

**Exhibit A**  
**Agreement**

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "Agreement"), dated effective as of May 1, 2005, is made by and between NOSVA Limited Partnership, a Maryland limited partnership with its principal offices located at 4380 Boulder Highway, Las Vegas, Nevada, 89121 ("Purchaser"), and Red River Networks, LLC, an Oklahoma limited liability company with its principal offices located at 201 Robert S. Kerr, Suite 500, Oklahoma City, Oklahoma, 73102 ("Seller").

### RECITALS

**WHEREAS**, Seller is engaged in the business of, among other things, the sale and provision of resold long distance telecommunications services (the "Purchased Business"); and

**WHEREAS**, Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, all of Seller's right, title and interest in and to certain of the tangible and intangible assets of Seller relating to or used in connection with the Purchased Business, together with the goodwill associated with such assets, all as more fully described below, on the terms and conditions set forth herein;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

### ARTICLE I PURCHASE AND SALE OF ASSETS

**1.01 Sale and Purchase of Assets.** Subject to, and upon the terms and conditions contained herein, at the Pre-Closing (as hereinafter defined) Seller shall sell, transfer, assign, convey and deliver to Purchaser, and Purchaser shall purchase, accept and acquire from Seller, all of Seller's right, title and interest in and to certain of the tangible and intangible assets of Seller relating to or used in connection with the Purchased Business (collectively, the "Assets"), wherever such assets are located, and whether in the possession of Seller, any of its suppliers or any of its distributors or sales agents, together with the business as a going concern associated with such Purchased Business, in each case free and clear of all Encumbrances (as hereinafter defined) other than the Permitted Liens (as hereinafter defined). The Assets include:

(a) Customer Accounts. All of Seller's long distance customer accounts relating to the Purchased Business and listed in Schedule 1.01(a)(i) hereto (the "Customer Accounts"), including all customer lists, books, records, files, data, computer data records, billing files and similar items related to same and all accounts receivable and unbilled revenue of the Purchased Business (collectively, the "Accounts Receivable");

(b) Customer Contracts. All of Seller's rights under any agreements,

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application forms, term contracts, letters of agency and all other contractual instruments related to the Customer Accounts (collectively, the "Customer Contracts"), including but not limited to Seller's right to assert claims and take other rightful actions in respect of breaches, defaults and other violations of such Customer Contracts arising after the Pre-Closing Date as defined hereinbelow and not including claims arising prior to the Pre-Closing Date;

(c) Assumed Contracts. All of Seller's right, title and interest in and to the contracts to be assumed by Purchaser (the "Assumed Contracts") which are listed on Schedule 1.01(c);

(d) Prepaid Expenses. All prepaid expenses, deferred expenses and security deposits;

(e) Intellectual Property. All intellectual property rights of Seller used in connection with the Purchased Business, including all service marks, brand names, logos, insignias, designs and copyrights of Seller used in connection with the Purchased Business and all registrations, applications, licenses and other rights with respect to such intellectual property, including all causes of action heretofore accrued or hereafter accruing with respect thereto;

(f) Toll-free Numbers and PIN Numbers. Any toll-free telephone numbers or Personal Identification Numbers (PINs) used in the Purchased Business;

(g) Books and Records. All financial, commercial, marketing and administrative books and records of the Purchased Business in any form or medium, including, without limitation, computer databases, correspondence files, administrative guidelines, marketing surveys, customer and supplier lists, sales and promotional literature, mailing lists, quality control records and procedures, research and development files and other records used in connection with or relating to the Purchased Business as heretofore or presently conducted, together with copies of all personnel records related to the Employees (as hereinafter defined) and all accounting records used in connection with or relating to the Purchased Business as heretofore or presently being conducted; and

(h) Computers and Software. All computer software (including but not limited to proprietary software and systems developed or modified by Seller), only that hardware relating to Seller's servers, electronic databases and other data processing and storage materials (regardless of format or medium) of Seller and used in connection with the Purchased Business.

**1.02 Assumed Liabilities.** Purchaser hereby agrees to assume, as of the Pre-Closing

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Date (as hereafter defined) and perform when due, the following liabilities and obligations of Seller (collectively, the "Assumed Liabilities"):

(a) all liabilities and obligations of Seller arising under the Assumed Contracts; provided, however, that in no event shall Purchaser assume any liability under the Assumed Contracts arising out of any breach or default thereunder by Seller prior to the Pre-Closing Date (including, without limitation, any event occurring prior to the Pre-Closing Date, that, with the passage of time or the giving of notice, or both, would become a breach or default) under any Assumed Contract;

(b) all liabilities and obligations of Seller to provide services to the Customer Accounts and under the Customer Contracts; provided, however, that in no event shall Purchaser assume any liability under the Customer Accounts or Customer Contracts arising out of any breach or default thereunder by Seller prior to the Pre-Closing Date (including, without limitation, any event occurring prior to the Pre-Closing Date, that, with the passage of time or the giving of notice, or both, would become a breach or default) under any Customer Account or Customer Contract; and

(c) all liabilities for taxes or assessments related to the operation of the Purchased Business, and the provision of long distance telecommunications services to Purchased Customers, after the Pre-Closing Date.

**1.03 Excluded Liabilities.** Except as expressly provided in Section 1.02 above, Purchaser shall not assume any liabilities or obligations of (or claimed through) Seller arising prior to the Pre-Closing Date, whether relating to the Assets, the Purchased Business or otherwise, it being expressly acknowledged and agreed by the parties that all such liabilities and obligations, and any claims or disputes relating thereto, whether known or unknown, asserted or unasserted (collectively, the "Excluded Liabilities"), are and shall remain the liabilities and obligations of Seller for all purposes. The Excluded Liabilities shall include, without limitation, any and all debts, liabilities, obligations, contracts, commitments, claims, disputes, actions, lawsuits, judgments, assessments, fines, penalties, levies, surcharges, losses, deficiencies and damages arising prior to the Pre-Closing Date and out of or related to:

(a) contracts, arrangements or understandings between Seller and any of its existing and former members, managers, officers and any other Related Parties (as hereinafter defined);

(b) any employees of Seller or any of their beneficiaries, heirs or assignees of any kind or nature whatsoever, including, without limitation, accrued wages or vacation pay, obligations arising under any severance, stock option, retirement, pension, health (including, without limitation, retiree health obligations) or other benefit plans (including 401(k) matching benefits, any funding deficiency arising with respect to any such plan), or any of

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their beneficiaries, heirs or assignees;

(c) Taxes of Seller or any Related Parties (as such term is defined in Section 3.21), including, without limitation, all Taxes imposed on Seller by reason of the sale of the Assets and the Purchased Business to Purchaser hereunder or by reason of any subsequent liquidation, dissolution or winding up of Seller;

(d) all legal, accounting and other professional fees incurred by Seller in connection with the negotiation, execution and delivery of this Agreement and the consummation of the transactions contemplated hereby;

(e) all contracts, agreements and arrangements of Seller which are not listed on Schedule 1.01(c) hereto (the "Excluded Contracts"); and

(f) all pending or threatened litigation and any other liabilities or obligations of (or claimed through) Seller, arising before the Pre-Closing Date (including, without limitation, the claims listed on Schedule 1.03(f) hereto).

## **ARTICLE II**

### **CONSIDERATION; TITLE; PRE-CLOSING; CLOSINGS**

**2.01 Purchase Price; Payments.** Subject to the terms and conditions of this Agreement, the purchase price (the "Purchase Price") for the Assets shall consist of the following:



a. The portion of the Purchase Price attributable to the Assets of Seller, other than Accounts Receivable (the "Asset Purchase Price"), shall be the sum of

b. The portion of the Purchase Price for the Accounts Receivable (the "A/R Purchase Price") shall be the sum of

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### **2.02 Payments.**

a. The Asset Purchase Price shall be paid in \_\_\_\_\_ consecutive monthly installments of \_\_\_\_\_ commencing on June 1, 2005 (subject to the prior release by all holders of liens and perfected security interests in the Assets).

