

# SECURITIES AND EXCHANGE COMMISSION

## FORM 10-K

Annual report pursuant to section 13 and 15(d)

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### FILER

#### **GST TELECOMMUNICATIONS INC**

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SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

/X/ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the fiscal year ended SEPTEMBER 30, 1996

/ / TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 1-12866

GST TELECOMMUNICATIONS, INC.

(Exact Name of Registrant as Specified in its Charter)

Canada

N/A

(State or other jurisdiction of  
incorporation or organization

(IRS Employer Identification  
Number)

4317 N.E. Thurston Way, Vancouver, Washington 98662

(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (360) 254-4700

Securities registered pursuant to Section 12(b) of the Act:

| Title of Each Class | Name of Each Exchange<br>on Which Registered |
|---------------------|--|
|---------------------|--|

|                                  |                         |
|----------------------------------|-------------------------|
| Common Shares, without par value | American Stock Exchange |
|----------------------------------|-------------------------|

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes X No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. / /

The aggregate market value at December 27, 1996 of the Registrant's Common Shares, without par value (based upon the closing price of \$8 5/16 per share of such Shares on the American Stock Exchange), held by non-affiliates of the Registrant was approximately \$158,925,416. Solely for the purposes of this calculation, shares held by directors and officers of the Registrant have been excluded. Such exclusion should not be deemed a determination or an admission by the Registrant that such individuals are, in fact, affiliates of the Registrant.

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date: At December 20, 1996, there were outstanding 22,045,638 of the Registrant's Common Shares, without par value.

DOCUMENTS INCORPORATED BY REFERENCE

Certain portions of the Registrant's definitive proxy statement to be filed not later than January 28, 1997 pursuant to Regulation 14A are incorporated by reference in Items 10 through 13 of Part III of this Annual Report on Form 10-K.

## ITEM 1. BUSINESS

### OVERVIEW

GST Telecommunications, Inc. (the "Company") provides a broad range of integrated telecommunications products and services, primarily to customers located in the western continental United States and Hawaii. Since inception as a facilities-based competitive access provider ("CAP"), the Company has constructed and operated digital interconnected telecommunications networks that provide an alternative to local exchange carriers ("LECs"). The Company has expanded beyond the scope of traditional CAP operations into competitive local exchange carrier ("CLEC") services and currently provides, through its established sales channels, a range of enhanced telecommunications services that include long distance, Internet access and data services. In addition, the Company provides switched access and recently began to offer local dial tone services to complement its existing telecommunications service offerings. The Company also provides advanced telecommunications switching platforms with integrated applications software and network telemanagement capabilities through its subsidiary, NACT Telecommunications, Inc. ("NACT").

The Company's fiber optic networks currently serve 24 cities in Arizona, California, New Mexico and Washington and its digital microwave networks serve four of the Hawaiian Islands. In addition, the Company has 18 networks under construction and other networks in various stages of development.

The Telecommunications Act of 1996 (the "Telecommunications Act") and state regulatory initiatives have substantially changed the telecommunications regulatory environment in the United States. As a result of these regulatory changes, the Company is permitted in certain states to provide local dial tone in addition to its existing telecommunications service offerings. In order to capitalize on these opportunities, the Company has accelerated the development and construction of additional networks within its region. In addition, to facilitate the provision of local services, the Company has deployed four high capacity digital switches and intends to deploy additional switches in the first half of 1997.

### TELECOMMUNICATIONS NETWORKS

The Company's network strategy is to continue to develop and expand its network infrastructure to ultimately assemble, through a combination of owned and leased facilities and joint ventures, an integrated regional network for the on-net provision of CLEC services, including local, long distance, Internet access and data services. The Company will continue to focus on the western United States in order to take advantage of its strategically advantageous position in California and Hawaii and the substantial telecommunications traffic that exists among the western United States, Mexico, the Pacific Rim and western Canada.

The Company's networks comprise fiber optic cables, microwave or other wireless facilities, integrated switching facilities, advanced electronics, data switching equipment, transmission equipment and associated wiring and equipment. The Company typically designs a ring architecture with connectivity to LEC central offices, points-of-presence ("POPs") of long distance carriers and large concentrations of telecommunication intensive end-users.

At December 15, 1996, (i) in California, the Company had operational networks in Northern California (Concord, Hayward, Pleasanton, San Ramon, Mare Island and Walnut Creek), Southern California (Bloomington, Loma Linda, Rialto, Riverside, San Bernardino, City of Industry, Monterey Park, Anaheim and Ontario) and the San Joaquin Valley (Coalinga, Fresno, Bakersfield and Taft); (ii) in Hawaii, the Company had operational networks on Hawaii, Maui, Molokai and Oahu; (iii) in Arizona, the Company had an operational network in Tucson and owned 50% of Phoenix Fiber Access, Inc. ("Phoenix Fiber") which had an operational network in Phoenix; (iv) in New Mexico, the Company had an operational

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network in Albuquerque; and (v) in Washington, the Company had operational networks in Spokane and Vancouver. In addition, the Company is constructing an inter-island fiber optic network that will connect six of the Hawaiian Islands and fiber optic networks on the islands of Hawaii, Maui and Oahu.

The Company's decision to construct a network in a particular locale is preceded by a review of the area's demographic, economic, competitive and telecommunications requirements. The characteristics examined include location and concentration of potential business, governmental and institutional end-users, the locale's economic prospects, information regarding demand for the various services offered by the Company and actual and potential LECs, CLEC and other competitors. Market demand is estimated using market research conducted by the Company and from information such as demand sets provided by interexchange carriers ("IXCs").

If the locale's characteristics are deemed to warrant development activities, the Company, with the assistance of engineering consultants, designs a network that will connect the largest practicable concentration of potential end-users, IXCs, POPs and LEC central offices. The Company initiates discussions simultaneously with municipal officials, rights-of-way providers, IXCs and potential end-users and prepares estimates of the costs of fiber optic cable, transmission, switching and other electronic equipment, engineering design and construction, rights-of-way and structural access. Concurrently, estimates of potential network revenues and profitability are prepared and are compared with estimated costs to determine whether the projected rate of return justifies construction. If the projected rate of return meets the Company's guidelines, a detailed financial and business plan is prepared.

The construction of a network requires that the Company obtain municipal franchise and other permits. These rights are frequently the subject of non-exclusive agreements of finite duration providing for the payment of fees. In addition, the Company must secure rights-of-way and other access which are typically provided under non-exclusive multi-year agreements, which generally contain renewal options. Generally, these rights are obtained from utilities, LECs, other CLECs, railroads and IXCs. The Telecommunications Act requires most utilities to afford access to rights-of-way to CLECs on non-discriminatory terms and conditions and at reasonable costs.

The Company's requirements for a planned network are communicated to an engineering firm that finalizes the route and completes the network's design. Independent construction and installation contractors are selected through a competitive bidding process. The Company's own personnel supervise the construction, negotiate required contracts, and test and verify the network components. Cable, equipment and supplies required for the networks are available from a variety of sources at competitive rates.

The construction period of a new network varies depending upon such factors as the number of backbone route miles to be installed, the initial number of buildings targeted for connection to the network backbone and the general deployment of the network backbone. Construction is planned to allow revenue-generating operations to commence prior to the completion of the entire network backbone. After installing the network backbone, extensions to additional buildings and expansions to other regions of a metropolitan area are evaluated, based on detailed assessments of market potential. Based upon the Company's experience with its operational networks, the Company believes that generally a new fiber optic network can be commercially operational within four to five months after construction commences.

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The successful implementation of the Company's network strategy is best evidenced in the States of California and Hawaii. In California, the Company holds two Certificates of Public Convenience and Necessity ("CPCNs") from the California Public Utilities Commission ("CPUC"), which allows the Company to install its fiber optic cable along existing public utility corridors, and has a statewide pole attachment agreement, which enables the Company to expand its infrastructure without the delays typically experienced in obtaining individual licenses and rights-of-way. The Company has begun to interconnect each of its operational California and Hawaiian networks to allow the on-net provision of the Company's services throughout each State. In Hawaii, the Company operates a digital microwave network and has recently entered into a network interconnection agreement with GTE Hawaiian Telephone Company ("GTE"), the dominant service provider in the Hawaiian Islands, that is subject to regulatory approval. The Company is the only authorized provider of statewide full local dial tone services other than GTE. The Company is also supplementing its microwave network with terrestrial fiber optic facilities and has begun deployment of an inter-island fiber network to extend its services throughout the State. The Hawaii Public Utilities Commission (the "HPUC") has authorized a subsidiary of the Company to expand its authority to include local exchange services in competition with GTE. Deployment of local exchange services on other than a resale basis or through the purchase from GTE of unbundled network elements are dependent upon HPUC approval of the interconnection agreement recently entered into between the Company and GTE and the installation of necessary facilities and equipment. The Company has also recently completed pole attachment and audit occupancy agreements with GTE. The Company recently completed a rights-of-way agreement with Hawaiian Electric Company relating to all islands other than Kauai, which will facilitate this network deployment.

#### TELECOMMUNICATIONS SERVICES

In conjunction with its network expansion, the Company has developed a strategy to leverage its existing infrastructure by providing a wide range of integrated local and long distance telecommunications services to meet the voice and data needs of its end-user customers. The Company intends to continue to primarily focus on business, government and academic end-users within its region that have significant telecommunications requirements. To meet these customers' needs, the Company offers a number of CLEC services including:

## LOCAL SERVICES

Local services involve the transmission of voice, video or data to long distance carrier-specified or end-user-specified termination sites (by manually or electronically dialing a telephone number). By contrast, the special access services currently provided by the Company and other CLECs involve a fixed communications link or "pipe," usually between a specific end-user and a specific long distance carrier's POP. With a switch, it is possible for the Company to direct a long distance carrier's traffic to any end-user whether or not the end-user is connected to the Company's network. Under current federal regulations, the Company is permitted to provide a full range of interstate switched access and enhanced services. In addition, a switch gives the Company the technological capability to provide the full range of local telephone services, although state authority may be necessary for intrastate service offerings.

To facilitate the provision of local services, the Company has deployed four switches for switched access as well as local dial tone and enhanced services and intends to deploy additional switches in the first half of 1997. The Company plans to continue to install switching equipment in its operational networks, in markets where it is constructing networks and in certain other cities where the Company will rely on LEC facilities for transmission. Once each switch is operational, the Company expects to begin providing, where regulatory conditions permit, local dial tone, in addition to enhanced services such as ISDN, Centrex, voice mail and other custom calling features.

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## LONG DISTANCE SERVICES

The Company offers enhanced long distance services, such as toll free, private line, calling card, prepaid calling card and international call back services to end-users, agents and other carriers. The Company supplies long distance services pursuant to resale agreements that enable it to utilize the network facilities of major long distance carriers such as AT&T Corp. ("AT&T") and MCI Communications Corporation ("MCI"). The Company's current customer base encompasses primarily business customers purchasing between \$200 and \$15,000 of service per month. The Company has recently expanded its long distance products and services through the acquisition of Call America Business Communications Corporation and its affiliated companies (collectively "Call America"), TotalNet Communications Inc. ("TotalNet") and certain assets of Texas-Ohio Communications, Inc. and affiliated companies (collectively, "Texas-Ohio").

CALL AMERICA. The Company has entered into an agreement and plan of merger with Call America, pursuant to which the Company would acquire 100% of Call America by means of a merger, for a purchase price of 1,307,692 common shares with no par value of the Company (the "Common Shares"), subject to a post closing adjustment of additional Common Shares if, 180 days after the effective time of the merger, the market price of the Common Shares is less than \$12.50 per share. The maximum number of additional Common Shares to be issued pursuant to the post closing adjustment is 114,489. The consummation of the merger is contingent upon obtaining certain required consents and approvals, including regulatory approvals, which are expected to be received by the end of 1996. Call America, which is based in San Luis Obispo, California, is a facilities-based long distance reseller that provides switched long distance, voice mail, operator services, paging, Internet access, wireless messaging, e-mail and other services to approximately 8,000 customers in the three-county area of San Luis Obispo, Santa Barbara and Ventura counties.

TOTALNET. The Company acquired TotalNet for a purchase price of approximately \$8.7 million, payable entirely in Common Shares to the former shareholders of TotalNet in two installments. Sixty percent of the purchase price (approximately \$5.2 million), for a total of 481,391 Common Shares valued at \$10.90 per share, was paid on October 17, 1996 and the remaining 40% of the purchase price (approximately \$3.5 million) is payable in Common Shares on October 17, 1997, based on the market value of the Common Shares at such time but in no event less than \$7.63 per share, or more than \$20.00 per share. TotalNet, which is based in Houston, Texas, is both a facilities-based carrier and a switchless reseller of long distance services. TotalNet provides 1+, toll-free "800," operator-assisted and calling card services to approximately 3,500 small to medium sized businesses in the Houston metropolitan area.

TEXAS-OHIO. The Company acquired certain assets of Texas-Ohio in exchange for \$589,704 and the assumption of certain liabilities. Texas-Ohio is a full-service long distance reseller that provides its customers with 1+, toll-free "800," operator-assisted and calling card services. Texas-Ohio specializes in enhanced calling card services. Texas Ohio provides its long distance services to 26 agents and resellers nationwide who market these products to over 2,500 customers. Texas Ohio's electronic order entry system is unique to the industry and allows agents to enroll and service its customers on-line. Additionally, the Company has an experienced customer service department that is fully operational 24 hours a day, seven days a week.

## INTERNET SERVICES

In March 1996, the Company acquired Reservations, Inc. d/b/a Hawaii On Line ("Hawaii On Line"), the largest Internet access provider in Hawaii, and has since increased the number of Hawaii On Line's customers from approximately 4,900 to approximately 12,000. The Company is also presently providing Internet services to customers in Portland and Vancouver (Washington). In addition to providing Internet access, the Company offers electronic interchange services through its recently acquired LightYear

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division, WorldWide Web development and hosting and other Internet services and is also developing various Internet software applications. Management believes that these services will become an important component of the Company's overall product offerings and will permit the Company to leverage its existing infrastructure. The Company intends to continue to expand its Internet access and service business to other markets.

## DATA SERVICES

The Company offers national and international frame relay services on its own frame relay network and through an interconnection agreement with Intermedia Communications Inc. ("Intermedia"). Under this agreement, the Company and Intermedia have agreed to link their data networks and terminate one another's traffic. The Company currently offers frame relay services in most major markets in the United States, with a focus on the markets located in the western part of the country.

The Company is developing metropolitan area networks leveraging off its fiber, wireless, microwave and other transport facilities. These networks will be used to offer services such as high speed LAN connectivity service with access rates ranging from 10 to 100 Mbps, video conferencing, multi-media networking and high capacity access to the Internet.

The Company's data networks are monitored by its network control center, 24 hours a day, 7 days a week. The Company intends to provide its customers monthly network management reports that would allow users to track the performance of their virtual private network. Customer network management support will permit customers to monitor and tailor their virtual network as desired with a communication link into the Company's network management systems.

National and international frame relay connectivity are achieved with individual network-to-network interface ("NNI") agreements with Intermedia and other telecommunications carriers. In addition to dedicated local loop access to the Company's frame relay network, the Company has established frame relay NNIs with PacBell, U S West Communications, Inc. ("U S West"), SBC Communications Corporation and GTE Corporation and its affiliated companies (collectively, the "GTE Companies") to provide frame relay services.

## SHARED TENANT SERVICES

The Company offers shared tenant services to large apartment communities in New Mexico, Oregon, Utah and Washington. Shared tenant services include resold dial tone, long distance, voice mail, calling features, calling cards, cable television, home alarm service and Internet access. The Company recently expanded its shared tenant services business through the acquisition of Tri-Star Residential Communication Corp. ("Tri-Star"), a Washington-based shared tenant services provider. The Company acquired Tri-Star on September 19, 1996 for a purchase price of \$2,417,150, payable entirely in Common Shares, in eight quarterly installments.

The Company provides dial tone service through on-site PBX telephone systems located within each apartment complex that are connected to the LEC. As the Company expands its network and central office switching facilities, PBXs will be replaced with central office access nodes originating from the Company's own dial tone facilities, thereby resulting in significant cost savings to the Company. In addition, the Company is in the process of connecting apartment communities to its own fiber network.

## MANUFACTURING

The Company, through its subsidiary, NACT, provides advanced telecommunications switching platforms with integrated applications software and network telemanagement capabilities. As a single

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source provider, NACT believes that it is the only company in its market that designs, develops and manufactures all hardware and software elements necessary for a fully integrated turnkey telecommunications switching solution. Because

NACT provides a complete integrated solution, its customers do not require the multiple suppliers of hardware and value added resellers of software that would otherwise be necessary to provide a wide range of services and applications. NACT's customers include long distance carriers, prepaid debit card and prepaid cellular network operators, international call back/reorigination providers and other specialty service providers.

NACT's products and services include the STX application switching platform (the "STX"), the NTS telemanagement and billing system (the "NTS") and facilities management services. In May 1996, NACT introduced the STX, an integrated digital tandem switching system that currently supports up to 1,024 ports per switch and can be combined with three additional STXs to provide a total capacity of 4,096 ports per system. The STX includes proprietary systems software that enables standard applications such as 1+ and optional advanced applications such as international call/back reorigination, prepaid debit card and prepaid cellular. NACT has targeted the STX, with its enhanced features and scaleable capacity, to an expanded group of customers, including independent telephone companies, CAPs/CLECs, shared tenant service providers, Fortune 1000 corporations and local telephone companies outside the United States. NACT believes that the STX offers value added features and capacity at price points typically lower than those offered by its competitors. The NTS performs call rating, accounting, switch management, invoicing and traffic engineering for multiple switches that may be NACT switches or other industry switches. In conjunction with the sale of a system, NACT offers a facilities management service whereby NACT will operate and maintain a customer's switch for a fee. In providing this service, NACT enables its customers to direct their attention toward marketing their products rather than focusing on the technical aspects of operating a switch.

#### COMPETITION

The telecommunications industry is highly competitive. In most markets, the Company's networks' principal competitor is the Regional Bell Operating Company ("RBOC") or the GTE Companies. Additional competitors may include other CAPs, CLECs, microwave and satellite carriers, wireless telecommunications providers and private networks built by large end-users. Potential competitors (using similar or different technologies) include cable television companies, utilities and LECs outside their current local service area. In addition, the Company anticipates future competition from large long distance carriers, such as AT&T, MCI and Sprint Corporation ("Sprint"), which have announced plans to offer integrated local and long distance telecommunications services as regulations allow. Consolidation of telecommunications companies and the formation of strategic alliances within the telecommunications industry as well as the development of new technologies could give rise to significant new competitors to the Company.

As a recent entrant in the integrated telecommunications services industry, the Company has not achieved and does not expect to achieve a significant market share for any of its services. In particular, the RBOCs, the GTE Companies and other local telephone companies have long-standing relationships with their customers, have financial, technical and marketing resources substantially greater than those of the Company, have the potential to subsidize competitive services with revenues from a variety of businesses and currently benefit from certain existing regulations that favor the LECs over the Company in certain respects. While recent regulatory and legislative initiatives allow CLECs such as the Company to interconnect with LEC facilities and provide increased business opportunities for the Company, such interconnection opportunities have been accompanied by increased pricing flexibility for, and relaxation of regulatory oversight of, the LECs. Local telephone companies also may enter the long distance market, subject to certain conditions. For example, the Federal Communications Commission (the "FCC") granted LECs additional flexibility in pricing their interstate special and switched access services on a central office

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specific basis. Under this pricing scheme, LECs may establish pricing zones based on access traffic density and charge different prices for central offices in each zone.

In California, the Company has selected cities where it was or expects to be the first entrant into a market. Although the Company expects that other CLECs will develop networks in cities where the Company is developing or operating networks, currently the Company's only competitors in its California markets are the LECs, although Brooks Fiber Properties ("Brooks") has begun to construct networks in Fresno and Bakersfield.

Currently, in Hawaii, the Company is the only authorized provider of statewide full local dial tone services other than GTE.

In Tucson, the Company competes with the LEC, U S West, and two other companies that also have a license agreement with the City of Tucson. These companies, Brooks Fiber Communications of Tucson, Inc. and American

Communications Services Inc. ("ACSI") and the Company have entered into agreements with Tucson Electric Power Company ("TEP") for pole attachment and access to TEP's facilities rights-of-way.

In Phoenix, Phoenix Fiber competes with the LEC. In addition to the LEC, four other companies (Electric Lightwave, Inc., MFS Communications Company, MCI and Teleport Communications Group, Inc.) have constructed or intend to construct fiber optic telecommunication transmission networks in the Phoenix area. Such companies are expected to offer services that will compete with some or all of the services to be offered by Phoenix Fiber.

In addition to the Company, ASCI and Brooks have franchise agreements with the city of Albuquerque.

The long distance telecommunications industry has relatively insignificant barriers to entry, numerous entities competing for the same customers and a high average churn rate, as customers frequently change long distance providers in response to the offering of lower rates or promotional incentives by competitors. The Company competes with major carriers such as AT&T, MCI and Sprint, as well as other national and regional long distance carriers and resellers, many of whom are able to provide services at costs that are lower than the Company's current costs. As a result of the Telecommunications Act, the Company believes that RBOCs also will become competitors in the long distance telecommunications industry. The Company believes that the principal competitive factors affecting its long distance operations are pricing, customer service, accurate billing, clear pricing policies and, to a lesser extent, variety of services. The ability of the Company to compete effectively will depend upon its continued ability to maintain high quality market driven services at prices generally equal to or below those charged by its competitors. The FCC has, on several occasions since 1984, approved or required price reductions by AT&T and, in 1995, the FCC announced that AT&T will no longer be regulated as a dominant long distance carrier. This decision is expected to increase AT&T's flexibility in competing in the long distance services market and, in particular, eliminates the longer tariff notice requirements previously applicable only to AT&T. Most recently the FCC has adopted rules that will eliminate the ability or need of long distance carriers to file tariffs with the FCC. To maintain its competitive posture, the Company believes that it must be in a position to reduce its prices in order to meet reductions in rates, if any, by others. Any such reductions could adversely affect the Company.

The Internet services market is highly competitive. There are no substantial barriers to entry, and the Company expects that competition will continue to intensify. The Company's competitors in this market include Internet access providers, other telecommunications companies, online services providers and Internet software providers.

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The market for telecommunications products is highly competitive and subject to rapid technological change. NACT expects competition to increase from existing competitors in the distributed switching systems market and from other companies that may enter NACT's existing or future markets, including major central office switch vendors. In its manufacturing operations, the Company, through its subsidiary NACT, competes with a number of lower capacity switch manufacturers such as Communications Product Development, Inc., Integrated Telephony Products, Inc. and PCS Telecom, Inc. NACT also competes with providers of open architecture (programmable) hardware switching platforms that are enhanced by applications providers and value added resellers. Such competitors include Excel, Inc., which has agreements with software application providers, which has agreements with software applications providers. As NACT's business develops and it seeks to market its switches to a broader customer base, NACT's competitors may include larger switch and telecommunications equipment manufacturers such as Lucent Technologies Inc., Harris Corporation, Siemens AG, Alcatel Alsthom Compagnie, Generale D'Electricite, Telefonaktiebolaget, L.M. Ericsson and Northern Telecom, Ltd.

Most of the Company's actual and potential competitors in its switched access, long distance, Internet and data services and manufacturing businesses have substantially greater financial, technical and marketing resources than the Company. While the Company believes that it is well positioned to compete effectively, there can be no assurance that it will be able to do so.

#### MARKETING

The Company markets its telecommunications service offerings through the use of direct mail, print, radio and television advertising, attendance at trade shows and open houses, press conferences, newsletters and media releases. The Company has developed two primary channels of distribution: commercial channels, which include commercial sales offices, telemarketing and product specific sales, and target-specific channels, which include carrier sales, government systems, alternate channels marketing and vertical markets. The Company has sales offices in 18 cities in which it operates networks.

The Company's commercial distribution channels focus on end-users, including business customers with telecommunication-intensive needs. The Company's direct sales agents work in conjunction with its agent and telemarketing groups to sell value-added services to medium and large business end-users. The telemarketing group generates qualified leads and schedules appointments for the Company's regional sales agents as well as consummates sales to long distance and Internet customers in cities where the Company does not operate a network. The Company's product specific sales channels market prepaid debit cards to retail stores and the collector's market.

The Company's target-specific channels focus on customers with more complex telecommunications requirements. Long distance sales constitute the largest source of revenues to the Company. The Company takes advantage of opportunities created by the large IXCs and is working to identify and address smaller carriers. Larger carriers use the Company's services to augment their networks and enhance their service offerings, while smaller carriers rely on the Company to provide services as well as methods to sell services.

#### REGULATION

The Company's telecommunications services business is subject to varying degrees of federal, state and local regulation.

##### FEDERAL REGULATION

The FCC regulates interstate and international telecommunication transmissions. The allocation of jurisdiction between federal and state regulators over dedicated circuits that carry both interstate and

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intrastate traffic (including private line and special access services) creates definitional issues. The FCC, however, has noted that private line, non-switched telecommunications services can be classified as jurisdictionally interstate (subject to FCC jurisdiction) if at least 10% of the transmissions are interstate in nature. The FCC has not ruled specifically as to the jurisdictional nature of the traffic of the Company's networks.

The Company provides service either on a private carrier basis or on a common carrier basis. In the interstate market, the primary distinguishing factor between private carriers and common carriers is that private carriers provide customized services to select customers pursuant to individually negotiated contracts and do not file tariffs with the FCC but common carriers hold themselves out to serve the public generally. The FCC imposes certain regulations on common carriers such as the RBOCs that have some degree of market power. The FCC imposes less regulation on common carriers without market power including, to date, CAPs/CLECs. The FCC requires common carriers to receive an authorization to construct and operate telecommunication lines between the United States and international points.

The FCC requires that local telephone companies having annual revenues exceeding \$100.0 million (for example, the RBOCs and the GTE Companies) permit the interconnection of their facilities with those of CLECs. Interconnection is the ability of an entity to connect its network to local telephone companies' central offices, which requires the cooperation of the local telephone company and facilitates the carrying on of business by CLECs. This requirement aids CLECs in competing in the interstate, switched and special access service markets. It allows CLECs to reach a much larger customer base without significantly increasing their own physical network.

In August 1996, the FCC released its decision implementing the interconnection portions of the Telecommunications Act (the "Interconnection Decision"). The Interconnection Decision establishes rules implementing the Telecommunications Act requirements that incumbent local exchange carriers negotiate interconnection agreements and provides guidelines for review of such agreements by state public utilities commissions. In October 1996, the Eighth Circuit stayed effectiveness of certain portions of the Interconnection Decision, including provisions establishing a pricing methodology and a procedure permitting new entrants to "pick and choose" among various provisions of existing or negotiated interconnection agreements. Although the judicial stay of the Interconnection Decision does not prevent the Company from negotiating interconnection agreements with local exchange carriers, it does create uncertainty about the rules governing pricing, terms and conditions of interconnection agreements, and could make negotiating such agreements more difficult and protracted. On November 12, 1996, the U.S. Supreme Court refused to vacate the Eighth Circuit's judicial stay. The Eighth Circuit is expected to hear oral arguments in this case in January 1997 and further appeals are possible. There can be no assurance that the Company will be able to obtain interconnection agreements on terms acceptable to the Company.

On October 29, 1996, the FCC adopted an order (the "Order") in which it eliminated the requirement that non-dominant interstate carriers such as the

Company maintain tariffs on file with the FCC for domestic interstate services. The Order applies to all non-dominant interstate carriers, including AT&T. The Order does not apply to the RBOCs or other local exchange providers. The Order was issued pursuant to authority granted to the FCC in the Telecommunications Act to "forbear" from regulating any telecommunications services provider if the FCC determines that the public interest will be served. After a nine-month transition period, relationships between interstate carriers and their customers will be set by contract. At that point long distance companies may no longer file with the FCC tariffs for interstate, domestic, interexchange services. Carriers have the option to immediately cease filing tariffs. Several parties have filed motions for reconsideration of the Order and MCI has filed a motion for the FCC to stay the Order. MCI and others have also filed appeals in the U.S. Court of Appeals for the District of Columbia.

Except in certain designated geographically competitive zones, the current policy of the FCC for most special access services dictates that LECs charge all customers the same price for the same service.

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Thus, the LECs generally cannot lower prices to those customers likely to contract for their services without also lowering charges for the same service to all customers in the same geographic area, including those whose telecommunications requirements would not justify the use of such lower prices. The FCC may, however, alleviate this constraint on the LECs and permit them to offer special rate packages to very large customers, as it has done in a few cases, or permit other forms of regulatory rate flexibility. The FCC has adopted proposals that significantly lessen the regulation of LECs that are subject to competition in their service areas and provide such LECs with additional flexibility in pricing their interstate switched and special access on a central office specific basis.

The Telecommunications Act is intended to increase competition. Because implementation of the Telecommunications Act is subject to numerous federal and state policy rulemaking proceedings, it is unknown at this time what impact such legislation will have on the Company.

Pursuant to authority granted by the FCC, the Company resells the international message communications services of other common carriers between the United States and international points. In connection with such authority, certain of the Company's subsidiaries have filed tariffs stating the rates, terms and conditions for their international services. The FCC has ruled international call back services to be legal where the specific countries from which such calls are placed do not have laws that specifically make call back illegal. The FCC has stated that it will take action against United States carriers that violate another country's call back prohibition if that country has been unable to insure compliance.

With respect to its domestic service offerings, International Telemanagement Group, Inc. ("ITG"), a subsidiary of the Company, has filed tariffs with the FCC stating the rates, terms and conditions for its interstate rates. To the extent that ITG provides intrastate services, it may be required to obtain authority from state regulatory authorities prior to providing such services, as well as certificates authorizing ITG to transact business in these states. There can be no assurance that such state authorizations will be granted.

To the extent NACT provides international or interstate telecommunications services, it is required to obtain regulatory authority from the FCC. Any intrastate telecommunications services provided by NACT may require authority from state regulatory agencies.

Under the Communications Act of 1934, as amended (the "Communications Act"), foreign nationals may not own more than 20% of a company, or have more than a 20% voting interest in a company, that directly holds a common carrier radio license. The Communications Act also prohibits foreign nationals from owning 25% or more of a company which in turn controls a company holding a radio license, unless the FCC permits such alien participation based on a showing of public interest. The operations of the Company's Hawaiian microwave network require the use of radio licenses from the FCC. Pacific Network, Inc., an entity controlled by John Warta, the President and Chief Executive Officer of the Company holds the licenses for the Hawaii microwave facilities. The FCC also has the authority, which it is not presently exercising, to impose restrictions on foreign ownership of communications service providers not utilizing radio frequencies, which could have a material adverse effect on the Company's business. In addition, the networks may subsequently need to obtain radio licenses to "fill in" certain customers in the networks that are not practical to reach by wire. Should the Company's networks require a common carrier radio license in the future, they may be prohibited from obtaining such license because of the foreign ownership restrictions of the Communications Act.

In addition, under the FCC's foreign ownership rules, the Company cannot hold Personal Communications Services ("PCS") licenses directly. Magnacom

Wireless, LLC ("Magnacom"), a company controlled by John M. Warta, the Chief Executive Officer of the Company, has applied for various PCS licenses. The Company is in the process of establishing a non-exclusive 12 year agreement with

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Magnacom whereby the Company will purchase services relating to such licenses from Magnacom for use or resale.

#### STATE REGULATION

State regulatory agencies have regulatory jurisdiction when Company facilities and services are used to provide intrastate services. In particular, state regulation determines which local telephone services the Company may offer. Several states, including California and Arizona, have adopted initiatives that allow competition in various aspects of the local exchange market. A portion of the Company's current traffic may be classified as intrastate and therefore subject to state regulation. To provide intrastate services, the Company generally must obtain a certificate of public convenience and necessity from the state regulatory agency and comply with state requirements for telecommunications utilities.

ARIZONA. In Arizona, the Tucson and Phoenix networks and alternate access transmission services, to the extent that they provide the transmission of messages or telephone service within Arizona, could be deemed public service corporations and subject to the jurisdiction of the Arizona Corporation Commission (the "ACC") for certain purposes. The Company has applied for a Certificate of Convenience and Necessity from the ACC to provide jurisdictionally intrastate special access, private line and/or local exchange services in Arizona. A hearing is currently scheduled for December 20, 1996. The Company has entered into a license agreement with Pima County (the county in which Tucson is located) which was officially recorded on July 16, 1996, to construct, install, maintain and operate a fiber optics communication system in the public right-of-way.

