro Tel, Inc.) Chapter 11
Debtor.)
) (Jointly Administered)
)
_____/)
)
)

**ORDER AUTHORIZING AND APPROVING
(1) ASSET PURCHASE AGREEMENT, (2) SALE OF
ASSETS FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES
TO BIRCH COMMUNICATIONS, INC. AND (3) CERTAIN RELATED RELIEF**

This matter came before the Court on Debtor’s Motion to Authorize and Approve Sale of Assets Free and Clear of Lien Claims, Interests and Encumbrances for Entry of an Order ECF No. 216. Debtor having executed that certain Asset Purchase Agreement with Birch Communications, Inc. (“Buyer”) appended hereto as Exhibit A (including all exhibits and attachments thereto, the “Purchase Agreement”); Buyer having been determined by the Debtor to have submitted the highest and best offer for the Acquired Assets a preliminary hearing having been held on December 19, 2011 (the “Preliminary Sale Hearing”) and a final hearing on the Sale Motion having been held on January 4, 2012 (the “Final Sale Hearing” and, together with the Preliminary Sale Hearing, the “Sale Hearings”); all interested parties having been afforded an opportunity to be heard with respect to the Sale Motion and all relief related thereto; the Court having reviewed and considered (i) the Sale Motion, (ii) the Purchase Agreement, (iii) the

objections thereto, and (iv) the arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearings; it appearing that due notice of the Sale Motion and the Sale Hearings, has been provided and it appearing that the relief requested in the Sale Motion and approval of the sale to Buyer of the Acquired Assets identified in the Purchase Agreement is in the best interests of the Debtor, its estate, creditors, and other parties in interest; and based on the Sale Motion, the statements of counsel, the record of the Sale Hearings and the record in this case, the Court having determined and concluded as follows.

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The Court has jurisdiction over the Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue of this case and the Sale Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

B. Notwithstanding Bankruptcy Rules 6004(h), 7062 and 9014, the Court expressly finds that there is no reason for delay in the implementation of this Order and the closing of the Transactions (as defined herein), and expressly directs judgment as set forth herein.

C. The statutory predicates for the relief sought in the Sale Motion are sections 105(a), 363(b), (f) and (m) and 365 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code"), and Rules 2002, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

D. Proper, timely, adequate and sufficient notice of the Sale Motion, the Sale Hearings, and the transactions contemplated by the Purchase Agreement and this Order (the "Transactions") has been provided in accordance with sections 105(a), 363 and 365 of the Bankruptcy Code and Rules 2002, 6004 and 9014 of the Bankruptcy Rules, such notice was good and sufficient, and appropriate under the particular circumstances, and no other or further notice of the Sale Motion, the Sale Hearings, or the Transactions is or shall be required.

E. As demonstrated by (i) the testimony and other evidence proffered or adduced at the Sale Hearings and (ii) the representations of counsel made on the record at the Sale Hearings, the Debtor has marketed the Acquired Assets and conducted the sale process in order to maximize value for the benefit the Debtor's estate and creditors.

F. No consents or approvals, other than those expressly provided for in the Purchase Agreement, are required for the Debtor to consummate such transactions.

G. Approval of the Purchase Agreement and consummation of the Transactions at this time are in the best interests of the Debtor, its creditors, its estate, and other parties in interest.

H. The Debtor has demonstrated good, sufficient, and sound business purpose and justification for the sale contemplated by this Order pursuant to section 363(b) of the Bankruptcy Code.

I. A reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein has been afforded to all interested persons and entities.

J. The Purchase Agreement was negotiated, proposed and entered into by the Debtor and Buyer without collusion, in good faith, and from arm's-length bargaining positions. The Debtor and Buyer have not engaged in any conduct that would cause or permit the Purchase Agreement or any part of the Transactions to be avoided under section § 363(n) of the Bankruptcy Code.

K. Buyer is a good faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. Buyer will be acting in good faith within the meaning of section 363(m) of the Bankruptcy Code in closing the Transactions.

L. The consideration provided by Buyer for the Acquired Assets pursuant to the Purchase Agreement (i) is fair and reasonable, (ii) is the highest or best offer for the Acquired Assets and (iii) constitutes reasonably equivalent value and fair consideration for the Acquired Assets.

M. The Purchase Agreement must be approved and consummated promptly in order to preserve the value of the Acquired Assets.

N. The transfer of the Acquired Assets to Buyer will be a legal, valid, and effective transfer of such assets and will vest Buyer with all right, title, and interest of the Debtor to such assets free and clear of (i) all claims and interests, including, without limitation, any charge, lien, claim, mortgage, lease, sublease, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, easement, servitude, restrictive covenant, encroachment, encumbrance, third party interest or other restriction or limitation of any kind (collectively,

the "Encumbrances") and (ii) all debts arising under or out of, in connection with, or in any way relating to, any acts of the Debtor, claims (as defined in section 101(5) of the Bankruptcy Code), rights or causes of action (whether in law or in equity, including any rights or causes of action based on theories of transferee or successor liability under any law, statute or regulation of the United States, any state, territory, or possession thereof or the District of Columbia), obligations, demands, guaranties, rights, contractual commitments, restrictions, interests and matters of any kind or nature whatsoever, whether arising prior to or subsequent to the commencement of the Debtor's bankruptcy case and whether imposed by agreement, understanding, law, equity or otherwise.

O. The Debtor may sell the Acquired Assets free and clear of all Encumbrances of any kind or nature whatsoever because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those nondebtor parties with claims or interests in the Acquired Assets who did not object, or who withdrew their objections, to the Purchase Agreement or the Sale Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code.

P. The transfer of the Acquired Assets to Buyer will not subject Buyer to any liability whatsoever with respect to the operation of the Debtor's businesses (collectively, the "Business") prior to the Closing Date or 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, in any theory of law or equity, including, without limitation, any theory of antitrust, successor, or transferee liability.

Q. Buyer would not have entered into the Purchase Agreement, and would not consummate the Transactions contemplated thereby, if the sale of the Acquired Assets were not free and clear of all Encumbrances relating to the Acquired Assets, the operation of the Business prior to the closing of the Transactions or the transfer of the Acquired Assets, or if Buyer would, or in the future could, be liable for any such Encumbrances or any other liabilities as described in the Purchase Agreement.

R. The Debtor (i) has full corporate power and authority to execute the Purchase Agreement and all other documents contemplated thereby, and the Transactions have been duly and validly authorized by all necessary corporate action of the Debtor, (ii) has all of the corporate power and authority necessary to consummate the Transactions contemplated by the Purchase Agreement, (iii) has taken all actions necessary to authorize and approve the Purchase Agreement and the consummation by the Debtor of the Transactions contemplated thereby and (iv) have all consents and approvals, other than those expressly provided for in the Purchase Agreement, that are required for the Debtor to consummate such transactions. The Acquired Assets constitute property of the Debtor's estate and title thereto is vested in the Debtor's estate within the meaning of section 541(a) of the Bankruptcy Code.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND
DECREED THAT:

General Provisions

1. The Sale Motion is **GRANTED** to the extent provided herein.

2. The findings of fact set forth above and conclusions of law stated herein shall constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any finding of fact later shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law later shall be determined to be a finding of fact, it shall be so deemed.