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b. The A/R Purchase Price shall be paid at the Pre-Closing (as such term is hereafter defined). On August 1, 2005 (the "A/R True-Up Date"), Purchaser shall perform an analysis (the "A/R True-Up") of the Current Accounts Receivable to ascertain the amount actually collected therefrom through and including July 31, 2005 (the "Collected A/R"). If the Collected A/R is greater than the A/R Purchase Price, then Purchaser shall pay Seller the excess on or before August 15, 2005. If the Collected A/R is less than the A/R Purchase Price, then Purchaser shall deduct the shortfall from any obligations owed by Purchaser to Seller as of the A/R True-Up Date or thereafter. During the computation of the A/R True-Up, Purchaser shall (i) provide Seller with reasonable access to the books, records and facilities of the Purchased Business, and (ii) reasonably cooperate with Seller. If Seller notifies Purchaser that it disagrees with Purchaser's computation within five (5) days of receipt of the results of the A/R True-Up, Purchaser and Seller shall, within ten (10) days following such notice (the "Resolution Period"), attempt to resolve their differences and any resolution by them as to any disputed amounts shall be final, binding and conclusive. If at the conclusion of the Resolution Period there remains any dispute, then such dispute shall be submitted to a firm of independent public accountants (the "Neutral Auditors") selected by Purchaser and Seller within ten (10) days after the expiration of the Resolution Period. All fees and expenses relating to the work, if any, to be performed by the Neutral Auditors shall be borne by the losing party. The Neutral Auditors shall act as an arbitrator to determine, based solely on presentations by Seller and Purchaser, and not by independent review, only those issues still in dispute. The Neutral Auditors' determination shall be made within thirty (30) days of their selection, shall be set forth in a written statement delivered to Seller and Purchaser and shall be final, binding and conclusive.

c. The Accounts Receivable listed on Schedule 2.02(c) shall be excluded from the Purchased Assets.

**2.03 Allocation.** The Purchase Price, plus any relevant liabilities or other consideration deemed paid hereunder, shall be allocated among the Assets by Purchaser in accordance with applicable U.S. Federal and other income tax laws, which allocation shall be subject to Seller's approval, which approval shall not be unreasonably withheld. The parties agree to allocate the Purchase Price among the Assets as determined in accordance with this Section 2.03 and to report the sale and purchase of the Assets for all federal, state and local tax purposes (including, without limitation, in filings on Internal Revenue Service Form 8594) in a manner consistent with such allocation in accordance with Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code").

**2.04 Pre-Closing; Management; Closings.** The preliminary closing of the transactions contemplated hereby (the "Pre-Closing") shall occur on May 9, 2005 but shall be effective as of May 1, 2005 (the "Pre-Closing Date"). The Pre-Closing shall commence at 10:00 a.m., local time, on the Pre-Closing Date and proceed promptly to conclusion. At such time as all necessary consents and approvals have been obtained from the Federal Communications Commission and all applicable state public service and public utility commissions (collectively, the "Regulatory

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Consents") for the states listed in Schedule 2.4(i) attached hereto (the "Material States"), the parties shall consummate the transactions contemplated herein as to that portion of the Purchased Business that is: (i) interstate or international in nature; and (ii) intrastate in nature and originates and terminates within the Material States. The date on which the First Closing occurs (the "First Closing Date") shall be no later than fifteen (15) days after the Regulatory Consents have been obtained from the FCC and the Material States, and title to corresponding Assets shall not pass from Seller to Purchaser until that time. At such time as all necessary Regulatory Consents for all states listed in Schedule 2.4(ii) attached hereto (the "Secondary States"), the parties shall consummate the remaining transactions contemplated herein as to that portion of the Purchased Business that is intrastate in nature and originates and terminates within the Secondary States. The date on which the Second Closing occurs (the "Second Closing Date") shall be no later than fifteen (15) days after the Regulatory Consents have been obtained from the Secondary States, and title to corresponding Assets shall not pass from Seller to Purchaser until that time. Commencing on the Pre-Closing Date and continuing through and including the Second Closing Date, Purchaser shall manage the Assets and the Purchased Business pursuant to a management agreement (the "Management Agreement") in substantially the form attached hereto and incorporated herein as Exhibit 2.04.

## **2.05 Deliveries.**

(a) Deliveries by Seller. Seller shall deliver, or cause to be delivered, to Purchaser at the Pre-Closing the following:

(i) a fully executed Bill of Sale in the form attached hereto as Exhibit 2.05(a)(i);

(ii) a certificate, dated as of the Pre-Closing Date and executed by an appropriate officer of Seller, to the effect that (A) each of the representations and warranties of Seller made herein is true and correct in all material respects on the Pre-Closing Date as though such representations and warranties were made on such date, (B) Seller have performed and complied in all material respects with all covenants and obligations under this Agreement which are required to be performed or complied with by such party on or prior to the Pre-Closing Date;

(iii) a fully executed Sales Consulting Agreement in the form attached as Exhibit 2.05(a)(iii) (the "Consulting Agreement");

(iv) the third party consents specified in Schedule 2.05(a)(iv) hereto with respect to the Assumed Contracts, in form and substance reasonably satisfactory to Purchaser;

(v) an executed written opinion of counsel for Seller, addressed to

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Purchaser dated as of the Pre-Closing Date in the form attached hereto as Exhibit 2.05(a)(v);

(vi) copies, certified as of the Pre-Closing Date by a duly authorized representative of Seller, of the resolutions of the Members of Seller authorizing the execution, delivery and performance of this Agreement and the documents to be executed by Seller hereunder referred to in this Section 2.05(a) by Seller;

(vii) possession of the Assets, wherever located;

(viii) a fully executed Management Agreement in the form attached hereto as Exhibit 2.05(a)(viii) (the "Management Agreement");

(ix) a fully executed Transition Services Agreement in the form attached hereto as Exhibit 2.05(a)(ix) (the "Services Agreement");

(x) a fully executed Assignment of Accounts Receivable in the form attached hereto as Exhibit 2.05(a)(x); and

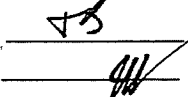
(xi) a fully executed Non-Competition Agreement for each of the individual owners of Seller in the form attached hereto as Exhibit 2.05(a)(xi), and executed by each such owner.

(b) Deliveries by Purchaser. Purchaser shall deliver to Seller at the Pre-Closing the following:

(i) a certificate, dated as of the Pre-Closing Date and executed by an appropriate officer of Purchaser, to the effect that (A) each of the representations and warranties of Purchaser made herein is true and correct in all material respects on the Pre-Closing Date as though such representations and warranties were made on such date, (B) Purchaser has performed and complied in all material respects with all covenants and obligations under this Agreement which are required to be performed or complied with by such party on or prior to the Pre-Closing Date;

(ii) a copy, certified by a proper officer of Purchaser, of the resolutions of the Managing Partner of Purchaser authorizing the execution, delivery and performance of this Agreement and the documents to be executed by Purchaser hereunder; and

(iii) counterparts of each of the documents and agreements that are to be executed by Purchaser hereunder, duly executed by Purchaser, including but not limited to the Consulting Agreement, Services Agreement and Management

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Agreement.

**ARTICLE III**  
**REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller hereby represents and warrants to Purchaser that:

**3.01 Organization and Good Standing.** Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the state of Oklahoma. Seller is duly qualified and licensed to do business and is in good standing in each jurisdiction where the nature of its business makes such qualification necessary, which jurisdictions are listed on Schedule 3.01 hereto, except where the failure to be qualified or licensed would not have a material adverse effect on the assets, business, liabilities, financial condition, results of operation or prospects of Seller (a "Material Adverse Effect").