CALIFORNIA. As of January 1, 1995, the CPUC permits competition on an interLATA and intraLATA interexchange basis for all toll services. The CPUC has authorized facilities based local competition as of January 1, 1996 and local resales as of March 1, 1996. On November 1, 1996, two subsidiaries of the Company, were granted permanent authority to provide both facilities-based and resale local exchange services and were certified by the CPUC to provide interLATA service and certain intraLATA services within the State of California (specifically including intraLATA interexchange service on a 10XXX access basis and intraLATA non-switched services at speeds of 1.544 Mbps and above).

HAWAII. In Hawaii, the HPUC has broad jurisdictional powers to regulate public utility companies that own, control, operate or manage any plant or equipment or furnish facilities, directly or indirectly for public use, for the conveyance or transmission of telecommunications messages between points within Hawaii. The Company is subject to the jurisdiction of the HPUC, which has granted the Company a CPCN as a carrier of voice and data on a point to point basis in Hawaii. On June 3, 1996, the HPUC promulgated new rules governing "Competition in Telecommunication Services." Under the HPUC's new rules, an application by the Company for an expanded CPCN is no longer necessary. GST Hawaii, as a telecommunications carrier granted a CPCN before the effective date of the new rules, files a separate tariff for any proposed, modified, or new service, unless ordered otherwise by the HPUC. The Hawaii basic CLEC tariff was filed and became effective on September 4, 1996. The HPUC has allowed the Company to expand its authority to include local exchange services in competition with GTE. Deployment of local exchange services on other than a resale basis or through the purchase of unbundled network elements from GTE are dependent upon HPUC approval of the interconnection agreement recently entered into between the Company and GTE (as well as the placement of necessary facilities and equipment).

NEW MEXICO. In October 1995, the Company was granted a CPCN from the New Mexico State Corporation Commission to provide intrastate, non-switched private line services. GST New Mexico is the first CLEC authorized to provide such services in New Mexico.

WASHINGTON. The Company has applied to the Washington Utilities and Transportation Commission for registration and "competitive carrier" status in Washington. The Company's application to register as

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a telecommunications provider was approved on March 27, 1996 and its application for competitive carrier status is pending.

#### LOCAL REGULATION

The networks are subject to numerous local regulations such as building codes and licensing. Such regulations vary on a city by city and county by county basis. The networks need to obtain rights-of-way over private and publicly owned land to permit the installation of the fiber optic telecommunication equipment.

GST GLOBAL TELECOMMUNICATIONS INC.

At the date hereof, the Company had invested approximately Cdn. \$4.9 million in a publicly traded Canadian corporation (subsequently renamed GST Global Telecommunications, Inc. and hereinafter referred to as "Global") and held approximately 32% of Global's outstanding shares. Global is to issue to the Company up to an additional 5,000,000 of its common shares (on a fully diluted basis), subject to approval of the Vancouver Stock Exchange ("VSE"), in consideration for the transfer by the Company to Global of its rights in and to the Bestel project described below. The Company's designees comprise a majority of the members of Global's Board of Directors. The Company intends to conduct certain of its international activities through Global. Global is to employ its own operating management and raise in the capital markets the equity and debt financing required for its proposed activities. At the date hereof, Global had raised approximately Cdn \$22 million through private placements of its common shares.

Global has the right to subscribe, pursuant to a Subscription Agreement dated August 20, 1996, for an interest (expected to be approximately 25%) in Bestel, S.A. de C.V. ("Bestel") for a total consideration of \$3,920,000. Bestel will be a facilities-based CAP that proposes to construct and operate a fiber optic telecommunications network consisting of approximately 1,375 route miles connecting certain cities in Mexico, including Nuevo Laredo, Monterrey, Mexico City, Guadalajara and Manzanillo.

Global has also entered into an Agreement to acquire from a subsidiary of Cable & Wireless Holding Plc an 80% interest in Vitacom Corporation ("Vitacom"), for a purchase price of \$1,500,000 payable in cash. Vitacom is engaged in the provision of voice, high speed data information and other services and the manufacture and sale of VSAT (very small aperture satellite terminal) and other equipment used to access the Internet. Consummation of the transaction is subject to the receipt of regulatory approvals.

#### MAGNACOM

Magnacom has been granted 30mhz (C Block) Personal Communications Services ("PCS") licenses from the FCC for the following cities: Albuquerque and Santa Fe, New Mexico; Tucson, Arizona; Eugene and Salem, Oregon; and Guam/Saipan. Magnacom also has submitted bids in the FCC's 10mhz (D, E and F block) PCS license auctions for the cities of Honolulu, Hilo, Lihue and Kahului, Hawaii; Portland, Medford and Roseburg, Oregon; Longview, Yakima, Kennewick, Walla Walla and Spokane, Washington; and Boise and Lewiston, Idaho.

Magnacom and the Company have entered into an agreement pursuant to which the Company has made payments to the FCC on behalf of Magnacom. The Company paid \$5,997,000 and \$2,970,000 during the third and fourth quarters of Fiscal 1996 and made an additional payment of \$5,426,000 after the end of Fiscal 1996. In return, Magnacom agreed to allow the Company to provide switched local and long distance services and manage Magnacom's networks in markets where the Company has operational CLEC networks. The Company agreed to purchase a designated amount of minutes from Magnacom at the most favorable rates offered to Magnacom customers and the three payments that the Company has

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made will be used as advances against such purchase. In addition, the Company acquired an option to purchase for nominal consideration a 24% interest (to be increased to a 99% interest) in Magnacom. The exercise of such option as to such increased interest is contingent upon, among other things, FCC approval.

Magnacom has acquired licenses and bid for additional licenses in cities located on or near the Company's existing and planned networks. Management of the Company believes the capability of the Company to provide a wireless telecommunications service is consistent with and enhances the Company's strategy of providing a full array of services to its customers. The Magnacom agreement will increase product capability with wireless local loop and wireless Internet access. The Company further believes the agreement with Magnacom will allow the Company to provide wireless telecommunication services to its customers at competitive prices.

The provision of wireless telecommunications service by Magnacom will be dependent upon its ability to obtain the financing necessary to make payments to the FCC under the terms of its licenses, to obtain working capital, and to build the required facilities, including the telecommunications equipment, necessary to provide this service. The Company will not advance any additional funds to or on behalf of Magnacom or purchase additional minutes or other assets of Magnacom or make any further loans to or investments in Magnacom. Magnacom

has had discussions with various financing sources and potential users of its services. It believes that it will be successful in obtaining the necessary financing from independent financing sources and a combination of joint ventures, investment and arrangements with independent firms, but no such arrangements have been concluded and there can be no assurance Magnacom will succeed with its financing plan and therefore, that it will be able to provide PCS services. In such event, the Company would probably be unable to recover its advance payments to Magnacom.

#### EMPLOYEES

As of November 15, 1996, the Company and its subsidiaries had 686 full-time employees, of which 246 were employed in engineering and operations, 23 in research and development, 154 in sales and marketing, 29 in customer service, 73 in management, 153 in administration and finance and eight in legal and regulatory. None of such employees is covered by a collective bargaining agreement. The Company considers its relationship with its employees to be satisfactory.

#### RECENT DEVELOPMENTS

On October 22, 1996, the Company completed a private placement to non-U.S. investors of 2,000,000 special warrants (the "Special Warrants") at a purchase price of \$11.125 per Special Warrant (the "Special Warrant Offering"). Each Special Warrant is exercisable for one Common Share and one-half of one underlying warrant (each an "Underlying Warrant"). Each Underlying Warrant entitles the holder to purchase one additional Common Share for a purchase price of \$13.00 for one year from the date of issuance. The Special Warrants become exercisable by holders for no additional consideration upon the later to occur of (i) the date upon which approval for a final Canadian prospectus (the "Canadian Prospectus") qualifying the Common Shares and Underlying Warrants issuable upon exercise of the Special Warrants is received from the securities commission of each of the Canadian provinces where the Special Warrants were sold and (ii) the date that a registration statement (the "U.S. Registration Statement") filed with the Securities and Exchange Commission (the "Commission") registering the resale of the Common Shares issuable upon exercise of the Special Warrants and Underlying Warrants is declared effective, but in any event no later than September 22, 1997. In the event that the requisite regulatory approvals for the Canadian Prospectus are not received by the Company and the U.S. Registration Statement is not declared effective, in each case by February 19, 1997, then each Special Warrant will become exercisable for 1.1 Common Shares and one-half of one Underlying Warrant.

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The Company received \$9,690,000, constituting 50% of the aggregate purchase price of the Special Warrants (net of placement agency fees and expenses), on October 22, 1996. The balance of the net purchase price of Special Warrants (\$11,125,000) is being held in escrow and is payable to the Company upon the earlier to occur of (x) the date of receipt of final regulatory approval of a preliminary Canadian Prospectus from the securities commissions of the applicable Canadian provinces and (y) the initial filing of the U.S. Registration Statement with the Commission, in each case covering the resale of the Common Shares issuable upon exercise of the Special Warrants and the Underlying Warrants.

On December 12, 1996, NACT filed a registration statement in respect of an initial public offering of its common stock (the "NACT Offering") pursuant to which the Company and NACT will sell one million and two million shares, respectively, thereby reducing the Company's interest in NACT to approximately 63%.

#### ITEM 2. PROPERTIES.

The Company owns a building comprising 60,000 square feet, which contains its principal executive offices, located at 4317 N.E. Thurston Way, Vancouver, Washington 98662. Its telephone number at that address is (360) 254-4700. Such building, which was purchased in 1995 by the Company.

The Company leases approximately 15,400 square feet of space in Orem, Utah, pursuant to a month-to-month lease. The current monthly rent is approximately \$14,000. GST Realco, Inc., a subsidiary of the Company ("GST Realco"), has entered into a construction contract pursuant to which a 40,000 square foot office building is currently being built for NACT in Provo, Utah. To date, all of the construction costs have been borne by GST Realco. NACT is currently in the process of securing permanent financing for the purchase of the land and the building from GST Realco.

The Company also leases offices elsewhere in the United States and in Vancouver, British Columbia, pursuant to leases which expire on various dates through March 24, 2007. The Company's current aggregate annual rental expense pursuant to leases that provide for annual payments exceeding \$100,000 is approximately \$2,025,000.

ITEM 3. LEGAL PROCEEDINGS.

On August 24, 1995, Aerotel, Ltd. and Aerotel U.S.A., Inc. (collectively, "Aerotel") commenced an action against NACT and a customer of NACT in the United States District Court, Southern District of New York, alleging that telephone systems manufactured and sold by NACT incorporating prepaid debit card features infringe upon Aerotel's patent which was issued in November 1987 (the "Aerotel Patent"). The complaint further alleges defamation and unfair competition as a result of a Special Report disseminated by NACT to its customers and tortious interference with prospective business relations, alleging that NACT induced third parties to abandon licensing negotiations with Aerotel. Aerotel seeks injunctive relief, damages in an unspecified amount, damages of up to three times the damages found for willful infringement of the Aerotel Patent and an order requiring NACT to publish a written apology to Aerotel. An Answer and Counterclaim has been filed in which NACT denies infringement of the Aerotel Patent and seeks judgment that the Aerotel Patent is invalid and that Aerotel has misused its patent in violation of antitrust laws. NACT also denies that it has committed defamation, unfair competition and tortious interference with prospective business relations. NACT's patent counsel believes that NACT has valid defenses to the Aerotel claims. Pretrial discovery has commenced and is expected to be completed in mid- 1997. On May 3, 1996, NACT served a motion for summary judgment, which motion is SUB JUDICE. The case is not expected to be tried until late 1997 at the earliest. An unfavorable decision in this action could have a material adverse effect on NACT.

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On July 5, 1994, the Tucson City Council (the "Council") awarded GST Tucson a non-exclusive fiber optic communication license that permits GST Tucson, for a period of 25 years, to conduct, maintain and operate in and across designated portions of city-owned rights-of-way. On June 12, 1995, the Council approved the City of Tucson Competitive Telecommunications Code (the "Tucson Code"), which was subsequently amended on July 10, 1995. The Tucson Code now provides, among other things, (i) that the City of Tucson grant licenses for a period of 15 years, (ii) for an increase from 2% to 5 1/2% of gross revenues to be paid by licensees and (iii) for cancellation of a license in certain events. The Council subsequently refused to permit GST Tucson to modify the route plans previously approved in order to construct connections between its customers and the network, asserting that GST Tucson's existing license does not permit such action and requiring GST Tucson Lightwave to receive an amended license under the Tucson Code to modify its route plans. After trying to negotiate a settlement with the City of Tucson with respect to its license, GST Tucson commenced an action in the Superior Court of Arizona, County of Pima, against the City of Tucson. The Court has ruled in favor of the City that the City Engineer does not have the authority to grant modifications from the route map, that such route modifications must be approved by the Council and that the City could condition GST Tucson's application for a franchise for intrastate service on a relinquishment of GST Tucson's existing license. Although the City of Tucson subsequently granted GST Tucson's request to permit access to two buildings in the downtown area and route modifications to effect service to its south-side hub site, the City has refused to amend the license to approve other route modifications. GST Tucson has appealed the Superior Court's rulings to the Arizona Court of Appeals, which has scheduled oral argument for January 1997. Absent success in such appeal, GST Tucson could be required to obtain a new license with less favorable provisions to further expand the Tucson network.

On May 13, 1996, GST Tucson instituted an action in the United States District Court for the District of Arizona against the City of Tucson seeking a declaratory judgment and injunctive relief asserting that the City of Tucson, in violation of the Telecommunications Act, failed to manage its public rights-of-way in a competitively neutral and nondiscriminatory manner. GST Tucson has moved for summary judgment on the pleadings. The City of Tucson has cross moved for summary judgment on the pleadings and U S West, an intervenor in the proceeding has moved for summary judgment on the pleadings, each arguing that statewide franchise and state law exempts U S West from having to pay any local franchise fees. The Court heard the parties' oral arguments on December 4, 1996 and has taken the matter under advisement.

The Company is not a party to any other material legal proceedings, nor, to the knowledge of the Company, are any material legal proceedings threatened against the Company. The Company is a party to various proceedings before the public utilities commissions of the states in which it provides or proposes to provide telecommunications services. These proceedings typically relate to licensure of the Company or others and to the regulation of the provision of telecommunications service.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS  
Not applicable.

ITEM 5. MARKET FOR THE REGISTRANT'S COMMON EQUITY  
AND RELATED STOCKHOLDER MATTERS.

# MARKET INFORMATION

The Company's Common Shares, without par value, are traded on the American Stock Exchange (the "AMEX") (ticker symbol: GST) and on the Vancouver Stock Exchange (the "VSE") (ticker symbol: GST.U).

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The following table sets forth, for the two most recent fiscal years, the high and low closing sale prices for the Common Shares, as reported by the AMEX and the VSE. The table also sets forth the average of the monetary exchange rates on the last day of each month during such period. All prices reported on the VSE through March 8, 1995 are expressed in Canadian dollars.

|                    | American<br>Stock<br>Exchange |      | Vancouver Stock<br>Exchange |           | Exchange<br>Rate (C\$/£) |
|--------------------|-------------------------------|------|-----------------------------|-----------|--------------------------|
|                    | High                          | Low  | High                        | Low       |                          |
| Fourth Quarter     | 5.50                          | 4.13 | 7.75                        | 5.38      | 1.4028                   |
| CALENDAR YEAR 1995 |                               |      |                             |           |                          |
| First Quarter(1)   | 5.00                          | 3.50 | US \$4.90                   | US \$4.15 | 1.3992                   |
| Second Quarter     | 5.94                          | 4.00 | 5.88                        | 4.00      | --                       |
| Third Quarter      | 7.81                          | 5.63 | 7.63                        | 5.75      | --                       |
| Fourth Quarter     | 7.19                          | 5.56 | 7.13                        | 5.75      | --                       |
| CALENDAR YEAR 1996 |                               |      |                             |           |                          |
| First Quarter      | 8.75                          | 5.75 | 8.25                        | 5.75      | --                       |
| Second Quarter     | 15.875                        | 7.75 | 13.75                       | 8.125     | --                       |
| Third Quarter      | 13.75                         | 8.75 | 13.35                       | 11.00     | --                       |

(1) The VSE began reporting trades of listed securities in U.S. dollars on March 9, 1995. For the first calendar quarter of 1995 through March 8, 1995, the high and low sale prices of the Common Shares on the VSE were C\$6.38 and C\$5.00, respectively.

## DIVIDENDS

The Company has never declared or paid any dividends on the Common Shares and does not presently intend to pay dividends on the Common Shares in the foreseeable future. It intends to retain future earnings, if any, to finance the development and expansion of its business. The Company's ability to declare or pay cash dividends, if any, is dependent upon the ability of the Company's present and future subsidiaries to declare and pay dividends or otherwise transfer funds to the Company, because the Company conducts its operations entirely through subsidiaries. Pursuant to credit agreements with Tomen (the "Tomen Facility"), the Company's subsidiaries that own and operate the San Gabriel Valley, Tucson and Albuquerque networks may not pay any dividends or make any distributions on their capital stock to their shareholders. Subsequent network financings under the Tomen Facility are expected to include similar prohibitions. In addition, the Indentures for the 13 7/8% Senior Discount Notes due 2005 (the "Senior Notes") of GST USA, Inc. ("GST USA"), a subsidiary of the Company, guaranteed by the Company, and the 13 7/8% Convertible Senior Subordinated Discount Notes due 2005 of the Company (the "Convertible Notes" and, together with the Senior Notes, the "1995 Notes") guaranteed by GST USA, limit, and, for the foreseeable future, effectively prohibit, the ability of the Company to declare or pay cash dividends.

## NUMBER OF SHAREHOLDERS

As of December 20, 1996, there were 244 holders of record of the Company's Common Shares. The Company believes that there are in excess of 3,500 beneficial owners of the Company's Common Shares additional to such holders of record.

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## ITEM 6. SELECTED FINANCIAL DATA.

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

The following management's discussion and analysis of financial condition and results of operations contains forward looking statements that involve risks and uncertainties. The Company's actual results could differ materially from those anticipated in these forward looking statements as a result of certain factors discussed herein.

The Company provides a broad range of integrated telecommunications products and services, primarily to customers located in the western continental United States and Hawaii. Since inception as a facilities-based CAP, the Company has constructed and operated digital interconnected telecommunications networks that provide an alternative to LECs. The Company has expanded beyond the scope of traditional CAP operations into CLEC services and currently provides, through its established sales channels, a range of enhanced telecommunications services that include long distance, Internet access and data services. In addition, the Company provides switched access and recently began to offer local dial tone services to complement its existing telecommunications service offerings. The Company also provides advanced telecommunications switching platforms with integrated applications software and network telemanagement capabilities through its subsidiary, NACT.

The Company's fiber optic networks currently serve 24 cities in Arizona, California, New Mexico and Washington and its digital microwave networks serve four of the Hawaiian Islands. In addition, the Company has 18 networks under construction and other networks in various stages of development.

The Telecommunications Act and state regulatory initiatives have substantially changed the telecommunications regulatory environment in the United States. As a result of these regulatory changes, the Company is permitted in certain states to provide local dial tone in addition to its existing telecommunications service offerings. In order to capitalize on these opportunities, the Company has accelerated the development and construction of additional networks within its region. In addition, to facilitate the provision of local services, the Company has deployed four high capacity digital switches and intends to deploy additional switches in the first half of 1997.

## RESULTS OF OPERATIONS

### FISCAL 1996 COMPARED TO FISCAL 1995

**REVENUES.** Total revenues for Fiscal 1996 increased \$22.6 million, or 121.0% to \$41.3 million from \$18.7 million for Fiscal 1995. Telecommunications services revenues for Fiscal 1996 increased \$20.6 million, or 185%, to \$31.7 million from \$11.1 million for Fiscal 1995. The increase in telecommunications services revenues resulted from an acceleration of revenue growth in CLEC operations and continuing growth of long distance, Internet and data services, including revenues associated with Fiscal 1995 and 1996 strategic acquisitions. Telecommunications products revenues for Fiscal 1996 increased \$2.0 million, or 26.6% over Fiscal 1995 results. The increase in telecommunications product revenues resulted from the introduction by NACT of its new STX product line in the third quarter of Fiscal 1996.

**OPERATING EXPENSES.** Total operating expenses for Fiscal 1996 increased \$53.6 million, or 176.8%, to \$83.9 million from \$30.3 million for Fiscal 1995. Network expenses, which include direct local and long distance circuit costs, increased \$16.7 million to \$26.6 million from \$10.1 million for Fiscal 1995,

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due to an expanded customer base and increased usage. As a percentage of telecommunications services revenues, network expenses decreased from 90.9% for Fiscal 1995 to 83.8% for Fiscal 1996. Facilities administration and maintenance expenses for Fiscal 1996 increased \$8.2 million to \$10.3 million from \$2.1 million for Fiscal 1995. As a percent of telecommunications services revenues, facilities administration and maintenance expenses increased from 18.9% for Fiscal 1995 to 32.5% for Fiscal 1996. The increase relates to additional personnel and facility costs required by continuing network expansion, a substantial portion of which are incurred before the realization of revenues.

Cost of product revenues at NACT for Fiscal 1996 increased \$0.9 million to \$4.0 million from \$3.1 million for Fiscal 1995. As a percentage of telecommunications products revenues for Fiscal 1996, cost of product revenues remained relatively constant as compared to Fiscal 1995 results. However, gross profit on telecommunications product revenues as a percent of telecommunications product revenues decreased nominally due to initial lower margins resulting from the discontinuance of the LCX as NACT transitioned to the new STX to existing customers. Research and development costs increased nominally for Fiscal 1996 relative to Fiscal 1995 as the Company moved to more rapidly develop an improved billing system and to maintain ongoing research and development of the Company's existing hardware and software product lines.

Selling, general and administrative expenses increased \$22.0 million, or 193.5%, to \$33.4 million from \$11.4 million for Fiscal 1995. The increase is due to the expansion of the Company's CLEC and enhanced services operations, including, to a lesser extent, the acquisitions during Fiscal 1996 of Call America, certain assets of Texas-Ohio, Hawaii On Line and Tri-Star. The implementation of the Company's integrated services strategy has resulted in additional marketing, management information and sales staff dedicated to

network expansion and increased service offerings.

Depreciation and amortization for Fiscal 1996 increased \$5.9 million to \$8.3 million from \$2.4 million for Fiscal 1995 due to increased depreciation resulting from newly constructed networks becoming operational. To a lesser extent, the increase in depreciation and amortization was also due to increased amortization of intangible assets resulting from acquisitions.

OTHER EXPENSES. Other expenses for Fiscal 1996 increased \$16.1 to \$18.0 million from \$1.9 million for Fiscal 1995. The increase was principally the result of additional interest expense associated with the Company's sale in December 1995 of units consisting in the aggregate of \$312.4 million principal amount at maturity of the Senior Notes, \$39.1 million principal amount at maturity of the Convertible Notes, receiving gross proceeds of approximately \$180.0 million (the "1995 Notes Offering"). The increase was partially offset by interest income resulting from the investment of the proceeds of the 1995 Notes Offering.

#### FISCAL 1995 COMPARED TO FISCAL 1994

REVENUES. Revenues for Fiscal 1995 increased \$12.7 million, or 211.3%, to \$18.7 million from \$6.0 million for Fiscal 1994. The increase resulted from a \$11.0 million increase in telecommunications services revenues and a \$1.7 million, or 28.4%, increase in product revenues of NACT. Telecommunications service revenues increased \$10.6 million as a result of wholesale carrier services revenues generated by NACT and WINS, which began to offer such services during Fiscal 1995, and long distance and other service revenues of ITG, which was acquired effective May 1, 1995. In addition, an increase of \$0.4 million was the result of revenues generated by the Hawaiian digital microwave and the San Gabriel Valley networks. The San Gabriel Valley networks became operational in Fiscal 1995. The increase in manufacturing revenues was due to increased unit sales of telecommunications switching and network management and billing systems.

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OPERATING EXPENSES. Total operating expenses for Fiscal 1995 increased \$23.0 million, or 315.0%, to \$30.3 million from \$7.3 million for Fiscal 1994. Network expenses for Fiscal 1995 increased \$10.0 million to \$10.1 million from \$0.1 million for Fiscal 1994 due to expansion of network operations, the acquisition of ITG and the commencement of wholesale carrier services at WINS and NACT. Facilities administration and maintenance expenses totaled \$2.1 million for Fiscal 1995, compared to only \$26,000 for Fiscal 1994. The increase was due to significant network expansion in Fiscal 1995, whereas Fiscal 1994 results included only three months of engineering expenses at the Company's Hawaiian network.

Cost of product revenues at NACT for Fiscal 1995 increased to \$3.1 million, or 40.9% of product revenues, for Fiscal 1995 from \$2.1 million, or 36.3% of product revenues, for Fiscal 1994. Research and development expenditures of NACT increased by \$0.6 million, or 84.4% to \$1.3 million for Fiscal 1995 from \$0.7 million for Fiscal 1994 due to the continuing development of a new switch that was introduced in Fiscal 1996.

Selling, general and administrative expenses increased \$7.4 million to \$11.4 million for Fiscal 1995 from \$4.0 million for Fiscal 1994. The increase was principally the result of higher salary and benefit costs incurred in Fiscal 1995 as the Company added a significant number of sales, marketing and management employees in connection with network expansion. Also contributing to the increase in selling, general and administrative expenses were higher professional fees and travel costs related to expansion of CLEC operations. In addition, bad debt expense increased \$1.3 million in Fiscal 1995 principally due to a reserve for doubtful accounts for an ITG customer.

Depreciation and amortization increased \$2.0 million to \$2.4 million for Fiscal 1995 from \$0.4 million for Fiscal 1994 as a result of amortization of intangible assets related to acquisitions and depreciation of newly-operational networks.

OTHER EXPENSES. Other expenses increased \$.2 million to \$1.9 million for Fiscal 1995 from \$1.7 million for Fiscal 1994. Contributing to the increase was an \$.8 million increase in interest expense resulting from Tomen borrowings and a \$.5 million write-off of investments. Offsetting these increases was a \$.4 million decrease in the loss on joint ventures due to improved operating results at the Phoenix Fiber network. Additionally, in Fiscal 1994 the Company wrote-off \$.7 million in pre-operating costs at GST Telecom. No such losses were realized in Fiscal 1995.

#### LIQUIDITY AND CAPITAL RESOURCES

The Company has incurred significant operating and net losses as a result of the development and operation of its networks. The Company expects that such losses will continue to increase as the Company emphasizes the

development, construction and expansion of its networks and builds its customer base and that cash provided by operations will not be sufficient to fund the expansion of its networks and services.

Net cash provided by financing activities from borrowings and equity issuances to fund capital expenditures, acquisitions and operating losses was \$194.3 million for Fiscal 1996, \$38.0 million for Fiscal 1995 and \$10.9 million for Fiscal 1994. The Company's net cash used in operating and investment activities was \$139.0 million for Fiscal 1996, \$36.2 million for Fiscal 1995 and \$11.4 million for Fiscal 1994.

The Company made capital expenditures of \$97.6 million in Fiscal 1996, \$33.9 million in Fiscal 1995 and \$1.4 million in Fiscal 1994. The Company estimates capital expenditures of approximately \$350.0 million and \$150.0 million for fiscal years 1997 and 1998, respectively. These expenditures will be utilized for the expansion, development and construction of its networks, the acquisition and deployment of switches and related equipment to facilitate the offering of advanced telecommunication services and internal management systems. Continued significant capital expenditures are expected to be made

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thereafter. In addition, the Company expects to continue to incur increasing operating losses while it expands its business and builds its customer base. Actual capital expenditures and operating losses will depend on numerous factors beyond the Company's control, including the nature of future expansion and acquisition opportunities, economic conditions, competition, regulatory developments and the availability of capital.

The Company completed the 1995 Notes offering in December 1995, consisting of \$160.0 million in Senior Notes and \$20.0 million in Convertible Notes. The net proceeds from the issuance of the 1995 Notes, \$171.3 million, are being used to fund network development, capital expenditures and working capital requirements. The indentures governing the Senior Notes include restrictive covenants which, among other items, limit or restrict additional indebtedness incurred by the Company, investment in certain subsidiaries and the payment of dividends.

The Company has historically funded its capital expenditures, acquisitions, working capital requirements and operating losses from public and private offerings of Common Shares, notes and warrants to purchase Common Shares and notes and from funds made available under the Tomen Facility. Under the Tomen Facility, Tomen agreed to make up to a total of \$100.0 million of financing available, on a project-by-project basis, for the construction and development of network projects. At September 30, 1996, Tomen had provided or agreed to provide, the Company with \$34.5 million of financing under the Tomen Facility and had purchased 1,074,074 Common Shares and warrants to purchase 546,155 additional Common Shares. In November 1996, Tomen agreed in principle to provide the Company with \$41.0 million of additional financing under the Tomen Facility for the Hawaiian inter-island network and terrestrial fiber optic facilities and in connection with such financing will purchase additional Common Shares in an amount to be determined and warrants to purchase 75,000 additional Common Shares.

On October 22, 1996, the Company completed a private placement to non-U.S. investors of the Special Warrants. The Special Warrants become exercisable by holders for no additional consideration upon the later to occur of (i) the date upon which approval for the Canadian Prospectus is received from the securities commission of each of the Canadian provinces where the Special Warrants were sold and (ii) the date that the U.S. Registration Statement is declared effective, but in any event, no later than September 22, 1997. In the event that the requisite regulatory approvals for the Canadian Prospectus are not received by the Company and the U.S. Registration Statement is not declared effective, in each case by February 19, 1997, then each Special Warrant will become exercisable for 1.1 Common Shares and one-half of one Underlying Warrant.

The Company received \$9,690,000, constituting 50% of the aggregate purchase price of the Special Warrants (net of placement agency fees and expenses), on October 22, 1996. The balance of the net purchase price of Special Warrants (\$11,125,000) is being held in escrow and is payable to the Company upon the earlier to occur of (x) the date of receipt of final regulatory approval of a preliminary Canadian Prospectus from the securities commissions of the applicable Canadian provinces and (y) the initial filing of the U.S. Registration Statement with the Commission, in each case covering the resale of the Common Shares issuable upon exercise of the Special Warrants and the Underlying Warrants.

The Company recently entered into an agreement for \$50 million of additional equipment financing (the "NTFC Financing") with the NTFC Capital Corporation ("NTFC"). The Company expects to use the proceeds from the NTFC Financing to finance the purchase of equipment and products from Northern Telecom Inc. ("Nortel"). The Company currently is negotiating the terms of additional financing to be provided by Nortel.

In September 1996, the Company entered into a Loan and Security Agreement with Siemens Stronberg-Carlson ("Siemens") (the "Siemens Loan Agreement") that provides for loans by Siemens of

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up to an aggregate of \$226.0 million to finance the purchase of Siemens equipment and certain equipment from other suppliers.

The Company proposes to incur significant additional indebtedness to purchase telecommunications equipment such as switches and fiber optic cable and to finance related design, development, construction, installation and integration costs. In such connection, the Company may make public or private offerings of its debt and equity securities and may negotiate additional credit facilities, which may be similar to the Tomen Facility or to the NTFC Financing.