3. All objections to the entry of this Order or the relief provided herein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are hereby overruled on the merits.

4. Notice of the Sale Hearings was fair and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002 and 6004.

5. The sale of the Acquired Assets and the consideration provided by Buyer under the Purchase Agreement is fair and reasonable and shall be deemed for all purposes to constitute a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable law.

Approval of the Purchase Agreement

6. The Purchase Agreement, and all of the terms and conditions thereof, is hereby approved. The Debtor and the Buyer reserve the right to amend, supplement or revise the schedules and exhibits to the Purchase Agreement by mutual consent at any time prior to the Closing.

7. Pursuant to section 363(b) of the Bankruptcy Code, the Debtor is authorized and directed to consummate the Transactions pursuant to and in accordance with the terms and conditions of the Purchase Agreement.

8. The Debtor is authorized and directed to execute and deliver, and empowered to perform under, consummate and implement the Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement, and to take all further actions as may be requested by Buyer for the purpose of assigning, transferring, granting, conveying and conferring to Buyer or reducing to possession, the Acquired Assets, or as may be necessary or appropriate to the performance of the obligations as contemplated by the Purchase Agreement.

Transfer of Acquired Assets

9. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Acquired Assets shall be transferred to Buyer, and upon consummation of the Transactions (the "Closing") shall be, free and clear of any Encumbrances, with all such Encumbrances of any kind or nature whatsoever to attach to the net proceeds of the Transactions ultimately attributable to the property against or in which the holder of an Encumbrance may claim in the order of their priority, with the same validity, force and effect which they now have, subject to any claims and defenses the Debtor may possess with respect thereto.

10. Except as expressly permitted or otherwise specifically provided by the Purchase Agreement or this Order, all persons and entities, including, but not

limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors, holding Encumbrances of any kind or nature whatsoever against or in the Debtor or the Acquired Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, the Debtor, the Acquired Assets, the operation of the Business prior to the Closing Date, or the transfer of the Acquired Assets to Buyer, hereby are forever barred, estopped, and permanently enjoined from asserting against Buyer, its successors or assigns, property, or assets, such persons' or entities' Encumbrances.

11. The transfer of the Acquired Assets to Buyer pursuant to the Purchase Agreement constitutes a legal, valid, and effective transfer of such assets, and shall vest Buyer with all right, title, and interest of the Debtor in and to such assets free and clear of all Encumbrances of any kind or nature whatsoever.

12. Any sales Tax, use Tax, personal property Tax or similar Tax attributable to the sale or transfer of the Acquired Assets shall be the responsibility of, and shall be paid by, the Debtor.

Assumption and Assignment of Agreement with Verizon

13. Notwithstanding anything else contained in this Order or the Purchase Agreement, only the terms set forth in this paragraph 13 shall govern the

assumption and assignment of the existing executory contract (the "Verizon Contract") between the Debtor and Verizon Florida LLC ("Verizon")¹:

(a) Upon receipt of the Verizon Cure (as defined below), and conditioned upon the Debtor's satisfaction of its obligations under sub-paragraph (c) below, the Verizon Contract shall be deemed assumed by the Debtor pursuant to section 365 of the Bankruptcy Code, and assigned to the Buyer as of the date of the Closing, or such earlier date as may be agreed upon among the Debtor, the Buyer and Verizon. Contemporaneously with such assumption and assignment, and by no later than the date thereof, the Debtor shall pay to Verizon, by wire transfer and pursuant to instructions to be provided by Verizon, the sum of \$489,515.50 (the "Verizon Cure") (the Verizon pre-petition claim of \$538,958.55, less \$49,443.05, representing the undisputed sum owed by Verizon to the Debtor for pre-petition charges), which sum shall be deemed to cure all existing, pre-petition payment defaults under the Verizon Contract. The Debtor shall retain the undisputed sum of \$49,443.05 referenced above, which sum shall be credited against and correspondingly reduce the Base Purchase Price payable to the Debtor by the Buyer as provided in Article 3 of the Purchase Agreement. Upon the Debtor's compliance with its obligation to pay the Verizon Cure as provided

¹ Specifically, in 2002, the Debtor (which at that time was called Eagle Telecommunications, Inc.) adopted the existing ICA between Verizon Florida Inc. (now Verizon Florida LLC) and WinStar Wireless of Florida Inc. Later, in 2003, Eagle then chose to adopt two specific sections -- concerning DS1 lines and combinations thereof -- from a different ICA between Verizon and Budget Phone, Inc. Consequently, the relationship between the Debtor and Verizon is governed by the Winstar ICA, with the exception that provision of DS1 lines in particular is governed by the applicable section of the Budget Phone ICA.

herein, both the Debtor's obligation to pay the Verizon Cure to Verizon, and Verizon's payment obligation to the Debtor or the Buyer with respect to the undisputed sum of \$49,443.05 referenced above, shall be satisfied in full. Upon Verizon's receipt of the Verizon Cure, and except as otherwise provided below in this paragraph 13 (including, without limitation, sub-paragraphs (c), (e) and (f)), the Debtor and Verizon, on behalf of themselves and any persons or entities claiming through them, shall be deemed to have mutually released and forever discharged one another from any and all claims, debts, credits, demands or causes of action, known or unknown, at law or in equity, present or future, fixed or contingent, that accrued or arose at any time prior to the Petition Date in these cases, including, without limitation, any claims for charges or credits associated with the provision of telecommunications services and facilities and any avoidance actions under Chapter 5 of the Bankruptcy Code. Within five (5) business days after the Closing, the Debtor shall cause Adversary Proceeding No. 11-00941-MGW pending before this Court to be voluntarily dismissed with prejudice.

(b) From and after the date of assignment of the Verizon Contract, the Buyer shall be responsible for all charges accruing for services and facilities provided by Verizon on and after the date of assignment. For the avoidance of doubt, Buyer shall have no liability with respect to, and Verizon expressly waives and releases Buyer from, any claims, debts, credits, demands or causes of action, known or unknown, at law or in equity, present or future, fixed or contingent, that

accrued or arose under the Verizon Contract at any time prior to the assignment of the Verizon Contracts to Buyer; similarly, and except as otherwise provided below in this paragraph 13, Buyer waives and releases Verizon from any claims, debts, credits, demands or causes of action, known or unknown, at law or in equity, present or future, fixed or contingent, that accrued or arose under the Verizon Contract at any time prior to the assignment of the Verizon Contracts to Buyer.