**3.02 Authorization and Validity.** Seller has all requisite corporate and other power and authority to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement and the other documents executed by Seller hereunder (the "Ancillary Agreements") by Seller, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all necessary corporate action by Seller, and no other corporate action on the part of any Seller is necessary to authorize the execution and delivery of this Agreement or the Ancillary Agreements or the performance of this Agreement or the Ancillary Agreements by any Seller and the consummation of the transactions contemplated hereby and thereby. This Agreement and each Ancillary Agreement has been duly executed and delivered on behalf of Seller and constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except that the enforceability of this Agreement and the Ancillary Agreements is subject to bankruptcy, insolvency, reorganization and similar laws of general applicability relating to or affecting creditors' rights and limitations on the availability of the remedy of specific performance and other equitable relief.

**3.03 Consents and Approvals; No Violations.** To Seller's knowledge, the execution, delivery and performance by Seller of this Agreement and the Ancillary Agreements, and the consummation of the transactions contemplated hereby and thereby, will not: (i) violate or conflict with any provision of the Articles of Organization or Operating Agreement of Seller; (ii) violate or conflict with, result in the breach of, constitute an event of default (or an event which, with the lapse of time, or the giving of notice, or both, would constitute an event of default) under, or result in the creation in any party of any right to accelerate, modify, cancel or terminate, any contract or other instrument, to which Seller is a party or by which Seller or any of the Assets is bound, or result in the creation of any Encumbrance or other right of any third party upon any of the Assets; (iii) violate or conflict with any law, rule, regulation, ordinance, code, judgment, order, writ, injunction or decree of any court or any governmental body or agency thereof of any jurisdiction to which Seller or any of the Assets may be subject; or (iv) require any registration, declaration or filing with,

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or permit, license, exemption, order, franchise, approval, consent or other authorization of, or the giving of notice to, any governmental or regulatory body, agency or authority in the United States or any other jurisdiction in which the Purchased Business is conducted, except as listed on Schedule 3.03 hereto.

**3.04 Absence of Undisclosed Liabilities.** Except as disclosed in Schedule 3.04 hereto, and except (i) for liabilities and obligations incurred pursuant to the Assumed Contracts, or (ii) for liabilities and obligations incurred in the ordinary course of business from the Pre-Closing Date, to Seller's knowledge, Seller has no liabilities or obligations of any nature, whether absolute or contingent, accrued or unaccrued related to the Assets or the Purchased Business and for which Purchaser shall be liable after the Pre-Closing.

**3.05 No Claims or Litigation.** Except as disclosed in Schedule 3.05 hereto, to Seller's knowledge, there are no suits, actions, claims, proceedings (including, without limitation, arbitral and administrative proceedings) or governmental investigations pending or, to the knowledge of Seller, threatened against or contemplated against Seller (or any of its affiliates, including managers, officers, employees or agents) relating to or affecting, directly or indirectly, the Assets or the Purchased Business, which, if successful, would have a material adverse impact on the Assets or the Purchased Business. There are no such suits, actions, proceedings, claims or investigations pending or, to the knowledge of Seller, threatened challenging the validity or propriety of, or otherwise involving, this Agreement or the transactions contemplated hereby. Except as disclosed in Schedule 3.05 hereto, there is no judgment, order, injunction, decree or award issued by any court, arbitrator, governmental body or agency thereof to which Seller is a party and which would materially affect the Assets or the Purchased Business or by which any of the Assets are bound, which is unsatisfied or which requires continuing compliance therewith by Seller.

**3.06 Taxes.** All material Tax returns and reports relating to the Assets and the Purchased Business required to be filed by Seller on or before the date hereof have been duly and timely filed and all such returns and reports are complete and correct in all material respects. All material Taxes, assessments, fees and other governmental charges imposed on or with respect to the Assets which have become due and payable through and including the date hereof have been paid in a due and timely manner or have been accrued for in the books and records of Seller. Seller shall in due course pay, settle, compromise or otherwise discharge any and all Taxes, assessments, fees and other governmental charges arising with respect to periods through the Pre-Closing Date which are imposed on or with respect to the Assets and the Purchased Business. As of the date hereof, to Seller's knowledge, (i) Seller has not agreed to the extension of limitation period for any Tax, (ii) there is no Tax audit pending against Seller, (iii) there are no Tax liens on any of the Assets (other than any lien for current Taxes not yet due and payable), and (iv) to the knowledge of Seller, there is no basis for the assertion of any such Tax liens.

**3.07 Title to Assets and Related Matters.** Except as set forth in Schedule 3.07 hereto, Seller has good and marketable title to the Assets, free and clear of any and all mortgages, pledges,

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security interests, liens, charges, equities, claims, conditional sales contracts, restrictions, reservations, options, rights and other encumbrances of any nature whatsoever (collectively, "Encumbrances"), except for Permitted Liens. For purposes of this Agreement, "Permitted Liens" shall mean (i) statutory liens for Taxes not yet delinquent provided such liens are discharged through the timely filing of Tax returns, (ii) Encumbrances disclosed in Schedule 3.07 and (iii) other liens of an immaterial nature or amount which do not impair or interfere with the use of any property or assets of Seller (including the Assets) in any material respect. As of the Pre-Closing Date, Seller shall convey to Purchaser, and Purchaser shall acquire, good and marketable title to the Assets, free and clear of any Encumbrances, except for Permitted Liens.

**3.08 Contracts.** (a) Except as set forth in Schedule 3.08(a) or Schedule 3.08(b) hereto or other schedules to this Agreement, to Seller's knowledge, Seller is not a party to, or subject to:

(i) any written contract, arrangement or understanding, or series of related written contracts, arrangements or understandings, that is related to the Purchased Business and involves annual expenditures or receipts of more than \$50,000;

(ii) any license agreement currently in effect which grants rights with respect to any of the Assets that is material to the Purchased Business;

(iii) any written contract, arrangement or understanding currently in effect not made in the ordinary course of business that is material to the Purchased Business;

(iv) any note, bond, indenture, credit facility, mortgage, pledge, security agreement or other contract, arrangement or understanding relating to or evidencing indebtedness for money borrowed, or a security interest, pledge or mortgage in the Assets;

(v) any express warranty, indemnity or guaranty issued by Seller that is material to the Purchased Business;

(vi) any written contract, arrangement or understanding granting to any person the right to use any of the Assets that is material to the Purchased Business;

(vii) other than those license agreements set forth on Schedule 3.08(a) pursuant to clause (iii) above, any written contract, arrangement or understanding restricting any Seller's right to engage in any business activity or compete with any business that is material to the Purchased Business;

(viii) any written contract, arrangement or understanding with a Related Party that is material to the Purchased Business;

(ix) any other agreement that is material to the Purchased Business, including,

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but not limited to, joint venture agreements, purchase and sale agreements and collective bargaining, union, consulting and employment contracts; and

(x) any outstanding commitment or obligation to enter into any contract or arrangement of the nature described in subsections (i) through (ix) of this subsection 3.08(a).

Seller has previously delivered or made available to Purchaser copies (or, in the case of oral contracts, a general description) of each contract, agreement, arrangement and understanding (and any amendments or supplements thereto) listed on Schedule 3.08(a) hereto (the "Material Contracts"). Except for the Customer Accounts and the obligations of Seller to provide long distance telecommunications services to them, Seller is not a party or subject to any oral contract, arrangement or understanding, or series of related oral contracts, arrangements or understandings, that is material to the Purchased Business.