At September 30, 1996, the Company had cash, cash equivalents, restricted cash and marketable securities of \$82.5 million, compared to \$6.9 million at September 30, 1995. The Company believes that the net proceeds of the Special Warrant Offering, the NACT Offering and any other offerings, if any, in the future, together with cash on hand and borrowings expected to be available under both the Tomen Facility and the equipment financing arranged with Siemens and NTFC, will provide sufficient funds for the Company to expand its business as presently planned and to fund its operating expenses through the first half of fiscal 1997. Thereafter, the Company expects to require additional financing. However, in the event that the Company's plans or assumptions change or prove to be inaccurate, or the foregoing sources of funds prove to be insufficient to fund the Company's growth and operations, or if the Company consummates additional acquisitions, the Company may be required to seek additional capital sooner than currently anticipated. Sources of financing may include public or private debt or equity financing by the Company or its subsidiaries, sales of assets or other financing arrangements. There can be no assurance that such additional financing would be available to the Company or, if available, that it could be obtained on acceptable terms or within the limitations contained in the Company's financing arrangements. Failure to obtain such financing could result in the delay or abandonment of some or all of the Company's development and expansion plans and expenditures and could have a material adverse effect on the Company. Such failure could also limit the ability of the Company to make principal and interest payments on its outstanding indebtedness. The Company has no working capital or other credit facility under which it may borrow for working capital and other general corporate purposes. There can be no assurance that such a facility will be available to the Company in the future or that if such a facility were available, that it would be available on terms and conditions acceptable to the Company.

Although the Company's liquidity substantially improved as a result of the 1995 Notes Offering, because the 1995 Notes do not require the payment of cash interest prior to June 2001 and the 1995 Notes and the Notes do not require payment of principal until maturity in 2005 and 2007, respectively, a portion of the indebtedness under the Tomen Facility will, and a portion of the equipment financing may, mature prior to 2005. Accordingly, the Company may need to refinance a substantial amount of indebtedness. In addition, the Company anticipates that cash flow from operations may be insufficient to repay the 1995 Notes in full at maturity and that the 1995 Notes may need to be refinanced. There can be no assurance that the Company will be able to improve its earnings before fixed charges or that the Company will be able to meet its debt service obligations, including its obligations under the Tomen Facility, the 1995 Notes or equipment financing. Because the Company does not currently have a revolving credit facility, if a shortfall occurs, alternative financing would be necessary in order for the Company to meet its liquidity requirements and there can be no assurance that such financing would be available. In such event, the Company could face substantial liquidity problems. The ability of the Company to meet its obligations and effect such refinancings will be dependent upon the future performance of the Company, which will be subject to prevailing economic conditions and to financial, business and other factors, including factors beyond the control of the Company.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.

See page F-1.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS

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ON ACCOUNTING AND FINANCIAL DISCLOSURE.

Not applicable.

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT.

The information required by this item is incorporated by reference from

the Company's definitive proxy statement to be filed not later than January 28, 1997 pursuant to Regulation 14A of the General Rules and Regulations under the Securities Exchange Act of 1934 ("Regulation 14A").

ITEM 11. EXECUTIVE COMPENSATION.

The information required by this item is incorporated by reference from the Company's definitive proxy statement to be filed not later than January 28, 1997 pursuant to Regulation 14A.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN  
BENEFICIAL OWNERS AND MANAGEMENT.

The information required by this item is incorporated by reference from the Company's definitive proxy statement to be filed not later than January 28, 1997 pursuant to Regulation 14A.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS.

The information required by this item is incorporated by reference from the Company's definitive proxy statement to be filed not later than January 28, 1997 pursuant to Regulation 14A.

ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULES  
AND REPORTS ON FORM 8-K.

- (a)(1) Consolidated Financial Statements: see the Index to Consolidated Financial Statements.
- (2) Financial Statement Schedules: see the Index to Consolidated Financial Statements.
- (3) Exhibits:
  - \*3(a) Certificate of Incorporation of the Company, as amended to date.
  - \*3(b) By-Laws of the Company as amended to date.
  - 4(a) Senior Notes Indenture dated as of December 19, 1995, by and among GST USA, Inc., the Company and United States Trust Company of New York, incorporated by reference to Exhibit 2.3 to the Company's Form 20-F for the fiscal year ended September 30, 1995 (the "1995 Form 20-F").
  - 4(b) Convertible Notes Indenture dated as of December 19, 1995, by and among the Company, GST USA, Inc. and United States Trust Company of New York, incorporated by reference to Exhibit 2.4 to the 1995 Form 20-F.
  - \*10(a) 1995 Stock Option Plan of the Company, as amended to date.
  - \*10(b) 1996 Stock Option Plan of the Company, as amended to date.
  - \*10(c) 1996 Employee Stock Purchase Plan of the Company.
  - \*10(d) 1996 Senior Executive Officer Stock Option Plan of the Company.
  - \*10(e) 1996 Senior Operating Officer Stock Option Plan of the Company.
  - 10(f) Amended and Restated Credit Agreement dated as of April 26, 1995, by and between GST Pacific Lightwave, Inc. and Tomen America Inc., incorporated by reference to Exhibit 1.2 to the 1995 Form 20-F
  - 10(g) Stock Purchase Agreement dated as of May 1, 1995, by and between GST Net, Inc. and Stanley M. Nolte, incorporated by reference to Exhibit 2.1 to the 1995 Form 20-F

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- 10(h) Senior Notes Registration Rights Agreement dated December 19, 1995, by and among GST USA, Inc., the Company, the Specified Subsidiaries named therein and Morgan Stanley & Co. Incorporated, incorporated by reference to Exhibit 2.5 to the 1995 Form 20-F
- 10(i) Convertible Notes Registration Rights Agreement dated December 19, 1995, by and among GST USA, Inc., the Company, the Specified Subsidiaries named therein and Morgan Stanley & Co. Incorporated, incorporated by reference to Exhibit 2.6 to the 1995 Form 20-F
- 10(j) Agreement and Plan of Merger, dated September 27, 1996 (the "Merger Agreement"), by and among TotalNet Communications Inc. ("TotalNet"), GST Newco of Texas, Inc. and the Company, incorporated by reference to Exhibit 2.1 to the Company's Form 8-K dated October 17, 1996 (the "Form 8-K")
- 10(k) Letter dated October 17, 1996 amending the Merger Agreement among the Company, GST Newco of Texas, Inc., and TotalNet, incorporated by reference to Exhibit 2.2 to the Form 8-K
- \*10(l) Amended and Restated Master Agreement dated as of May 24, 1996, by and among Tomen America Inc., the Company, GST Telecom Inc., GST Pacific Lightwave, Inc., Pacwest Network L.L.C., Pacwest Network Inc., GST Tucson Lightwave, Inc. and GST New Mexico Lightwave, Inc.
- \*10(m) Amendment No. 2 to GST Telecommunications, Inc. Common Stock Purchase Agreement dated as of May 24, 1996, by and among the Company, Tomen America Inc. and Tomen Corporation.
- \*10(n) Credit Agreement dated as of May 24, 1996, by and between GST New Mexico Lightwave, Inc. and TM Communications LLC.
- \*10(o) Credit Agreement dated as of May 24, 1996, by and between GST Tucson Lightwave, Inc. and TM Communications LLC.
- \*10(p) Amended and Restated Consulting Agreement dated as of September 1, 1995, by and between Sunwest Ventures, Inc. and GST USA, Inc. and GST

- Telecom.
- \*10(q) Personal Services Agreement dated as of October 1, 1995, by and between GST USA, Inc. and GST Telecom Inc. and Stephen Irwin.
  - \*10(r) Restated and Amended Employment Agreement dated as of September 1, 1995, by and between GST USA, Inc. and GST Telecom Inc. and John Warta.
  - \*10(s) Restated and Amended Employment Agreement dated as of September 1, 1995, by and between GST USA, Inc. and GST Telecom Inc. and Robert H. Hanson.
  - \*10(t) Amended and Restated Employment Agreement dated as of September 1, 1995, by and between GST USA, Inc. and GST Telecom Inc. and Clifford V. Sander.
  - \*10(u) Agreement and Plan of Merger dated as of September 26, 1996 by and among Call America Business Communications Corporation, Call America Business Communications of Fresno, Inc., Call America Business Communications of Bakersfield, Inc., the shareholders of such companies, GST Newco of California, Inc., and the Company.
  - \*10(v) Equipment Loan and Security Agreement dated December 19, 1996 by and between NTFS Capital Corporation and GST Equipco.
  - \*21 Subsidiaries of the Company.
  - \*23 Consent to the incorporation by reference in the Company's Registration Statements on Forms S-3 and S-8 of the independent auditors' report included herein.
  - \*27 Financial Data Schedule.

\* Filed herewith.

(b) Reports on Form 8-K: The Registrant filed a Current Report on Form 8-K dated October 31, 1996 reporting under Item 2 thereof the acquisition by merger of TotalNet and under Item 5 thereof the Special Warrant Offering.

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#### SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Vancouver, State of Washington, on the 30th day of December, 1996.

GST TELECOMMUNICATIONS, INC.

By: /S/ W. GORDON BLANKSTEIN

W. Gordon Blankstein,  
Chairman of the Board

#### POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints John Warta, Stephen Irwin, Robert H. Hanson and Clifford V. Sander his true and lawful attorney-in-fact, each acting alone, with full power of substitution and resubstitution for him and in his name, place and stead, in any and all capacities to sign any and all amendments to this report, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that said attorneys-in-fact or their substitutes, each acting alone, may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report has been duly signed by the following persons in the capacities and on the dates indicated.

| <TABLE><br><CAPTION>  | Signature<br>-----   | Title<br>----- | Date<br>----                     |
|---|--|----------------|----------------------------------|
| <S><br>/S/W. GORDON BLANKSTEIN<br>-----<br>(W. Gordon Blankstein) | <C><br>Chairman of the Board   |                | <C><br><br><br>December 30, 1996 |
| /S/JOHN WARTA<br>-----<br>(John Warta)                            | President, Chief Executive Officer (Principal<br>Executive Officer) and Director |                | December 30, 1996                |
| /S/ROBERT H. HANSON<br>-----<br>(Robert H. Hanson)                | Senior Vice President - Corporate<br>Development, Chief Financial Officer        |                | December 30, 1996                |

|                       |   |                   |
|-----------------------|---|-------------------|
|                       | (Principal Financial Officer) and Director        |                   |
| /S/CLIFFORD V. SANDER | Senior Vice President, Treasurer and Chief        | December 30, 1996 |
| -----                 |   |                   |
| (Clifford V. Sander)  | Accounting Officer (Principal Accounting Officer) |                   |
| /S/STEPHEN IRWIN      | Vice Chairman of the Board, Secretary and         |                   |
| -----                 |   |                   |
| (Stephen Irwin)       | Director  | December 30, 1996 |
| /S/IAN WATSON         | Director  |                   |
| -----                 |   |                   |
| (Ian Watson)          |   | December 30, 1996 |
| -----                 |   |                   |
|                       | Director  |                   |
| -----                 |   |                   |
| (Peter E. Legault)    |   | December 30, 1996 |
| /S/JACK G. ARMSTRONG  | Director  |                   |
| -----                 |   |                   |
| (Jack G. Armstrong)   |   | December 30, 1996 |
| /S/TAKASHI YOSHIDA    | Director  |                   |
| -----                 |   |                   |
| (Takashi Yoshida)     |   | December 30, 1996 |
| /S/THOMAS E. SAWYER   | Director  |                   |
| -----                 |   |                   |
| (Thomas E. Sawyer)    |   | December 30, 1996 |
| </TABLE>              |   |                   |

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#### INDEPENDENT AUDITORS' REPORT

The Board of Directors and Shareholders  
GST Telecommunications, Inc.:

We have audited the accompanying consolidated balance sheets of GST Telecommunications, Inc. as of September 30, 1996 and 1995, and the related consolidated statements of operations, shareholders' equity, and cash flows for the years then ended. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall

financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of GST Telecommunications, Inc. as of September 30, 1996 and 1995, and the results of its operations and cash flows for the years then ended in conformity with generally accepted accounting principles in the United States.

Accounting principles generally accepted in the United States vary in certain significant respects from accounting principles generally accepted in Canada. Application of accounting principles generally accepted in Canada would have affected results of operations for the year ended September 30, 1996 and 1995, and shareholders' equity as of September 30, 1996 and 1995, to the extent summarized in note 10 to the consolidated financial statements.

KPMG PEAT MARWICK LLP

Portland, Oregon  
November 22, 1996

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KPMG  
Chartered Accountants  
Box 10426, 777 Dunsmuir Street  
Vancouver, BC V7Y 1K3 Canada  
Telephone (604) 691-3000  
Telefax (604) 691-3031

#### AUDITORS' REPORT

To the Board of Directors  
GST Telecommunications, Inc.

We have audited the consolidated statements of operations, shareholders equity, and cash flows of GST Telecommunications, Inc. for the thirteen months ended September 30, 1994. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these consolidated financial statements present fairly, in all material respects, the results of operations and cash flows of the Company for the thirteen months ended September 30, 1994 in accordance with generally accepted accounting principles in the United States.

Accounting principles generally accepted in the United States vary in certain significant respects from accounting principles generally accepted in Canada. Application of accounting principles generally accepted in Canada would have affected results of operations for the thirteen months ended September 30, 1994 and shareholders' equity as at September 30, 1994, to the extent summarized in note 9 to the consolidated financial statements.

KPMG Peat Marwick Thorne

Chartered Accountants

Vancouver, Canada

December 8, 1994

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GST TELECOMMUNICATIONS, INC.

Consolidated Balance Sheets

(In thousands, except share amounts)

September 30, 1996 and 1995

<TABLE>  
<CAPTION>

ASSETS

1996 1995

-----  
(In U.S. Dollars)

| <S>                         | <C>        | <C>       |
|-----------------------------|------------|-----------|
| Current assets:             |            |           |
| Cash and cash equivalents   | \$ 61,343  | \$ 6,024  |
| Restricted cash             | 16,000     | --        |
| Accounts receivable, net    | 9,472      | 4,306     |
| Investments                 | 5,176      | 871       |
| Inventory                   | 2,406      | 387       |
| Other current assets        | 6,151      | 1,252     |
|                             | -----      | -----     |
|                             | 100,548    | 12,840    |
|                             | -----      | -----     |
| Property and equipment, net | 127,575    | 38,033    |
| Goodwill, net               | 38,003     | 13,587    |
| Other assets, net           | 35,575     | 8,665     |
|                             | -----      | -----     |
|                             | 201,153    | 60,285    |
|                             | -----      | -----     |
|                             | \$ 301,701 | \$ 73,125 |
|                             | =====      | =====     |

# LIABILITIES AND SHAREHOLDERS' EQUITY

|   |            |           |
|---|------------|-----------|
| Current liabilities:  |            |           |
| Accounts payable  | \$ 12,443  | \$ 9,683  |
| Accrued expenses  | 26,743     | 3,090     |
| Current portion of capital lease obligations  | 722        | 223       |
| Current portion of long-term debt   | 4,832      | 736       |
| Other current liabilities   | 726        | 512       |
|   | -----      | -----     |
|   | 45,466     | 14,244    |
|   | -----      | -----     |
| Deferred compensation   | 158        | 151       |
| Capital lease obligation, less current portion  | 1,453      | 658       |
| Long-term debt, less current portion  | 232,674    | 19,088    |
| Minority interest   | 182        | 3,279     |
| Commitments and contingencies   |            |           |
| Shareholders' equity:   |            |           |
| Preference shares:  |            |           |
| Authorized - 10,000,000 no par shares; none issued or outstanding   | --         | --        |
| Common shares:  |            |           |
| Authorized - unlimited number of no par common shares; issued and outstanding - September 30, 1996 - 21,257,697 shares, |            |           |
| September 30, 1995 - 18,700,290 shares  | 72,647     | 50,166    |
| Commitment to issue shares:   |            |           |
| September 30, 1996 - 1,922,007 shares,  |            |           |
| September 30, 1995 - 336,498 shares   | 25,454     | 1,494     |
| Accumulated deficit   | (76,333)   | (15,955)  |
|   | -----      | -----     |
|   | 21,768     | 35,705    |
|   | -----      | -----     |
|   | \$ 301,701 | \$ 73,125 |
|   | =====      | =====     |

</TABLE>

See accompanying notes to consolidated financial statements.

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GST TELECOMMUNICATIONS, INC.

Consolidated Statements of Operations

(In thousands, except per share and share amounts)

Years ended September 30, 1996 and 1995 and  
thirteen months ended September 30, 1994

<TABLE>  
<CAPTION>

|   | Year ended<br>September 30,<br>1996 | Year ended<br>September 30,<br>1995 | Thirteen<br>months ended<br>September 30,<br>1994 |
|---|-------------------------------------|-------------------------------------|---|
|   | -----                               | -----                               | -----   |
|   | (In U.S. Dollars)                   |                                     |   |
| <S>   | <C>                                 | <C>                                 | <C>   |
| Revenues:   |                                     |                                     |   |
| Telecommunication services  | \$ 31,726                           | \$ 11,118                           | \$ 112  |
| Product   | 9,573                               | 7,563                               | 5,889   |
|   | -----                               | -----                               | -----   |
| Total revenues  | 41,299                              | 18,681                              | 6,001   |
|   | -----                               | -----                               | -----   |
| Operating costs and expenses:   |                                     |                                     |   |
| Network expenses  | 26,580                              | 10,103                              | 149   |
| Facilities administration and maintenance   | 10,317                              | 2,096                               | 26  |
| Cost of product revenues  | 3,974                               | 3,096                               | 2,137   |
| Selling, general and administrative   | 33,375                              | 11,373                              | 3,953   |
| Research and development  | 1,352                               | 1,270                               | 689   |
| Depreciation and amortization   | 8,298                               | 2,374                               | 384   |
|   | -----                               | -----                               | -----   |
| Total operating costs and expenses  | 83,896                              | 30,312                              | 7,338   |
|   | -----                               | -----                               | -----   |
| Loss from operations  | (42,597)                            | (11,631)                            | (1,337)   |
|   | -----                               | -----                               | -----   |
| Other expenses (income):  |                                     |                                     |   |
| Interest income   | (5,549)                             | (303)                               | (254)   |
| Interest expense, net of amounts capitalized                                      | 21,224                              | 838                                 | 27  |
| Loss from joint venture   | 1,495                               | 661                                 | 1,099   |
| Write-off of pre-operating costs  | --                                  | --                                  | 691   |
| Loss on investments   | 26                                  | 526                                 | --  |
| Other   | 839                                 | 160                                 | 87  |
|   | -----                               | -----                               | -----   |
|   | 18,035                              | 1,882                               | 1,650   |
|   | -----                               | -----                               | -----   |
| Loss before minority interest in<br>income (loss) of subsidiary<br>and income tax | (60,632)                            | (13,513)                            | (2,987)   |
|   | -----                               | -----                               | -----   |

</TABLE>

(Continued)

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GST TELECOMMUNICATIONS, INC.

Consolidated Statements of Operations, Continued

(In thousands, except per share and share amounts)

<TABLE>  
<CAPTION>

|   | Year ended<br>September 30,<br>1996 | Year ended<br>September 30,<br>1995 | Thirteen<br>months ended<br>September 30,<br>1994 |
|---|-------------------------------------|-------------------------------------|---|
|   | -----                               | -----                               | -----   |
|   | (In U.S. Dollars)                   |                                     |   |
| <S>   | <C>                                 | <C>                                 | <C>   |
| Income tax expense:   |                                     |                                     |   |
| Current   | \$ 157                              | \$ 70                               | \$ 487  |
| Deferred  | --                                  | 96                                  | 15  |
|   | -----                               | -----                               | -----   |
|   | 157                                 | 166                                 | 502   |
|   | -----                               | -----                               | -----   |
| Loss before minority interest<br>in income (loss) of subsidiaries | (60,789)                            | (13,679)                            | (3,489)   |
| Minority interest in (income) loss<br>of subsidiaries             | 411                                 | 2,364                               | (2)   |

|  |             |            |           |
|--|-------------|------------|-----------|
|  | -----       | -----      | -----     |
| Loss for the period  | \$ (60,378) | (11,315)   | (3,491)   |
|  | =====       | =====      | =====     |
| Loss per share   | \$ (3.18)   | \$ (0.82)  | \$ (0.35) |
|  | =====       | =====      | =====     |
| Weighted average common and common<br>equivalents shares outstanding | 18,988,127  | 13,780,796 | 9,878,704 |

</TABLE>

See accompanying notes to consolidated financial statements.

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GST TELECOMMUNICATIONS, INC.

# Consolidated Statements of Shareholders' Equity

(In thousands, except per share amounts)

(In U.S. Dollars)

<TABLE>

<CAPTION>

|   | Commitment to<br>issue common<br>shares (Note 6) |           | Common shares |           | Accumulated<br>deficit | Total<br>shareholders'<br>equity |
|---|--|-----------|---------------|-----------|------------------------|----------------------------------|
|   | Shares   | Amount    | Shares        | Amount    |                        |                                  |
|   | -----  | -----     | -----         | -----     | -----                  | -----                            |
| <S>   | <C>  | <C>       | <C>           | <C>       | <C>                    | <C>                              |
| Balance, August 31, 1993  | --   | \$ --     | 9,003,421     | \$ 10,511 | \$ (1,149)             | \$ 9,362                         |
| Issuance of common stock for<br>services                          | --   | --        | 48,000        | 183       | --                     | 183                              |
| Issuance of common stock, net                                     | --   | --        | 2,515,479     | 10,368    | --                     | 10,368                           |
| Issuance of common stock under<br>option plans                    | --   | --        | 343,750       | 974       | --                     | 974                              |
| Commitment to issues shares for<br>business combinations          | 551,536  | 3,038     | --            | --        | --                     | 3,038                            |
| Net loss  | --   | --        | --            | --        | (3,491)                | (3,491)                          |
|   | -----  | -----     | -----         | -----     | -----                  | -----                            |
| Balance, September 30, 1994                                       | 551,536  | 3,038     | 11,910,650    | 22,036    | (4,640)                | 20,434                           |
| Issuance of common stock for<br>services                          | --   | --        | 34,057        | 150       | --                     | 150                              |
| Issuance of common stock in<br>business combinations              | (551,536)  | (3,038)   | 1,719,785     | 8,785     | --                     | 5,747                            |
| Issuance of common stock, net                                     | --   | --        | 4,593,598     | 17,965    | --                     | 17,965                           |
| Issuance of common stock under<br>option plans                    | --   | --        | 442,200       | 1,230     | --                     | 1,230                            |
| Commitment to issues shares for<br>business combinations          | 336,498  | 1,494     | --            | --        | --                     | 1,494                            |
| Net loss  | --   | --        | --            | --        | (11,315)               | (11,315)                         |
|   | -----  | -----     | -----         | -----     | -----                  | -----                            |
| Balance, September 30, 1995                                       | 336,498  | 1,494     | 18,700,290    | 50,166    | (15,955)               | 35,705                           |
| Issuance of common stock for<br>services                          | --   | --        | 85,627        | 621       | --                     | 621                              |
| Issuance of common stock in<br>business combinations              | (168,249)  | (747)     | 1,200,873     | 11,097    | --                     | 10,350                           |
| Issuance of common stock, net                                     | --   | --        | 1,189,849     | 9,672     | --                     | 9,672                            |
| Issuance of common stock under<br>option plans                    | --   | --        | 67,500        | 293       | --                     | 293                              |
| Commitment to issues shares for<br>business combinations          | 1,753,758  | 24,707    | --            | --        | --                     | 24,707                           |
| Issuance of common stock under<br>employee stock purchase plan    | --   | --        | 13,558        | 132       | --                     | 132                              |
| Accrual of compensation costs for<br>stock award and option plans | --   | --        | --            | 666       | --                     | 666                              |
| Net loss  | --   | --        | --            | --        | (60,378)               | (60,378)                         |
|   | -----  | -----     | -----         | -----     | -----                  | -----                            |
| Balance, September 30, 1996                                       | 1,922,007  | \$ 25,454 | 21,257,697    | \$ 72,647 | \$ (76,333)            | \$ 21,768                        |
|   | =====  | =====     | =====         | =====     | =====                  | =====                            |

</TABLE>

See accompanying notes to financial statements.

## GST TELECOMMUNICATIONS, INC.

## Consolidated Statements of Cash Flows

(In thousands)

Years ended September 30, 1996 and 1995 and  
thirteen months ended September 30, 1994<TABLE>  
<CAPTION>

|   | Year ended<br>September 30,<br>1996 | Year ended<br>September 30,<br>1995 | Thirteen<br>months ended<br>September 30,<br>1994 |
|---|-------------------------------------|-------------------------------------|---|
|   | -----                               | -----                               | -----   |
|   | (In U.S. Dollars)                   |                                     |   |
| <S>   | <C>                                 | <C>                                 | <C>   |
| Operations:                                       |                                     |                                     |   |
| Loss for the period                               | \$ (60,378)                         | \$ (11,315)                         | \$ (3,491)  |
| Items not involving cash:                         |                                     |                                     |   |
| Minority interest in income (loss) of subsidiary  | (411)                               | (2,364)                             | 2   |
| Loss from joint ventures                          | 1,495                               | 661                                 | 1,099   |
| Write-off of pre-operating costs                  | --                                  | --                                  | 691   |
| Depreciation and amortization                     | 9,496                               | 2,824                               | 557   |
| Deferred income taxes                             | --                                  | 96                                  | 15  |
| Deferred compensation                             | 7                                   | 151                                 | --  |
| Accretion of interest                             | 19,978                              | --                                  | --  |
| Write-off of other assets                         | 766                                 | 122                                 | --  |
| Issuance of stock for compensation                | 890                                 | --                                  | --  |
| Issuance of stock for financing commitment        | 396                                 | 150                                 | 183   |
| Loss on disposal of fixed assets                  | 246                                 | --                                  | --  |
| Loss on investments                               | 26                                  | 526                                 | --  |
|   | -----                               | -----                               | -----   |
| Changes in non-cash operating working capital:    |                                     |                                     |   |
| Accounts receivable, net                          | (1,066)                             | (1,549)                             | (882)   |
| Inventory   | (2,019)                             | (13)                                | (163)   |
| Other current and other assets, net               | (5,304)                             | (417)                               | (120)   |
| Accounts payable and accrued liabilities          | 2,387                               | (190)                               | 2,350   |
| Other current liabilities                         | 185                                 | 262                                 | 53  |
|   | -----                               | -----                               | -----   |
| Cash provided by (used in) operations             | (33,306)                            | (11,056)                            | 294   |
|   | -----                               | -----                               | -----   |
| Investments:                                      |                                     |                                     |   |
| Acquisition of subsidiaries, net of cash acquired | (1,441)                             | 207                                 | (4,235)   |
| Investment in joint ventures                      | --                                  | --                                  | (35)  |
| Settlement of notes receivable                    | --                                  | 3,367                               | (5,107)   |
| Purchase of investment in affiliate               | (294)                               | --                                  | --  |
| Purchase of investments                           | (9,799)                             | 848                                 | (843)   |
| Proceeds from sale of investments                 | 5,493                               | --                                  | --  |
| Purchase of fixed assets                          | (76,192)                            | (27,730)                            | (906)   |
| Proceeds from sale of fixed assets                | 8                                   | --                                  | --  |
| Purchase of other assets                          | (7,449)                             | (1,829)                             | (580)   |
| Change in restricted cash                         | (16,000)                            | --                                  | --  |
|   | -----                               | -----                               | -----   |
| Cash used in investing activities                 | (105,674)                           | (25,137)                            | (11,706)  |
|   | -----                               | -----                               | -----   |
| Financing:  |                                     |                                     |   |
| Proceeds from long-term debt                      | 196,207                             | 19,857                              | --  |
| Principal payments on long-term debt              | (2,112)                             | (816)                               | (387)   |
| Issuance of common shares, net of issuance costs  | 10,098                              | 19,195                              | 11,342  |
| Deferred debt financing costs                     | (9,894)                             | (853)                               | (70)  |
| Issuance of subsidiary shares                     | --                                  | 615                                 | --  |
|   | -----                               | -----                               | -----   |
| Cash provided by financing activities             | 194,299                             | 37,998                              | 10,885  |
|   | -----                               | -----                               | -----   |
| Increase (decrease) in cash and cash equivalents  | 55,319                              | 1,805                               | (527)   |
| Cash and cash equivalents, beginning of period    | 6,024                               | 4,219                               | 4,746   |
|   | -----                               | -----                               | -----   |

|  |           |          |          |
|--|-----------|----------|----------|
| Cash and cash equivalents, end of period | \$ 61,343 | \$ 6,024 | \$ 4,219 |
|  | =====     | =====    | =====    |

</TABLE>

See accompanying notes to consolidated financial statements.

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

September 30, 1996 and 1995

(In U.S. Dollars)

# (1) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

## (a) DESCRIPTION OF THE COMPANY

GST Telecommunications, Inc. (the Company) is a Canadian company in the business of providing competitive local exchange services primarily in the western United States. In addition, the Company provides a range of telecommunications services which include long distance, Internet access and data services. The Company also manufactures telecommunications switching equipment.

The consolidated financial statements for the years ended September 30, 1996 and 1995, and the thirteen months ended September 30, 1994 have been reported in U.S. dollars, the functional currency of the Company. The Company changed its fiscal year-end to September 30 effective in 1994 (note 10).

## (b) BASIS OF CONSOLIDATION

These consolidated financial statements include the accounts of the Company and its greater than 50% owned subsidiaries. The Company's investments in unconsolidated companies owned 20% or more are accounted for using the equity method. All significant intercompany accounts have been eliminated.

## (c) CASH AND CASH EQUIVALENTS

Cash equivalents consist of short-term, highly liquid investments with original maturities of ninety days or less.

## (d) RESTRICTED CASH

Pursuant to an agreement between the Company and a vendor relating to a construction in progress as of September 30, 1996, the Company is required to maintain \$16 million in a restricted account pending the completion of the project as collateral against payment. Completion of the project is anticipated in the next fiscal year. At September 30, 1996, the Company is committed to purchase approximately \$20.7 million relating to this project.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

## (e) ACCOUNTS AND NOTES RECEIVABLE

The Company maintains a security interest in the telecommunications systems it sells until the Company is paid in full. Management provides an allowance for doubtful accounts and notes based on current customer information and historical statistics. The allowance for doubtful accounts was \$1,264 and \$1,401 at September 30, 1996 and 1995, respectively.

## (f) INVESTMENTS

The Company adopted the provisions of Statement of Financial Accounting Standards No. 115, ACCOUNTING FOR CERTAIN INVESTMENTS IN DEBT AND

EQUITY SECURITIES (Statement 115) at October 1, 1994. Under Statement 115, the Company classifies its debt and equity securities in one of three categories: trading, available-for-sale, or held-to-maturity. Trading securities are bought and held principally for the purpose of selling them in the near term. Held-to-maturity securities are those securities in which the Company has the ability and intent to hold the security until maturity. All other securities not included in trading or held-to-maturity are classified as available-for-sale.

Trading and available-for-sale securities are recorded at fair value. All of the Company's investments comprised primarily of U.S. Treasury Securities and commercial paper, are classified as available-for-sale and mature in periods ranging from 3 to 9 months. Unrealized holding gains and losses, net of the related tax effect, on available-for-sale securities are excluded from earnings and are reported as a separate component of shareholders' equity until realized. A decline in the market value of any available-for-sale security below cost that is deemed other than temporary is charged to earnings resulting in the establishment of new cost basis for the security. Dividend income is recognized when earned. Realized gains and losses for securities classified as available-for-sale are included in earnings and are derived using the specific-identification method for determining the cost of securities sold. The amortized cost approximated the market value of these securities at September 30, 1996 and 1995.

(Continued)

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# GST TELECOMMUNICATIONS, INC.

## Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

### (g) INVENTORY

Inventory is stated at the lower of cost (first-in, first-out) or market (net realizable value) and consists of the following:

|                                | 1996    | 1995   |
|--------------------------------|---------|--------|
|                                | -----   | -----  |
| Raw materials                  | \$ 378  | \$ 317 |
| Work in process                | 346     | 70     |
| Finished and refurbished goods | 1,682   | --     |
|                                | -----   | -----  |
| Total inventory                | \$2,406 | \$ 387 |
|                                | =====   | =====  |

### (h) INVESTMENTS IN AFFILIATES

The Company has a 50% interest in Phoenix Fiber Access, Inc., a competitive access fiber optic telecommunications network in the Phoenix, Arizona metropolitan area. The carrying value of this investment, which is included in other assets in the accompanying consolidated balance sheet was \$1,364 and \$2,859 at September 30, 1996, and 1995, respectively.

The Company has an approximate 40% interest in GST Global Telecommunications, Inc. (GST Global), a publicly traded corporation on the Vancouver Stock Exchange which intends to conduct telecommunications operations on a worldwide basis. The carrying value of this investment, which is included in other assets in the accompanying consolidated balance sheet, was \$3,634 at September 30, 1996 (see note 2).