(c) Pending its assumption of the Verizon Contract and assignment thereof to the Buyer, the Debtor shall remain current on its post-petition obligations to Verizon and shall otherwise comply with all of its obligations under the Stipulation and Consent Order Establishing Adequate Assurance of Payment to Verizon Florida LLC (the "366 Stipulation") [Docket No. 45]. Nothing contained herein constitutes a waiver of the Debtor's right to dispute Verizon's post-petition charges or a determination as to the validity of any such disputes.

(d) Upon the assumption and assignment of the Verizon Contract to the Buyer, in the event that the Buyer wishes to terminate the Verizon Contract after assignment by the Debtor and transfer the services provided thereunder to an existing agreement between the Buyer and Verizon in the state of Florida, the Buyer shall provide written notice of such intent to Verizon (in care of William G. Cummings), and the Buyer shall submit appropriate Local Service Requests and/or Access Service Requests to Verizon in order to effectuate such transfer of services. Verizon shall waive and/or issue credits to the Buyer sufficient to offset

any non-recurring charges that the Buyer may incur in connection with the transfer of services to the Buyer's existing Verizon agreement in Florida. The Buyer shall have sixty (60) days after the Closing to assess the merits of any claim concerning the disputed accounts receivable allegedly owed by Verizon to the Debtor totaling \$51,341.95 (representing alleged accounts receivable of \$100,785 as of November 17, 2011, less the undisputed sum of \$49,443.05 referenced and provided to be retained by the Debtor and credited against the Base Purchase Price payable by the Buyer in sub-paragraph (a) of this paragraph above). Unless the Buyer has initiated litigation against Verizon to collect this disputed receivable within the 60-day period referenced immediately above, any claim by the Buyer concerning this disputed receivable shall be deemed automatically waived and released by the Buyer.

(e) Provided that Verizon has received the Verizon Cure and that the Debtor has complied with its obligations under sub-paragraph (c) above, Verizon shall return to the Debtor, within 45 days after the Closing Date, the deposit it received under the 366 Stipulation. In addition, and to the extent that the Debtor has rendered payment to Verizon in advance for services that are to be provided after the Closing, Verizon shall refund to the Debtor the post-Closing portion of any such advance payment, and the Buyer shall be responsible to compensate Verizon for such post-Closing services.

(f) In addition to its right to the return of the deposit and any advance payments for post-Closing services as set forth in sub-paragraph (e) of this

paragraph 13 and notwithstanding the releases set forth in sub-paragraph (a) of this paragraph 13, the Debtor has not assigned to the Buyer, expressly reserves and has not released its rights or claims in connection with (i) its pending objection to the portion of Verizon's pre-petition proof of claim that is comprised of \$28,836.67 in alleged post-arbitration, pre-petition charges [Docket No. 134] (the "Claim Objection"); (ii) the pending action in the District Court for the Middle District of Florida, Tampa Division, Case No. 8:11-cv-02224-VMC-TBM; or (iii) the pending appeal of an arbitration award in the Florida Second District Court of Appeal, Case No. 2D11-2723 and any related or subsequent proceeding arising out of such appeal (the "Arbitration Appeal"), which relates to \$510,121.68 of Verizon's pre-petition proof of claim (\$502,960.90 in principal plus \$7,160.98 in pre-petition interest); or (iv) the Debtor's FCC Complaint against Verizon sent to Verizon counsel pursuant to the FCC notice requirement; and Verizon reserves all rights and defenses with respect to such objections or claims in items (i), (ii), (iii) and (iv). In the event that a final, non-appealable decision is reached in connection with either the Claim Objection or the Arbitration Appeal that is in favor of the Debtor, and consequently reduces the sum of the Verizon Cure that was paid to Verizon pursuant to sub-paragraph (a) of this paragraph 13 above, then Verizon shall be obligated to refund a corresponding portion of the Verizon Cure to the Debtor.

(g) The terms of this paragraph 13 constitute written confirmation by Verizon of the terms under which it will agree to assignment of the Verizon

Contract, and shall satisfy the Debtor's obligation under paragraph 9.5 of the Purchase Agreement to obtain Verizon's written consent.

Additional Provisions

14. On the Closing Date of the Transactions, each of the Debtor's creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its Encumbrances with respect to the Acquired Assets, if any, as such Encumbrances may have been recorded or may otherwise exist.

15. This Order (a) shall be effective as a determination that, on the Closing Date, all Encumbrances of any kind or nature whatsoever existing with respect to the Debtor or the Acquired Assets prior to the Closing have been unconditionally released, discharged and terminated, and that the conveyances described herein have been effected, and (b) shall be binding upon and shall govern the acts of all entities including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of such assets or contracts.

16. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary

and appropriate to consummate the transactions contemplated by the Purchase Agreement.

17. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing Encumbrances with respect to the Acquired Assets shall not have delivered to the Debtor and Buyer prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Encumbrances that the person or entity has with respect to the Debtor, the Acquired Assets or otherwise, then (a) the Debtor is hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to such assets and (b) Buyer is hereby authorized to file, register, or otherwise record a certified copy of this Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Encumbrances with respect to the Acquired Assets of any kind or nature whatsoever.

18. All entities that presently are, or on the Closing Date may be, in possession of some or all of the Acquired Assets are hereby directed to surrender possession of the Acquired Assets to Buyer on the Closing Date.

19. Buyer shall have no liability or responsibility for any liability or other obligation of the Debtor arising under or related to the Acquired Assets. Without limiting the generality of the foregoing, and except as otherwise specifically provided herein and in the Purchase Agreement, Buyer shall not be liable for any claims against the Debtor or any of its predecessors or affiliates, and Buyer shall have no successor or

vicarious liabilities of any kind or character whether known or unknown as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtor or any obligations of the Debtor arising prior to the Closing Date, including, but not limited to, (a) liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Business prior to the Closing Date and (b) liabilities based on any theory of antitrust, environmental, successor or transferee liability, labor law, de facto merger or substantial continuity.

20. Under no circumstances shall Buyer be deemed a successor of or to the Debtor for any Encumbrance against or in the Debtor or the Acquired Assets of any kind or nature whatsoever. The sale, transfer, assignment and delivery of the Acquired Assets shall not be subject to any Encumbrances, and Encumbrances of any kind or nature whatsoever shall remain with, and continue to be obligations of, the Debtor. All persons holding Encumbrances against or in the Debtor or the Acquired Assets of any kind or nature whatsoever shall be, and hereby are, forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing such Encumbrances of any kind or nature whatsoever against Buyer, its property, its successors and assigns, or the Acquired Assets, as an alleged successor or otherwise, with respect to any Encumbrance of any kind or nature whatsoever such person or entity had, has, or may have against or in the Debtor, its estate, officers, directors, shareholders, or the Acquired Assets. Following the Closing Date, no holder of an Encumbrance with respect to the Debtor shall interfere with Buyer's title to or use and enjoyment of the

Acquired Assets based on or related to such Encumbrance, or any actions that the Debtor may take in its chapter 11 case.