(b) Schedule 3.08(b) hereto lists those Material Contracts which are to be assumed by Purchaser at the Pre-Closing pursuant to this Agreement (the "Assumed Contracts"). Except as set forth in Schedule 3.08(b) hereto, to the knowledge of Seller, (i) each Assumed Contract is in full force and effect; (ii) neither any Seller nor any other party is in material default under any such contract, and no event has occurred which constitutes, or with the lapse of time or the giving of notice or both would constitute, a default by any Seller or (to the knowledge of Seller) a default by any other party under such contract, other than those defaults that would not have, individually or in the aggregate, a Material Adverse Effect; (iii), there are no disputes or disagreements between any Seller and any other party with respect to any such contract; and (iv) Seller is not currently renegotiating any of its contracts, nor is Seller paying liquidated damages in lieu of performing any of its contracts.

(c) [intentionally left blank]

**3.09 Major Customers.** Schedule 3.09 hereto sets forth a complete and correct list, to Seller's knowledge, of the twenty (20) largest customers of the Purchased Business in terms of revenue recognized (after taking into account any discounts or rebates granted to such customers) showing the total amount billed by Seller to each such customer in connection with the Purchased Business for the month ended April 30, 2005. Except as set forth and described in Schedule 3.09 hereto, since May 1, 2005 Seller has not received any written notice or other written communication terminating or materially reducing, or setting forth an intention to terminate or materially reduce in the future, or otherwise reflecting a material adverse change in, the business relationship between such customer and Seller.

**3.10 Consultants, Sales Representatives and Other Agents.** To Seller's knowledge, Schedule 3.10 hereto sets forth a complete and correct list of the names and addresses of each consultant, sales representative or other agents currently engaged Seller with respect to the Purchased Business and each other distributor used by Seller with respect to the Purchased Business

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who is not an Employee of Seller and who has received (or is expected to receive) \$10,000 or more from Seller from May 1, 2004 through May 1, 2005. Schedule 3.10 hereto also sets forth a list of all written agreements between Seller and any such person, complete and correct copies of which agreements have previously been delivered or made available by Seller to Purchaser.

**3.11 Customer Accounts.** To the best of Seller's knowledge, Schedule 1.01(a) hereto sets forth a correct and complete schedule of all Customer Accounts. Except for Permitted Liens, at Pre-Closing, the Customer Accounts will all be free and clear of all Encumbrances.

**3.12 Ability to Conduct the Purchased Business.** To the knowledge of Seller, there is no agreement, arrangement or understanding with any person, or any judgment, order, writ, injunction or decree of any court or governmental body or agency thereof of any jurisdiction, that restricts Seller's conduct of the Purchased Business as of the date hereof. Except as set forth in Schedule 3.12 hereto, Seller has in force, and is in material compliance with the terms and conditions of, all material licenses, permits, exemptions, consents, authorizations and approvals of governmental authorities or agencies thereof used or required under any existing Federal, state, local or foreign statute, law, ordinance, rule or regulation (or any proposed statute, law, ordinance, rule or regulation known to Seller) in connection with the Purchased Business.

**3.13 Compliance with Applicable Law and Regulations.** To the knowledge of Seller, except as disclosed in Schedule 3.13 hereto, neither the Assets nor Seller's operation of the Purchased Business as presently conducted are in material violation of any applicable foreign or domestic law, rule, regulation, ordinance, code, judgment, order, injunction, writ or decree of any Federal, state, local or foreign court or governmental body or agency thereof, or trade organization, to which Seller may be subject, including, without limitation, any rules or regulations of the Federal Communications Commission and similar regulatory bodies of any foreign country, state or locality. No claims are currently pending against Seller, and Seller has not received any notice alleging any such violation, nor, to the knowledge of Seller, is there any inquiry, investigation or proceeding relating thereto.

**3.14 Accounts Receivable.** To the knowledge of Seller, except as set forth on Schedule 3.14 hereto, all Accounts Receivable (i) arose from bona fide sales of goods or services in the ordinary course of business and consistent with past practice, and (ii) are accurately reflected in all material respects in the books and records of the Purchased Business.

**3.15 No Transactions.** To Seller's knowledge, there are no agreements, arrangements or understandings involving the purchase, sale or other disposition of the Purchased Business, whether through a sale of assets, a sale of the capital stock of Seller, a merger or otherwise, other than this Agreement.

**3.16 Finder's Fee.** Seller has not incurred any obligation for any finder's, broker's or agent's fee in connection with this Agreement or the transactions contemplated hereby.

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**3.17 Disclosure.** No representation and warranty of Seller contained in this Agreement (including, without limitation, the Schedules hereto), nor any other statement, schedule, certificate or other document delivered or to be delivered by Seller to Purchaser pursuant hereto or in connection with the transactions contemplated by this Agreement, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements made herein or therein, in the light of the circumstances in which they were made, not misleading.

#### **ARTICLE IV** **REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser hereby makes the following representations and warranties to Seller:

**4.01 Organization and Good Standing of Purchaser.** Purchaser is a limited partnership duly organized, validly existing and in good standing under the laws of the State of Maryland and has all requisite corporate power and authority to own, lease and operate its property and assets and to carry on its business as presently conducted and as to be conducted as of the Pre-Closing Date. Purchaser is duly qualified and licensed to do business and is in good standing in each jurisdiction where the nature of Purchaser's operation and acquisition of the Purchased Business makes such qualification necessary, which jurisdictions are listed on Schedule 4.01 hereto, except where the failure to be qualified or licensed would not have a Material Adverse Effect on the assets, business, liabilities, financial condition, results of operation or prospects of Purchaser.

**4.02 Authority; Binding Effect; Performance.** Purchaser has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement by Purchaser, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary corporate action by Purchaser, and no other corporate action on the part of Purchaser is necessary to authorize the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby. This Agreement has been duly executed and delivered on behalf of Purchaser and constitute legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their terms.

**4.03 Consents and Approvals; No Violations.** The execution, delivery and performance of this Agreement by Purchaser, and the consummation of the transactions contemplated hereby, will not: (i) violate or conflict with any provision of the Certificate of Limited Partnership or Partnership Agreement of Purchaser; (ii) violate or conflict with, result in the breach of or constitute an event of default (or an event which, with the lapse of time, or the giving of notice, or both, would constitute an event of default) under, or result in the creation in any party of the right to accelerate, modify, cancel or terminate, any contract or other instrument to which Purchaser is a party or by which Purchaser or any of its assets is bound, or result in the creation of any

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Encumbrance or other right of any third party upon any of the assets of Purchaser; (iii) violate or conflict with any law, rule, regulation, ordinance, code, judgment, order, writ, injunction or decree of any court or any governmental body or agency thereof of any jurisdiction to which Purchaser or any of its assets is subject, or (iv) require any registration, declaration or filing with, or permit, license, exemption, order, franchise, approval, consent or other authorization of, or the giving of notice to, any governmental or regulatory body, agency or authority in the United States, except as listed on Schedule 4.03 hereto.

**4.04 Ability to Conduct the Purchased Business.** To the knowledge of Purchaser, there is no agreement, arrangement or understanding with any person, or any judgment, order, writ, injunction or decree of any court or governmental body or agency thereof of any jurisdiction, that will restrict Purchaser's conduct of the Purchased Business as of the Pre-Closing Date. Except as set forth in Schedule 4.04 hereto, Purchaser has in force, and is in material compliance with the terms and conditions of, all material licenses, permits, exemptions, consents, authorizations and approvals of governmental authorities or agencies thereof used or required under any existing Federal, state, local or foreign statute, law, ordinance, rule or regulation (or any proposed statute, law, ordinance, rule or regulation known to Purchaser) in connection with the Purchased Business.