### (i) PROPERTY AND EQUIPMENT

Property and equipment is recorded at cost and is depreciated on the straight-line basis over their estimated useful lives, which are as follows:

|                                       |             |
|---------------------------------------|-------------|
| Telecommunications networks           | 10 years    |
| Electronic and related equipment      | 10 years    |
| Leasehold improvements                | 10 years    |
| Furniture, office equipment and other | 3 - 7 years |
| Building                              | 40 years    |

Construction, engineering and overhead costs directly related to the

development of competitive access networks are capitalized. The Company begins depreciating these costs when the networks become commercially operational. Depreciation is provided using the straight-line method over the estimated useful lives of the assets owned.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(j) GOODWILL

Goodwill, which represents the excess of the purchase price over the fair value of net assets acquired, is amortized over periods ranging from five to twenty years using the straight-line method. The Company assesses the recoverability of this intangible asset by determining whether the amortization of the goodwill balance over its remaining life can be recovered through discounted projected future cash flows of the acquired businesses from which the goodwill arose. Amortization charged to operations was \$1,690, \$389, and \$19 for the years ended September 30, 1996 and 1995, and the thirteen month period ended September 30, 1994, respectively.

(k) REVENUE RECOGNITION

For telecommunication services revenue, revenue is recorded upon placing of calls or rendering of other related services. For telecommunication product revenue, revenue is recorded upon shipment of product and is presented in the accompanying consolidated statements of operations net of product returns.

Deferred revenue, of which \$477 and \$373 are included in other current liabilities in the accompanying balance sheet at September 30, 1996 and 1995, respectively, consists of monthly service contract payments received in advance, warranty payments received in advance and research and development advances. Advance warranty payments are amortized over the length of warranty on the system sold, which is typically one year.

(l) LOSS PER SHARE

Loss per share has been calculated using the weighted average number of common and dilutive common equivalent shares assumed to be outstanding during the period (using the treasury stock method for dilutive common equivalent shares). Common equivalent shares consist of options and warrants to purchase common stock.

Fully diluted loss per share has not been presented for the outstanding options and warrants as they are anti-dilutive.

(m) ISSUANCE OF SUBSIDIARY STOCK

Issuances of subsidiary stock are accounted for as capital transactions in the accompanying consolidated financial statements.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(n) SEGMENTED INFORMATION

Segmented information has not been presented as the Company is presently operating 100% in the telecommunications industry in the United States and all revenues and operating profits and losses are derived from United States operations and substantially all assets reside in the United States.

(o) INCOME TAXES

The Company accounts for income taxes under the asset and liability method. Under the asset and liability method, deferred income taxes reflect the future tax consequences of differences between the tax bases of assets and liabilities and their financial reporting amounts at each year-end. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in the tax rates is recognized in income in the period that includes the enactment date. Valuation allowances are established when necessary to reduce deferred tax assets to the amounts expected to be realized.

(p) FOREIGN CURRENCY

The functional currency of all of the Company's operations is the U.S. dollar. In accordance with Statement of Financial Accounting Standards No. 52, "Foreign Currency Translation", nonmonetary balance sheet items recorded in Canadian dollars are remeasured at historical rates and monetary balance sheet items recorded in Canadian dollars are remeasured at current rates. Exchange gains and losses from remeasurement of monetary assets and liabilities are recognized currently in income.

(q) FINANCIAL INSTRUMENTS

The carrying amounts reported in the balance sheet for cash and cash equivalents, receivables, short-term investments, short-term borrowings and accounts payable and accrued liabilities approximate fair values due to the short maturity of those instruments.

The carrying amount of the Company's long-term debt approximates its fair value. The fair value of the Company's long-term debt was determined based on quoted market prices for similar issues or on current rates available to the Company for debt of the same remaining maturities and similar terms.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

Fair value estimates are made at a specific point in time, based on relevant market information about the financial instrument. These estimates are subjective in nature and involve uncertainties and matters of significant judgment and therefore cannot be determined with precision. Changes in assumptions could significantly affect the estimates.

(r) USE OF ESTIMATES

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(s) RECLASSIFICATIONS

Certain reclassifications have been made in the accompanying consolidated financial statements for 1995 and 1994 to conform with the 1996 presentation.

(2) ACQUISITIONS

From September 1, 1993 through September 30, 1996, the Company made the acquisitions set forth below, each of which was accounted for as a purchase, except for Canadian Programming Concepts, Inc., which was accounted for as an equity investment. The consolidated financial statements include the operating results from the effective date of acquisition.

(a) CALL AMERICA BUSINESS COMMUNICATIONS, INC. (CALL AMERICA)

In the fourth quarter of 1996, the Company acquired 100% of the

outstanding capital stock of Call America. Call America is a California company that provides long distance and ancillary communications services. The Company acquired Call America for consideration of \$14,777, consisting of 1,177,692 shares of common stock valued at \$12.50 per share, and \$56 in legal fees. An additional 130,000 common shares have been placed in escrow and will be issued to the former owners of Call America in one year, subject to certain indemnification clauses contained in the purchase agreement. Up to an additional 114,489 shares could be issued to the former Call America owners if the market price of the Company's common stock is less than \$12.50 six months after the closing date. Additionally, \$533 in notes receivable due from the former owners of Call America will be forgiven if certain operating milestones are met over the next 10 years. In connection with this acquisition, the Company recorded \$21,166 in assets, including \$9,798 in goodwill, and \$6,389 in liabilities.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(b) TOTALNET COMMUNICATIONS, INC. (TOTALNET)

In the fourth quarter of 1996, the Company acquired 100% of the outstanding capital stock of TotalNet, a long distance service provider. The Company acquired TotalNet for consideration of \$7,911, consisting of 401,160 common shares valued at \$4,373, a commitment to issue shares valued at \$3,498 at the one year anniversary of the agreement, and \$40 in legal fees. The number of shares issuable at the one year anniversary will be determined by a share price based on the weighted average market price of the Company's common shares for the ten days preceding the anniversary providing that in no case will the anniversary share price be lower than \$7.63 or greater than \$20. An additional 80,232 common shares will be issued to the former owners of TotalNet at the anniversary date, subject to certain indemnification clauses contained in the purchase agreement. In connection with this acquisition, the Company recorded \$10,149 in assets, including \$4,700 in goodwill, and \$2,239 in liabilities.

(c) GST TELECOM, INC. (GST TELECOM)

In the third quarter of 1994, the Company acquired 60% of the shares of GST Telecom in exchange for contributing 60% of the shares of Tucson Lightwave, Inc. (Tucson) and a commitment to provide at least \$11,024 in equity financing. GST Telecom develops, constructs, and operates competitive local exchange networks and other communications systems. The shares of Tucson were acquired from Pacwest, LLC (Pacwest) (an entity controlled by the Chief Executive Officer of the Company) in exchange for 100,000 common shares of the Company valued at \$447. The Company has made \$132,184 in equity contributions to GST Telecom through September 30, 1996.

In the third quarter of 1995, the Company acquired an additional 20% of GST Telecom for 1,000,000 common shares valued at \$5 per share.

In the first quarter of 1996, the Company acquired the remaining 20% of GST Telecom for consideration of up to a maximum of 1,000,000 common shares (valued at \$10.00 per share) based upon the fair market value of a 20% interest in GST Telecom, which was determined by an independent appraisal during September 1996. Currently, 1,000,000 common shares are held in escrow pending the release of such shares. In addition, the parties agreed that the Company has fulfilled all of its obligations relating to the funding of GST Telecom and its subsidiaries.

In connection with these acquisitions, the Company recorded \$40,516 in net assets, including goodwill of \$15,330, and liabilities of \$3,478.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(d) NATIONAL APPLIED COMPUTERS TECHNOLOGIES, INC. (NACT)

In the fourth quarter of 1993, the Company purchased 52% of the common shares of NACT. Subsequent to September 1, 1993, at various times, the Company acquired the remaining 48% interest of NACT. NACT is a Utah manufacturer of telecommunications switching and network management equipment for the inter-exchange industry.

The consideration paid for 100% of NACT's outstanding common shares consisted of \$3,621 in cash, \$466 in notes payable, \$160 in legal fees and 956,283 common shares valued at \$4,832. 15% of the stock acquired from NACT was purchased from NACT's former President, who is also the Company's Chief Technology Officer and a Director of the Company, for 384,195 common shares of the Company. In connection with these acquisitions, the Company recorded \$10,122 in net assets, including goodwill of \$1,387, and liabilities of \$1,203.

(e) INTERNATIONAL TELEMAGEMENT GROUP, INC. (ITG)

In the third quarter of 1995, the Company acquired 100% of the outstanding capital stock of ITG. ITG is an Ohio company that provides a variety of domestic and international long distance services. The Company acquired ITG for consideration of \$75, the assumption of certain liabilities, and an earn out provision. In connection with this acquisition, the Company recorded \$7,261 in net assets, including goodwill of \$4,025, and liabilities of \$7,185.

(f) OTHERS

In May 1996, the Company purchased from Tomen America, Inc. the remaining 10% interest in the GST Pacific Lightwave, Inc., a GST Telecom subsidiary which operates a fiber optic competitive local exchange network in southern California. The consideration paid for this acquisition consisted of \$1,250 in cash, which was recorded as goodwill.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

In a series of transactions during the third and fourth quarters of 1996, the Company acquired approximately 40% of Canadian Programming Concepts, Inc. (CPC), a Canadian corporation which is publicly traded on the Vancouver Stock Exchange, for consideration of \$3,659. As a result of this investment, CPC's name was changed to GST Global. Concurrent with this investment, four of the Company's directors and one of the Company's employees were appointed to GST Global's six member board of directors. The key officers of GST Global are officers of the Company. Several employees and directors of the Company own shares in GST Global amounting to approximately 5% of GST Global's outstanding shares at September 30, 1996. At September 30, 1996, the market value of GST Global totaled approximately \$26,366.

During 1996, the Company acquired the assets of Reservations, Inc. dba Hawaii Online (HOL), the assets of Texas-Ohio Communications, Inc. (TOC), and 100% of the outstanding capital stock of Tri-Star Residential Communications, Inc. (Tri-Star). HOL is an Internet service provider; TOC is a long distance service provider; and Tri-Star provides shared tenant services consisting of long distance, cable television and security service to tenants of multi-dwelling apartment units. Consideration paid for these acquisitions totaled \$3,341 and consisted of 32,624 common shares valued at \$350, a commitment to issue common shares valued at \$2,115 over the next two years, \$599 in accrued payments to be made during 1997, \$120 of cash, and \$157 in legal fees. In connection with these acquisitions, the Company recorded \$5,529 in assets, including \$1,085 of goodwill, and \$2,278 in liabilities.

The pro forma results shown below reflect purchase accounting adjustments assuming the acquisitions described above occurred as of the beginning of each of the periods presented:

| Year<br>ended | Year<br>ended |
|---------------|---------------|
|---------------|---------------|

|                    | September 30,<br>1996<br>(Unaudited)<br>---- | September 30,<br>1995<br>(Unaudited)<br>---- |
|--------------------|--|--|
| Revenues           | \$ 71,600                                    | 54,762                                       |
| Net loss           | (65,196)                                     | (22,918)                                     |
| Net loss per share | (3.05)                                       | (1.34)                                       |

The pro forma results are not necessarily indicative of what actually would have occurred had the acquisitions been in effect for the entire periods presented. In addition, they are not intended to be a projection of future results that may be achieved from the combined operations.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(3) PROPERTY AND EQUIPMENT

|                                       | September 30,<br>1996<br>----- | September 30,<br>1995<br>----- |
|---------------------------------------|--------------------------------|--------------------------------|
| Telecommunications networks           | \$ 25,551                      | \$ 9,577                       |
| Electronic and related equipment      | 31,547                         | 10,058                         |
| Leasehold improvements                | 3,619                          | 300                            |
| Furniture, office equipment and other | 8,746                          | 2,201                          |
| Building                              | 2,134                          | 2,134                          |
| Construction in progress              | 62,763                         | 15,313                         |
|                                       | -----                          | -----                          |
|                                       | 134,360                        | 39,583                         |
| Less accumulated depreciation         | (6,785)                        | (1,550)                        |
|                                       | -----                          | -----                          |
|                                       | \$ 127,575                     | \$ 38,033                      |
|                                       | =====                          | =====                          |

Property and equipment includes \$62,763 and \$15,313 of equipment which had not been placed in service at September 30, 1996 and 1995, respectively, and accordingly, is not being depreciated. During the year ended September 30, 1996 and 1995, \$2,316 and \$291 of interest, respectively, was capitalized as part of telecommunications networks and networks in progress.

(4) ACCRUED EXPENSES

|                           | September 30,<br>1996<br>----- | September 30,<br>1995<br>----- |
|---------------------------|--------------------------------|--------------------------------|
| Fixed asset purchases     | \$ 14,153                      | 796                            |
| Accrued acquisition costs | 4,213                          | --                             |
| Carrier costs             | 4,057                          | 680                            |
| Other                     | 4,320                          | 1,614                          |
|                           | -----                          | -----                          |
| Total                     | \$ 26,743                      | 3,090                          |
|                           | =====                          | =====                          |

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

## (5) FINANCING ARRANGEMENTS

## (a) DEBT

The Company's long-term debt at September 30, 1996 and 1995 is as follows:

| <TABLE><br><CAPTION>  |  | 1996      | 1995   |
|---|--|-----------|--------|
|   |  | ----      | ----   |
| <S>   |  | <C>       | <C>    |
| Note payable to Tomen, quarterly interest payments at the LIBOR rate plus 3% (8.7% at September 30, 1996) with quarterly principal payments (together with interest) beginning in fiscal 1998 through 2005, collateralized by equipment. The Company has the option to convert the interest rate to a fixed rate equal to the Treasury index rate plus 3% during the term of the loan |  | \$ 31,771 | 16,674 |
| Senior discount notes, 13-7/8% effective interest with semi-annual interest payments due beginning June 15, 2001 on a total maturity value of \$312,448, principal due December 15, 2005  |  | 177,760   | --     |
| Convertible senior subordinated discount notes 13-7/8% effective interest with semi-annual interest payments due beginning June 15, 2001 on a total maturity value of \$39,056, principal due December 15, 2005   |  | 22,220    | --     |
| Other   |  | 5,755     | 3,150  |
|   |  | -----     | -----  |
|   |  | 237,506   | 19,824 |
| Less current portion of long-term debt  |  | 4,832     | 736    |
|   |  | -----     | -----  |
|   |  | \$232,674 | 19,088 |
|   |  | =====     | =====  |

&lt;/TABLE&gt;

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

The schedule of future principal payments on long-term debt is as follows:

|            |            |
|------------|------------|
| 1997       | \$ 4,832   |
| 1998       | 3,474      |
| 1999       | 4,567      |
| 2000       | 5,438      |
| 2001       | 5,295      |
| Thereafter | 213,900    |
|            | -----      |
|            | \$ 237,506 |
|            | =====      |

## (b) ISSUANCE OF DEBT AND CONVERTIBLE DEBT SECURITIES

In the first quarter of 1996, the Company issued approximately \$180 million in 39,056 Units (the Units) each consisting of eight 13.875% (effective interest rate) Senior Discount Notes (the senior notes) and one 13.875% (effective interest rate) Convertible Senior Subordinated Discount Note (the convertible notes) maturing on December 15, 2005. The Units were sold at a substantial discount and there will be no accrual of cash interest prior to December 15, 2000 or payment of interest until June 15, 2001. The Units accrete to a total principal amount of approximately \$351.5 million by December 15, 2000. The senior notes will rank in right of payment with all unsubordinated indebtedness of the Company while the convertible notes will be junior to all senior Company debt. The senior and convertible notes are subject to certain debt covenants.

Each of the convertible notes is convertible at the option of the holder into common shares any time after December 15, 1996. The number of shares to be issued upon conversion is based on an accreted value on

the conversion date divided by \$7.536. In addition, after December 15, 1996, all of the convertible notes may be automatically converted to common shares by the Company if the Company's common shares sustain certain market value levels for 30 consecutive trading days.

On or after December 15, 2000, the senior and convertible notes will be redeemable at the option of the Company.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(c) TOMEN AMERICA, INC. FACILITY

In the first quarter of 1995, the Company entered into a master financing agreement with Tomen America, Inc. (Tomen). Under the agreement, Tomen will loan up to \$100 million to subsidiaries of the Company for development and construction of network projects. An upfront fee of 1.50% of the aggregate principal amount of each project loan and a commitment fee of 0.50% per annum on the unused portion of each project loan is payable to Tomen. Tomen will evaluate each network project separately to determine if it will participate in financing the project. The agreement originally provided Tomen the right to purchase a 10% equity interest in each network project it financed. Pursuant to such right, in 1995 Tomen purchased a 10% interest in the Company's southern California project. In May 1996, the Company repurchased the 10% interest in the project and the agreement was amended to cancel Tomen's right to purchase an equity interest in funded projects. As of September 30, 1996, Tomen has agreed to provide a total of \$34.45 million in debt financing to the Company's subsidiaries (\$31.8 million of which has been drawn down as of September 30, 1996) for construction and operation of its fiber optic networks in Southern California, New Mexico, and Arizona. The Tomen financing agreements are subject to certain debt covenants. Subsequent to September 30, 1996, Tomen has agreed to provide an additional \$41 million in debt financing for the Company's Hawaiian network.

Concurrent with the signings of the master financing agreement and subsidiary credit agreements, the Company has also signed stock purchase agreements with Tomen wherein Tomen purchased shares of common stock and received warrants to purchase additional shares of common stock. Pursuant to such agreements, through September 30, 1996, Tomen has purchased 1,074,074 shares of common stock at prices ranging from \$4.60 to \$10.80 per share for total cash consideration of \$6,955. Tomen also holds warrants to purchase up to 546,155 additional shares of common stock at prices ranging from \$5.52 to \$12.96 per share. Such warrants expire at various times between October 1996 and May 1998. Subsequent to September 30, 1996, Tomen exercised a warrant and purchased 250,000 shares of common stock at \$5.52 per share for total cash consideration of \$1,380.

The Company's Chief Executive Officer serves as a consultant to Tomen for which he is paid a fee. Simultaneous with the execution of the June 21, 1994 purchase of 60% of GST Telecom from Pacwest. Pacwest contracted with the Company to receive a fee equal to 1% of the aggregate debt and equity financing provided by Tomen to the Company.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(d) SIEMENS STROMBERG-CARLSON AGREEMENT

In the fourth quarter of 1996, the Company entered into a loan and security agreement with Siemens Stromberg-Carlson (Siemens). Under the terms of the agreement, Siemens will loan up to \$226 million to the Company for the purchase and installation of telecommunications

switching and related equipment. Amounts borrowed under the agreement will initially bear interest at LIBOR plus 4.5% and will be secured by the equipment. Such interest will decrease to LIBOR plus 3.5% at the time each initial loan is converted to a term loan, which conversion will occur at the first calendar quarter following the initial loan. Upon making the first loan request, the Company will be committed to purchase a minimum of \$16.5 million in equipment over 3 years. Amounts borrowed under the agreement will be repaid in 24 quarterly installments beginning 5 quarters after the initial loan is converted to a term loan. At September 30, 1996, no amount had been borrowed pursuant to this agreement.

(e) NORTHERN TELECOM, INC. PURCHASE AGREEMENT

In the fourth quarter of 1996, the Company entered into a purchase agreement with Northern Telecom, Inc. (Nortel), pursuant to which the Company is committed to purchase a minimum of \$50 million, of which \$1.9 million has been purchased as of September 30, 1996, in telecommunications switching equipment over the next three years. The Company is currently negotiating an agreement to finance such equipment purchases with a third party.

(f) LINE OF CREDIT

At September 30, 1996, the Company was contingently liable under repurchase agreements for a maximum of \$1,035 to a financial institution. The financial institution provides lease financing to NACT customers on a recourse basis. The Company has established a \$1,000 line of credit with the financial institution to provide funding for payment of these leases, if required. No balance was outstanding under the line of credit at September 30, 1996.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(6) SHAREHOLDERS' EQUITY

(a) COMMITMENT TO ISSUE SHARES

Pursuant to a final agreement dated January 5, 1995, the Company is committed to issue 168,249 common shares at a fair value of \$4.44 per share (\$747) to former shareholders of NACT on January 5, 1997. Additionally, pursuant to the terms of the purchase agreements discussed in note 2, the Company is committed to issue a minimum of 1,753,758 shares valued at \$24,707 at various times throughout 1997.

(b) PREFERENCE SHARES

The Company's Board of Directors has the authority, without any further vote or action by the Company's shareholders, to issue up to 10,000,000 Preference Shares, without par value (the Preference Shares), in one or more series and to determine the designations, powers, preferences and relative, participating, optional or other rights thereof, including without limitation, the dividend rate (and whether dividends are cumulative), conversion rights, voting rights, rights and terms of redemption, redemption price and liquidation preference.

(c) ESCROW AGREEMENTS

Of the 21,257,697 shares currently outstanding, 750,000 are held pursuant to an escrow agreement, their release being subject to the approval of regulatory authorities. These common shares have been issued by the Company and have rights equal to those of all other common shares except that the holders may not exercise voting rights on a resolution to cancel shares, and have waived their rights to receive dividends or to participate in the assets and property of the Company on a winding-up or dissolution of the Company. In accordance with the escrow provisions of this agreement, these shares cannot be sold or traded by the owner until they are released by the regulatory authorities in accordance with a formula adopted by the regulatory authorities. If the Company has not met the conditions set for the release of these shares by January 16, 2001, these shares will be canceled.

Pursuant to the Company acquiring the remaining 20% interest in GST

Telecom during 1996, 1,000,000 common shares were put in escrow pending a valuation of GST Telecom. An independent appraisal of GST Telecom was received in September 1996 allowing the release of such shares from escrow (see note 2). On November 7, 1996, such shares were released from escrow.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(d) 1996 EMPLOYEE STOCK PURCHASE PLAN

In July 1996, the Company adopted the 1996 Employee Stock Purchase Plan (the Stock Purchase Plan) which provides eligible employees of the Company with an opportunity to acquire common shares of the Company. It is the intention of the Company that the Stock Purchase Plan qualify as an "Employee Stock Purchase Plan" under Section 423 of the Internal Revenue Code. Under this Stock Purchase Plan, the Company authorized the issuance of 500,000 common shares to be issued to employees of the Company.

Employees who own 5% or more of the voting rights of the Company's outstanding common shares may not participate in the Plan.

(e) STOCK OPTION PLANS

EMPLOYEE STOCK OPTION PLANS

In January 1995, the Company created a Stock Incentive Plan (the 1995 Plan) which provides for the granting to employees (including officers and employee directors) of incentive stock options within the meaning of Section 422A of the Internal Revenue Code of 1986, and for the granting of non-statutory stock options to employees (including officers and employee directors), directors and consultants. The options have a term of five years and vest and become exercisable at the discretion of the Board of Directors. Under the plan, no options vest until at least six months after the date of grant.

In January 1996, the Company created an additional Stock Incentive Plan (the 1996 Plan) in which the Board of Directors approved and authorized the issuance of 400,000 stock options to be granted to employees of the Company. The terms of the 1996 Plan are identical to that of the 1995 Plan. In January 1996, the Board of Directors also authorized a 1 million increase in the number of common shares reserved for issuance under the Company's 1995 Stock Option Plan.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

1996 SENIOR OPERATING AND EXECUTIVE OFFICER STOCK OPTION PLANS

In May 1996, the Company adopted the 1996 Senior Operating Officer Stock Option Plan (the Senior Operating Plan) and the 1996 Senior Executive Officer Stock Option Plan (the Senior Executive Plan) in which the Board of Directors approved and authorized the issuance of up to 900,000 and 600,000 options, respectively, to be awarded to senior operating and executive management of the Company, at a \$10 option exercise price. The options have a term of six years and vest and become exercisable at the discretion of the Board of Directors. All stock options granted under the Senior Executive Plan as of September 30, 1996 vest upon the achievement of certain milestones as were determined by the Board of Directors. It is the intention of the Company that certain options granted pursuant to these Plans shall constitute incentive stock options under Section 422 of the Internal Revenue Code, while certain other options granted pursuant to these Plans shall be nonqualified stock options.

The exercise price of all incentive stock options granted under these four Plans must be at least equal to the fair market value of the shares on the date of grant. With respect to any participant who owns stock possessing more than 10% of the voting rights of the Company's outstanding share capital, the exercise price of any incentive stock option granted must equal at least 110% of the fair market value on the grant date. The exercise price of all nonqualified stock options granted under the 1995 and 1996 Plans and the Senior Operating and Executive Plans must be at least 80% and 50%, respectively, of the fair market value of the common stock on the date of grant.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

Activity under the various stock option plans is as follows:

|   | Number of<br>Shares | Price<br>Range  |
|---|---------------------|-----------------|
| Options outstanding at August 31, 1993    | 785,250             | \$ 1.00 - 3.00  |
| Options:                                  |                     |                 |
| Granted                                   | 435,000             | 4.25 - 5.00     |
| Exercised                                 | (343,750)           | 1.00 - 3.00     |
| Canceled                                  | -                   | -               |
| Options outstanding at September 30, 1994 | 876,500             | 1.00 - 5.00     |
| Options:                                  |                     |                 |
| Granted                                   | 1,190,035           | 3.55 - 6.75     |
| Exercised                                 | (442,200)           | 1.00 - 4.25     |
| Canceled                                  | (30,042)            | 3.55 - 5.00     |
| Options outstanding at September 30, 1995 | 1,594,293           | 3.55 - 6.75     |
| Options:                                  |                     |                 |
| Granted                                   | 1,563,373           | 5.00 - 10.00    |
| Exercised                                 | (67,500)            | 3.55 - 6.75     |
| Canceled                                  | (32,447)            | 6.75 - 10.00    |
| Options outstanding at September 30, 1996 | 3,057,719           | \$ 3.55 - 10.00 |
|   | =====               | =====           |

Of the 3,057,719 options outstanding, 1,208,843 options were vested and exercisable and 966,089 options were available for future grant.

(f) 1996 STOCK BONUS AGREEMENT

In September 1994, the Company's Board of Directors adopted a Stock Award Plan which provides for the awarding of up to 70,000 common shares of the Company to a certain member of management upon the achievement of certain milestones.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(g) WARRANTS OUTSTANDING

Warrants outstanding and exercisable at September 30, 1996:

| Number of<br>common shares<br>Issuable<br>----- | Exercise<br>Price<br>----- | Exercise<br>Expiration Date<br>----- |
|---|----------------------------|--------------------------------------|
| 250,000   | \$5.52                     | October 23, 1996                     |
| 125,000   | \$5.62                     | April 26, 1997                       |
| 171,155   | \$12.96                    | May 23, 1998                         |
| 50,000  | \$10.00                    | April 29, 1999                       |
| 300,000   | \$6.75                     | September 30, 2000                   |

The 546,155 warrants expiring October 23, 1996 through May 23, 1998 were granted to Tomen in conjunction with the Tomen financing agreements (see note 5), of which the 250,000 warrants expiring October 23, 1996 were exercised during October 1996. The 50,000 warrants expiring April 29, 1999 were granted in conjunction with a private placement of common stock during fiscal year ending 1994. The 300,000 warrants expiring September 30, 2000 were granted to a director of the Company. No value has been assigned to any granted warrants as the exercise price exceeded the common stock market price at the time of grant.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

#### (7) INCOME TAXES

The provision for income taxes differs from the amount computed by applying the Canadian statutory income tax rate to net income before taxes as follows:

|   | Year ended<br>September 30,<br>1996<br>--- | Year ended<br>September 30,<br>1995<br>--- | Thirteen<br>month<br>period ended<br>September 30,<br>1994<br>--- |
|---|--|--|---|
| Computed expected income tax<br>expense (benefit) at Canadian<br>statutory rate | (39)%                                      | (39)%                                      | (39)%   |
| Expected state/province income tax<br>expense (benefit)                         | (4)  | (6)  | (5)   |
| Increase (decrease) in valuation<br>allowance                                   | 21   | 38   | 56  |
| Amortization of goodwill  | 1  | 5  | 5   |
| Minority interest   | --   | (7)  | --  |
| Effect of difference in United<br>States statutory rate                         | 5  | 5  | 6   |
| Effect of acquisition of new subsidiaries                                       | 10   | 1  | --  |
| Non-deductible interest   | 2  | --   | --  |
| Other   | 4  | 4  | (6)   |
|   | ---  | ---  | ---   |
| Income tax expense (benefit)  | - %<br>===                                 | 1%<br>===                                  | 17%<br>===  |

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial

reporting purposes and the amounts used for income tax purposes. The tax effects of significant items comprising the Company's deferred tax asset and liability are as follows:

<TABLE>

<CAPTION>

|   | September 30,<br>1996 | September 30,<br>1995 |
|---|-----------------------|-----------------------|
|   | -----                 | -----                 |
| <S>                                       | <C>                   | <C>                   |
| Deferred tax assets:                      |                       |                       |
| United States Federal and state           |                       |                       |
| net operating loss carryforwards          | \$ 16,378             | \$ 3,325              |
| Canadian net operating loss carryforwards | 3,065                 | 2,533                 |
| Non-deductible interest                   | 4,608                 | --                    |
| Canadian non-deductible interest          | 798                   | --                    |
| Canadian capital loss carryforward        | 128                   | --                    |
| Other                                     | 2,063                 | 1,633                 |
|   | -----                 | -----                 |
| Total gross deferred tax assets           | 27,040                | 7,491                 |
| Less valuation allowance                  | (19,429)              | (6,734)               |
|   | -----                 | -----                 |
| Deferred tax liabilities:                 |                       |                       |
| Furniture, fixtures and equipment,        |                       |                       |
| due to differences in depreciation        | 2,110                 | 693                   |
| Capitalized software/intangibles          | 5,501                 | 64                    |
|   | -----                 | -----                 |
| Total gross deferred tax liabilities      | 7,611                 | 757                   |
|   | -----                 | -----                 |
| Net deferred taxes                        | \$ --                 | \$ --                 |
|   | =====                 | =====                 |

</TABLE>

The valuation allowance for deferred tax assets as of September 1, 1993 was \$593. The net change in total valuation allowance for the years ended September 30, 1996 and 1995, and the thirteen month period ended September 30, 1994 was an increase of \$12,695, \$4,346, and \$1,795 respectively.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

The Company has non-capital losses for income tax purposes of approximately Canadian \$6,811 available to reduce Canadian taxable income of future years, expiring as follows:

|      |         |
|------|---------|
| 1999 | \$ 686  |
| 2000 | 2,072   |
| 2002 | 1,597   |
| 2003 | 2,456   |
|      | -----   |
|      | \$6,811 |
|      | =====   |

Based on a history of recurring losses, it is questionable whether the Company will be allowed to utilize these Canadian losses if the tax authority determines that the Company has no reasonable expectation of profit. As of September 30, 1996, the Company also has a Canadian net capital loss carryforward of \$389. Net capital losses can be carried forward indefinitely but can only be utilized to offset taxable capital gain.