21. Any amounts that become payable by the Debtor pursuant to the Purchase Agreement or any of the documents delivered by the Debtor pursuant to or in connection with the Purchase Agreement shall (a) be paid by the Debtor in the time and manner as provided in the Purchase Agreement, without further order of this Court and (b) not be discharged, modified, or otherwise affected by any plan of reorganization or liquidation for the Debtor.

22. This Court retains exclusive jurisdiction over any matter or dispute arising from or relating to the implementation of this Order as well as to enforce and implement the terms and provisions of the Purchase Agreement, all amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith in all respects, including, but not limited to, retaining exclusive jurisdiction to (a) compel delivery of the Acquired Assets to Buyer, (b) resolve any disputes arising under or related to the Purchase Agreement, except as otherwise provided therein, (c) interpret, implement, and enforce the provisions of this Order, and (d) protect Buyer against any Encumbrances with respect to the Debtor or the Acquired Assets, of any kind or nature whatsoever, attaching to the proceeds of the Transactions.

23. Nothing contained in any plan confirmed in this case or any order of this Court confirming such plan shall conflict with or derogate from the provisions of the Purchase Agreement or the terms of this Order.

24. The transactions contemplated by the Purchase Agreement are undertaken by Buyer in good faith, as that term is used in section 363(m) of the Bankruptcy Code. Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Transactions shall not affect the validity of the Transactions as to Buyer, except to the extent such authorization is duly stayed pending such appeal prior to such consummation. Buyer is a purchaser in good faith of the Acquired Assets, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

25. The terms and provisions of the Purchase Agreement and this Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtor, its estate, and its creditors, Buyer, and its affiliates, successors and assigns, and shall be binding in all respects upon any affected third parties including, but not limited to, all persons asserting Encumbrances with respect to such assets to be sold to Buyer pursuant to the Purchase Agreement, notwithstanding any subsequent appointment of any trustee(s) or similar party under any chapter of the Bankruptcy Code, as to which trustee(s) or similar party such terms and provisions likewise shall be binding.

26. The failure specifically to include any particular provision of the Purchase Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Purchase Agreement be authorized and approved in its entirety. Likewise, all of the provisions of this Order are nonseverable and mutually dependent.

27. The Purchase Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by all parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtor's estate.

28. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062 and 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry, and the Debtor and Buyer are authorized to close the Transactions immediately upon entry of this Order.

DONE and ORDERED in Tampa, Florida, on ___ January 13, 2012



Michael G. Williamson
United States Bankruptcy Judge

cc:

EXHIBIT A

Purchase Agreement

EXECUTION VERSION

ASSET PURCHASE AGREEMENT

DATED DECEMBER 21, 2011

BY AND AMONG

ASTRO TEL, INC.

And

BIRCH COMMUNICATIONS, INC.

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated December 21, 2011 (the "Effective Date"), by and between Birch Communications, Inc., a Georgia corporation, ("Buyer"), and Astro Tel, Inc., a Florida corporation ("Seller"), in Seller's Bankruptcy Case. Capitalized terms used herein have the meanings set forth in Article 1.

RECITALS

WHEREAS, Seller is engaged in the business of providing telecommunications services to certain business and residential customers;

WHEREAS, Buyer desires to purchase from Seller, and Seller desires to sell, assign, transfer, convey and deliver to Buyer, free and clear of any Encumbrances, all of the Acquired Assets upon the terms and conditions hereinafter set forth;

WHEREAS, the Parties intend to effectuate the transactions contemplated by this Agreement through a sale of the Acquired Assets pursuant to section 363 of the Bankruptcy Code; and

WHEREAS, the execution and delivery of this Agreement and Seller's ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of an Order of the Bankruptcy Court under, *inter alia*, section 363 of the Bankruptcy Code.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties and covenants herein contained, the Parties agree as follows:

ARTICLE 1

DEFINITIONS

1.1 Definitions.

For purposes of this Agreement, the following terms have the meanings specified or referenced below.

"Acquired Assets" has the meaning set forth in Section 2.1.

"Action" means any legal action, suit or arbitration, or any inquiry, proceeding or investigation, by or before any Governmental Authority.

"Accounts" means the Retail Business Accounts, the Retail Residential Accounts and the Wholesale Accounts.

"Active" means (a) customer accounts that are service activated, provided that the associated accounts are not more than forty-five (45) days past due as of the Closing Date according to Seller's customary billing practices and (b) lines associated with those accounts set forth on Schedule 1.1(a). Active customer accounts shall include the one account with a large June invoice that is on a payment plan.

"Affiliate" shall mean, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such Person. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled" and "common control") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

"Agreement" has the meaning set forth in the introductory paragraph.

"Assigned Contracts" has the meaning set forth in Section 2.1(i).

"Assignment and Assumption Agreement" means the Assignment and Assumption Agreement, in a form to be mutually agreed upon by the Parties.

"Bankruptcy Case" means the chapter 11 bankruptcy case of Seller pending in the Bankruptcy Court with Case Number 8:10-bk-29992-MGW.

"Bankruptcy Code" means Title 11 of the United States Code, Sections 101 *et seq.*

"Bankruptcy Court" means the United States Bankruptcy Court for the Middle District of Florida.

"Base Purchase Price" has the meaning set forth in Section 3.1.

"Bill of Sale" means the Bill of Sale, in a form to be mutually agreed upon by the Parties.

"Books and Records" means all files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, ledgers, journals, technical documentation (design specifications, functional requirements, operating instructions, logic manuals, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), and other similar materials in each case to the extent in the possession or control of Seller as of the Closing.

"BSS" has the meaning set forth in Section 2.1(l).

"Business" means the business of operating the Acquired Assets

"Business Day" means any day of the year on which national banking institutions in New York, New York are open to the public for conducting business and are not required or authorized to close.

“Buyer” has the meaning set forth in the introductory paragraph.

“Buyer Adjustments” has the meaning set forth in Section 3.3(d).

“CABS” means Carrier Access Billings.

“CABS A/R” has the meaning set forth in Section 2.1(f).

“CABS Commission” has the meaning set forth in Section 3.3(b).

“Closing” has the meaning set forth in Section 4.1.

“Closing Date” means the date as of which the Closing occurs as set forth in Section 4.1.

“Closing Date Payment” has the meaning set forth in Section 3.2(b).

“Closing Statement” has the meaning set forth in Section 3.2(a).

“Confidentiality Agreement” has the meaning set forth in Section 12.2.

“Effective Date” has the meaning set forth in the introductory paragraph.