**4.05 Compliance with Applicable Law and Regulations.** To the knowledge of Purchaser, except as disclosed in Schedule 4.05 hereto, Purchaser's operation of the Purchased Business as to be conducted will not be in material violation of any applicable foreign or domestic law, rule, regulation, ordinance, code, judgment, order, injunction, writ or decree of any Federal, state, local or foreign court or governmental body or agency thereof, or trade organization, to which Purchaser may be subject, including, without limitation, any rules or regulations of the Federal Communications Commission and similar regulatory bodies of any foreign country, state or locality. No claims are currently pending against Purchaser, and Purchaser has not received any notice alleging any such violation, nor, to the knowledge of Purchaser, is there any inquiry, investigation or proceeding relating thereto.

**4.06 No Claims or Litigation.** There are no suits, actions, proceedings, claims or investigations pending or, to the knowledge of Purchaser, threatened against Purchaser challenging the validity or propriety of, or otherwise involving, this Agreement or the transactions contemplated hereby. There is no judgment, order, injunction, decree or award issued by any court, arbitrator, governmental body or agency thereof to which Purchaser is a party and which would materially affect the transfer or operation of the Assets or the Purchased Business, which is unsatisfied or which requires continuing compliance therewith by Purchaser.

**4.07 Finder's Fee.** Purchaser has not incurred any obligation for any finder's, broker's or agent's fee in connection with this Agreement or the transactions contemplated hereby.

**4.08 Disclosure.** No representation and warranty of Purchaser contained in this Agreement (including, without limitation, the Schedules hereto), nor any other statement, schedule,

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certificate or other document delivered or to be delivered by Purchaser to Seller pursuant hereto or in connection with the transactions contemplated by this Agreement, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements made herein or therein, in the light of the circumstances in which they were made, not misleading.

## **ARTICLE V**

### **PURCHASER'S COVENANTS AND COVENANTS OF BOTH PARTIES**

**5.01 Consummation of Agreement.** Each of the parties agrees to perform its obligations hereunder and to use its reasonable best efforts to cause the consummation of the transactions contemplated by this Agreement in accordance with, and subject to, the terms and conditions of this Agreement. Purchaser and Seller agree that time is of the essence, and that the First Closing shall take place on or before December 31, 2005, whether or not all Regulatory Consents and third party consents have been obtained.

**5.02 Confidentiality.** Purchaser will, and will use its best efforts to cause its employees and agents to, hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of counsel, by other requirements of law, all Confidential Information (as hereinafter defined). Purchaser will provide notice to Seller and an opportunity to eliminate or modify any such requirement of law before any such disclosure. Purchaser will not disclose the Confidential Information to any person, except as otherwise may reasonably be necessary to carry out the transactions contemplated by this Agreement, including any business or due diligence review by or on behalf of Purchaser. If this Agreement is terminated as provided hereinafter, then Purchaser shall return or cause to be returned promptly to Seller all documents and all copies thereof furnished by Seller and held by Purchaser or its representatives containing such Confidential Information. For the purposes hereof, "Confidential Information" shall mean all information of any kind concerning Seller in connection with the transactions contemplated by this Agreement except information: (i) ascertainable or obtained from public or published information; (ii) received from a third party not known by Purchaser to be under an obligation to Seller to keep such information confidential; or (iii) which is or becomes known to the public (other than through a breach of this Agreement); or (iv) which was in Purchaser's possession prior to disclosure thereof to Purchaser in connection herewith.

**5.03 Employees.** (a) [intentionally left blank].

(b) Purchaser shall not assume or have any obligations or liabilities to any Employee or to any dependent, survivor or beneficiary thereof, arising out of or relating to such person's employment with Seller or any of its affiliates or any predecessor thereto, the termination thereof, the consummation of the transactions contemplated by this Agreement, or the sponsorship by Seller or any affiliate or predecessor thereof of any employee benefit plan.

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(b) Purchaser shall not be required to assume, establish or continue any of the employee benefit plans or employment policies or practices of Seller, or any obligations thereunder. Seller shall be solely responsible for any compensation, severance or other obligations to Employees arising under any employee benefit plan or otherwise out of their employment with Seller or termination thereof.

**5.04 Access After Pre-Closing.** (a) Purchaser and Seller agree to retain all accounting (including, without limitation, accountants' work papers), business, financial and Tax records in its possession (i) relating to the Purchased Business in existence on the Pre-Closing Date and either sold to Purchaser hereunder or retained by Seller thereafter, as the case may be, or (ii) coming into existence after the Pre-Closing Date which relate to the Purchased Business for periods prior to the Pre-Closing, in each case for a period of three years from the Pre-Closing Date, provided that, after such date, each party shall make reasonable arrangements for the other party's continued access to such records. In addition, from and after the Pre-Closing Date, Purchaser and Seller agree that, subject to receiving appropriate assurances of confidentiality and restrictions on use, they will not unreasonably withhold access by the other party and its attorneys, accountants and other representatives (after reasonable notice and during normal business hours), to such personnel, books, records and documents relating to the Purchased Business as the other party may reasonably deem necessary to properly prepare for, file, prove, answer, prosecute and/or defend any financial statements, Tax return, filing, audit, judicial or administrative proceeding, protest, claim, suit, inquiry or other proceeding.

(b) The party requesting assistance hereunder shall pay to the party whose assistance is requested the reasonable costs of the party providing such assistance.

**5.05 Mail and Communications.** (a) Seller shall promptly remit to Purchaser any mail or other communications, including, without limitation, any written inquiries, and payments received by Seller accrued prior to the Pre-Closing Date and related to the Purchased Business or the Assets and any invoices received by Seller relating to the Assumed Liabilities accrued to the Pre-Closing Date and which are received by Seller from and after the Pre-Closing Date.

(b) Purchaser shall promptly remit to Seller any mail or other communications related to Seller and any invoices received by Purchaser related to the period prior to the Pre-Closing Date which are received by Purchaser from and after the Pre-Closing Date.

**5.06 Notice of Developments.** Each party will give prompt written notice to the other party of any material adverse development causing a breach of any of its own representations, warranties or covenants hereunder. No disclosure by any party pursuant to this Section 5.06, however, shall be deemed to amend or supplement the Disclosure Schedule or to prevent or cure any misrepresentation, breach of warranty or breach of covenant. As used herein, "Disclosure Schedule" means the Schedules attached hereto and referred to herein.

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**5.07 Taxes.** From the Pre-Closing Date through the Second Closing, all Tax returns and reports relating to the Assets and the Purchased Business required to be filed by Purchaser shall be duly and timely filed and all such returns and reports shall be complete and correct in all material respects. All Taxes, assessments, fees and other governmental charges imposed on or with respect to the Assets which arise prior to the Pre-Closing Date shall be paid, settled, compromised or otherwise discharged, even if such items due shall not become due and payable until after the Pre-Closing Date. All Taxes, assessments, fees and other governmental charges imposed on or with respect to the Assets which arise from the Pre-Closing Date through and including the Second Closing shall be paid in a due and timely manner by Purchaser. Purchaser will pay when due any and all Taxes, assessments, fees and other governmental charges arising with respect to periods from the Pre-Closing Date through the Second Closing which are imposed on or with respect to the Assets and the Purchased Business. Prior to the Second Closing, Purchaser shall not agree to the extension of limitation period for any Tax, or permit any Tax liens on any of the Assets (other than any lien for current Taxes not yet due and payable).

## **ARTICLE VI** **COVENANTS**

**6.01 Business Operations.** (a) From the date hereof through the Pre-Closing Date Seller shall operate the Purchased Business only in the ordinary course, will not introduce any new method of management or operation and shall use its commercially reasonable efforts to preserve the Purchased Business intact, to retain its present customers and suppliers so that they will be available to Purchaser after the Pre-Closing and to cause consummation of the transactions contemplated by this Agreement in accordance with its terms and conditions. Seller shall not take any action that might materially impair the Purchased Business or Assets without the prior consent of Purchaser. Without limitation of the generality of the foregoing, Seller will not, and Seller will not permit any of its subsidiaries to, engage in any practice, take any action, or enter into any transaction in violation of this Agreement. Seller will keep the Purchased Business and its properties substantially intact, including its present operations, physical facilities, good will, working conditions and relationships with lessors, licensors, suppliers, distributors, customers and Employees.