The Company has net operating losses for income tax purposes of approximately \$44,985 available to reduce United States taxable income of future years, expiring as follows:

|      |        |
|------|--------|
| 2007 | \$ 405 |
| 2008 | 455    |
| 2009 | 2,717  |
| 2010 | 4,939  |

\$44,985

=====

For United States income tax purposes, utilization of net operating losses may be subject to limitation in the event a change in ownership of the Company has occurred pursuant to IRC Section 382. No analysis has been performed by the Company to determine whether such ownership change has occurred.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

## (8) LEASES

The Company is obligated under capital leases for equipment which expire at various dates during the next five years. At September 30, 1996 and 1995, the gross amounts of equipment and related accumulated amortization recorded under capital leases were as follows:

|                               | 1996     | 1995  |
|-------------------------------|----------|-------|
|                               | -----    | ----- |
| Equipment                     | \$ 2,068 | 853   |
| Less accumulated amortization | (291)    | 67    |
|                               | -----    | ----- |
|                               | \$ 1,777 | 786   |
|                               | =====    | ===== |

The Company also has noncancelable operating leases, primarily for facilities, which expire over the next five years. Rental expense under operating leases was \$1,501, \$866 and \$253 for the years ended September 30, 1996 and 1995, and the thirteen month period ended September 30, 1994, respectively.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

Future minimum lease payments under noncancelable leases (with initial or remaining lease terms in excess of one year) and future minimum capital lease payments as of September 30, 1996 are:

&lt;TABLE&gt;

&lt;CAPTION&gt;

&lt;S&gt;

|   | Capital<br>Leases | Operating<br>Leases |
|---|-------------------|---------------------|
|   | -----             | -----               |
|   | <C>               | <C>                 |
| Year ending September 30:   |                   |                     |
| 1997  | \$ 980            | 2,777               |
| 1998  | 900               | 2,902               |
| 1999  | 494               | 2,797               |
| 2000  | 235               | 1,960               |
| 2001  | 4                 | 1,493               |
| Thereafter  | --                | 7,335               |
|   | -----             | -----               |
| Total minimum lease payments  | 2,613             | \$19,264            |
|   |                   | =====               |
| Less amount representing interest (at rates ranging<br>from 8.7 to 18.6%) | 438               |                     |

|  |          |
|--|----------|
| Net minimum lease payments                                       | 2,175    |
| Less current installments of obligations under capital leases    | 722      |
| Obligations under capital leases, excluding current installments | \$ 1,453 |

</TABLE>

Under the terms of two noncancelable subleases, the Company will receive \$220 over the next ten years.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

#### (9) COMMITMENTS AND CONTINGENCIES

##### (a) PENSION AND PROFIT SHARING PLANS

In 1995, the Company adopted a defined contribution 401(k) plan (the Plan). Employees are eligible to participate in the Plan upon commencement of service. Participants may defer up to 15% of eligible compensation. Currently, the Company does not provide matching contributions for the Plan.

NACT also sponsors a defined contribution 401(k) plan for employees who have completed one year of service and attained the age of 21. Participants may defer up to 15% of eligible compensation. The Company, at its discretion, may match 50% of participant contributions up to 7.5% of participant compensation. NACT made employer contributions to this plan of \$60, \$51 and \$32 in the years ending September 30, 1996, 1995 and 1994, respectively.

Through September 30, 1996, NACT provided a discretionary profit sharing program for full time employees who had completed one full year of employment. Under the plan, 10% of the increase in profits based on NACT's previous highest retained earnings balance were allocated among employees determined on length of employment and salary level at the discretion of the Board of Directors. Contributions to the program were \$132, \$171 and \$105 for the years ended September 30, 1996 and 1995, and the thirteen month period ended September 30, 1994, respectively. The program was terminated on September 30, 1996.

##### (b) LONG DISTANCE CARRIERS

The Company is party to various contracts with long distance carriers pursuant to which the Company is committed to minimum service fees. The average monthly minimum commitments range from \$1.6 million to \$5.1 million per month over the next three years. The Company must pay the carriers for differences between the commitment amounts and the actual amounts billed.

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

##### (c) LEGAL PROCEEDINGS

On August 24, 1995, Aerotel, Ltd. and Aerotel U.S.A., Inc. (collectively, "Aerotel") filed a patent infringement suit against NACT alleging that telephone systems manufactured and sold by NACT incorporate prepaid calling features which infringe upon a patent issued to Aerotel in November 1987. The complaint further alleges

defamation and unfair competition by NACT and seeks various damages. NACT has filed an Answer and Counterclaim denying patent infringement, committing defamation or unfair competition and seeks judgment that the Aerotel patent is invalid and that Aerotel has misused its patent in violation of antitrust laws. Based on information currently available, NACT's management is of the opinion that there will be no material impact of NACT's financial position or results of operations as a result of this suit. Accordingly, no provision for loss has been provided in the accompanying financial statements.

On April 24, 1996, C.W. Holdings (formerly Martin Holdings Ltd.) filed a damages suit against the Company alleging negligence in failing to safely deliver to C.W. Holdings a share certificate representing 209,738 common shares of the Company. C.W. Holdings has commenced an action in the Supreme Court of British Columbia against the Company, the Company's registrar and transfer agent, and other parties unrelated to the Company. The Company's legal counsel believes that it is improbable that there will be an outcome unfavorable to the Company in the legal proceedings.

The Company is involved in various other claims and legal actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material effect on the Company's financial position.

(d) EMPLOYMENT AGREEMENTS

The Company has entered into employment agreements with key members of management. These agreements provide for payments based upon death, disability and change of control. The agreements also contain covenants not to compete.

(10) RECONCILIATION BETWEEN GENERALLY ACCEPTED ACCOUNTING PRINCIPLES IN THE UNITED STATES AND IN CANADA

These financial statements have been prepared by management in accordance with generally accepted accounting principles in the United States (U.S. GAAP). Except for the earnings/loss per share calculations as noted below, these financial statements also conform, in all material respects, with those accounting principles that are generally accepted in Canada (Canadian GAAP).

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

For U.S. GAAP purposes, the 750,000 escrow shares disclosed in note 6 are considered contingent shares and are not included in the loss per share calculations. For U.S. GAAP purposes, when these shares are released from escrow, to the extent their fair market value exceeds their issuance price, compensation expense will be recognized by the Company. The loss per share determined in accordance with accounting principles generally accepted in Canada is \$(3.06), \$(0.78) and \$(0.33) for the years ended September 30, 1996, 1995 and the thirteen month period ended September 30, 1994, respectively.

The Company changed its fiscal year-end to September 30 effective in 1994. Accordingly, amounts reported in the consolidated financial statements are for the thirteen-month period ended September 30, 1994. Selected financial information as at and for the year ended August 31, 1994 is as follows:

Selected information from statement of operations:

|  |          |
|--|----------|
| Revenues                                     | \$ 5,253 |
| Operating expenses                           | 6,147    |
|  | -----    |
| Loss from operations                         | 894      |
| Other expenses                               | 1,681    |
|  | -----    |
| Loss before minority interest and income tax | 2,575    |
| Income tax expense                           | 470      |
|  | -----    |

|   |          |
|---|----------|
| Loss before minority interest               | 3,045    |
| Minority interest in income of subsidiaries | 126      |
|   | -----    |
| Loss for the year                           | \$ 3,171 |
|   | =====    |

Selected information from statement of cash flows:

|   |          |
|---|----------|
| Operations:                                   |          |
| Loss for the year                             | (3,171)  |
| Items not involving cash                      | 2,420    |
| Changes in non-cash operating working capital | (154)    |
|   | -----    |
| Cash used in operations                       | (905)    |
| Financing                                     | 14,040   |
| Investing                                     | (12,846) |
|   | -----    |
| Increase in cash and cash equivalents         | 289      |
| Cash and cash equivalents, beginning of year  | 4,745    |
|   | -----    |
| Cash and cash equivalents, end of year        | \$ 5,034 |
|   | =====    |

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

(11) INFORMATION RELATING TO CONSOLIDATED STATEMENTS OF CASH FLOWS

"Net cash provided (used) by operating activities" includes cash payments for interest of \$1,813, \$364 and \$24 and cash payments for taxes of \$-0-, \$264 and \$253, for the years ended September 30, 1996 and 1995, and the thirteen month period ended September 30, 1994, respectively.

NON-CASH INVESTING AND FINANCING ACTIVITIES WHICH AFFECT THE CONSOLIDATED STATEMENTS OF CASH FLOWS

Effective May 1, 1995, the Company acquired a 100% interest in ITG. See note 2 for a discussion of the assets and liabilities acquired.

On January 5, 1995, the Company acquired the remaining 20% of National Applied Computer Technologies, Inc. (see note 2). As a result of this transaction, the Company recorded \$2,137 in other assets, \$521 in liabilities, \$747 in common stock, \$1,494 in a commitment to issue common shares and a reduction of \$886 to its non-controlling interest in subsidiaries account.

Effective June 1, 1995, the Company acquired an additional 20% of GST Telecom (see note 2). The Company recorded \$5,000 in common stock, \$3,226 in other assets, and a reduction of \$1,774 to its non-controlling interest in subsidiaries account related to this transaction.

As a result of capital contributions made to GST Telecom, Inc. throughout the year ending September 30, 1995, the Company recorded \$4,457 in other assets and an increase of \$4,457 to its non-controlling interest in subsidiaries account.

During the year ending September 30, 1995, the Company recorded a \$200 reduction in notes receivable and a \$200 increase to deferred financing costs pursuant to a loan agreement and promissory note dated July 7, 1994, whereby the Company loaned \$200 to Pacwest Network, L.L.C. (Pacwest) which was repaid in full by crediting against fees payable to Pacwest in respect of financing provided by Tomen America, Inc.

Property and equipment includes amounts in accounts payable and accrued liabilities of \$18,291, \$4,363 and \$-0- at September 30, 1996, 1995 and 1994, respectively.

(Continued)

## GST TELECOMMUNICATIONS, INC.

## Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

In September 1996, the Company acquired an additional 1.5 million common shares of GST Global, for consideration of \$3,364 (see note 2). The Company recorded \$3,364 in other assets and accrued liabilities relating to this transaction.

During the year ending September 30, 1996, the Company recorded \$45,478 in assets, \$11,665 in liabilities, a reduction of \$2,686 to minority interest, \$29,444 in common stock and \$5,613 in commitments to issue common stock as a result of the 1996 acquisitions discussed in note 2.

## (12) RELATED PARTY TRANSACTIONS

During the third and fourth quarters of 1996, the Company made payments of \$5,997 and \$2,970 to the FCC for 5 PCS licenses on behalf of Magnacom Wireless, LLC (Magnacom), a company controlled by the Chief Executive Officer of the Company. The \$2,970 payment is included as an other current asset in the accompanying balance sheet, whereas the \$5,997 payment is included as an other asset in the accompanying balance sheet. The Company is in the process of establishing a non-exclusive twelve year agreement with Magnacom; whereby, the Company will purchase services relating to such licenses from Magnacom for use or resale. As consideration for services provided by Magnacom to the Company, the Company will make annual lump sum payments to Magnacom in accordance with an agreed to schedule (with the \$5,997 payment being the first of such payments) as advanced payments for the services to be provided by Magnacom. Subsequent to September 30, 1996, the Company made an additional payment of \$5,426 to the FCC on behalf of Magnacom.

The operations of the Company's Hawaiian microwave network require the use of radio licenses from the FCC. Such licenses are owned by PNI, a company controlled by the Company's Chief Executive Officer. Under agreements between the Company and PNI, (1) the Company pays a monthly fee to PNI to utilize PNI's licenses for its communications traffic and (2) PNI pays an equal monthly fee to the Company for the right to utilize the Company's facilities for other communications traffic using up to 10% of PNI's license capacity.

A bridge loan that was obtained and paid back by the Company during 1995 was guaranteed by five executive officers of the Company. In consideration for the guarantee, such officers were issued 25,000 shares of common stock of the Company.

(Continued)

## GST TELECOMMUNICATIONS, INC.

## Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

The Company paid approximately \$2,264, \$770 and \$396 in legal fees in 1996, 1995 and 1994, respectively, to a firm having a member who is also a director of the Company.

Under the Tomen facility, Tomen has the right to act as procurement agent for each network project it finances. The Company has purchased equipment through Tomen at competitive prices.

## (13) GST USA

In August 1994, the Company formed a wholly-owned subsidiary, GST USA, and transferred all U.S. assets, liabilities and operations into GST USA. Selected financial information as at and for the years ended September 30, 1996 and 1995 are as follows:

Selected balance sheet information:

| Year<br>ended | Year<br>ended |
|---------------|---------------|
|---------------|---------------|

|                         | September 30,<br>1996 | September 30,<br>1995 |
|-------------------------|-----------------------|-----------------------|
|                         | -----                 | -----                 |
| Current assets          | \$ 77,506             | \$ 11,415             |
| Non-current assets      | 168,882               | 60,006                |
|                         | -----                 | -----                 |
|                         | \$ 246,388            | \$ 71,421             |
|                         | =====                 | =====                 |
| Current liabilities     | \$ 34,286             | \$ 13,712             |
| Non-current liabilities | 210,243               | 19,646                |
| Minority interest       | 182                   | 3,279                 |
| Share capital           | 66,520                | 44,471                |
| Accumulated deficit     | (64,843)              | (9,687)               |
|                         | -----                 | -----                 |
|                         | \$ 246,388            | \$ 71,421             |
|                         | =====                 | =====                 |

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

Selected information from statement of operations:

|   | Year<br>ended<br>September 30,<br>1996 | Year<br>ended<br>September 30,<br>1995 |
|---|--|--|
|   | -----                                  | -----                                  |
| Revenues  | \$ 37,721                              | \$ 18,681                              |
| Operating costs and expenses  | (77,590)                               | (28,942)                               |
|   | -----                                  | -----                                  |
| Loss from operations  | (39,869)                               | (10,261)                               |
| Other expenses  | 15,625                                 | (1,384)                                |
|   | -----                                  | -----                                  |
| Loss before minority interest in loss<br>of subsidiaries and income tax | (55,494)                               | (11,645)                               |
| Income tax expense  | (72)                                   | (166)                                  |
|   | -----                                  | -----                                  |
| Loss before minority interest in loss<br>of subsidiaries                | (55,566)                               | (11,811)                               |
| Minority interest in loss of subsidiaries                               | 411                                    | 2,364                                  |
|   | -----                                  | -----                                  |
| Net loss  | \$ (55,155)                            | (9,447)                                |
|   | =====                                  | =====                                  |

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

Selected information from statement of cash flows:

| Year<br>ended<br>September 30,<br>1996 | Year<br>ended<br>September 30,<br>1995 |
|--|--|
|--|--|

|   |             |            |
|---|-------------|------------|
| Operations:                                   |             |            |
| Loss for the year                             | \$ (55,155) | \$ (9,447) |
| Items not involving cash                      | 29,256      | 1,590      |
| Changes in non-cash operating working capital | (6,400)     | (3,419)    |
|   | -----       | -----      |
| Cash used in operations                       | (32,299)    | (11,276)   |
| Investing                                     | (105,090)   | (29,684)   |
| Financing                                     | 174,915     | 43,544     |
|   | -----       | -----      |
| Increase in cash and cash equivalent          | s 37,526    | 2,584      |
| Cash and cash equivalents, beginning of year  | 3,894       | 1,310      |
|   | -----       | -----      |
| Cash and cash equivalents, end of year        | \$ 41,420   | \$ 3,894   |
|   | =====       | =====      |

(Continued)

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GST TELECOMMUNICATIONS, INC.

Notes to Consolidated Financial Statements

(In thousands, except per share and share amounts)

(In U.S. Dollars)

#### (14) SUBSEQUENT EVENTS

##### SPECIAL WARRANTS OFFERING

On October 22, 1996, the Company completed a private placement to non-U.S. investors of 2,000,000 Special Warrants at a purchase price of U.S. \$11.125 per Special Warrant. The Special Warrants become exercisable by holders for no additional consideration upon the later to occur of (i) the date upon which approval for a final Canadian prospectus qualifying the common shares and share purchase warrants (the Underlying Warrants) issuable upon exercise of the Special Warrants is received from the securities commission of each of the Canadian provinces where the Special Warrants were sold and (ii) the date that a registration statement filed with the Securities and Exchange Commission registering the resale of the common shares issuable upon exercise of the Special Warrants and Underlying Warrants is declared effective, but in any event, no later than September 22, 1997. Each Special Warrant is exercisable for one common share and one-half of one Underlying Warrant. Each full Underlying Warrant entitles the holder to purchase one additional common share for a purchase price of U.S. \$13.00 for one year from the date of issuance. In the event that the requisite regulatory approvals of the Canadian Prospectus are not received by the Company and the U.S. Registration Statement is not declared effective, in each case by February 19, 1997, then each Special Warrant will become exercisable for 1.1 common shares and one-half of one Underlying Warrant.

The Company received U.S. \$9,690,000, constituting 50% of the aggregate purchase price of the Special Warrants (net of placement agency fees and expenses), on October 22, 1996. The balance of the net purchase price of Special Warrants (U.S. \$11,125,000) is being held in escrow and is payable to the Company upon the earlier to occur of (x) the date of receipt of final regulatory approval of a preliminary Canadian Prospectus from the securities commissions of the applicable Canadian provinces and (y) the initial filing of the U.S. Registration Statement with the Commission, in each case covering the resale of the Common Shares issuable upon exercise of the Special Warrants and the Underlying Warrants.

##### NACT PUBLIC OFFERING

The Board of Directors of NACT has authorized the filing of a registration statement with the Securities and Exchange Commission permitting NACT to sell shares of its common stock to the public.

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EXHIBIT INDEX

EXHIBIT

- \*3(a) Certificate of Incorporation of the Company, as amended to date.
- \*3(b) By-Laws of the Company as amended to date.
- 4(a) Senior Notes Indenture dated as of December 19, 1995, by and among GST USA, Inc., the Company and United States Trust Company of New York, incorporated by reference to Exhibit 2.3 to the Company's Form 20-F for the fiscal year ended September 30, 1995 (the "1995 Form 20-F").
- 4(b) Convertible Notes Indenture dated as of December 19, 1995, by and among the Company, GST USA, Inc. and United States Trust Company of New York, incorporated by reference to Exhibit 2.4 to the 1995 Form 20-F.
- \*10(a) 1995 Stock Option Plan of the Company, as amended to date.
- \*10(b) 1996 Stock Option Plan of the Company, as amended to date.
- \*10(c) 1996 Employee Stock Purchase Plan of the Company.
- \*10(d) 1996 Senior Executive Officer Stock Option Plan of the Company.
- \*10(e) 1996 Senior Operating Officer Stock Option Plan of the Company.
- 10(f) Amended and Restated Credit Agreement dated as of April 26, 1995, by and between GST Pacific Lightwave, Inc. and Tomen America Inc., incorporated by reference to Exhibit 1.2 to the 1995 Form 20-F
- 10(g) Stock Purchase Agreement dated as of May 1, 1995, by and between GST Net, Inc. and Stanley M. Nolte, incorporated by reference to Exhibit 2.1 to the 1995 Form 20-F
- 10(h) Senior Notes Registration Rights Agreement dated December 19, 1995, by and among GST USA, Inc., the Company, the Specified Subsidiaries named therein and Morgan Stanley & Co. Incorporated, incorporated by reference to Exhibit 2.5 to the 1995 Form 20-F
- 10(i) Convertible Notes Registration Rights Agreement dated December 19, 1995, by and among GST USA, Inc., the Company, the Specified Subsidiaries named therein and Morgan Stanley & Co. Incorporated, incorporated by reference to Exhibit 2.6 to the 1995 Form 20-F
- 10(j) Agreement and Plan of Merger, dated September 27, 1996 (the "Merger Agreement"), by and among TotalNet Communications Inc. ("TotalNet"), GST Newco of Texas, Inc. and the Company, incorporated by reference to Exhibit 2.1 to the Company's Form 8-K dated October 17, 1996 (the "Form 8-K")
- 10(k) Letter dated October 17, 1996 amending the Merger Agreement among the Company, GST Newco of Texas, Inc., and TotalNet, incorporated by reference to Exhibit 2.2 to the Form 8-K
- \*10(l) Amended and Restated Master Agreement dated as of May 24, 1996, by and among Tomen America Inc., the Company, GST Telecom Inc., GST Pacific Lightwave, Inc., Pacwest Network L.L.C., Pacwest Network Inc., GST Tucson Lightwave, Inc. and GST New Mexico Lightwave, Inc.
- \*10(m) Amendment No. 2 to GST Telecommunications, Inc. Common Stock Purchase Agreement dated as of May 24, 1996, by and among the Company, Tomen America Inc. and Tomen Corporation.
- \*10(n) Credit Agreement dated as of May 24, 1996, by and between GST New Mexico Lightwave, Inc. and TM Communications LLC.
- \*10(o) Credit Agreement dated as of May 24, 1996, by and between GST Tucson Lightwave, Inc. and TM Communications LLC.
- \*10(p) Amended and Restated Consulting Agreement dated as of September 1, 1995, by and between Sunwest Ventures, Inc. and GST USA, Inc. and GST Telecom.
- \*10(q) Personal Services Agreement dated as of October 1, 1995, by and between GST USA, Inc. and GST Telecom Inc. and Stephen Irwin.
- \*10(r) Restated and Amended Employment Agreement dated as of September 1, 1995, by and between GST USA, Inc. and GST Telecom Inc. and John Warta.
- \*10(s) Restated and Amended Employment Agreement dated as of September 1, 1995, by and between GST USA, Inc. and GST Telecom Inc. and Robert H. Hanson.
- \*10(t) Amended and Restated Employment Agreement dated as of September 1, 1995, by and between GST USA, Inc. and GST Telecom Inc. and Clifford V. Sander.
- \*10(u) Agreement and Plan of Merger dated as of September 26, 1996 by and among Call America Business Communications Corporation, Call America Business Communications of Fresno, Inc., Call America Business Communications of Bakersfield, Inc., the shareholders of such companies, GST Newco of California, Inc., and the Company.
- \*10(v) Equipment Loan and Security Agreement dated December 19, 1996 by and between NTFs Capital Corporation and GST Equipco.
- \*21 Subsidiaries of the Company.
- \*23 Consent to the incorporation by reference in the Company's Registration Statements on Forms S-3 and S-8 of the independent auditors' report included herein.
- \*27 Financial Data Schedule.

\* Filed herewith.

<TABLE>  
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Consumer and  
Corporate Affairs Canada

Canada Business  
Corporations Act

ORIGINAL FORWARDED FOR  
FILING ON: APR 2 1996  
BY:

FORM 7  
RESTATED ARTICLES OF  
INCORPORATION  
(SECTION 180)

-----  
1 - Name of Corporation

GST TELECOMMUNICATIONS, INC. Corporation No. 218171-1

-----  
2 - The place in Canada where the registered office is situated

Greater Vancouver Regional District

-----  
3 - The classes and any maximum number of shares that the Corporation is authorized to issue

An unlimited number of Common Shares and 10,000,000 Preference Shares

-----  
4 - Restrictions if any on share transfers

None

-----  
5 - Number (or minimum or maximum number) of directors

Minimum of three - Maximum of 15

-----  
6 - Restrictions if any on business the corporation may carry on

None

-----  
7 - Other provisions if any

The Common Shares entitle holders to:

(a) vote at all meetings of shareholders except at meetings at which only  
holders of Preference Shares are entitled to vote;

(b) receive the remaining property of the Corporation upon dissolution or  
winding-up of the Corporation.

The Board of Directors, in their sole discretion and without further shareholder  
approval, may:

(a) divide the Preference Shares into series and to fix the number of  
shares in each series and the rights, privileges, restrictions and conditions of  
the shares in each series; and

(b) change the rights, privileges, restrictions and conditions attached to  
the unissued shares of any series of Preference Shares if none of the shares of  
that series have been issued.

The Board of Directors may appoint, between annual general meetings, up to that  
number of additional directors as is equal to one-third of the number of  
directors elected at the previous annual general meeting.

Without in any way limiting the powers conferred upon the Corporation and its  
directors by the Canada Business Corporations Act, the directors may, from time  
to time, in such amounts and on such terms as they deem expedient, charge,  
mortgage, hypothecate, pledge, or grant any form of security interest in, all or  
any of the currently owned or subsequently acquired property of the Corporation,  
real or personal, moveable or immoveable, including its undertaking, book debts,  
rights, powers and franchises, to secure any debt obligation or any money  
borrowed or other debt or liability of the Corporation.

The Corporation may purchase or otherwise acquire shares issued by it.

-----  
The foregoing restated articles of incorporation correctly set out, without  
substantive change, the corresponding provisions of the articles of  
incorporation, as amended and supercede the original articles of incorporation.

-----  
Signature  
/s/ Michael F. Provenzano

Date  
March 26, 1996

FOR DEPARTMENTAL USE ONLY -  
Filed

-----  
Description of Office  
Assistant Secretary  
=====

1 - Name of Corporation

2 - Corporation No.

GST TELECOMMUNICATIONS, INC.

218171-1

3 - The articles of the above-named corporation are amended as follows:

Replace paragraph 3 with the following:

An unlimited number of Common Shares and  
10,000,000 Preference Shares.

Replace paragraph 5 with the following:

Minimum of three - Maximum of 15.

Add to the existing paragraph 7:

The Board of Directors, in their sole discretion and without further shareholder approval, may:

(a) divide the Preference Shares into series and to fix the number of shares in each series and the rights,  
privileges, restrictions and conditions of the shares in each series;

(b) change the rights, privileges, restrictions and conditions attached to the unissued shares of any series  
of Preference Shares if none of the shares of that series have been issued:

Date  
March 26, 1996

Signature  
/s/ Michael F. Provenzano

Description of Office  
Assistant Secretary

FOR DEPARTMENTAL USE ONLY  
Filed

</TABLE>

BY-LAW NO. 1

of

GREENSTAR RESOURCES LTD.

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## BY-LAW NO. 1

A by-law relating generally to the conduct of the affairs of GREENSTAR RESOURCES LTD.

BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of GREENSTAR RESOURCES LTD. (hereinafter called the \*Corporation") as follows:

### INTERPRETATION

1. In this by-law and all other by-laws of the Corporation, unless the context otherwise specifies or requires:

(a) "Act" means the Canada Business Corporations Act, S.C. 1985, c.44 as from time to time amended and every statute that may be substituted therefor and, in the case of such substitution, any references in the by-laws of the Corporation to provisions of the Act shall be read as references to the substituted provisions therefor in the new statute or statutes;

(b) "Regulations" means the Regulations under the Act as published or from time to time amended and every regulation that may be substituted therefor and, in the case of such substitution, any references in the by-laws of the Corporation to provisions of the Regulations shall be read as references to the substituted provisions therefor in the new regulations;

(c) "by-laws" means any by-law of the Corporation from time to time in force and effect;

(d) all terms which are contained in the by-laws of the Corporation and which are defined in the Act or the Regulations shall have the meanings given to such terms in the Act or the Regulations; and

(e) the singular shall include the plural and the plural shall include the singular; the masculine shall include the feminine; and the word "person" shall include bodies corporate, corporations, companies, partnerships, syndicates, trusts and any number or aggregate of persons.

## DIRECTORS

2. Number: Subject to the articles of the Corporation and any unanimous shareholder agreement, the business and affairs of the Corporation shall be managed by a board of directors consisting of not less than one nor more than fifteen directors except if any of the issued securities of the Corporation are or were a part of a distribution to the public, the board of directors shall consist of not less than three directors, at least two of whom are not officers or employees of the Corporation or any affiliate of the Corporation.

3. Term of Office: A director's term of office (subject to the provisions, if any, of the articles of the Corporation and to the provisions of the Act) shall be from the date on which he is elected or appointed until the annual meeting next following.

4. Vacation of Office: The office of a director shall ipso facto be vacated: (a) if he becomes bankrupt or suspends payments of his debts generally or compounds with his creditors or makes an authorized assignment or is declared insolvent; (b) if he is found to be a mentally incompetent person; or (c) if by notice in writing to the Corporation he resigns his office. Any such resignation shall be effective at the time it is sent to the Corporation or at the time specified in the notice, whichever is later.

5. Election and Removal: Directors shall be elected by the shareholders on a show of hands unless a ballot is demanded in which case such election shall be by ballot. The whole board shall retire at the annual meeting at which the yearly election of directors is to take place but, if qualified, any retiring director shall be eligible for re-election provided always that the shareholders of the Corporation may, by ordinary resolution passed at a special meeting of shareholders, remove any director or directors from office and a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed.

5(a). Filling a vacancy: Subject to the Act, a quorum of the board may fill a vacancy in the board, except a vacancy resulting from an increase in the minimum number of directors or from a failure of the shareholders to elect the minimum number of directors. In the absence of a quorum of the board, or if the vacancy has arisen from a failure of the shareholders to elect the minimum number of directors, the board shall forthwith call a special meeting of shareholders to fill the vacancy. If the board fails to call such meeting or if there are no directors then in office, any shareholder may call the meeting.

6. Committee of Directors: The directors may appoint from among their, number a committee of directors and subject to section 115 of the Act may delegate to such committee any of the powers of the directors.

6(a). Alternate Directors. Any Director may by instrument in writing delivered to the Corporation appoint any person to be his alternate to act in his place at meetings of the Directors at which he is not present unless the Directors shall have reasonably disapproved the appointment of such person as an alternate Director and shall have given notice to that effect to the Director appointing the alternate Director within a reasonable time after delivery of such instrument to the Corporation. Every such alternate shall be entitled to notice of meetings of the Directors and to attend and vote as a Director at a meeting at which the person appointing him is not personally present. A person may be appointed as an alternate Director by more than one Director, and an alternate Director shall be counted separately in determining the quorum for, and having a separate vote on behalf of, each Director he is representing, in addition to being so counted and voting where he is himself a Director. Every alternate Director, if authorized by the instrument appointing them, may sign in place of the Director who appointed him resolutions submitted to the Directors to be consented to in writing as referred to in paragraph 11 of this by-law. Every alternate Director shall be deemed not to be the agent of a Director appointing him. An alternate Director shall be deemed to be a Director for all purposes of this by-Law in the performance of any function authorized under this paragraph 6(a), but shall not otherwise be deemed to be a Director or to have power to act as a Director. A Director may at any time by instrument, telegram, telex or any method of transmitting legibly recorded messages delivered to the Corporation revoke the appointment of an alternate appointed by him. An alternate Director may be repaid by the Corporation such expenses as might properly be repaid to him if he were a Director and he shall be entitled to receive from the Corporation such proportion, if any, of the remuneration otherwise payable to the Director appointing him as such Director may from time to time direct.

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#### MEETINGS OF DIRECTORS

7. Place of Meeting: Meetings of the board of directors and of the committee of directors (if any) may be held within or outside Canada.

8. Notice: A meeting of directors may be convened by the Chairman of the Board, the Vice-Chairman of the Board, the Managing Director, the President if he is a director, a Vice-President who is a director or any two directors at any time, when directed or authorized by any of such officers or any two directors, shall convene a meeting of directors. Subject to subsection 114(5) of

the Act the notice of any such meeting need not specify the purpose of or the business to be transacted at the meeting. Notice of any such meeting shall be served in the manner specified in paragraph 51 of this by-law not less than two days (exclusive of the day on which the notice is delivered or sent but inclusive of the day for which notice is given) before the meeting is to take place; provided always that a director may in any manner waive notice of a meeting of directors and attendance of a director at a meeting of directors shall constitute a waiver of notice of the meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

For the first meeting of the board of directors to be held immediately following the election of directors by the shareholders for a meeting of the board of directors at which a director is appointed to fill a vacancy in the board, no notice of such meeting shall be necessary to the newly elected or appointed director or directors in order to legally constitute the meeting, provided that a quorum of the directors is present.

9. Quorum: A majority of the directors shall form a quorum for the transaction of business and, notwithstanding any vacancy among the directors, a quorum of directors may exercise all the powers of directors. No business shall be transacted at a meeting of directors, unless a quorum of the board is present.

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A director may, if all the directors of the Corporation consent, participate in a meeting of directors or of the committee of directors (if any) by means of such telephone or other communications facilities as permit all persons participating in the meeting to hear each other and a director participating in such a meeting by such means is deemed to be present at that meeting.

10. Voting: Questions arising at any meeting of the Board of directors shall be decided by a majority of votes. In case of an equality of votes the chairman of the meeting in addition to his original vote shall not have a second or casting vote.

11. Resolution in lieu of meeting: Notwithstanding any of the foregoing provisions of this by-law a resolution in writing signed by all the directors entitled to vote on that resolution at a meeting of the directors or the committee of directors (if any) is as valid as if it had been passed at a meeting of the directors or the committee of directors (if any).

#### REMUNERATION OF DIRECTORS

12. The remuneration to be paid to the directors shall be such as the

board of directors shall from time to time determine and such remuneration shall be in addition to the salary paid to any officer or employee of the Corporation who is also a member of the board of directors. The directors may also award special remuneration to any director undertaking any special services on the Corporation's behalf other than the routine work ordinarily required of a director by the Corporation and the confirmation of any such resolution or resolutions by the shareholders shall not be required. The directors shall also be entitled to be paid their travelling and other expenses properly incurred by them in connection with the affairs of the Corporation.