“Encumbrance” means any charge, lien, claim, mortgage, lease, sublease, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, easement, servitude, restrictive covenant, encroachment, encumbrance, third party interest or other restriction or limitation of any kind.

“Escrow Account” means the account maintained by the Escrow Agent in which the Escrow Amount shall be deposited at Closing.

“Escrow Agent” means U.S. Bank N.A.

“Escrow Agreement” means the Escrow Agreement by and among Buyer, Seller and the Escrow Agent, in a form mutually agreeable to the Parties, which shall provide for release of the balance of the escrow funds which are not the subject of any claims or any objections or disputes pursuant to Section 3.3 to Seller six months (6) months following the Closing Date.

“Escrow Amount” means \$25,000.

“Excluded Assets” has the meaning set forth in Section 2.2.

“Expenses” means an amount equal to Buyer’s actual costs and expenses reasonably incurred in connection with the transactions contemplated herein which shall be paid as set forth in Section 11.2.

“Final Order” means an action taken or order issued by the applicable Governmental Authority as to which: (i) no request for stay of the action or order is pending, no

such stay is in effect, and, if any deadline for filing any such request is designated by statute or regulation, it is passed, including any extensions thereof; (ii) no petition for rehearing or reconsideration of the action or order, or protest of any kind, is pending before the Governmental Authority and the time for filing any such petition or protest is passed; (iii) the Governmental Authority does not have the action or order under reconsideration or review on its own motion and the time for such reconsideration or review has passed; and (iv) the action or order is not then under judicial review, there is no notice of appeal or other application for judicial review pending, and the deadline for filing such notice of appeal or other application for judicial review has passed, including any extensions thereof, or if an appeal has been commenced, no stay is in effect.

“Governmental Authority” means any United States federal, state or local or any foreign government, governmental authority or regulatory or administrative authority or any court, tribunal or judicial body.

“Legal Requirement” means any federal, state, provincial, local, municipal, foreign, international, multinational, or other administrative Order, constitution, law, ordinance, principle of common law, regulation, statute or treaty.

“Network Assets” has the meaning set forth in Section 2.1(h).

“Order” means any award, writ, injunction, judgment, order or decree entered, issued, made, or rendered by any Governmental Authority.

“OSS” has the meaning set forth in Section 2.1(l).

“Party” or **“Parties”** means, individually or collectively, Buyer and Seller.

“Person” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, estate, trust, association, organization or other entity or Governmental Authority.

“Post-Closing Period” shall mean any taxable period beginning after the close of business on the Closing Date or, in the case of any tax period which includes, but does not begin after the close of business on, the Closing Date, the portion of such period beginning after the close of business on the Closing Date.

“Post-Closing Statement” has the meaning set forth in Section 3.3.

“Pre-Closing Period” shall mean any taxable period ending on or before the close of business on the Closing Date or, in the case of any taxable period which includes, but does not end on, the Closing Date, the portion of such period up to and including the Closing Date.

“Proceedings” means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative or investigative, and whether one or more) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

“Purchase Price” has the meaning set forth in Section 3.1.

“Regulatory Authorizations” has the meaning set forth in Section 7.7.

“Representative” means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants and financial advisors.

“Retail Business Accounts” has the meaning set forth in Section 2.1(a).

“Retail Residential Accounts” has the meaning set forth in Section 2.1(b).

“Revenue” has the meaning set forth in Section 3.2(a).

“Sale Order” means an Order of the Bankruptcy Court, reasonably acceptable to Buyer, pursuant to, *inter alia*, sections 105 and 363 of the Bankruptcy Code authorizing and approving, *inter alia*, the sale of the Acquired Assets to Buyer on the terms and conditions set forth herein, free and clear of all Encumbrances.

“Seller Adjustments” has the meaning set forth in Section 3.3(c).

“Seller” has the meaning set forth in the introductory paragraph.

“Subscriber A/R” has the meaning set forth in Section 2.1(d).

“Tax” or **“Taxes”** (and with correlative meaning, **“Taxable”** and **“Taxing”**) means (i) any federal, state, provincial, local, foreign or other income, alternative, minimum, add-on minimum, accumulated earnings, personal holding company, franchise, capital stock, net worth, capital, profits, intangibles, windfall profits, gross receipts, value added, sales, use, goods and services, excise, customs duties, transfer, conveyance, mortgage, registration, stamp, documentary, recording, premium, severance, environmental (including taxes under Section 59A of the Internal Revenue Code of 1986, as amended), natural resources, real property, personal property, ad valorem, intangibles, rent, occupancy, license, occupational, employment, unemployment insurance, social security, disability, workers’ compensation, payroll, health care, withholding, estimated or other similar tax, duty, levy or other governmental charge or assessment or deficiency thereof (including all interest and penalties thereon and additions thereto whether disputed or not) and (ii) any transferee liability in respect of any items described in clause (i) above.

“Telecommunications Services” means any local or long distance toll or toll-free voice, broadband Internet access, mobile voice or data, cable telephony, e-mail, voicemail, web hosting, or virtual private network services.

“Termination Notice” has the meaning set forth in Section 11.3.

“Transaction Documents” means this Agreement, the Bill of Sale, the Assignment and Assumption Agreement and any other agreements, instruments or documents entered into pursuant to this Agreement.

“Verizon A/R” has the meaning set forth in Section 2.1(e).

“Wholesale Accounts” has the meaning set forth in Section 2.1(c).

1.2 Other Definitions and Interpretive Matters.

(a) Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

Calculation of Time Period. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a day other than a Business Day, the period in question shall end on the next succeeding Business Day.

Dollars. Any reference in this Agreement to \$ means U.S. dollars.

Exhibits. All Exhibits attached or annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement.

Gender and Number. Any reference in this Agreement to gender includes all genders, and words imparting the singular number only include the plural and vice versa.

Headings. The division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any **“Section”** or **“Article”** are to the corresponding Section or Article of this Agreement unless otherwise specified.

Herein. Words such as **“herein,”** **“hereof”** and **“hereunder”** refer to this Agreement as a whole and not merely to a subdivision in which such words appear, unless the context otherwise requires.

Including. The word **“including”** or any variation thereof means **“including, without limitation,”** and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

(b) **No Strict Construction.** Buyer, on the one hand, and Seller, on the other hand, participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be

construed as jointly drafted by Buyer, on the one hand, and Seller, on the other hand, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsman shall be applied against any Person with respect to this Agreement.