(b) From the Pre-Closing Date through the Second Closing, Purchaser shall operate the Purchased Business only in the ordinary course and shall use its commercially reasonable efforts to preserve the Purchased Business intact, to retain its present customers and suppliers after the Pre-Closing and to cause consummation of the transactions contemplated by this Agreement in accordance with its terms and conditions. Purchaser shall not take any action that might materially impair the Purchased Business or Assets without the prior consent of Seller. Without limitation of the generality of the foregoing, Purchaser will not, and Seller will not permit any of its affiliates or subsidiaries to, engage in any practice, take any action, or enter into any transaction in violation of this Agreement. Seller will keep the Purchased Business and its properties substantially intact, including its present operations, physical facilities, good will,

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working conditions and relationships with lessors, licensors, suppliers, distributors, customers and Employees. Notwithstanding the foregoing, Seller acknowledges and agrees that Purchaser may, commencing on the Pre-Closing Date, but only in conformity with the Ancillary Agreements, take the following actions: (a) begin the process of billing the Customer Accounts under Purchaser's name; (b) utilize Purchaser's billing system to prepare and send Customer Account invoices; (c) transition customer service functions of the Purchased Business to Purchaser's corporate offices; and (d) take any other actions reasonably consistent with Purchaser's stated intention of integrating the Purchased Business into Purchaser's existing business and operations.

(c) For purposes of this Agreement it shall be noted that Seller's May, 2005 billing cycle as to all products sold by Seller commenced on May 1, 2005, except for those products relating to unlimited calls, which billing cycle commenced on May 2, 2005.

**6.02 Access; Due Diligence.** Seller shall permit Purchaser and its authorized representatives reasonable access (with a representative of Seller to arrange) to, and make available for inspection, all of the Assets and Purchased Business, and furnish Purchaser all documents, records and information with respect to the Assets as Purchaser and its representatives may reasonably request, all for the sole purpose of permitting Purchaser to become familiar with the business and assets and liabilities of Seller.

**6.03 Material Change.** Prior to each of the Pre-Closing, First Closing and the Second Closing, Seller and Purchaser shall promptly inform the other party in writing of any material adverse change in the condition of the Purchased Business. Notwithstanding the disclosure of any such material adverse change, the parties shall not be relieved of any liability for, nor shall the providing of such information be deemed a waiver of, the breach of any representation or warranty of any party contained in this Agreement.

**6.04 Approvals of Third Parties.** As soon as practicable after the execution of this Agreement, but in any event prior to the Pre-Closing Date, Seller will use their best efforts to secure all necessary approvals and consents of third parties to the consummation of the transactions contemplated by this Agreement. To the extent that any Seller's rights under any agreement, contract, license, commitment, or any other Asset to be assigned hereunder may not be assigned without the consent of another person which has not been obtained prior to the Pre-Closing, Purchaser and Seller shall use commercially reasonable efforts to obtain any such required consents as promptly as possible after the Pre-Closing. If any such consent has not been obtained or if any attempted assignment would be ineffective or would impair Purchaser's rights under the instrument in question so that Purchaser would not in effect acquire the benefit of all such rights, then Seller, to the maximum extent permitted by law and the instrument, shall act as Purchaser's agent in order to obtain for Purchaser the benefits thereunder and shall cooperate, to the maximum extent permitted by law and the instrument, with Purchaser in any other reasonable arrangement designed to provide such benefits to Purchaser. Seller shall bear all costs and

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expenses relating to obtaining the third party consents required of Seller and contemplated by this Section 6.04.

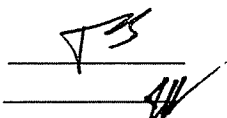
**6.05 Tax Returns and Payments.** Seller shall prepare and file all Federal, state, local and foreign returns for all Taxes due or claimed to be due by any governmental authority for periods ending on or before the Pre-Closing Date with respect to Seller and the Purchased Business or the Assets, and shall promptly pay all such Taxes. In the alternative, Seller shall settle, compromise or otherwise discharge all such Taxes; in the event such Taxes are settled, compromised or otherwise discharged, Seller shall file only such returns as may be required in connection therewith. Seller shall be solely responsible for, and shall pay, settle, compromise or otherwise discharge, even if such items due shall not become due and payable until after the Pre-Closing Date, all sales, use, transfer, excise, documentary, real property transfer gains, value added and other similar Taxes payable in connection with this Agreement, the additional agreements referred to in Section 2.05(a) hereof, or arising from the sale, transfer, assignment, delivery or conveyance of the Assets hereunder or of any assets thereunder. Seller shall prepare and file all necessary tax returns and other filings in connection with the Taxes referred to in this Section 6.05, shall provide all information, documents and affidavits necessary for any such filings, and shall pay all fees and charges incurred in connection therewith. Seller jointly and severally shall indemnify, defend and hold harmless on an after-tax basis Purchaser against and from any and all liability, cost, loss or expense to Purchaser arising out of the imposition of any Taxes referred to in this Section 6.05.

**6.06 [intentionally left blank]**

**6.07 Further Assurances.** Seller shall, at any time and from time to time after the Pre-Closing, upon the reasonable request and at the expense of Purchaser but without further consideration, do, execute, acknowledge, deliver and file, or shall cause to be done, executed, acknowledged, delivered and filed, all such further acts, deeds, transfers, conveyances, assignments or assurances as may be reasonably requested by Purchaser to transfer, convey and assign to Purchaser's possession and use, the Assets and the Purchased Business and to comply with all applicable legal requirements, including, without limitation, making any required governmental filings, in connection with the purchase of the Assets and the Purchased Business by Purchaser. Without limiting the foregoing, upon the request and at the expense of Purchaser, at any time during the period commencing on the Pre-Closing Date and ending on the third anniversary of the Pre-Closing Date, Seller shall take all steps necessary to assign all material licenses, permits, exemptions, consents, authorizations or approvals to Purchaser in cases where such assignment is permitted.

**6.08 Exclusivity.** Provided Purchaser is not in breach of this Agreement or the Ancillary Agreements, Seller shall not (i) solicit, initiate or encourage the submission of any proposal or offer from any person relating to the acquisition of any capital stock or other voting securities of any of their affiliates engaged in the Purchased Business, or any substantial portion of the Assets or the

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Purchased Business (including any acquisition structured as a merger, consolidation, or share exchange); or (ii) participate in any discussions or negotiations regarding, furnish any information with respect to, assist or participate in, or facilitate in any other manner any effort or attempt by any person to do or seek any of the foregoing. Seller shall notify Purchaser immediately if any person makes any proposal, offer, inquiry, or contact with respect to any of the foregoing.

**6.09 Regulatory Compliance.** Seller and Purchaser shall use their reasonable best efforts to comply with the provisions of all laws, rules, regulations, ordinances, codes, orders and decrees where failure to do so would have a Material Adverse Effect on the Assets.

## **ARTICLE VII** **PURCHASER'S CONDITIONS PRECEDENT**

Except as may be waived in writing by Purchaser in Purchaser's sole discretion, the obligations of Purchaser hereunder are subject to the fulfillment at or prior to the Pre-Closing of each of the following conditions:

**7.01 Representations and Warranties.** The representations and warranties of Seller contained herein shall be true and correct in all material respects as of the Pre-Closing as though such representations and warranties were made on such date, subject to any changes contemplated by this Agreement.

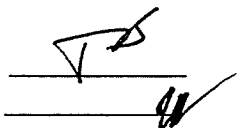
**7.02 Performance.** Seller shall have performed and complied in all material respects with all covenants or conditions required by this Agreement to be performed and complied with by them on or prior to the Pre-Closing.