#### SUBMISSION OF CONTRACTS OR TRANSACTIONS TO SHAREHOLDERS FOR APPROVAL

13. The board of directors in its discretion may submit any contract, act or transaction for approval or ratification at any annual meeting of the shareholders or at any special meeting of the shareholders called for the purpose of considering the same and, subject to the provisions of section 120 of the Act, any such contract, act or transaction that shall be approved or ratified or confirmed by a resolution passed by a majority of the votes cast at any such meeting (unless any different or additional requirement is imposed by the Act or by the Corporation's articles or any other by-law) shall be as valid and as binding upon the Corporation and upon all the shareholders as though it had been approved, ratified or confirmed by every shareholder of the Corporation.

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#### FOR THE PROTECTION OF DIRECTORS AND OFFICERS

14. In supplement of and not by way of limitation upon any rights conferred upon directors by section 120 of the Act, it is declared that no director shall be disqualified by his office from, or vacate his office by reason of, holding any office or place of profit under the Corporation or under any body corporate in which the Corporation shall be a shareholder or by reason of being otherwise in any way directly or indirectly interested or contracting with the Corporation either as vendor, purchaser or otherwise or being concerned in any contract or arrangement made or proposed to be entered into with the Corporation in which he is in any way directly or indirectly interested either as vendor, purchaser or otherwise nor shall any director be liable to account to the Corporation or any of its shareholders or creditors for any profit arising from any such office or place of profit; and, subject to the provisions of section 120 of the Act, no contract or arrangement entered into by or on behalf of the Corporation in which any director shall be in any way directly or indirectly interested shall be avoided or voidable and no director shall be liable to account to the Corporation or any of its shareholders or creditors for

any profit realized by or from any such contract or arrangement by reason of any fiduciary relationship. Subject to the provisions of section 120 of the Act, no director or officer shall be obliged to make any declaration of interest in respect of a contract or proposed contract with the Corporation in which such director or officer is in any way directly or indirectly interested nor shall any director be obliged to refrain from voting in respect of any such contract.

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15. Except as otherwise provided in the Act, no director or officer for the time being of the Corporation shall be liable for the acts, receipts, neglects or defaults of any other director or officer or employee or for joining in any receipt or act for conformity or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by the Corporation or for or on behalf of the Corporation or for the insufficiency or deficiency of any security in or upon which any of the moneys of or belonging to the Corporation shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation including any person, firm or corporation with whom or which any moneys, securities or effects shall be lodged or deposited or for any loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with any moneys, securities or other assets belonging to the Corporation or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of his respective office or trust or in relation thereto unless the same shall happen by or through his failure to exercise the powers and to discharge the duties of his office honestly and in good faith with a view to the best interests of the Corporation and in connection therewith to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The directors for the time being of the Corporation shall not be under any duty or responsibility in respect of any contract, act or transaction whether or not made, done or entered into in the name or on behalf of the Corporation, except such as shall have been submitted to and authorized or approved by the board of directors. If any director or officer of the Corporation shall be employed by or shall perform services for the Corporation otherwise than as a director or officer or shall be a member of a firm or a shareholder, director or officer of a company which is employed by or performs services for the Corporation, the fact of his being a director or officer of the Corporation shall not disentitle such director or officer or such firm or company, as the case may be, from receiving proper remuneration for such services.

#### INDEMNITIES TO DIRECTORS AND OFFICERS

16. Subject to section 124 of the Act, every director and officer of the Corporation and his heirs, executors, administrators and other legal

personal representatives, shall from time to time be indemnified and saved harmless by the Corporation from and against,

(a) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him for or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

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(b) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the Corporation.

#### OFFICERS

17. Appointment: The board of directors shall annually or as often as may be required appoint a President and a Secretary and, if deemed advisable, may annually or as often as may be required appoint a Chairman of the Board, a Vice-Chairman of the Board, a Managing Director, one or more Vice-Presidents, a Treasurer, one or more Assistant Secretaries and/or one or more Assistant Treasurers. A Director may be appointed to any office of the Corporation but none of the officers except the Chairman of the Board, the Vice-Chairman of the Board and the Managing Director need be a member of the board of directors. Two or more of the aforesaid offices may be held by the same person. In case and whenever the same person holds the offices of Secretary and Treasurer he may but need not be known as the Secretary-Treasurer. The board may from time to time appoint such other officers and agents as it shall deem necessary who shall have such authority and shall perform such duties as may from time to time be prescribed by the board of directors.

18. Remuneration and Removal: The remuneration of all officers appointed by the board of directors shall be determined from time to time by resolution of the board of directors. The fact that any officer or employee is a director or shareholder of the Corporation shall not disqualify him from receiving such remuneration as may be determined. All officers, in the absence of agreement to the contrary, shall be subject to removal by resolution of the board of directors at any time, with or without cause.

19. Powers and Duties: All officers shall sign such contracts, documents or instruments in writing as require their respective signatures and shall respectively have and perform all powers and duties incident to their respective offices and such other powers and duties respectively as may from time to time be assigned to them by the board.

20. Duties may be delegated: In case of the absence or inability to act of any officer of the Corporation except the Managing Director or for any other reason that the board of directors may deem sufficient the board of directors may delegate all or any of the powers of such officer to any other officer or to any director for the time being.

21. Chairman of the Board: The Chairman of the Board (if any) shall, when present, preside at all meetings of the board of directors, the committee of directors (if any) and the shareholders.

22. Vice-Chairman of the Board: If the Chairman of the Board is absent or is unable or refuses to act, the Vice-Chairman of the Board (if any) shall, when present, preside at all meetings of the board of directors, the committee of directors (if any) and the shareholders.

23. Managing Director: The Managing Director shall be a resident Canadian and shall exercise such powers and have such authority as may be delegated to him by the board of directors in accordance with the provisions of section 115 of the Act.

24. President: The President shall be the chief executive officer of the Corporation. He shall be vested with and may exercise all the powers and shall perform all the duties of the Chairman of the Board and/or Vice-Chairman of the Board if none be appointed or if the Chairman of the Board and the Vice-Chairman of the Board are absent or are unable or refuse to act; provided, however, that unless he is a director he shall not preside as chairman at any meeting of directors or of the committee of directors (if any) or, subject to paragraph 37 of this by-law, at any meeting of shareholders.

25. Vice-President: The Vice-President or, if more than one, the Vice-Presidents, in order of seniority, shall be vested with all the powers and shall perform all the duties of the President in the absence or inability or refusal to act of the President; provided, however, that a Vice-President who is not a director shall not preside as chairman at any meeting of directors or of the committee of directors (if any) or, subject to paragraph 37 of this by-law, at any meeting of shareholders.

26. Secretary: The Secretary shall give or cause to be given notices for all meetings of the board of directors, the committee of directors (if any) and the shareholders when directed to do so and shall have charge of the minute books of the Corporation and, subject to the provisions of paragraph 43 of this by-law, of the records (other than accounting records) referred to in section 20 of the Act.

27. Treasurer: Subject to the provisions of any resolution of the board of directors, the Treasurer shall have the care and custody of all the funds and securities of the Corporation and shall deposit the same in the name of the Corporation in such bank or banks or with such other depository or depositories as the board of directors may direct. He shall keep or cause to be kept the accounting records referred to in section 20 of the Act. He may be required to give such bond for the faithful performance of his duties as the board of directors in its uncontrolled discretion may require but no director shall be liable for failure to require any such bond or for the insufficiency of any such bond or for any loss by reason of the failure of the Corporation to receive any indemnity thereby provided.

28. Assistant Secretary and Assistant Treasurer: The Assistant Secretary or, if more than one, the Assistant Secretaries in order of seniority, and the Assistant Treasurer or, if more than one, the Assistant Treasurers in order of seniority, shall respectively perform all the duties of the Secretary and the Treasurer, respectively, in the absence or inability or refusal to act of the Secretary or the Treasurer, as the case may be.

29. General Manager or Manager: The board of directors may from time to time appoint one or more General Managers or Managers and may delegate to him or them full powers to manage and direct the business and affairs of the Corporation (except such matters and duties as by-law must be transacted or performed by the board of directors and/or by the shareholders) and to employ and discharge agents and employees of the Corporation or may delegate to him or them any lesser authority. A General Manager or Manager shall conform to all lawful orders given to him by the board of directors of the Corporation and shall at all reasonable times give to the directors or any of them all information they may require regarding the affairs of the Corporation. Any agent or employee appointed by a General Manager or Manager shall be subject to discharge by the board of directors.

30. Vacancies: If the office of any officer of the Corporation shall be or become vacant by reason of death, resignation, disqualification or otherwise, the directors by resolution shall, in the case of the President or the Secretary, and may, in the case of any other office, appoint a person to fill such vacancy.

#### SHAREHOLDERS ' MEETINGS

31. Annual Meeting: Subject to the provisions of section 132 of the Act, the annual meeting of the shareholders shall be held on such day in each year and at such time as the directors may by resolution determine at any place within Canada or, if all the shareholders entitled to vote at such meeting so agree, outside Canada.

32. Special Meetings: Special meetings of the shareholders may be convened by order of the Chairman of the Board, the Vice-Chairman of the Board, the Managing Director, the President if he is a director, a Vice-President who is a director or by the board of directors at any date and time and at any place within Canada or, if all the shareholders entitled to vote at such meeting so agree, outside Canada.

33. Notice: A printed, written or typewritten notice stating the day, hour and place of meeting shall be given by serving such notice on each shareholder entitled to vote at such meeting, on each director and on the auditor of the Corporation in the manner specified in paragraph 51 of this by-law, not less than twenty-one days or more than fifty days (in each case exclusive of the day on which the notice is delivered or sent and of the day for which notice is given) before the date of the meeting. Notice of a meeting at which special business is to be transacted shall state (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon, and (b) the text of any special resolution to be submitted to the meeting.

34. Waiver of Notice: A shareholder and any other person entitled to attend a meeting of shareholders may in any manner waive notice of a meeting of shareholders and attendance of any such person at a meeting of shareholders shall constitute a waiver of notice of the meeting except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

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35. Omission of Notice: The accidental omission to give notice of any meeting or any irregularity in the notice of any meeting or the non-receipt of any notice by any shareholder or shareholders, director or directors or the auditor of the Corporation shall not invalidate any resolution passed or any proceedings taken at any meeting of shareholders.

36. Votes: Every question submitted to any meeting of shareholders shall be decided in the first instance by a show of hands unless a person entitled to vote at the meeting has demanded a ballot and in the case of an equality of votes the chairman of the meeting shall neither on a show of hands nor on a ballot have a second or casting vote in addition to the vote or votes

to which he may be otherwise entitled.

At any meeting unless a ballot is demanded, a declaration by the chairman of the meeting that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact.

In the event that the Chairman of the Board and the Vice-Chairman of the Board are absent and the President is absent or is not a director and there is no Vice-President present who is a director, the persons who are present and entitled to vote shall choose another director as chairman of the meeting and if no director is present or if all the directors present decline to take the chair then the persons who are present and entitled to vote shall choose one of their number to be chairman.

A ballot may be demanded either before or after any vote by show of hands by any person entitled to vote at the meeting. If at any meeting a ballot is demanded on the election of a chairman or on the question of adjournment it shall be taken forthwith without adjournment. If at any meeting a ballot is demanded on any other question or as to the election of directors, the vote shall be taken by ballot in such manner and either at once, later in the meeting or after adjournment as the chairman of the meeting directs. The result of a ballot shall be deemed to be the resolution of the meeting at which the ballot was demanded. A demand for a ballot may be withdrawn.

Where two or more persons hold the same share or shares jointly one of those holders present at a meeting of shareholders may, in the absence of the other or others, vote the share or shares but if two or more of those persons who are present, in person or by proxy, vote, they shall vote as one on the share or shares jointly held by them.

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37. Proxies: Votes at meetings of shareholders may be given either personally or by proxy or, in the case of a shareholder who is a body corporate or association, by an individual authorized by a resolution of the board of directors or governing body of the body corporate or association to represent it at meetings of shareholders of the Corporation. At every meeting at which he is entitled to vote, every shareholder and/or person appointed by proxy and/or individual so authorized to represent a shareholder who is present in person shall have one vote on a show of hands. Upon a ballot at which he is entitled to vote, every shareholder present in person or represented by proxy or by an individual so authorized shall (subject to the provisions, if any, of the articles of the Corporation) have one vote for every share held by him.

A proxy shall be executed by the shareholder or his attorney authorized in writing and is valid only at the meeting in respect of which it is given or any adjournment thereof.

A person appointed by proxy need not be a shareholder.

Subject to the provisions of Part IV of the Regulations, a proxy may be in the following form:

The undersigned shareholder of.....  
..... hereby  
appoints..... of  
....., or failing him,  
..... of  
..... as the nominee  
of the undersigned to attend and act for the undersigned  
and on behalf of the undersigned at the  
.....  
meeting of the shareholders of the said Corporation to be  
held on the ..... day of..... 19 ... and at any  
adjournment or adjournments thereof in the same manner, to  
the same extent and with the same powers as if the  
undersigned were present at the said meeting or such  
adjournment or adjournments thereof.

DATED this ..... day of ....., 19 ...

.....  
Signature of Shareholder

The directors may from time to time make regulations regarding the lodging of proxies at some place or places other than the place at which a meeting or adjourned meeting of shareholders is to be held and for particulars of such proxies to be cabled or telegraphed or sent by telex or in writing before the meeting or adjourned meeting to the Corporation or any agent of the Corporation for the purpose of receiving such particulars and providing that proxies so lodged may be voted upon as though the proxies themselves were produced at the meeting or adjourned meeting and votes given in accordance with such regulations shall be valid and shall be counted. The chairman of any meeting of shareholders may, subject to any regulations made as aforesaid, in his discretion accept telegraphic or cable or telex or written communication as to the authority of any person claiming to vote on behalf of and to represent a shareholder notwithstanding that no proxy conferring such authority has been lodged with the Corporation, and any votes given in accordance with such telegraphic or cable or telex or written communication accepted by the chairman

of the meeting shall be valid and shall be counted.

38. Adjournment: The chairman of any meeting may with the consent of the meeting adjourn the same from time to time to a fixed time and place and no notice of such adjournment need to given to the shareholders unless the meeting is adjourned by one or more adjournments for an aggregate of thirty days or more in which case notice of the adjourned meeting shall be given as for an original meeting. Any business may be brought before or dealt with at any adjourned meeting for which no notice is required which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

39. Quorum: A quorum at any meeting of shareholders (unless a greater number of persons are required to be present or a greater number of shares are required to be represented by the Act or by the articles or any other by-law) shall be persons present not being less than two in number and holding or representing not less than five per cent of the total number of the issued shares of the Corporation for the time being enjoying voting rights at such meeting. No business shall be transacted at any meeting unless the requisite quorum be present at the time of the transaction of such business. If a quorum is not present at the opening of a meeting of shareholders, the persons present and entitled to vote may adjourn the meeting to a fixed time and place but may not transact any other business.

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40. Resolution in lieu of meeting: Notwithstanding any of the foregoing provisions of this by-law a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of the shareholders is, subject to section 142 of the Act, as valid as if it had been passed at a meeting of the shareholders.

#### SHARES

41. Allotment and Issuance: Subject to the provisions of section 25 of the Act, shares in the capital of the Corporation may be allotted and issued by resolution of the board of directors at such times and on such terms and conditions and to such persons or class of persons as the board of directors determines.

42. Certificates: Share certificates and the form of stock transfer power on the reverse side thereof shall (subject to section 49 of the Act) be in such form as the board of directors may by resolution approve and such certificates shall be signed by the Chairman of the Board or the Vice-Chairman of the Board or the Managing Director or the President or a Vice-President and

the Secretary or an Assistant Secretary holding office at the time of signing.

The signature of the Chairman of the Board, the Vice-Chairman of the Board, the Managing Director, the President or a Vice-President may be printed, engraved, lithographed or otherwise mechanically reproduced upon certificates for shares of the Corporation. Certificates so signed shall be deemed to have been manually signed by the Chairman of the Board, the Vice-Chairman of the Board, the Managing Director, the President or the Vice-President whose signature is so printed, engraved, lithographed or otherwise mechanically reproduced thereon and shall be as valid to all intents and purposes as if they have been signed manually. Where the Corporation has appointed a registrar, transfer agent or branch transfer agent for the shares (or for the shares of any class or classes) of the Corporation the signature of the Secretary or Assistant Secretary may also be printed, engraved, lithographed or otherwise mechanically reproduced on certificates representing the shares (or the shares of the class or classes in respect of which any such appointment has been made) of the Corporation and when countersigned by or on behalf of a registrar, transfer agent or branch transfer agent such certificates so signed shall be as valid to all intents and purposes as if they had been signed manually. A share certificate containing the signature of a person which is printed, engraved, lithographed or otherwise mechanically reproduced thereon may be issued notwithstanding that the person has ceased to be an officer of the Corporation and shall be as valid as if he were an officer at the date of its issue.

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42(a). If a share certificate

(i) is worn out or defaced, the Directors shall, upon production to them of the said certificate and upon such other terms, if any, as they may think fit, order the said certificate to be cancelled and shall issue a new certificate in lieu thereof;

(ii) is lost, stolen or destroyed, then, upon proof thereof to the satisfaction of the Directors and upon such indemnity, if any, as the Directors deem adequate being given, a new share certificate in lieu thereof shall be issued to the person entitled to such lost, stolen or destroyed certificate; or

(iii) represents more than one share and the registered owner thereof surrenders it to the Corporation with a written request that the Corporation issue in his name two or more certificates each representing a specified number of shares and in the aggregate representing the same number of shares as the certificate so surrendered, the Corporation shall cancel the certificate so surrendered and issue in lieu thereof certificates in accordance with such request.

Such sum as the Directors may from time to time fix shall be paid to the Corporation for each certificate to be issued as aforesaid.

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#### TRANSFER OF SECURITIES

43. Transfer Agent and Registrar: The directors may from time to time by resolution appoint or remove one or more transfer agents and/or branch transfer agents and/or registrars and/or branch registrars (which may or may not be the same individual or body corporate) for the securities issued by the Corporation in registered form (or for such securities of any class or classes) and may provide for the registration of transfers of such securities (or such securities of any class or classes) in one or more places and such transfer agents and/or branch transfer agents and/or registrars and/or branch registrars shall keep all necessary books and registers of the Corporation for the registering of such securities (or such securities of the class or classes in respect of which any such appointment has been made). In the event of any such appointment in respect of the shares (or the shares of any class or classes) of the Corporation, all share certificates issued by the Corporation in respect of the shares (or the shares of the class or classes in respect of which and such appointment has been made) of the Corporation shall be countersigned by or on behalf of one of the said transfer agents and/or branch transfer agents and by or on behalf of one of the said registrars and/or branch registrars, if any.

44. Securities Registers: A central securities register of the Corporation shall be kept at the registered office of the Corporation or at such other office or place in Canada as may from time to time be designated by resolution of the board of directors and a branch securities register or registers may be kept at such office or offices of the Corporation or other place or places, either in or outside Canada, as may from time to time be designated by resolution of the directors.

45. Surrender of Certificates: Subject to subparagraph 42(a)(ii) of this by-law no transfer of shares shall be recorded or registered unless or until the certificate representing the shares to be transferred has been surrendered and cancelled.

46. Shareholder indebted to the Corporation: If so provided in the articles of the Corporation, the Corporation has a lien on a share registered in the name of a shareholder or his legal representative for a debt of that shareholder to the Corporation. By way of enforcement of such lien the directors may refuse to permit the registration of a transfer of such share.

47. The directors may from time to time by resolution declare and the Corporation may pay dividends on the issued and outstanding shares in the capital of the Corporation subject to the provisions (if any) of the articles of the Corporation.

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In case several persons are registered as the joint holders of any shares, any one of such Persons may give effectual receipts for all dividends and payments on account of dividends and/or redemption of shares (if any) subject to redemption.

#### VOTING SHARES AND SECURITIES IN OTHER COMPANIES

48. All of the shares or other securities carrying voting rights of any other body corporate held from time to time by the Corporation may be voted at any and all meetings of shareholders, bondholders, debenture holders or holders of other securities (as the case may be) of such other body corporate and in such manner and by such person or persons as the board of directors of the Corporation shall from time to time determine. The proper signing officers of the Corporation may also from time to time execute and deliver for and on behalf of the Corporation proxies and/or arrange for the issuance of voting certificates and/or other evidence of the right to vote in such names as they may determine without the necessity of a resolution or other action by the board of directors.

#### INFORMATION AVAILABLE TO SHAREHOLDERS

49. Except as provided by the Act, no shareholder shall be entitled to discovery of any information respecting any details or conduct of the Corporation's business which in the opinion of the directors it would be inexpedient in the interests of the Corporation to communicate to the public.

50. The directors may from time to time, subject to rights conferred by the Act, determine whether and to what extent and at what time and place and under what conditions or regulations the documents, books and registers and accounting records of the Corporation or any of them shall be open to the inspection of shareholders and no shareholder shall have any right to inspect any document or book or register or accounting record of the Corporation except as conferred by statute or authorized by the board of directors or by a resolution of the shareholders.

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## NOTICES

51. Service: Any notice or other document required by the Act, the Regulations, the articles or the by-laws to be sent to any shareholder or director or to the auditor shall be delivered personally or sent by prepaid mail or by telegram or cable or telex to any such shareholder at his latest address as shown in the records of the Corporation or its transfer agent and to any such director at his latest address as shown in the records of the Corporation or in the last notice filed under section 106 or 113 of the Act, and to the auditor at his business address; provided always that notice may be waived or the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto. If a notice or document is sent to a shareholder by prepaid mail in accordance with this paragraph and the notice or document is returned on three consecutive occasions because the shareholder cannot be found it shall not be necessary to send any further notices or documents to the shareholder until he informs the Corporation in writing of his new address.

52. Shares registered in more than one name: All notices or other documents with respect to any shares registered in more than one name shall be given to whichever of such persons is named first in the records of the Corporation and any notice or other document so given shall be sufficient notice or delivery to all the holders of such shares.

53. Persons becoming entitled to operation of law: Subject to section 51 of the Act, every person who by operation of law, transfer or by any other means whatsoever shall become entitled to any share or shares shall be bound by every notice or other document in respect of such share or shares which, previous to his name and address being entered in the records of the Corporation, shall be duly given to the person or persons from whom he derives his title to such share or shares.

54. Deceased Shareholders: Subject to section 51 of the Act, any notice or other document delivered or sent by post, telegram or telex or left at the address of any shareholder as the same appears in the records of the Corporation shall, notwithstanding that such shareholder be then deceased, and whether or not the Corporation has notice of his decease, be deemed to have been duly served in respect of the shares held by such shareholder (whether held solely or with any other person or persons) until some other person be entered in his stead in the records of the Corporation as the holder or one of the holders thereof and such service shall for all purposes be deemed a sufficient service of such notice or document on his heirs, executors or administrators and on all persons, if any, interested with him in such shares.

55. Signature to notices: The signature of any director or officer of the Corporation to any notice or document to be given by the Corporation may be written, stamped, typewritten or printed or partly written, stamped, typewritten or printed.

56. Computation of time: Where a given number of days' notice or notice extending over a period is required to be given under any provisions of the articles or by-laws of the Corporation the day of service or posting of the notice or document shall, unless it is otherwise provided, be counted in such number of days or other period.

57. Proof of service: With respect to every notice or other document sent by post it shall be sufficient to prove that the envelope or wrapper containing the notice or other document was properly addressed as provided in paragraph 51 of this by-law and put into a post office or into a letter box. A certificate of an officer of the Corporation in office at the time of the making of the certificate or of a transfer officer of any transfer agent or branch transfer agent of shares of any class of the Corporation as to facts in relation to the sending or delivery of any notice or other document to any shareholder, director, officer or auditor or publication of any notice or other document shall be conclusive evidence thereof and shall be binding on every shareholder, director, officer or auditor of the Corporation as the case may be.

#### CHEQUES, DRAFTS AND NOTES

58. All cheques, drafts or orders for the payment of money and all notes and acceptances and bills of exchange shall be signed by such officer or officers or person or persons, whether or not officers of the Corporation, and in such manner as the board of directors may from time to time designate by resolution.

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#### CUSTODY OF SECURITIES

59. All shares and securities owned by the Corporation shall be lodged (in the name of the Corporation) with a chartered bank or trust company or in a safety deposit box or, if so authorized by resolution of the board of directors, with such other depositaries or in such other manner as may be determined from time to time by the board of directors.

All share certificates, bonds, debentures, notes or other obligations belonging to the Corporation may be issued or held in the name of a nominee or nominees of the Corporation (and if issued or held in the names of more than one nominee shall be held in the names of the nominees jointly with the right of survivorship) and shall be endorsed in blank with endorsement guaranteed in

order to enable transfer to be completed and registration to be effected.

#### EXECUTION OF INSTRUMENTS

60. Contracts, documents or instruments in writing requiring the signature of the Corporation may be signed by:

(a) The Chairman of the Board, the Vice-Chairman of the Board, the Managing Director, the President or a Vice-President together with the Secretary or the Treasurer, or

(b) any two directors

and all contracts, documents and instruments in writing so signed shall be binding upon the Corporation without any further authorization or formality. The board of directors shall have power from time to time by resolution to appoint any officer or officers, or any person or persons, on behalf of the Corporation either to sign contracts, documents and instruments in writing generally or to sign specific contracts, documents or instruments in writing.

The corporate seal (if any) of the Corporation may be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or officers, person or persons, appointed as aforesaid by resolution of the board of directors, but any such contract, document or instrument is not invalid merely because the corporate seal is not affixed thereto.

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The term "contracts, documents or instruments in writing" as used in this by-law shall include deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments of property real or personal, immovable or movable, agreements, releases, receipts and discharges for the payment of money or other obligations, conveyances, transfers and assignments of shares, share warrants, stocks, bonds, debentures or other securities and all paper writings.

In particular without limiting the generality of the foregoing

(a) The Chairman of the Board, the Vice-Chairman of the Board, the Managing Director, the President or a Vice-President together with the Secretary or the Treasurer, or

(b) any two directors

shall have authority to sell, assign, transfer, exchange, convert or convey any and all shares, stocks, bonds, debentures, rights, warrants or other

securities owned by or registered in the name of the Corporation and to sign and execute (under the seal of the Corporation or otherwise) all assignments, transfers, conveyances, powers of attorney and other instruments that may be necessary for the purpose of selling, assigning, transferring, exchanging, converting or conveying any such shares, stocks, bonds, debentures, rights, warrants or other securities.

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The signature or signatures of the Chairman of the Board, the Vice-Chairman of the Board, the Managing Director, the President, a Vice-President, the Secretary, the Treasurer, an Assistant Secretary or an Assistant Treasurer or any director of the Corporation and/or of any other officer or officers, person or persons, appointed as aforesaid by resolution of the board of directors may, if specifically authorized by resolution of the directors, be printed, engraved, lithographed or otherwise mechanically reproduced upon any contracts, documents or instruments in writing or bonds, debentures or other securities of the Corporation executed or issued by or on behalf of the Corporation and all contracts, documents or instruments in writing or bonds, debentures or other securities of the Corporation on which the signature or signatures of any of the foregoing officers or persons authorized as aforesaid shall be so reproduced pursuant to special authorization by resolution of the directors shall be deemed to have been manually signed by such officers or persons whose signature or signatures is or are so reproduced and shall be as valid to all intents and purposes as if they had been signed manually and notwithstanding that the officers or persons whose signature or signatures is or are so reproduced may have ceased to hold office at the date of the delivery or issue of such contracts, documents or instruments in writing or bonds, debentures or other securities of the Corporation.

#### FINANCIAL YEAR

61. The financial year of the Corporation shall terminate on such date in each year as the directors may from time to time by resolution determine.

ENACTED this 29th day of April, 1987.

(WITNESS the corporate seal of the Corporation).

Corporate  
Seal

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President

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Secretary

GST TELECOMMUNICATIONS, INC.

1995 STOCK OPTION PLAN

1. Purpose of the Plan.

This 1995 Stock Option Plan (the "Plan") is intended as an incentive, to retain in the employ of and as consultants and advisors to GST TELECOMMUNICATIONS, INC., a Canadian corporation with its principal office at 4317 N.E. Thurston Way, Vancouver, Washington 98662 (the "Company") and any Subsidiary of the Company, within the meaning of Section 425(f) of the United States Internal Revenue Code of 1986, as amended (the "Code"), persons of training, experience and ability, to attract new employees, directors, advisors and consultants whose services are considered valuable, to encourage the sense of proprietorship and to stimulate the active interest of such persons in the development and financial success of the Company and its Subsidiaries.

It is further intended that certain options granted pursuant to the Plan shall constitute incentive stock options within the meaning of Section 422 of the Code (the "Incentive Options") while certain other options granted pursuant to the Plan shall be nonqualified stock options (the "Nonqualified Options"). Incentive Options and Nonqualified Options are hereinafter referred to collectively as "Options."

2. Administration of the Plan.

The Board of Directors of the Company (the "Board") shall appoint and maintain as administrator of the Plan a Committee (the "Committee"), which shall serve at the pleasure of the Board. The Committee, subject to Sections 3 and 5 hereof, shall have full power and authority to designate recipients of Options, to determine the terms and conditions of respective Option agreements (which need not be identical) and to interpret the provisions and supervise the administration of the Plan. The Committee shall have the authority, without limitation, to designate which Options granted under the Plan shall be Incentive Options and which shall be Nonqualified Options. To the extent any Option does not qualify as an Incentive Option, it shall constitute a separate Nonqualified Option.

Subject to the provisions of the Plan, the Committee shall interpret the Plan and all Options granted under the Plan, shall make such rules as it deems necessary for the proper administration of the Plan, shall make all other determinations necessary or advisable for the administration of the Plan and shall correct any defects or supply any omission or reconcile any inconsistency in the Plan or in any Options granted under the Plan in the manner and to the extent that the Committee deems desirable to carry into effect the Plan or any

Options. The act or determination of a majority of the Committee shall be the act or determination of the Committee and any decision reduced to writing and signed by all of the members of the Committee shall be fully effective as if it had been made by a majority at a meeting duly held. Subject to the provisions of the Plan, any action taken or determination made by the Committee pursuant to this and the other Sections of the Plan shall be conclusive on all parties.

### 3. Designation of Optionees.

The persons eligible for participation in the Plan as recipients of Options (the "Optionees") shall include employees, officers and directors of, and consultants and advisors to, the Company or any Subsidiary; provided that Incentive Options may only be granted to employees of the Company and the Subsidiaries. In selecting Optionees, and in determining the number of shares to be covered by each Option granted to Optionees, the Committee may consider the office or position held by the Optionee or the Optionee's relationship to the Company, the Optionee's degree of responsibility for and contribution to the growth and success of the Company or any Subsidiary, the Optionee's length of service, age, promotions, potential and any other factors that the Committee may consider relevant. An Optionee who has been granted an Option hereunder may be granted an additional Option or Options, if the Committee shall so determine.

### 4. Stock Reserved for the Plan.

Subject to adjustment as provided in Section 7 hereof, a total of 1,750,000 shares of the Company's Common Shares (the "Stock") shall be subject to the Plan. The shares of Stock subject to the Plan shall consist of unissued shares or previously issued shares held by any Subsidiary of the Company, and such amount of shares of Stock shall be and is hereby reserved for such purpose. Any of such shares of Stock that may remain unsold and that are not subject to outstanding Options at the termination of the Plan shall cease to be reserved for the purposes of the Plan, but until termination of the Plan the Company shall at all times reserve a sufficient number of shares of Stock to meet the requirements of the Plan. Should any Option expire or be cancelled prior to its exercise in full or should the number of shares of Stock to be delivered upon the exercise in full of an Option be reduced for any reason, the shares of Stock theretofore subject to such Option may be subject to future Options under the Plan.