ARTICLE 2

PURCHASE AND SALE

2.1 Purchase and Sale.

Upon the terms and subject to the conditions of this Agreement, on the Closing Date, Seller shall sell, transfer, assign, convey and deliver, or cause to be sold, transferred, assigned, conveyed and delivered, to Buyer, and Buyer shall purchase, free and clear of all Encumbrances, all right, title and interest of Seller solely in, to or under the following (herein collectively called the "Acquired Assets"):

(a) The Active accounts associated with Seller's retail business assets (the "Retail Business Accounts");

(b) The Active accounts associated with Seller's retail residential assets (the "Retail Residential Accounts");

(c) The Active accounts associated with Seller's wholesale assets (the "Wholesale Accounts");

(d) The accounts receivable of Seller with respect to its direct subscribers (the "Subscriber A/R");

(e) The accounts receivable of Seller with respect to Verizon (the "Verizon A/R");

(f) The accounts receivable of Seller with respect to CABS services (the "CABS A/R");

(g) All Seller's customer contracts and other rights to provide service associated with the Accounts, and all Books and Records related thereto (provided that Seller shall have the right to retain a copy of all Books and Records);

(h) All of Seller's telephony switches, other voice and data switching equipment, network equipment, routing equipment, interconnection equipment (including the Taqua softswitch and ten (10) central office collocations utilizing Adtran and other equipment) and all of the motor vehicles set forth on Schedule 2.1(h) and all of Seller's other equipment used in supporting such assets, including all spare parts and diagnostic tools used to manage such assets, whether or not yet deployed (collectively, the "Network Assets");

(i) All of the contracts set forth on Schedule 2.1(i) (the "Assigned Contracts");

(j) All of Seller's furniture, fixtures and equipment, including all furniture, signs and office equipment listed on Schedule 2.1(j) or otherwise used in the Business;

(k) A list of all cancelled and non-activated accounts of Seller that have been terminated within the twelve (12) months immediately preceding the Closing Date and any and all rights to the customer accounts and relationships associated therewith;

(l) All internet domain names associated with the provision of services associated with the Accounts, including astrotel.us, customer service telephone numbers used to service lines associated with the Accounts and all intellectual property rights used to support the Accounts, including the trademarks set forth on Schedule 2.1(l), but excluding Seller's operations support systems ("OSS") (The OSS includes (i) SmartMail FAX, (ii) hosted PBX system, and (iii) billing support systems ("BSS"));

(m) The BSS and OSS data related to the Accounts along with associated data definition and migration assistance;

(n) Seller's lockbox account and all checks received by Seller following the Closing with respect to any of the Acquired Assets; and

(o) All goodwill of the Business.

2.2 Excluded Assets. For the avoidance of doubt, the Acquired Assets shall not include any of the following (herein collectively called the "Excluded Assets"):

(a) Any of Seller's cash or cash equivalents, including any and all deposits including, but not limited to the utility deposits with Verizon, AT&T, and Florida Power and Light, other than the accounts receivable included in the Acquired Assets;

(b) Any lines located in any state other than Florida; and

(c) Any of Seller's rights pursuant to the litigation matters described on Schedule 2.2;

(d) Any of Seller's rights under this Agreement; or

(e) The personally-owned HP Compaq notebook computers belonging to (2) officers, although any AstroTel data stored therein shall be conveyed.

2.3 Liabilities. In no event shall Buyer assume any liabilities of any of Seller, other than the liabilities arising under the Assigned Contracts.

2.4 Further Assurance. At the Closing, and at all times thereafter as may be necessary, Seller shall execute and deliver to Buyer such other instruments of transfer as shall be reasonably necessary or appropriate to vest in Buyer good and indefeasible title to the Acquired Assets free and clear of all Encumbrances and to comply with the purposes and intent of this Agreement, including the written confirmations required pursuant to Section 9.5, and Seller, on the one hand, and Buyer, on the other hand, shall use their reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things necessary, proper or advisable under applicable law, and execute and deliver such documents and other papers, as may be required to consummate the transactions contemplated by this Agreement and the other Transaction Documents.

ARTICLE 3

PURCHASE PRICE

3.1 Purchase Price.

The purchase price (the "Purchase Price") for the purchase, sale, assignment and conveyance of Seller's right, title and interest in, to and under the Acquired Assets shall consist of cash in an amount equal to \$750,000 (the "Base Purchase Price"), as adjusted pursuant to this Article 3.

3.2 Payments on the Closing Date.

(a) Two (2) Business Days prior to the Closing Date, Seller shall deliver to Buyer a written statement (the "Closing Statement"), setting forth the Closing Date Payment, including the Seller's good faith estimate of (i) the aggregate amount of total monthly accrual basis billed revenue for the Active Retail Residential Accounts, the Active Retail Business Accounts and the Active Wholesale Accounts, billed by AstroTel during the month immediately prior to the month containing the Closing Date (the "Revenue") and (ii) the outstanding amounts of CABS A/R, Subscriber A/R and Verizon A/R (exclusive of any Verizon A/R which has been waived or is not reasonable collectable) as of the Closing Date. Should Buyer object to any of the amounts or calculations in the Closing Statement, Buyer and Seller shall cooperate in a diligent good faith manner to resolve such objections prior to the Closing, and the Closing Statement shall be adjusted prior to the Closing to reflect any changes agreed to by Buyer and Seller prior to the Closing.

(b) If the Revenue set forth on the Closing Statement is greater than or equal to \$89,042, the "Closing Date Payment" shall be an amount equal to the Base Purchase Price minus the Escrow Amount; provided that, if the sum of the Subscriber A/R and the Verizon A/R set forth on the Closing Statement is less than \$182,257, the Closing Date Payment shall be reduced by such difference. If the Revenue set forth on the Closing Statement is less than \$89,042, the Closing Date Payment shall be an amount equal to the Base Purchase Price, minus the Escrow Amount, minus the difference between \$89,042 and the Revenue set forth on the Closing Statement; provided that, if the sum of the Subscriber A/R and the Verizon A/R set forth on the Closing Statement is less than \$182,257, the Closing Date Payment shall be reduced by such difference.

(c) At the Closing, Buyer shall (i) pay to Seller in cash by wire transfer of immediately available funds to the account of Seller set forth in the Closing Statement an amount equal to the Closing Date Payment and (ii) deposit the Escrow Amount into the Escrow Account.

3.3 Post-Closing Adjustment.

(a) No later than one hundred fifty (150) days following the Closing Date, Buyer shall deliver to Seller a written statement (the "Post-Closing Statement") setting forth Buyer's good faith determination of (i) the Revenue, (ii) the outstanding amounts of CABS A/R, Subscriber A/R and Verizon A/R (exclusive of any Verizon A/R which has been waived by Seller or found to be uncollectable by any Court) as of the Closing Date and (iii) the amount of CABS A/R collected by Buyer in the one hundred twenty (120) days immediately following Closing. Should Seller object to any of the amounts or calculations in the Post-Closing Statement, Buyer and Seller shall cooperate in a diligent good faith manner to resolve such objections as soon as possible, and the Post-Closing Statement shall be adjusted to reflect any changes agreed to by Buyer and Seller.