**7.03 Deliveries.** Seller shall have delivered each of the documents required pursuant to Section 2.05(a) in each case in form and substance satisfactory to Purchaser and its counsel.

**7.04 Proceedings.** No action, proceeding or order by any court or governmental body or agency shall have been threatened in writing, asserted, instituted or entered to restrain, enjoins or, otherwise prohibits the carrying out of the transactions contemplated by this Agreement.

**7.05 Approvals, Permits, Etc.** All consents, authorizations, approvals, exemptions, licenses or permits of, or registrations, qualifications, declarations or filings with, any governmental or regulatory body or agency thereof that are (i) required in connection with the consummation of the transactions contemplated hereby and (ii) are necessary for Purchaser to properly conduct the Purchased Business, except as set forth on Schedule 7.05 hereto, shall have been transferred by Seller or otherwise obtained, provided however, that in the event the Regulatory Consents have not all been received prior to the First Closing Date, Purchaser shall be deemed to have waived such requirement without further action or written waiver.

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**ARTICLE VIII**  
**SELLER'S CONDITIONS PRECEDENT**

Except as may be waived in writing by Seller in Seller's sole discretion, the obligations of Seller hereunder are subject to fulfillment at or prior to the Pre-Closing of each of the following conditions:

**8.01 Representations and Warranties.** The representations and warranties of Purchaser contained herein shall be true and correct in all material respects as of the Pre-Closing as though such representations and warranties were made on such date, subject to any changes contemplated by this Agreement.

**8.02 Performance.** Purchaser shall have performed and complied in all material respects with all covenants or conditions required by this Agreement to be performed and complied with by it on or prior to the Pre-Closing.

**8.03 Deliveries.** Purchaser shall have delivered each of the documents required pursuant to Section 2.05(b) in each case in form and substance satisfactory to Purchaser and its counsel.

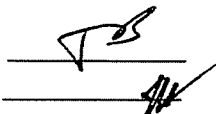
**8.04 Proceedings.** No action, proceeding or order by any court or governmental body or agency shall have been threatened in writing, asserted, instituted or entered to restrain, enjoin or otherwise prohibits the carrying out of the transactions contemplated by this Agreement.

**8.05 Payments.** Any payments that Purchaser is required to make pursuant to this Agreement or any of the Ancillary Agreements shall be made via wire transfer to Seller's bank account.

**ARTICLE IX**  
**INDEMNIFICATION**

**9.01 Seller's Indemnity.** (a) Subject to the terms and conditions of this Article IX, Seller hereby agrees to indemnify, defend and hold Purchaser and its officers, managers, members, employees, agents, attorneys, affiliates or successors in interest or transferees of any of the foregoing persons harmless from and against and to promptly pay all losses, claims, obligations, demands, assessments, penalties, liabilities, suits, fines, deficiencies, interest, costs, actual or punitive damages, reasonable attorneys' fees and expenses (whether contingent, fixed or unfixed, liquidated or unliquidated or otherwise) (collectively, "Damages"), asserted against or incurred by Purchaser by reason of or resulting from a misrepresentation, breach or nonfulfillment of, or any failure to perform by Seller of any representation, warranty or covenant contained herein or in any agreement executed pursuant hereto and any liabilities other than Assumed Liabilities.

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**9.02 Purchaser's Indemnity.** Subject to the terms and conditions of this Article IX, Purchaser hereby agrees to indemnify, defend and hold Seller and their officers, managers, members, employees, agents, attorneys, affiliates or successors in interest or transferees of any of the foregoing persons harmless from and against and to promptly pay all Damages asserted against or incurred by reason of or resulting from:

(a) a breach or misrepresentation, nonfulfillment of, or any failure to perform by Purchaser of any representation, warranty or covenant contained herein or in any agreement executed pursuant hereto; or

(b) the failure of Purchaser to pay, perform and discharge when due the Purchase Price or any Assumed Liabilities; or

(c) failure of Purchaser to fulfill any of its obligations under any Ancillary Agreement; or

(d) all liabilities incurred as a result of Purchaser's operation of the Purchased Business from and after the Pre-Closing Date.

**9.03 Conditions of Indemnification.** The respective obligations and liabilities of Seller and Purchaser (the "indemnifying party") to the other (the "party to be indemnified") under Sections 9.01 and 9.02 hereof with respect to claims resulting from the assertion of liability by third parties shall be subject to the following terms and conditions:

(a) Promptly after receipt of notice of commencement of any action evidenced by service of process or other legal pleading, or with reasonable promptness after the assertion in writing of any claim by a third party, the party to be indemnified shall give the indemnifying party written notice thereof together with a copy of such claim, process or other legal pleading. The indemnifying party shall have the right to join in the defense, settlement, adjustment or compromise thereof by representatives of its own choosing and at its own expense; provided, however, that the party to be indemnified may participate in the defense, settlement, adjustment or compromise with counsel of its own choice and at its own expense.

(b) In the event that the indemnifying party, by the 30th day after receipt of notice of any such claim (or, if earlier, by the 10th day preceding the day on which an answer or other pleading must be served in order to prevent judgment by default in favor of the person asserting such claim), does not elect to join in the defense, settlement, adjustment or compromise of such claim, the party to be indemnified will (upon further notice to the indemnifying party) have the right to undertake the defense, adjustment, compromise or settlement of such claim on behalf of and for the account and risk of the indemnifying party and at the indemnifying party's expense, subject to the right of the indemnifying party to participate in the defense of such claims at any

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time prior to settlement, adjustment, compromise or final determination thereof.

(c) Anything in this Section 9.03 to the contrary notwithstanding, the indemnifying party shall not settle any claim without the consent of the party to be indemnified unless such settlement involves only the payment of money and the claimant provides to the party to be indemnified an unconditional release from all liability in respect of such claim and does not include a statement as to admission of fault, culpability or a failure to act on behalf of a party to be indemnified. If the settlement of the claim involves more than the payment of money, the indemnifying party shall not settle the claim without the prior consent of the party to be indemnified, which consent shall not be unreasonably withheld.

(d) An indemnified party's failure to give timely notice or to furnish the indemnifying party or parties with any relevant data and documents in connection with any claim shall not constitute a defense (in part or in whole) to any claim for indemnification by such party, except any only to the extent that such failure shall result in any material prejudice to the indemnifying party or parties. If so desired by any indemnifying party or parties, such party or parties may, by giving the indemnified party or parties written notice in which the indemnifying party or parties acknowledge that such claim is properly subject to indemnification hereunder, elect, at such party's or parties' sole expense, to assume control of the defense, settlement, adjustment or compromise of any claim, provided that such indemnifying party shall obtain the consent of all indemnified parties before entering into any settlement, adjustment or compromise of such claim, or ceasing to defend against such claim, if as a result thereof, or pursuant thereto, there would be imposed on an indemnified party any liability or obligation not covered by the indemnification obligations of the indemnifying parties under this Agreement (including, without limitation, any injunctive relief or other remedy).

(e) The party to be indemnified and the indemnifying party will each cooperate with all reasonable requests of the other.

**9.04 Survival.** The rights of the parties to seek indemnification under this Article IX shall terminate on the following dates, except as to those claims with respect to which notice shall have been duly given prior to the relevant termination date:

(a) in the case of claims for indemnification relating to Taxes and other governmental assessments and charges of any nature whatsoever, the date of expiration of the relevant statute of limitations, including any extensions thereof;

(b) in the case of claims for indemnification arising from the failure or alleged failure on the part of Seller or Purchaser to comply with the requirements of any bulk sales, fraudulent conveyance or other law for the protection of creditors, the date of expiration of the relevant statute of limitations, including any extensions thereof; and

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(c) in the case of all other claims for indemnification arising under this Agreement, on the first anniversary of the date hereof.