### 5. Terms and Conditions of Options.

Options granted under the Plan shall be subject to the following conditions and shall contain such additional terms and conditions, not inconsistent with the terms of the Plan, as the Committee shall deem desirable:

(a) Option Price. The purchase price of each share of Stock purchasable under an Incentive Option shall be determined by the Committee at the time of grant, but shall not be less than 100% of the Fair Market Value (as defined below) of such share of Stock on the date the Option is granted; provided, however, that with respect to an Optionee who, at the time such Incentive Option is granted, owns (within the meaning of Section 424(d) of the Code) more than 10% of the total combined voting power of all classes of stock of the Company or of any Subsidiary, the purchase price per share of Stock shall be at least 110% of the Fair Market Value per share of Stock on the date of grant. The purchase price of each share of Stock purchasable under a Nonqualified Option shall not be less than 80% of the Fair Market Value of such share of Stock on the date the Option is granted; provided, however, that an Optionee who is a Canadian taxpayer may require that any Nonqualified Option granted to him provide for the purchase of shares of Stock upon exercise thereof at a price equal to the Fair Market Value per share of Stock on the date of grant. The exercise price for each Option shall be subject to adjustment as provided in Section 7 below. Fair Market Value means the closing price of publicly traded shares of Stock on the principal United States securities exchange on which shares of Stock are listed (if the shares of Stock are so listed), or on the NASDAQ Stock Market (if the shares of Stock are regularly quoted on the NASDAQ Stock Market), or, if not so listed or regularly quoted, the mean between the closing bid and asked prices of publicly traded shares of Stock in the over-the-counter market, or, if such bid and asked prices shall not be available, as reported by any nationally recognized quotation service selected by the Company, or as determined by the Committee in a manner consistent with the provisions of the Code. Anything in this Section 5(a) to the contrary notwithstanding, in no event shall the purchase price of a share of Stock be less than the minimum price permitted under rules and policies of the American Stock Exchange and the Vancouver Stock Exchange.

(b) Option Term. The term of each Option shall be fixed by the Committee, but no Option shall be exercisable more than five years after the date such Option is granted.

(c) Exercisability. Subject to Section 5(j) hereof, Options shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Committee at the time of grant, provided, however, that no Option shall be exercisable until at least six months have elapsed after the date of grant of such Option.

(d) Method of Exercise. Options to the extent then exercisable may be exercised in whole or in part at any time during the option period, by giving written notice to the Company specifying the number of shares of Stock to be purchased, accompanied by payment in full of the purchase price, in cash, by check or such other instrument as may be acceptable to

the Committee. As determined by the Committee, in its sole discretion, at or after grant, payment in full or in part may also be made in the form of Stock owned by the Optionee (based on the Fair Market Value of the Stock on the trading day before the Option is exercised). An Optionee shall have the right to dividends and other rights of a stockholder with respect to shares of Stock purchased upon exercise of an Option after (i) the Optionee has given written notice of exercise and has paid in full for such shares and (ii) becomes a stockholder of record with respect thereto.

(e) Non-transferability of Options. Options are not transferable and may be exercised solely by the Optionee during his lifetime or after his death by the person or persons entitled thereto under his will or the laws of descent and distribution. Any attempt to transfer, assign, pledge or otherwise dispose of, or to subject to execution, attachment or similar process, any Option contrary to the provisions hereof shall be void and ineffective and shall give no right to the purported transferee.

(f) Termination by Death. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of death, the Option may thereafter be exercised, to the extent then exercisable (or on such accelerated basis as the Committee shall determine at or after grant), by the legal representative of the estate or by the legatee of the Optionee under the will of the Optionee, for a period of one year after the date of such death or until the expiration of the stated term of such Option as provided under the Plan, whichever period is shorter.

(g) Termination by Reason of Disability. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of total and permanent disability, any Option held by such Optionee may thereafter be exercised, to the extent it was exercisable at the time of termination due to Disability (or on such accelerated basis as the Committee shall determine at or after grant), but may not be exercised after 30 days after the date of such termination of employment or service or the expiration of the stated term of such Option, whichever period is shorter; provided, however, that, if the Optionee dies within such 30 day period, any unexercised Option held by such Optionee shall thereafter be exercisable to the extent to which it was exercisable at the time of death for a period of one year after the date of such death or for the stated term of such Option, whichever period is shorter.

(h) Termination by Reason of Retirement. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of Normal or Early

Retirement (as such terms are defined below), any Option held by such Optionee may thereafter be exercised to the extent it was exercisable at the time of such Retirement (or on such accelerated basis as the Committee shall determine at or after grant), but may not be exercised after 30 days after the date of such termination of employment or service or the expiration of the stated term of such Option, whichever period is shorter; provided, however, that, if the Optionee dies within such 30 day period, any unexercised Option held by such Optionee shall thereafter be exercisable, to the extent to which it was exercisable at the time of death, for a period of one year after the date of such death or for the stated term of such Option, whichever period is shorter.

For purposes of this paragraph (h), Normal Retirement shall mean retirement from active employment with the Company or any Subsidiary on or after the normal retirement date specified in the applicable Company or Subsidiary pension plan or if no such pension plan, age 65. Early Retirement shall mean retirement from active employment with the Company or any Subsidiary pursuant to the early retirement provisions of the applicable Company or Subsidiary pension plan or if no such pension plan, age 55.

(i) Other Termination. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates for any reason other than death, Disability or Normal or Early Retirement, the Option shall thereupon terminate, except that the portion of any Option that was exercisable on the date of such termination of employment may be exercised for the lesser of 30 days after the date of termination or the balance of such Option's term if the Optionee's employment or service with the Company or any Subsidiary is terminated by the Company or such Subsidiary without cause (the determination as to whether termination was for cause to be made by the Committee). The transfer of an Optionee from the employ of the Company to a Subsidiary, or vice versa, or from one Subsidiary to another, shall not be deemed to constitute a termination of employment for purposes of the Plan.

(j) Limit on Value of Incentive Option. The aggregate Fair Market Value, determined as of the date the Incentive Option is granted, of Stock for which Incentive Options are exercisable for the first time by any Optionee during any calendar year under the Plan (and/or any other stock option plans of the Company or any Subsidiary) shall not exceed \$100,000.

(k) Transfer of Incentive Option Shares. The stock option agreement evidencing any Incentive Options granted under this Plan shall provide that if the Optionee makes a disposition, within the meaning of Section 424(c) of the Code and regulations promulgated thereunder, of any share or shares of Stock issued to him upon exercise of an Incentive Option granted under

the Plan within the two-year period commencing on the day after the date of the grant of such Incentive Option or within a one-year period commencing on the day after the date of transfer of the share or shares to him pursuant to the exercise of such Incentive Option, he shall, within 10 days after such disposition, notify the Company thereof and immediately deliver to the Company any amount of United States federal income tax withholding required by law.

(1) Limitation on Options Held by One Person. The aggregate number of shares of Stock subject to options held by any one person shall not exceed that number of shares as equals 5% of the outstanding shares of the Company.

#### 6. Term of Plan.

No Option shall be granted pursuant to the Plan on or after January 10, 2005, but Options theretofore granted may extend beyond that date.

#### 7. Capital Change of the Company.

In the event of any merger, reorganization, consolidation, recapitalization, stock dividend, or other change in corporate structure affecting the Stock, the Committee shall make an appropriate and equitable adjustment in the number and kind of shares reserved for issuance under the Plan and in the number and option price of shares subject to outstanding Options granted under the Plan, to the end that after such event each Optionee's proportionate interest shall be maintained as immediately before the occurrence of such event.

#### 8. Purchase for Investment.

Unless the Options and shares covered by the Plan have been registered under the United States Securities Act of 1933, as amended (the "Securities Act"), or the Company has determined that such registration is unnecessary, each person exercising an Option under the Plan may be required by the Company to give a representation in writing that he is acquiring the shares for his own account for investment and not with a view to, or for sale in connection with, the distribution of any part thereof.

#### 9. Taxes.

The Company may make such provisions as it may deem appropriate, consistent with applicable law, in connection with any Options granted under the Plan with respect to the withholding of any United States or Canadian taxes or any other tax matters.

#### 10. Effective Date of Plan.

The Plan shall be effective on January 10, 1995, provided however that the Plan shall subsequently be approved by majority vote of the Company's shareholders not later than January 9, 1996.

#### 11. Amendment and Termination.

The Board may amend, suspend, or terminate the Plan, except that no amendment shall be made that would impair the rights of any Optionee under any Option theretofore granted without his consent, and except that no amendment shall be made which, without the approval of the shareholders of the Company would:

(a) materially increase the number of shares that may be issued under the Plan, except as is provided in Section 7;

(b) materially increase the benefits accruing to the Optionees under the Plan;

(c) materially modify the requirements as to eligibility for participation in the Plan;

(d) decrease the exercise price of an Incentive Option to less than 100% of the Fair Market Value per share of Stock on the date of grant thereof or the exercise price of a Nonqualified Option to less than 80% of the Fair Market Value per share of Stock on the date of grant thereof; or

(e) extend the term of any Option beyond that provided for in Section 5(b).

The Committee may amend the terms of any Option theretofore granted, prospectively or retroactively, but no such amendment shall impair the rights of any Optionee without his consent. The Committee may also substitute new Options for previously granted Options, including options granted under other plans applicable to the participant and previously granted Options having higher option prices, upon such terms as the Committee may deem appropriate.

#### 12. Government Regulations.

The Plan, and the grant and exercise of Options hereunder, and the obligation of the Company to sell and deliver shares under such Options, shall be subject to all applicable laws, rules and regulations, and to such approvals by any governmental agencies or national securities exchanges (including the American Stock Exchange and Vancouver Stock Exchange) as may be required.

### 13. General Provisions.

(a) Certificates. All certificates for shares of Stock delivered under the Plan shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations and other requirements of the Securities and Exchange Commission, or other securities commission having jurisdiction, any applicable Federal, provincial or state securities law, any stock exchange upon which the Stock is then listed and the Committee may cause a legend or legends to be placed on any such certificates to make appropriate reference to such restrictions.

(b) Employment Matters. The adoption of the Plan shall not confer upon any Optionee of the Company or any Subsidiary, any right to continued employment or, in the case of an Optionee who is a director, continued service as a director, with the Company or a Subsidiary, as the case may be, nor shall it interfere in any way with the right of the Company or any Subsidiary to terminate the employment of any of its employees, the service of any of its directors or the retention of any of its consultants or advisors at any time.

(c) Limitation of Liability. No member of the Board or the Committee, or any officer or employee of the Company acting on behalf of the Board or the Committee, shall be personally liable for any action, determination, or interpretation taken or made in good faith with respect to the Plan, and all members of the Board or the Committee and each and any officer or employee of the Company acting on their behalf shall, to the extent permitted by law, be fully indemnified and protected by the Company in respect of any such action, determination or interpretation.

(d) Registration of Stock. Notwithstanding any other provision in the Plan, no Option may be exercised unless and until the Stock to be issued upon the exercise thereof has been registered under the Securities Act and applicable state securities laws, or are, in the opinion of counsel to the Company, exempt from such registration in the United States or exempt from the prospectus and registration requirements under applicable provincial legislation. The Company shall not be under any obligation to register under applicable federal or state securities laws any Stock to be issued upon the exercise of an Option granted hereunder, or to comply with an appropriate exemption from registration under such laws or the laws of any province in order to permit the exercise of an Option and the issuance and sale of the Stock subject to such Option however, the Company may in its sole discretion register such Stock at such time as the Company shall determine. If the Company chooses to comply with such an exemption from registration, the Stock issued under the Plan may, at the direction of the Committee, bear an appropriate restrictive legend restricting the transfer or

pledge of the Stock represented thereby, and the Committee may also give

appropriate stop transfer instructions to the Company's transfer agents.

GST TELECOMMUNICATIONS, INC.  
January 10, 1995, as amended  
through September 21, 1995

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GST TELECOMMUNICATIONS, INC.

1996 STOCK OPTION PLAN

1. Purpose of the Plan.

This 1996 Stock Option Plan (the "Plan") is intended as an incentive, to retain in the employ of and as consultants and advisors to GST TELECOMMUNICATIONS, INC., a Canadian corporation with its principal office at 4317 N.E. Thurston Way, Vancouver, Washington 98662 (the "Company") and any Subsidiary of the Company, within the meaning of Section 425(f) of the United States Internal Revenue Code of 1986, as amended (the "Code"), persons of training, experience and ability, to attract new employees, directors, advisors and consultants whose services are considered valuable, to encourage the sense of proprietorship and to stimulate the active interest of such persons in the development and financial success of the Company and its Subsidiaries.

It is further intended that certain options granted pursuant to the Plan shall constitute incentive stock options within the meaning of Section 422 of the Code (the "Incentive Options") while certain other options granted pursuant to the Plan shall be nonqualified stock options (the "Nonqualified Options"). Incentive Options and Nonqualified Options are hereinafter referred to collectively as "Options."

2. Administration of the Plan.

The Board of Directors of the Company (the "Board") shall appoint and maintain as administrator of the Plan a Committee (the "Committee"), which shall serve at the pleasure of the Board. The Committee, subject to Sections 3 and 5 hereof, shall have full power and authority to designate recipients of Options, to determine the terms and conditions of respective Option agreements (which need not be identical) and to interpret the provisions and supervise the administration of the Plan. The Committee shall have the authority, without limitation, to designate which Options granted under the Plan shall be Incentive Options and which shall be Nonqualified Options. To the extent any Option does not qualify as an Incentive Option, it shall constitute a separate Nonqualified Option.

Subject to the provisions of the Plan, the Committee shall interpret the Plan and all Options granted under the Plan, shall make such rules as it deems necessary for the proper administration of the Plan, shall make all other determinations necessary or advisable for the administration of the Plan and shall correct any defects or supply any omission or reconcile any inconsistency in the Plan or in any Options granted under the Plan in the manner and to the extent that the Committee deems desirable

to carry into effect the Plan or any Options. The act or determination of a majority of the Committee shall be the act or determination of the Committee and any decision reduced to writing and signed by all of the members of the Committee shall be fully effective as if it had been made by a majority at a meeting duly held. Subject to the provisions of the Plan, any action taken or determination made by the Committee pursuant to this and the other Sections of the Plan shall be conclusive on all parties.

### 3. Designation of Optionees.

The persons eligible for participation in the Plan as recipients of Options (the "Optionees") shall include employees, officers and directors of, and consultants and advisors to, the Company or any Subsidiary; provided that Incentive Options may only be granted to employees of the Company and the Subsidiaries. In selecting Optionees, and in determining the number of shares to be covered by each Option granted to Optionees, the Committee may consider the office or position held by the Optionee or the Optionee's relationship to the Company, the Optionee's degree of responsibility for and contribution to the growth and success of the Company or any Subsidiary, the Optionee's length of service, age, promotions, potential and any other factors that the Committee may consider relevant. An Optionee who has been granted an Option hereunder may be granted an additional Option or Options, if the Committee shall so determine.

### 4. Stock Reserved for the Plan.

Subject to adjustment as provided in Section 7 hereof, a total of 400,000 shares of the Company's Common Shares (the "Stock") shall be subject to the Plan. The shares of Stock subject to the Plan shall consist of unissued shares or previously issued shares held by any Subsidiary of the Company, and such amount of shares of Stock shall be and is hereby reserved for such purpose. Any of such shares of Stock that may remain unsold and that are not subject to outstanding Options at the termination of the Plan shall cease to be reserved for the purposes of the Plan, but until termination of the Plan the Company shall at all times reserve a sufficient number of shares of Stock to meet the requirements of the Plan. Should any Option expire or be cancelled prior to its exercise in full or should the number of shares of Stock to be delivered upon the exercise in full of an Option be reduced for any reason, the shares of Stock theretofore subject to such Option may be subject to future Options under the Plan.

### 5. Terms and Conditions of Options.

Options granted under the Plan shall be subject to the following conditions and shall contain such additional terms and conditions, not inconsistent with the terms of the Plan, as the Committee shall deem desirable:

(a) Option Price. The purchase price of each share of Stock purchasable under an Incentive Option shall be determined by the Committee at the time of grant, but shall not be less than 100% of the Fair Market Value (as defined below) of such share of Stock on the date the Option is granted; provided, however, that with respect to an Optionee who, at the time such Incentive Option is granted, owns (within the meaning of Section 424(d) of the Code) more than 10% of the total combined voting power of all classes of stock of the Company or of any Subsidiary, the purchase price per share of Stock shall be at least 110% of the Fair Market Value per share of Stock on the date of grant. The purchase price of each share of Stock purchasable under a Nonqualified Option shall not be less than 80% of the Fair Market Value of such share of Stock on the date the Option is granted; provided, however, that an Optionee who is a Canadian taxpayer may require that any Nonqualified Option granted to him provide for the purchase of shares of Stock upon exercise thereof at a price equal to the Fair Market Value per share of Stock on the date of grant. The exercise price for each Option shall be subject to adjustment as provided in Section 7 below. Fair Market Value means the closing price of publicly traded shares of Stock on the principal United States securities exchange on which shares of Stock are listed (if the shares of Stock are so listed), or on the NASDAQ Stock Market (if the shares of Stock are regularly quoted on the NASDAQ Stock Market), or, if not so listed or regularly quoted, the mean between the closing bid and asked prices of publicly traded shares of Stock in the over-the-counter market, or, if such bid and asked prices shall not be available, as reported by any nationally recognized quotation service selected by the Company, or as determined by the Committee in a manner consistent with the provisions of the Code. Anything in this Section 5(a) to the contrary notwithstanding, in no event shall the purchase price of a share of Stock be less than the minimum price permitted under rules and policies of the American Stock Exchange and the Vancouver Stock Exchange.

(b) Option Term. The term of each Option shall be fixed by the Committee, but no Option shall be exercisable more than five years after the date such Option is granted.

(c) Exercisability. Subject to Section 5(j) hereof, Options shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Committee at the time of grant, provided, however, that no Option shall be exercisable until at least six months have elapsed after the date of grant of such Option.

(d) Method of Exercise. Options to the extent then exercisable may be exercised in whole or in part at any time during the option period, by giving written notice to the Company specifying the number of shares of

Stock to be purchased, accompanied by payment in full of the purchase price, in cash, by check or such other instrument as may be acceptable to the

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Committee. As determined by the Committee, in its sole discretion, at or after grant, payment in full or in part may also be made in the form of Stock owned by the Optionee (based on the Fair Market Value of the Stock on the trading day before the Option is exercised). An Optionee shall have the right to dividends and other rights of a stockholder with respect to shares of Stock purchased upon exercise of an Option after (i) the Optionee has given written notice of exercise and has paid in full for such shares and (ii) becomes a stockholder of record with respect thereto.

(e) Non-transferability of Options. Options are not transferable and may be exercised solely by the Optionee during his lifetime or after his death by the person or persons entitled thereto under his will or the laws of descent and distribution. Any attempt to transfer, assign, pledge or otherwise dispose of, or to subject to execution, attachment or similar process, any Option contrary to the provisions hereof shall be void and ineffective and shall give no right to the purported transferee.

(f) Termination by Death. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of death, the Option may thereafter be exercised, to the extent then exercisable (or on such accelerated basis as the Committee shall determine at or after grant), by the legal representative of the estate or by the legatee of the Optionee under the will of the Optionee, for a period of one year after the date of such death or until the expiration of the stated term of such Option as provided under the Plan, whichever period is shorter.

(g) Termination by Reason of Disability. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of total and permanent disability, any Option held by such Optionee may thereafter be exercised, to the extent it was exercisable at the time of termination due to Disability (or on such accelerated basis as the Committee shall determine at or after grant), but may not be exercised after 30 days after the date of such termination of employment or service or the expiration of the stated term of such Option, whichever period is shorter; provided, however, that, if the Optionee dies within such 30 day period, any unexercised Option held by such Optionee shall thereafter be exercisable to the extent to which it was exercisable at the time of death for a period of one year after the date of such death or for the stated term of such Option, whichever period is shorter.

(h) Termination by Reason of Retirement. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary

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terminates by reason of Normal or Early Retirement (as such terms are defined below), any Option held by such Optionee may thereafter be exercised to the extent it was exercisable at the time of such Retirement (or on such accelerated basis as the Committee shall determine at or after grant), but may not be exercised after 30 days after the date of such termination of employment or service or the expiration of the stated term of such Option, whichever period is shorter; provided, however, that, if the Optionee dies within such 30 day period, any unexercised Option held by such Optionee shall thereafter be exercisable, to the extent to which it was exercisable at the time of death, for a period of one year after the date of such death or for the stated term of such Option, whichever period is shorter.

For purposes of this paragraph (h), Normal Retirement shall mean retirement from active employment with the Company or any Subsidiary on or after the normal retirement date specified in the applicable Company or Subsidiary pension plan or if no such pension plan, age 65. Early Retirement shall mean retirement from active employment with the Company or any Subsidiary pursuant to the early retirement provisions of the applicable Company or Subsidiary pension plan or if no such pension plan, age 55.

(i) Other Termination. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates for any reason other than death, Disability or Normal or Early Retirement, the Option shall thereupon terminate, except that the portion of any Option that was exercisable on the date of such termination of employment may be exercised for the lesser of 30 days after the date of termination or the balance of such Option's term if the Optionee's employment or service with the Company or any Subsidiary is terminated by the Company or such Subsidiary without cause (the determination as to whether termination was for cause to be made by the Committee). The transfer of an Optionee from the employ of the Company to a Subsidiary, or vice versa, or from one Subsidiary to another, shall not be deemed to constitute a termination of employment for purposes of the Plan.

(j) Limit on Value of Incentive Option. The aggregate Fair Market Value, determined as of the date the Incentive Option is granted, of Stock for which Incentive Options are exercisable for the first time by any

Optionee during any calendar year under the Plan (and/or any other stock option plans of the Company or any Subsidiary) shall not exceed \$100,000.

(k) Transfer of Incentive Option Shares. The stock option agreement evidencing any Incentive Options granted under this Plan shall provide that if the Optionee makes a disposition, within the meaning of Section 424(c) of the Code and regulations promulgated thereunder, of any share or shares of Stock issued to him upon exercise of an Incentive Option granted under the Plan

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within the two-year period commencing on the day after the date of the grant of such Incentive Option or within a one-year period commencing on the day after the date of transfer of the share or shares to him pursuant to the exercise of such Incentive Option, he shall, within 10 days after such disposition, notify the Company thereof and immediately deliver to the Company any amount of United States federal income tax withholding required by law.

(l) Limitation on Options Held by One Person. The aggregate number of shares of Stock subject to options held by any one person shall not exceed that number of shares as equals 5% of the outstanding shares of the Company.

#### 6. Term of Plan.

No Option shall be granted pursuant to the Plan on or after January 5, 2006, but Options theretofore granted may extend beyond that date.

#### 7. Capital Change of the Company.

In the event of any merger, reorganization, consolidation, recapitalization, stock dividend, or other change in corporate structure affecting the Stock, the Committee shall make an appropriate and equitable adjustment in the number and kind of shares reserved for issuance under the Plan and in the number and option price of shares subject to outstanding Options granted under the Plan, to the end that after such event each Optionee's proportionate interest shall be maintained as immediately before the occurrence of such event.

#### 8. Purchase for Investment.

Unless the Options and shares covered by the Plan have been registered under the United States Securities Act of 1933, as amended (the "Securities Act"), or the Company has determined that such registration is unnecessary, each

person exercising an Option under the Plan may be required by the Company to give a representation in writing that he is acquiring the shares for his own account for investment and not with a view to, or for sale in connection with, the distribution of any part thereof.

#### 9. Taxes.

The Company may make such provisions as it may deem appropriate, consistent with applicable law, in connection with any Options granted under the Plan with respect to the withholding of any United States or Canadian taxes or any other tax matters.

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#### 10. Effective Date of Plan.

The Plan shall be effective on January 5, 1996, provided however that the Plan shall subsequently be approved by majority vote of the Company's shareholders not later than January 4, 1997.

#### 11. Amendment and Termination.

The Board may amend, suspend, or terminate the Plan, except that no amendment shall be made that would impair the rights of any Optionee under any Option theretofore granted without his consent, and except that no amendment shall be made which, without the approval of the shareholders of the Company would:

(a) materially increase the number of shares that may be issued under the Plan, except as is provided in Section 7;

(b) materially increase the benefits accruing to the Optionees under the Plan;

(c) materially modify the requirements as to eligibility for participation in the Plan;

(d) decrease the exercise price of an Incentive Option to less than 100% of the Fair Market Value per share of Stock on the date of grant thereof or the exercise price of a Nonqualified Option to less than 80% of the Fair Market Value per share of Stock on the date of grant thereof; or

(e) extend the term of any Option beyond that provided for in Section 5(b).

The Committee may amend the terms of any Option theretofore granted, prospectively or retroactively, but no such amendment shall impair the rights of any Optionee without his consent. The Committee may also substitute new Options for previously granted Options, including options granted under other plans applicable to the participant and previously granted Options having higher option prices, upon such terms as the Committee may deem appropriate.

## 12. Government Regulations.

The Plan, and the grant and exercise of Options hereunder, and the obligation of the Company to sell and deliver shares under such Options, shall be subject to all applicable laws, rules and regulations, and to such approvals by any governmental agencies or national securities exchanges (including the American Stock Exchange and Vancouver Stock Exchange) as may be required.

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## 13. General Provisions.

(a) Certificates. All certificates for shares of Stock delivered under the Plan shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations and other requirements of the Securities and Exchange Commission, or other securities commission having jurisdiction, any applicable Federal, provincial or state securities law, any stock exchange upon which the Stock is then listed and the Committee may cause a legend or legends to be placed on any such certificates to make appropriate reference to such restrictions.

(b) Employment Matters. The adoption of the Plan shall not confer upon any Optionee of the Company or any Subsidiary, any right to continued employment or, in the case of an Optionee who is a director, continued service as a director, with the Company or a Subsidiary, as the case may be, nor shall it interfere in any way with the right of the Company or any Subsidiary to terminate the employment of any of its employees, the service of any of its directors or the retention of any of its consultants or advisors at any time.

(c) Limitation of Liability. No member of the Board or the Committee, or any officer or employee of the Company acting on behalf of the Board or the Committee, shall be personally liable for any action, determination, or interpretation taken or made in good faith with respect to the Plan, and all members of the Board or the Committee and each and any officer or employee of the Company acting on their behalf shall, to the extent permitted by law, be fully indemnified and protected by the Company in

respect of any such action, determination or interpretation.

(d) Registration of Stock. Notwithstanding any other provision in the Plan, no Option may be exercised unless and until the Stock to be issued upon the exercise thereof has been registered under the Securities Act and applicable state securities laws, or are, in the opinion of counsel to the Company, exempt from such registration in the United States or exempt from the prospectus and registration requirements under applicable provincial legislation. The Company shall not be under any obligation to register under applicable federal or state securities laws any Stock to be issued upon the exercise of an Option granted hereunder, or to comply with an appropriate exemption from registration under such laws or the laws of any province in order to permit the exercise of an Option and the issuance and sale of the Stock subject to such Option however, the Company may in its sole discretion register such Stock at such time as the Company shall determine. If the Company chooses to comply with such an exemption from registration, the Stock issued under the Plan may, at the direction of the Committee, bear an appropriate restrictive legend restricting the transfer or pledge of the Stock represented

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thereby, and the Committee may also give appropriate stop transfer instructions to the Company's transfer agents.

GST TELECOMMUNICATIONS, INC.  
January 5, 1996

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GST TELECOMMUNICATIONS, INC.

1996 EMPLOYEE STOCK PURCHASE PLAN

The following are the provisions of the 1996 Employee Stock Purchase Plan of GST Telecommunications, Inc.

1. Purpose. The purpose of the Plan is to provide eligible employees of the Company and its Designated Subsidiaries with an opportunity to share in the fortunes of the Company by acquiring or increasing their holdings of the Common Shares of the Company, at a discount, through accumulated payroll deductions. The Plan is also designed to encourage eligible employees to remain in the employ of the Company. It is the intention of the Company that the Plan qualify as an "Employee Stock Purchase Plan" under Section 423 of the Code. The provisions of the Plan shall, accordingly, be construed so as to extend or limit participation in a manner consistent with the requirements of Section 423 of the Code.

2. Definitions.

(a) "Board" shall mean the Board of Directors of the Company or a committee thereof duly authorized to administer the Plan in accordance with Section 13 hereof.

(b) "Code" shall mean the Internal Revenue Code of 1986, as amended.

(c) "Common Shares" shall mean the Common Shares of the Company as more fully described in Section 25 hereof.

(d) "Company" shall mean GST Telecommunications, Inc., a federally chartered Canadian corporation, with its principal offices at 4317 N.E. Thurston Way, Vancouver, Washington 98662.

(e) "Compensation" shall mean all regular gross earnings, including payments for overtime, shift premium, incentive compensation, incentive payments, bonuses, commissions or other compensation.

(f) "Continuous Status as an Employee" shall mean the absence of any interruption or termination of service as an Employee. Continuous Status as an Employee shall not be considered interrupted in the case of a leave of absence agreed to in writing by the Company, provided that such leave is for a period of not more than 90 days or reemployment upon the expiration of such leave is guaranteed by contract or statute.

(g) "Designated Subsidiaries" shall mean the Subsidiaries that have been designated by the Board from time to time in its sole discretion as eligible to participate in the Plan.

(h) "Dollars" or "\$" shall mean U.S. Dollars.

(i) "Employee" shall have the meaning set forth in Section 3 hereof.

(j) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

(k) "Exercise Date" shall mean the last day of each Offering Period of the Plan if such date is a regular business day or the first regular business day thereafter. A different date may be set by resolution of the Board.

(l) "Fair Market Value" of the Common Shares on a given date shall mean the closing price of publicly traded Common Shares on the principal United States securities exchange on which the Common Shares are listed (if the Common Shares are so listed), or on the Nasdaq Stock Market (if the Common Shares are regularly quoted on the Nasdaq Stock Market), or, if not so listed or regularly quoted, the mean between the closing bid and asked prices of publicly traded Common Shares in the over-the-counter market, or, if such bid and asked prices shall not be available, as reported by any nationally recognized quotation service selected by the Company, or as determined by the Board in a manner consistent with the provisions of the Code.

(m) "Offering Date" shall mean the first day of each Offering Period of the Plan if such date is a regular business day or the first regular business day thereafter. A different date may be set by resolution of the Board.

(n) "Offering Period" shall have the meaning set forth in Section 4 hereof.

(o) "Option" shall mean an option granted to a Participant to purchase Common Shares under the Plan.

(p) "Participant" shall mean an Employee who participates in this Plan in accordance with Section 5 hereof.

(q) "Plan" shall mean the 1996 Employee Stock Purchase Plan of the Company.

(r) "Reserves" shall have the meaning set forth in Section 18 hereof.

(s) "SEC" shall mean the Securities and Exchange Commission.

(t) "Securities Act" shall mean the Securities Act of 1933, as amended.

(u) "Subsidiary" shall mean a corporation of which not less than 50% of the voting shares are held by the Company or a Subsidiary, whether or not such corporation now exists or is hereafter organized or acquired by the Company or a Subsidiary.

### 3. Eligibility.

(a) Any person who is regularly in the employ of the Company (an "Employee") or any of its Designated Subsidiaries is eligible to receive Options except (a) employees whose customary employment is less than 20 hours per week and (b) employees whose customary employment is not more than five months in any calendar year.

(b) Any provisions of the Plan to the contrary notwithstanding, no Employee shall be granted an Option (i) if, immediately after the grant, such Employee (or any other person whose stock would be attributed to such Employee pursuant to Section 425(d) of the Code) would own stock and/or hold outstanding Options to purchase stock possessing 5% or more of the total combined voting power or value of all classes of stock of the Company or of any subsidiary of the Company, or (ii) that permits his rights to purchase stock under all employee stock purchase plans (as described in Section 423 of the Code) of the Company and its subsidiaries to accrue at a rate that exceeds \$25,000 of Fair Market Value of such stock (determined at the time such Option is granted) for each calendar year in which such Option is outstanding at any time.

### 4. Offering Periods.

(a) The Plan shall be implemented by one offering during each six-month period (each an "Offering Period"). Offering Periods shall commence on or about April 1 and October 1 of each year as determined by the Board; provided, however, that the first Offering Period under the Plan may be less than six months.

(b) The Board shall have the power to change the duration of Offering Periods with respect to future offerings without shareholder approval if such change is announced at least 15 days prior to the scheduled beginning of the first Offering Period to be affected.

## 5. Participation.

(a) An Employee may become a Participant in the Plan by completing a subscription agreement authorizing payroll deduction on the form provided by the Company and filing it with

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the Company's Human Resources Manager on or prior to an Offering Date or such other date as may be specified by the Board.