(b) If the amount of CABS A/R collected as set forth on the Post-Closing Statement exceeds \$56,711, then the "CABS Commission" shall be an amount equal to fifty percent (50%) of such excess. Otherwise, the CABS Commission shall be zero.

(c) The "Seller Adjustments" shall be an amount equal to the sum of (i) the CABS Commission, (ii) the amount by which the Revenue set forth on the Post-Closing Statement (provided that any amount in excess of \$89,042 shall be disregarded) exceeds the Revenue set forth on the Closing Statement, if any, and (iii) the amount by which the sum of the Subscriber A/R and the Verizon A/R set forth on the Post-Closing Statement (provided that any amount in excess of \$182,257 shall be disregarded) exceeds the sum of the Subscriber A/R and the Verizon A/R set forth on the Closing Statement, if any.

(d) The "Buyer Adjustments" shall be an amount equal to the sum of (i) the amount by which the Revenue set forth on the Closing Statement exceeds the Revenue set forth on the Post-Closing Statement, if any, and (ii) the amount by which the sum of the Subscriber A/R and the Verizon A/R set forth on the Closing Statement exceeds the sum of the Subscriber A/R and the Verizon A/R set forth on the Post-Closing Statement, if any.

(e) If the amount of Seller Adjustments exceeds the amount of the Buyer Adjustments, Buyer shall pay to Seller an amount equal to the difference between the amount of Seller Adjustments and the amount of the Buyer Adjustments in immediately available funds to the account designated by Seller in the Closing Statement; provided that, in the event the sum of the amount payable to Seller pursuant to this Section 3.3, the Escrow Amount and the Closing Date Payment would exceed \$750,000, the amount payable to Seller pursuant to this Section 3.3 shall be an amount equal to \$750,000 minus the Closing Date Payment and the Escrow Amount.

(f) If the amount of the Buyer Adjustments exceeds the amount of Seller Adjustments, Seller and Buyer shall direct the Escrow Agent to release to Buyer from the Escrow Account an amount equal to the difference between the amount of the Buyer Adjustments and the amount of Seller Adjustments; provided that, in the event the amount by

which the Buyer Adjustments exceed the amount of Seller Adjustments is greater than the remaining balance in the Escrow Account, Seller and Buyer shall direct the Escrow Agent to release to Buyer the remaining balance of the Escrow Account and Seller shall pay to Buyer the remaining difference between the amount of Buyer Adjustments and the amount of the Seller Adjustments in immediately available funds to the account designated by Buyer.

ARTICLE 4

CLOSING

4.1 Closing Date.

Upon the terms and subject to the conditions hereof, the closing of the sale of the Acquired Assets (the "Closing") shall take place at the offices of Jones Day in Atlanta, Georgia no later than the third (3rd) Business Day after the day on which all of the conditions to closing set forth in Article 9 and Article 10 are satisfied or waived (other than conditions that are intended to be satisfied at the Closing) or on such other date as Buyer and Seller shall agree in writing (such actual date of Closing, the "Closing Date").

4.2 Buyer's Deliveries.

At the Closing, Buyer shall deliver or cause to be delivered

(a) to Seller:

(i) the Closing Date Payment in immediately available funds to the account designated by Seller in the Closing Statement;

(ii) the Bill of Sale, the Assignment and Assumption Agreement and each other Transaction Document to which Buyer is a party, duly executed by Buyer;

(ii) the certificates of Buyer to be received by Seller pursuant to Sections 10.1 and 10.3; and

(b) to the Escrow Agent, the Escrow Amount.

4.3 Seller's Deliveries.

At the Closing, Seller shall deliver or cause to be delivered to Buyer;

(a) the Bill of Sale, the Assignment and Assumption Agreement and each other Transaction Document to which Seller is a party, duly executed by Seller;

(b) a certified copy of the Sale Order;

(c) the certificates of Seller to be received by Buyer pursuant to Sections 9.1 and 9.2;

(d) such other bills of sale, endorsements, assignments and other good and sufficient instruments of conveyance and redesignation, in a form reasonably satisfactory to Buyer, as Buyer may reasonably request to vest in Buyer all the right, title and interest of Seller in, to or under any or all of the Acquired Assets, including any redesignation agreements or other documentation in the form required by the incumbent local exchange carrier(s) and any other vendor(s) to enable the expedited transfer of the Acquired Assets; and

(e) physical possession of all tangible Acquired Assets in the Acquired Assets' location as of November 1, 2011.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF THE SELLER

Seller jointly and severally represent and warrant to Buyer as follows:

5.1 **Authority; Validity.**

Subject to Bankruptcy Court approval, Seller has the requisite corporate power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. Subject to Bankruptcy Court approval, this Agreement has been duly and validly executed and delivered by Seller and each other Transaction Document to which Seller is party will be duly and validly executed and delivered by Seller at the Closing.

5.2 **Litigation.**

Except as set forth on Schedule 5.2, there are no Proceedings (other than Proceedings before the Bankruptcy Court) pending or, to the knowledge of Seller, threatened against Seller, that would adversely affect Seller's ability to perform its obligations under this Agreement or any other Transaction Documents or to consummate the transactions contemplated hereby or thereby.

5.3 **Compliance with Legal Requirements.**

Since January 1, 2007, the Business has been conducted and continues to be conducted in compliance with all applicable Legal Requirements, and as of the date hereof, the Business is not in violation of any such Legal Requirement (in each case, other than a violation of Legal Requirement that, with respect to the Business, is immaterial to Seller or the Business), and (ii) Seller has not received any written notice of or been charged with any violation of any Legal Requirements.

5.4 **Assigned Contracts.**

(a) (i) Each Assigned Contract (A) is valid and binding on Seller and, to the knowledge of Seller, the other party thereto, (B) is in full force and effect and (C) upon Closing,

shall continue in full force and effect without penalty or other adverse consequences, and (ii) Seller is not, and to the knowledge of Seller, no other party thereto is, in breach of, or in default under, any Assigned Contract other than cure amounts to be paid upon closing in accordance with the Seller's Bankruptcy Plan.

(b) Seller has delivered to Buyer accurate, correct and complete copies of all Assigned Contracts, including all amendments, supplements, modifications and waivers thereof. Except as set forth on Schedule 5.4(b), all Assigned Contracts are in writing.

(c) To the knowledge of Seller, no event has occurred, and no circumstance or condition exists, that, with the lapse of time or the giving of notice or both, would (i) result in a violation or breach of any of the provisions of any Assigned Contract, (ii) give any Person the right to declare a default or exercise any remedy under any Assigned Contract, or (iii) give any Person the right to accelerate the maturity or performance of any Assigned Contract or to cancel, terminate or modify any Assigned Contract. No party to any of the Assigned Contracts has exercised any termination rights with respect thereto, and no such party has given written notice of any significant dispute with respect to any Assigned Contract which has not been resolved as of the date hereof.