**9.05 Threshold.** The parties shall not have any liability pursuant to this Article IX, or any other provision of this Agreement, unless and until the aggregate amount of Damages accrued pursuant to Section 9.01 or 9.02 or otherwise pursuant to this Agreement is greater than or equal to \$10,000 (the "Liability Threshold"); provided, however, that once the aggregate amount of Damages against a party shall equal or exceed the Liability Threshold, such party shall thereafter be liable on a dollar-for-dollar basis for the full amount of all Damages initially excluded under the Liability Threshold, except that Seller's total liability shall be the Purchase Price received from Purchaser under this Agreement, and the amount of the Guaranty shall be included in such total liability and shall not be in addition thereto.

**9.06 Remedies Not Exclusive.** The remedies provided in this Article IX shall not be exclusive of any other rights or remedies available by one party against the other, either at law or in equity, except as otherwise set forth in Section 9.05 hereof.

## **ARTICLE X** **MISCELLANEOUS**

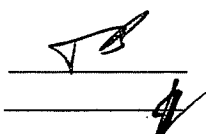
**10.01 Amendment.** This Agreement may be amended, modified or supplemented only by an instrument in writing executed by the party against which enforcement of the amendment, modification or supplement is sought.

**10.02 Assignment.** Neither this Agreement nor any right created hereby shall be assignable by either party hereto.

**10.03 Notice.** Any notice or communication must be in writing and given by depositing the same in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested, or by delivering the same in person, by telecopier or by expedited courier. Such notice shall be deemed received on the date on which it is hand-delivered or telecopied (with confirmation of receipt thereof by the addressee), on the next business day by expedited courier, or on the third business day following the date on which it is so mailed. For purposes of notice, the addresses of the parties shall be:

If to Seller:

Red River Networks LLC  
201 Robert S. Kerr, Suite 500  
Oklahoma City, Oklahoma, 73102  
Attn: Woody Bannister

Initials: 

with a copy to: King Law Firm  
15 N. Robinson, Suite 1150  
Oklahoma City, OK 73102  
Attn: Justin T. King, Esq.

If to Purchaser: NOSVA Limited Partnership  
4380 Boulder Highway  
Las Vegas, Nevada 89121  
Attn: Gary Fry

with a copy to: Nowalsky, Bronston & Gothard APLLC  
3500 North Causeway Blvd.  
Suite 1442  
Metairie, LA 70002  
Attn: Benjamin W. Bronston, Esq.



Any party may change its address for notice by written notice given to the other parties.

**10.04 Mutual Confidentiality.** The parties shall keep this Agreement and its terms confidential, but any party may make such disclosures after the Pre-Closing as it reasonably considers are required by law, but each party will notify the other parties in advance of any such disclosure. In the event that the transactions contemplated by this Agreement are not consummated for any reason whatsoever, the parties hereto agree not to disclose or use any confidential information they may have concerning the affairs of the other parties, except for information which is required by law to be disclosed. For purposes of this Section 10.04, confidential information includes, but is not limited to: customer lists and files, prices and costs, business and financial records, surveys, reports, plans, proposals, financial information, information relating to personnel contracts, stock ownership, liabilities and litigation. Should the transactions contemplated hereby not be consummated, nothing contained in this Section shall be construed to prohibit the parties hereto from operating a business in competition with each other. Purchaser and Seller shall consult with each other in releasing information concerning this Agreement and the transactions contemplated hereby. Each of the parties to this Agreement shall furnish to the other drafts of all releases prior to publication.

**10.05 Entire Agreement.** This Agreement and the exhibits hereto supersede all prior agreements and understandings relating to the subject matter hereof, except that the obligations of any party under any agreement executed pursuant to this Agreement shall not be affected by this Section.

**10.06 Costs, Expenses and Legal Fees.** Whether or not the transactions contemplated hereby are consummated, each party hereto shall bear its own costs and expenses (including attorneys' fees), except that each party hereto agrees to pay the costs and expenses, including

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reasonable attorneys' fees, incurred by the other parties in successfully (a) enforcing any of the terms of this Agreement, or (b) proving that the other parties breached any of the terms of this Agreement in any material respect.

**10.07 Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision never comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

**10.08 Survival of Representations, Warranties and Covenants.** The representations, warranties and covenants contained herein shall survive the Pre-Closing for one (1) year and all statements contained in any certificate, exhibit or other instrument delivered by or on behalf of Seller or Purchaser pursuant to this Agreement shall be deemed to have been representations and warranties by Seller or Purchaser, as the case may be, and shall survive the Pre-Closing and any investigation made by any party hereto or on its behalf for one (1) year.

**10.09 Captions.** The captions in this Agreement are for convenience of reference only and shall not limit or otherwise affect any of the terms or provisions hereof.

**10.10 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

**10.11 Bulk Transfer Laws.** The Purchaser acknowledges that the Seller will not comply with the provisions of any bulk transfer laws of any jurisdiction in connection with the transactions contemplated by this Agreement.

**10.12 Number and Gender.** Whenever the context requires, references in this Agreement to the singular number shall include the plural, the plural number shall include the singular and words denoting gender shall include the masculine, feminine and neuter.

**10.13 Governing Law.** The Parties hereby agree that this Agreement shall be governed and construed in accordance with the laws of the State of Oklahoma, without giving effect to principles of conflicts of law thereunder.

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AK

## **ARTICLE XI**

### **TERMINATION**

**11.01 Termination of Agreement.** Certain of the parties may terminate this Agreement as provided below:

(a) Purchaser and Seller may terminate this Agreement by mutual written consent at any time prior to the Pre-Closing;



(b) Purchaser may terminate this Agreement by giving written notice to Seller on or before the later of (i) the date upon which Seller delivers all of the schedules to Purchaser and (ii) May 9, 2005, if Purchaser in its reasonable discretion is not satisfied with the results of its continuing business, legal, and accounting due diligence regarding the Purchased Business;

(c) Purchaser may terminate this Agreement by giving written notice to Seller at any time prior to the Pre-Closing (i) in the event Seller have breached any representation, warranty, or covenant contained in this Agreement in any material respect, Purchaser has notified Seller of the breach, and the breach has continued without cure for a period of fifteen (15) days after the breach or (ii) if the Pre-Closing shall not have occurred on or before May 9, 2005, by reason of the failure of any condition precedent under Article VII hereof (unless the failure results primarily from Purchaser itself breaching any representation, warranty, or covenant contained in this Agreement); and

(d) Seller may terminate this Agreement by giving prior written notice to Purchaser: (i) if all of the Regulatory Consents are not received by the parties prior to the expiration of one (1) year from the date first written above; or (ii) at any time if Purchaser has breached any provision contained in this Agreement or any of the Ancillary Agreements, including the Transition Services Agreement, the Sales Consulting Agreement, the Agent Agreement, and the Management Agreement, in any material respect, Seller has notified Purchaser of the breach in writing and the breach has continued without cure for a period of fifteen (15) days after Purchaser's receipt of such written notice of breach.

**11.02 Effect of Termination.** If any party terminates this Agreement pursuant to Section 11.01 above, all rights and obligations of the parties hereunder shall terminate without any liability of any party to any other party, except for any liability for breach of contract of any party then in breach. Upon termination, Purchaser shall promptly return to Seller all of Seller's Assets in substantially the same condition they were in immediately prior to the Effective Date of this Agreement (normal wear and tear and customer attrition excepted) and Purchaser shall immediately relinquish to Company all rights to any of such Assets and under any and all

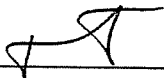
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
agreements or contracts assigned hereunder.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this Agreement as of the date first written above.

**Red River Networks, LLC**

By:   
Name: Woody Bannister  
Its: president

**NOSVA LIMITED PARTNERSHIP**

By:   
Name: Joe Kopp  
Its: President

Initials: 