5.5 Brokers or Finders.

Neither Seller, nor any Person acting on behalf of Seller, has paid or become obligated to pay any fee or commission to any broker, finder, investment banker, agent or intermediary for or on account of the transactions contemplated by this Agreement for which Buyer is or will become liable, and Seller shall hold harmless and indemnify Buyer from any claims with respect to any such fees or commissions.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

6.1 Organization and Good Standing.

Buyer is a corporation validly existing and in good standing under the laws of the state of Georgia.

6.2 Authority; Validity.

Buyer has the requisite corporate power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement by Buyer and the consummation by Buyer of the transactions contemplated herein have been duly and validly authorized by all requisite corporate

authority in respect thereof. This Agreement has been duly and validly executed and delivered by Buyer and each other Transaction Document to which Buyer is a party will be duly and validly executed and delivered by Buyer, as applicable, at the Closing. This Agreement and the other Transaction Documents to which Buyer is a party constitute the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity.

6.3 Litigation.

There are no Proceedings pending or, to the knowledge of Buyer, threatened against Buyer, that would adversely affect Buyer's ability to perform its obligations under this Agreement or any other Transaction Documents or to consummate the transactions contemplated hereby or thereby.

6.4 Brokers or Finders.

Neither Buyer, nor any Person acting on behalf of Buyer, has paid or become obligated to pay any fee or commission to any broker, finder, investment banker, agent or intermediary for or on account of the transactions contemplated by this Agreement for which Seller is or will become liable, and Buyer shall hold harmless and indemnify Seller from any claims with respect to any such fees or commissions.

6.5 Financial Capacity.

Buyer will have sufficient unrestricted funds on hand or committed lines of credit to consummate the transactions contemplated by this Agreement, including, to provide adequate assurance, to pay the Purchase Price and other funding obligations under this Agreement and to perform all of its obligations hereunder.

ARTICLE 7

ACTION PRIOR TO THE CLOSING DATE

7.1 Bankruptcy Court Approval.

(a) Seller and Buyer acknowledge that this Agreement and the sale of the Acquired Assets is subject to Bankruptcy Court approval. Seller and Buyer acknowledge that to obtain such approval, Seller must demonstrate that it has taken reasonable steps to obtain the highest and otherwise best offer possible for the Acquired Assets, and that such demonstration shall include giving notice of the transactions contemplated by this Agreement to creditors and other interested parties as ordered by the Bankruptcy Court.

(b) In the event an appeal is taken or a stay pending appeal is requested from the Sale Order, Seller shall immediately notify Buyer of such appeal or stay request and shall provide to Buyer promptly a copy of the related notice of appeal or order of

stay. Seller shall also provide Buyer with written notice of any motion or application filed in connection with any appeal from such Order. Further, Seller shall request that the Bankruptcy Court require that any party seeking a stay pending appeal of the Sale Order post a bond in an amount no less than the Purchase Price.

7.2 Intentionally Deleted.

7.3 Sale Hearing.

The Sale Hearing will be held on January 4, 2012 at 9:30 am Eastern time in the Bankruptcy Court. Seller will use best efforts to obtain entry of the Sale Order as soon as possible.

7.4 Maintenance of Accounts.

From the date hereof until the Closing Date, Seller shall operate the Accounts in the ordinary course of business, and, except as required by law, shall not change recurring or non-recurring rates or sales strategies or collections processes for the Accounts without the prior written consent of Buyer.

7.5 Access.

From the date hereof until the Closing Date, Seller shall make available to Buyer during normal business hours any and all Books and Records and other data that is reasonably related to the Acquired Assets including billing data, pricing data, product descriptions, payment data, customer service data, regulatory data, network data and repair records data.

7.6 Migration of Data.

Seller shall cooperate with Buyer to migrate all data related to the Acquired Assets from the BSS and the OSS into Buyer's systems to Buyer's reasonable satisfaction.

7.7 Regulatory Authorizations.

Promptly following the execution of this Agreement, each of Seller and Buyer and its designated wholly-owned subsidiaries will make all such filings as Buyer deems necessary in order to obtain all approvals required for the consummation of the transactions contemplated hereby from the Federal Communications Commission and any state public service or public utilities commission having regulatory authority over the lines associated with the Accounts (collectively, the "Regulatory Authorizations"). Each of Seller and Buyer shall use their respective reasonable best efforts to obtain the Regulatory Authorizations.

7.8 Notification of Customers.

Seller and Buyer shall issue a required joint letter to all customers of Seller affected by the transactions contemplated by this Agreement at, or before, the Closing.

ARTICLE 8

ADDITIONAL AGREEMENTS

8.1 Limited Representations and Warranties.

Seller has not made any warranties, representations or guarantees, express, implied or statutory, written or oral, respecting the Acquired Assets, any part of the Acquired Assets, the financial performance of the Acquired Assets or the business of Seller, other than the representations and warranties of Seller set forth in Article 5. Buyer further acknowledges that the consideration for the Acquired Assets specified in this Agreement has been agreed upon by Seller and Buyer after good-faith arms-length negotiation.

8.2 Non-Solicitation.

Seller hereby agrees that from and after the Closing Date and continuing for two (2) years from the Closing Date, it shall not, directly or indirectly, solicit the Seller's residential customers, business customers, and wholesale customers. Seller agrees and acknowledges that in order to assure Buyer that the Acquired Assets will retain their value, it is necessary that Seller undertakes the foregoing restriction.

8.3 Taxes.

Seller shall be responsible for and shall pay any Taxes arising or resulting from or in connection with the ownership of the Acquired Assets attributable to the Pre-Closing Period. Buyer shall be responsible for and shall pay any Taxes arising or resulting from or in connection with the ownership of the Acquired Assets attributable to the Post-Closing Period. All Taxes (not including income Taxes) levied with respect to the Acquired Assets for a taxable period which includes (but does not end on) the Closing Date shall be apportioned between Buyer and Seller based on the number of days included in such period through and including the Closing Date and the number of days included in such period after the Closing Date.

8.4 Redesignation Charges.

Seller shall take all actions reasonably required to cause (a) all vendors, including Verizon, to redesignate, in a manner reasonably acceptable to Buyer, the Acquired Assets to Buyer under the applicable contracts between Buyer and such vendors, (b) if required, the assumption by Seller of its contracts with such vendors, in each case at no additional cost or expense to Buyer with respect to such redesignation and without the assumption of any liabilities by Buyer, and (c) all such vendors to provide Buyer with written confirmation thereof. If any vendor provides notice to Buyer or Seller that it intends to impose any cost for such redesignation, Buyer shall have the option to:

- a. Immediately terminate this agreement without penalty or,
- b. Choose not to assume the agreement with that specific vendor or,
- c. Negotiate Buyer's own terms with vendor for such redesignation to occur after closing.