(b) Payroll deductions for a Participant shall commence on the first payroll following the Offering Date and shall end on the Exercise Date of the Offering Period to which such authorization is applicable, unless sooner terminated by the Participant as provided in Section 10 hereof.

## 6. Payroll Deductions.

(a) At the time a Participant files his subscription agreement, he shall elect to have payroll deductions made on each payday during the Offering Period in an amount not exceeding 10% of the Compensation that he receives on each payday during the Offering Period, and the aggregate of such payroll deductions during the Offering Period shall not exceed 10% of his aggregate Compensation during such Offering Period.

(b) The total number of Common Shares purchased by any Participant shall in no event exceed, in any Offering Period, the number of Common Shares that \$12,500 could purchase at the Fair Market Value of a Common Share on the Offering Date.

(c) All payroll deductions made by a Participant shall be credited to his account under the Plan. A Participant may not make any additional payments into such account.

(d) A Participant may discontinue his participation in the Plan as provided in Section 10 hereof, or may decrease (but not increase) the rate of his payroll deductions one time during the Offering Period by completing or filing with the Human Resources Manager of the Company a new authorization for payroll deduction. The change in rate shall be effective 15 days following the Company's receipt of the new authorization. If a Participant decreases the rate of his payroll deductions more than one time during an Offering Period, such Participant will be deemed to have terminated his participation in the Plan in accordance with Section 10 hereof.

## 7. Grant of Option.

(a) On the Offering Date of each Offering Period, each Participant shall be granted an Option to purchase (at the per share Option price) up to a number of Common Shares determined by dividing such Participant's payroll deductions to be accumulated during such Offering Period (not to exceed an amount equal to 10% of his Compensation as of the date of the commencement of the applicable Offering Period) by the lower of (i) 85% of the Fair Market Value of a Common Share on the Offering Date, or (ii) 85% of the Fair Market Value of a Common Share on the Exercise Date; provided that in no event shall an Employee be permitted to

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purchase during any Offering Period more than a number of Common Shares determined by dividing \$12,500 by the Fair Market Value of a Common Share on the Offering Date, and provided further that such purchase shall be subject to the limitations set forth in Sections 3(b) and 12 hereof. Fair Market Value of a share of the Company's Common Shares shall be determined as provided in Section 7(b) hereof.

(b) The option price per Common Share of the Shares offered in a given Offering Period shall be the lower of: (i) 85% of the Fair Market Value of a Common Share on the Offering Date; or (ii) 85% of the Fair Market Value of a Common Share on the Exercise Date.

8. Exercise of Option. Unless a Participant withdraws from the Plan as provided in Section 10 hereof, his Option shall be exercised automatically on the Exercise Date of the Offering Period and the maximum number of full Common Shares subject to such Option shall be purchased for him at the applicable option price with the accumulated payroll deductions in his account. The Common Shares purchased upon exercise of an Option hereunder shall be deemed to be transferred to the Participant on the Exercise Date. During his lifetime, an Option to purchase Common Shares hereunder is exercisable only by the Participant to whom such Option is granted.

9. Delivery. Common Shares purchased upon exercise of the Participants' Options shall be represented by one or more global certificates registered in the name of a custodian from time to time selected by the Committee. Beneficial interests in the global certificate(s) will be shown on, and transfers thereof will be effected through records maintained by the Human Resources Manager of the Company. Upon request of a Participant, the Company shall arrange for the delivery to such Participant of a certificate representing the number of Common Shares requested by such participant; provided that such Participant has purchased at least that number of Common Shares pursuant to the Plan. Certificated Common Shares delivered to a Participant shall not constitute a portion of the global certificates. In the case of a Participant who has

requested that certificated Common Shares be delivered to him, any cash remaining to the credit of such Participant's account that is insufficient to purchase a full share of a Common Share of the Company shall be returned to said Participant. In addition, no fractional Common Shares shall be delivered to such Participant; he shall instead receive the cash value of such fractional Common Shares.

#### 10. Withdrawal; Termination of Employment.

(a) An employee's participation in the Plan may be terminated by signing and delivering to the Human Resources Manager of the Company a notice of withdrawal from the Plan. Such

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withdrawal may be elected at any time prior to the Exercise Date of the applicable Offering Period.

(b) Any withdrawal from a given Offering Period automatically terminates the Participant's interest in that offering. A Participant withdrawing from an offering must wait at least 90 days until executing a subscription agreement for subsequent offerings.

(c) A Participant may withdraw all but not less than all the payroll deductions credited to his account under the Plan at any time prior to the Exercise Date of the Offering Period by giving written notice to the Company. All of the Participant's payroll deductions credited to his account shall be paid to him promptly after receipt of his notice of withdrawal and his Option for the current period shall be automatically terminated, and no further payroll deductions for the purchase of Common Shares shall be made during the Offering Period.

(d) Upon termination of the Participant's Continuous Status as an Employee prior to the Exercise Date of the Offering Period for any reason, including retirement or death, the payroll deductions credited to his account shall be returned to him or, in the case of his death, to the person or persons entitled thereto under Section 14, and his Option shall be automatically terminated.

(e) In the event an Employee fails to remain in Continuous Status as an Employee of the Company for at least 20 hours per week during the Offering Period in which the employee is a Participant, he shall be deemed to have elected to withdraw from the Plan and the payroll deductions credited to his account shall be returned to him and his Option terminated.

(f) A Participant may discontinue his participation in the Plan, and

may decrease but not increase the rate of payroll deductions one time during the Offering Period. Payroll deductions commence on the first payday following the beginning of the employee's participation in the Offering Period, and continue at the same rate until terminated or decreased.

11. Interest. No interest shall accrue on the payroll deductions of a Participant in the Plan.

12. Stock.

(a) The maximum number of Common Shares that shall be made available for sale under the Plan shall be 500,000, subject to adjustment upon changes in capitalization of the Company as provided in Section 18 hereof. If the total number of Common Shares that would otherwise be subject to Options granted pursuant to Section 7(a) hereof on the Offering Date of an Offering Period

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exceeds the number of Common Shares then available under the Plan (after deduction of all Common Shares for which Options have been exercised or are then outstanding), the Company shall make a pro rata allocation of the Common Shares remaining available for Option grants in as uniform a manner as shall be practicable and as it shall determine to be equitable. In such event, the Company shall give written notice of such reduction of the number of Common Shares subject to the Option to each Participant affected thereby and shall similarly reduce the rate of payroll deductions, if necessary.

(b) The Participant shall have no interest or voting right in Common Shares covered by his Option until such Option has been exercised.

(c) Common Shares to be delivered to a Participant under the Plan shall be registered in the form of one or more global certificates in the name of the Committee. Upon request of a Participant, Common Shares shall be registered in the name of the Participant or in the name of the Participant and his spouse, in which event they shall no longer be evidenced by the global certificates.

13. Administration. The Plan shall be administered by the Board or a committee of members of the Board appointed by the Board. The administration, interpretation or application of the Plan by the Board or its committee shall be final, conclusive and binding upon all Participants. Members of the Board who are eligible Employees are permitted to participate in the Plan, provided that:

(a) Members of the Board who are eligible to participate in the Plan may not vote on any matter affecting the administration of the Plan or the

grant of any Option.

(b) If a Committee is established to administer the Plan, no member of the Board who is eligible to participate in the Plan may be a member of the Committee.

#### 14. Designation of Beneficiary.

(a) A Participant may file a written designation of a beneficiary who is to receive any Common Shares and cash, if any, from the Participant's account under the Plan in the event of such Participant's death subsequent to the end of the Offering Period but prior to entry of such Common Shares on the records maintained by the Company's Human Resources Manager and delivery to him of such cash. In addition, a Participant may file a written designation of a beneficiary who is to receive any cash from the Participant's account under the Plan in the event of such Participant's death prior to the Exercise Date of the Offering Period.

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(b) Such designation of beneficiary may be changed by the Participant at any time by written notice. In the event of the death of a Participant and in the absence of a beneficiary validly designated under the Plan who is living at the time of such Participant's death, the Company shall deliver such Common Shares and/or cash to the executor or administrator of the estate of the Participant, or if no such executor or administrator has been appointed (to the knowledge of the Company), the Company, in its discretion, may deliver such Common Shares and/or cash to the spouse or to any one or more dependents or relatives of the Participant, or if no spouse, dependent or relative is known to the Company, then to such other person as the Company may designate.

15. Transferability. Neither payroll deductions credited to a Participant's account, nor any rights with regard to the exercise of an Option, may be assigned, transferred, pledged or otherwise disposed of in any way (other than by will, the laws of descent and distribution or as provided in Section 14 hereof) by the Participant. Any such attempt at assignment, transfer, pledge or other disposition shall be without affect, except that the Company may treat such act as an election to withdraw funds in accordance with Section 10 hereof.

16. Use of Funds. All payroll deductions received or held by the Company under the Plan may be used by the Company for any corporate purpose, and the Company shall not be obligated to segregate such payroll deductions.

17. Reports. Individual accounts shall be maintained for each Participant.

Statements of account shall be given to Participants promptly following the Exercise Date, which statements shall set forth the amounts of payroll deductions, the per share purchase price, the number of Common Shares purchased and the remaining cash balance, if any.

18. Adjustments Upon Changes in Capitalization. Subject to any required action by the shareholders of the Company, the number of Common Shares covered by each Option that has not yet been exercised and the number of Common Shares that have been authorized for issuance under the Plan but have not yet been placed under option (collectively, the "Reserves"), as well as the price per Common Share covered by each Option that has not yet been exercised, shall be proportionately adjusted for any increase or decrease in the number of issued Common Shares resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Shares, or any other increase or decrease in the number of Common Shares effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Board, whose determination in that respect shall be final, binding and conclusive. Except as

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expressly provided herein, no issue by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Shares subject to an Option.

19. Effect of Liquidation, Dissolution, Sale of Assets or Merger. In the event of the proposed dissolution or liquidation of the Company, all Options shall terminate immediately prior to the consummation of such proposed action, unless otherwise provided by the Board. The Board may, in the exercise of its sole discretion in such instances, declare that all Options shall terminate as of a date fixed by the Board and give each Participant the right to exercise his Option as to all or any part thereof, including shares as to which an Option would not otherwise be exercisable. In the event of a proposed sale of all or substantially all of the assets of the Company, or the merger of the Company with or into another corporation, an Option shall be assumed or an equivalent Option shall be substituted by such successor corporation or a parent or subsidiary of such successor corporation. In the event that such successor corporation refuses to assume the Options or to substitute an equivalent option, the Board shall, in lieu of such assumption or substitution, provide for the Participant to have the right to exercise the Options in full, including as to Common Shares that would not otherwise then be purchasable. If the Board makes an Option fully exercisable in lieu of assumption or substitution in the event of a merger or sale of assets, the Board shall notify the Participant that the Option shall be fully exercisable for a period of 30 days after the date of such

notice, and the Option shall terminate upon the expiration of such period.

The Board may, if it so determines in the exercise of its sole discretion, also make provisions for adjusting the Reserves, as well as the price per Common Share covered by each outstanding Option, in the event that the Company effects one or more reorganizations, recapitalizations, rights offerings or other increases or reductions of its outstanding Common Shares, and in the event of the Company being consolidated with or merged into any other corporation.

20. Amendment or Termination. The Board may at any time terminate or amend the Plan. Except as provided in Section 18, no such termination can affect Options previously granted, nor may an amendment make any change in any Option theretofore granted which adversely affects the rights of any Participant, nor may an amendment be made without prior approval of the shareholders of the Company (obtained in a manner consistent with the provisions of the Code and all other applicable law) if such amendment would:

(a) Increase the number of Common Shares that may be issued under the Plan;

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(b) Permit payroll deductions at a rate in excess of 10% of the Participant's Compensation;

(c) Change the designation of the employees (or class of employees) eligible for participation in the Plan; or

(d) If the Company has a class of equity securities registered under Section 12 of the Exchange Act at the time of such amendment, materially increase the benefits that may accrue to Participants under the Plan.

(e) To the extent necessary and desirable to comply with Rule 16b-3 under the Exchange Act, or with Section 423 of the Code (or any other applicable law or regulation, including requirements of the NASD or any established stock exchange), the Company shall obtain stockholder approval of any amendment to the Plan in the requisite manner.

21. Notices. All notices or other communications by a Participant to the Company under or in connection with the Plan shall be deemed to have been duly given when received in the form specified by the Company at the location, or by the person, designated by the Company for the receipt thereof.

22. Shareholder Approval. The Plan was approved by the affirmative vote of the holders of a majority of the outstanding Common Shares at the Company's

23. Conditions Upon Issuance of Common Shares. Common Shares shall not be issued with respect to an Option unless the exercise of such Option and the issuance and delivery of such Common Shares pursuant thereto shall comply with all applicable provisions of law, domestic or foreign, including, without limitation, the Securities Act, the Exchange Act, the rules and regulations promulgated thereunder, and the requirements of any stock exchange upon which the Common Shares may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

As a condition to the exercise of an Option, the Company may require the person exercising such Option to represent and warrant at the time of any such exercise that the Common Shares are being purchased only for investment and without any present intention to sell or distribute such Common Shares if, in the opinion of counsel for the Company, such a representation is required by any of the aforementioned applicable provisions of law.

24. Restrictions on Resale. Certain officers and directors of the Company may be deemed to be "affiliates" of the Company as that term is defined under the Securities Act. Common Shares acquired under the Plan by an affiliate may only be re-

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offered or resold pursuant to an effective registration statement or pursuant to Rule 144 promulgated under the Securities Act or another exemption from the registration requirements of the Securities Act. Such reoffers or resales may not be made in reliance on the Registration Statement filed in connection with the offer to Participants of the Common Shares issuable hereunder.

25. Securities to be Purchased. The security to be purchased under the Plan is Common Shares, without par value, of the Company. Each Common Share entitles the holder to one vote on matters submitted to a vote of the stockholders, a pro rata share of such dividends as may be declared on the Common Shares and a pro rata share of assets remaining available for distribution to stockholders upon a liquidation of the Company. The Common Shares are not convertible and have no preemptive rights. While the Board has authority, within certain limitations, to issue shares of preference stock that would have one or more preferences over the Common Shares, no preference stock is currently outstanding and the Company has no present plans to issue any preference stock.

26. Term of Plan. The Plan became effective on February 15, 1996 and shall continue in effect for a term of 20 years unless sooner terminated under Section 20.



GST TELECOMMUNICATIONS, INC.

SENIOR EXECUTIVE OFFICER STOCK OPTION PLAN

1. Purpose of the Plan.

This Senior Executive Officer Stock Option Plan (the "Plan") is intended as an incentive, to retain in the employ of GST TELECOMMUNICATIONS, INC., a federally chartered Canadian corporation with its principal office at 4317 N.E. Thurston Way, Vancouver, Washington 98662 (the "Company") and any Subsidiary of the Company, within the meaning of Section 425(f) of the United States Internal Revenue Code of 1986, as amended (the "Code"), as senior executive officers, persons of training, experience and ability, to attract new senior executive officers whose services are considered valuable, to encourage the sense of proprietorship and to stimulate the active interest of such persons in the development and financial success of the Company and its Subsidiaries.

It is further intended that certain options granted pursuant to the Plan shall constitute incentive stock options within the meaning of Section 422 of the Code (the "Incentive Options"), while certain other options granted pursuant to the Plan shall be nonqualified stock options (the "Nonqualified Options"). Incentive Options and Nonqualified Options are hereinafter referred to collectively as "Options."

2. Administration of the Plan.

The Board of Directors of the Company (the "Board") shall appoint and maintain as administrator of the Plan a Committee (the "Committee"), which shall serve at the pleasure of the Board. The Committee, subject to Sections 3 and 5 hereof, shall have full power and authority to designate recipients of Options, to determine the terms and conditions of respective Option agreements (which need not be identical) and to interpret the provisions and supervise the administration of the Plan. The Committee shall have the authority, without limitation, to designate which Options granted under the Plan shall be Incentive Options and which shall be Nonqualified Options. To the extent any Option does not qualify as an Incentive Option, it shall constitute a separate Nonqualified Option.

Subject to the provisions of the Plan, the Committee shall interpret the Plan and all Options granted under the Plan, shall make such rules as it deems necessary for the proper administration of the Plan, shall make all other determinations necessary or advisable for the administration of the Plan and shall correct any defects or supply any omission or reconcile any inconsistency in the Plan or in any Options granted under the Plan

in the manner and to the extent that the Committee deems desirable to carry into effect the Plan or any Options. The act or determination of a majority of the Committee shall be the act or determination of the Committee and any decision reduced to writing and signed by all of the members of the Committee shall be fully effective as if it had been made by a majority at a meeting duly held. Subject to the provisions of the Plan, any action taken or determination made by the Committee pursuant to this and the other Sections of the Plan shall be conclusive on all parties.

### 3. Designation of Optionees.

The persons eligible for participation in the Plan as recipients of Options (the "Optionees") shall comprise senior executive officers of the Company or any Subsidiary; provided that Incentive Options may only be granted to senior executive officers who are employees of the Company and the Subsidiaries. In selecting Optionees, and in determining the number of shares to be covered by each Option granted to Optionees, the Committee may consider the office or position held by the Optionee or the Optionee's relationship to the Company, the Optionee's degree of responsibility for and contribution to the growth and success of the Company or any Subsidiary, the Optionee's length of service, age, promotions, potential and any other factors that the Committee may consider relevant. An Optionee who has been granted an Option hereunder may be granted an additional Option or Options, if the Committee shall so determine.

### 4. Stock Reserved for the Plan.

Subject to adjustment as provided in Section 7 hereof, a total of 600,000 of the Company's Common Shares (the "Stock") shall be subject to the Plan. The shares of Stock subject to the Plan shall consist of unissued shares or previously issued shares held by any Subsidiary of the Company, and such amount of shares of Stock shall be and is hereby reserved for such purpose. Any of such shares of Stock that may remain unsold and that are not subject to outstanding Options at the termination of the Plan shall cease to be reserved for the purposes of the Plan, but until termination of the Plan the Company shall at all times reserve a sufficient number of shares of Stock to meet the requirements of the Plan. Should any Option expire or be cancelled prior to its exercise in full or should the number of shares of Stock to be delivered upon the exercise in full of an Option be reduced for any reason, the shares of Stock theretofore subject to such Option may be subject to future Options under the Plan.

### 5. Terms and Conditions of Options.

Options granted under the Plan shall be subject to the following conditions and shall contain such additional terms and

conditions, not inconsistent with the terms of the Plan, as the Committee shall deem desirable:

(a) Option Price. The purchase price of each share of Stock purchasable under an Incentive Option shall be determined by the Committee at the time of grant, but shall not be less than 100% of the Fair Market Value (as defined below) of such share of Stock on the date the Option is granted; provided, however, that with respect to an Optionee who, at the time such Incentive Option is granted, owns (within the meaning of Section 424(d) of the Code) more than 10% of the total combined voting power of all classes of stock of the Company or of any Subsidiary, the purchase price per share of Stock shall be at least 110% of the Fair Market Value per share of Stock on the date of grant. The purchase price of each share of Stock purchasable under a Nonqualified Option shall not be less than 50% of the Fair Market Value of such share of Stock on the date the Option is granted; provided, however, that an Optionee who is a Canadian taxpayer may require that any Nonqualified Option granted to him provide for the purchase of shares of Stock upon exercise thereof at a price equal to the Fair Market Value per share of Stock on the date of grant. The exercise price for each Option shall be subject to adjustment as provided in Section 7 below. Fair Market Value means the closing price of publicly traded shares of Stock on the principal United States securities exchange on which shares of Stock are listed (if the shares of Stock are so listed), or on the NASDAQ Stock Market (if the shares of Stock are regularly quoted on the NASDAQ Stock Market), or, if not so listed or regularly quoted, the mean between the closing bid and asked prices of publicly traded shares of Stock in the over-the-counter market, or, if such bid and asked prices shall not be available, as reported by any nationally recognized quotation service selected by the Company, or as determined by the Committee in a manner consistent with the provisions of the Code. Anything in this Section 5(a) to the contrary notwithstanding, in no event shall the purchase price of a share of Stock be less than the minimum price permitted under rules and policies of the American Stock Exchange and the Vancouver Stock Exchange.

(b) Option Term. The term of each Option shall be fixed by the Committee, but no Option shall be exercisable more than six years after the date such Option is granted.

(c) Exercisability. Subject to Section 5(j) hereof, Options shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Committee at the time of grant. No option may be exercised to the extent that such exercise will cause the Company to issue, upon exercise of options to purchase shares of Stock granted by the Company without shareholder approval, that number of shares of Stock as equals or exceeds (i) 5% of the number of outstanding shares of Stock in any 12-month period, or (ii) 10% of the number of outstanding shares of Stock in any five-year period.

(d) Method of Exercise. Options to the extent then exercisable may be exercised in whole or in part at any time during the option period, by giving written notice to the Company specifying the number of shares of Stock to be purchased, accompanied by payment in full of the purchase price, in cash, by check or such other instrument as may be acceptable to the Committee. As determined by the Committee, in its sole discretion, at or after grant, payment in full or in part may also be made in the form of Stock owned by the Optionee (based on the Fair Market Value of the Stock on the trading day before the Option is exercised). An Optionee shall have the right to dividends and other rights of a stockholder with respect to shares of Stock purchased upon exercise of an Option after (i) the Optionee has given written notice of exercise and has paid in full for such shares and (ii) becomes a stockholder of record with respect thereto.

(e) Non-transferability of Options. Options are not transferable and may be exercised solely by the Optionee during his lifetime or after his death by the person or persons entitled thereto under his will or the laws of descent and distribution. Any attempt to transfer, assign, pledge or otherwise dispose of, or to subject to execution, attachment or similar process, any Option contrary to the provisions hereof shall be void and ineffective and shall give no right to the purported transferee.

(f) Termination by Death. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of death, the Option may thereafter be exercised, to the extent then exercisable (or on such accelerated basis as the Committee shall determine at or after grant), by the legal representative of the estate or by the legatee of the Optionee under the will of the Optionee, for a period of one year after the date of such death or until the expiration of the stated term of such Option as provided under the Plan, whichever period is shorter.

(g) Termination by Reason of Disability. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of total and permanent disability, any Option held by such Optionee may thereafter be exercised, to the extent it was exercisable at the time of termination due to Disability (or on such accelerated basis as the Committee shall determine at or after grant), but may not be exercised after 30 days after the date of such termination of employment or service or the expiration of the stated term of such Option, whichever period is shorter; provided, however, that, if the Optionee dies within such 30 day period, any unexercised Option held by such Optionee shall thereafter be exercisable to the extent

to which it was exercisable at the time of death for a period of one year after the date of

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such death or for the stated term of such Option, whichever period is shorter.

(h) Termination by Reason of Retirement. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of Normal or Early Retirement (as such terms are defined below), any Option held by such Optionee may thereafter be exercised to the extent it was exercisable at the time of such Retirement (or on such accelerated basis as the Committee shall determine at or after grant), but may not be exercised after 30 days after the date of such termination of employment or service or the expiration of the stated term of such Option, whichever period is shorter; provided, however, that, if the Optionee dies within such 30 day period, any unexercised Option held by such Optionee shall thereafter be exercisable, to the extent to which it was exercisable at the time of death, for a period of one year after the date of such death or for the stated term of such Option, whichever period is shorter.

For purposes of this paragraph (h), Normal Retirement shall mean retirement from active employment with the Company or any Subsidiary on or after the normal retirement date specified in the applicable Company or Subsidiary pension plan or if no such pension plan, age 65. Early Retirement shall mean retirement from active employment with the Company or any Subsidiary pursuant to the early retirement provisions of the applicable Company or Subsidiary pension plan or if no such pension plan, age 55.

(i) Other Termination. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates for any reason other than death, Disability or Normal or Early Retirement, the Option shall thereupon terminate, except that the portion of any Option that was exercisable on the date of such termination of employment may be exercised for the lesser of 30 days after the date of termination or the balance of such Option's term if the Optionee's employment or service with the Company or any Subsidiary is terminated by the Company or such Subsidiary without cause (the determination as to whether termination was for cause to be made by the Committee). The transfer of an Optionee from the employ of the Company to a Subsidiary, or vice versa, or from one Subsidiary to another, shall not be deemed to constitute a termination of employment for purposes of the Plan.

(j) Limit on Value of Incentive Options. The aggregate Fair Market Value, determined as of the date the Incentive Option is granted, of Stock for which Incentive Options are exercisable for the first time by any Optionee during any calendar year under the Plan (and/or any other stock option plans of the Company or any Subsidiary) shall not exceed \$100,000.

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(k) Transfer of Incentive Option Shares. The stock option agreement evidencing any Incentive Options granted under this Plan shall provide that if the Optionee makes a disposition, within the meaning of Section 424(c) of the Code and regulations promulgated thereunder, of any share or shares of Stock issued to him upon exercise of an Incentive Option granted under the Plan within the two-year period commencing on the day after the date of the grant of such Incentive Option or within a one-year period commencing on the day after the date of transfer of the share or shares to him pursuant to the exercise of such Incentive Option, he shall, within 10 days after such disposition, notify the Company thereof and immediately deliver to the Company any amount of United States federal income tax withholding required by law.

(l) Limitation on Options Held by One Person. The aggregate number of shares of Stock subject to options held by any one person shall not exceed that number of shares as equals 5% of the outstanding shares of the Company.

#### 6. Term of Plan.

No Option shall be granted pursuant to the Plan on or after May 21, 2006, but Options theretofore granted may extend beyond that date.

#### 7. Capital Change of the Company.

In the event of any merger, reorganization, consolidation, recapitalization, stock dividend, or other change in corporate structure affecting the Stock, the Committee shall make an appropriate and equitable adjustment in the number and kind of shares reserved for issuance under the Plan and in the number and option price of shares subject to outstanding Options granted under the Plan, to the end that after such event each Optionee's proportionate interest shall be maintained as immediately before the occurrence of such event.

#### 8. Purchase for Investment.

Unless the Options and shares covered by the Plan have been registered

under the United States Securities Act of 1933, as amended (the "Securities Act"), or the Company has determined that such registration is unnecessary, each person exercising an Option under the Plan may be required by the Company to give a representation in writing that he is acquiring the shares for his own account for investment and not with a view to, or for sale in connection with, the distribution of any part thereof.

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#### 9. Taxes.

The Company may make such provisions as it may deem appropriate, consistent with applicable law, in connection with any Options granted under the Plan with respect to the withholding of any United States or Canadian taxes or any other tax matters.

#### 10. Effective Date of Plan.

The Plan shall be effective on May 22, 1996.

#### 11. Amendment and Termination.

The Board may amend, suspend, or terminate the Plan, except that no amendment shall be made that would impair the rights of any Optionee under any Option theretofore granted without his consent, and except that no amendment shall be made which, without the approval of the shareholders of the Company would:

(a) materially increase the number of shares that may be issued under the Plan, except as is provided in Section 7;

(b) materially increase the benefits accruing to the Optionees under the Plan;

(c) materially modify the requirements as to eligibility for participation in the Plan;

(d) decrease the exercise price of an Incentive Option to less than 100% of the Fair Market Value per share of Stock on the date of grant thereof or the exercise price of a Nonqualified Option to less than 80% of the Fair Market Value per share of Stock on the date of grant thereof; or

(e) extend the term of any Option beyond that provided for in Section 5(b).

The Committee may amend the terms of any Option theretofore granted, prospectively or retroactively, but no such amendment shall impair the rights of any Optionee without his consent. The Committee may also substitute new Options for previously granted Options, including options granted under other plans applicable to the participant and previously granted Options having higher option prices, upon such terms as the Committee may deem appropriate.

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## 12. Government Regulations.

The Plan, and the grant and exercise of Options hereunder, and the obligation of the Company to sell and deliver shares under such Options, shall be subject to all applicable laws, rules and regulations, and to such approvals by any governmental agencies or national securities exchanges (including the American Stock Exchange and Vancouver Stock Exchange) as may be required.

## 13. General Provisions.

(a) Certificates. All certificates for shares of Stock delivered under the Plan shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations and other requirements of the Securities and Exchange Commission, or other securities commission having jurisdiction, any applicable Federal, provincial or state securities law, any stock exchange upon which the Stock is then listed and the Committee may cause a legend or legends to be placed on any such certificates to make appropriate reference to such restrictions.

(b) Employment Matters. The adoption of the Plan shall not confer upon any Optionee of the Company or any Subsidiary, any right to continued employment or, in the case of an Optionee who is a director, continued service as a director, with the Company or a Subsidiary, as the case may be, nor shall it interfere in any way with the right of the Company or any Subsidiary to terminate the employment of any of its employees, the service of any of its directors or the retention of any of its consultants or advisors at any time.

(c) Limitation of Liability. No member of the Board or the Committee, or any officer or employee of the Company acting on behalf of the Board or the Committee, shall be personally liable for any action, determination, or interpretation taken or made in good faith with respect to the Plan, and all members of the Board or the Committee and each and any officer or employee of the Company acting on their behalf shall, to the extent permitted by law, be fully indemnified and protected by the Company in

respect of any such action, determination or interpretation.

(d) Registration of Stock. Notwithstanding any other provision in the Plan, no Option may be exercised unless and until the Stock to be issued upon the exercise thereof has been registered under the Securities Act and applicable state securities laws, or are, in the opinion of counsel to the Company, exempt from such registration in the United States or exempt from the prospectus and registration requirements under applicable provincial legislation. The Company shall not be under any obligation to register under applicable federal or state securities laws any Stock to be issued upon the exercise of an Option granted

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hereunder, or to comply with an appropriate exemption from registration under such laws or the laws of any province in order to permit the exercise of an Option and the issuance and sale of the Stock subject to such Option however, the Company may in its sole discretion register such Stock at such time as the Company shall determine. If the Company chooses to comply with such an exemption from registration, the Stock issued under the Plan may, at the direction of the Committee, bear an appropriate restrictive legend restricting the transfer or pledge of the Stock represented thereby, and the Committee may also give appropriate stop transfer instructions to the Company's transfer agents.

GST TELECOMMUNICATIONS, INC.  
May 22, 1996

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GST TELECOMMUNICATIONS, INC.

SENIOR OPERATING OFFICER STOCK OPTION PLAN

1. Purpose of the Plan.

This Senior Operating Officer Stock Option Plan (the "Plan") is intended as an incentive, to retain in the employ of GST TELECOMMUNICATIONS, INC., a federally chartered Canadian corporation with its principal office at 4317 N.E. Thurston Way, Vancouver, Washington 98662 (the "Company") and any Subsidiary of the Company, within the meaning of Section 425(f) of the United States Internal Revenue Code of 1986, as amended (the "Code"), as senior executive officers, persons of training, experience and ability, to attract new senior executive officers and directors whose services are considered valuable, to encourage the sense of proprietorship and to stimulate the active interest of such persons in the development and financial success of the Company and its Subsidiaries.

It is further intended that certain options granted pursuant to the Plan shall constitute incentive stock options within the meaning of Section 422 of the Code (the "Incentive Options"), while certain other options granted pursuant to the Plan shall be nonqualified stock options (the "Nonqualified Options"). Incentive Options and Nonqualified Options are hereinafter referred to collectively as "Options."

2. Administration of the Plan.

The Board of Directors of the Company (the "Board") shall appoint and maintain as administrator of the Plan a Committee (the "Committee"), which shall serve at the pleasure of the Board. The Committee, subject to Sections 3 and 5 hereof, shall have full power and authority to designate recipients of Options, to determine the terms and conditions of respective Option agreements (which need not be identical) and to interpret the provisions and supervise the administration of the Plan. The Committee shall have the authority, without limitation, to designate which Options granted under the Plan shall be Incentive Options and which shall be Nonqualified Options. To the extent any Option does not qualify as an Incentive Option, it shall constitute a separate Nonqualified Option.

Subject to the provisions of the Plan, the Committee shall interpret the Plan and all Options granted under the Plan, shall make such rules as it deems necessary for the proper administration of the Plan, shall make all other determinations necessary or advisable for the administration of the Plan and shall correct any defects or supply any omission or reconcile any inconsistency in the Plan or in any Options granted under the Plan

in the manner and to the extent that the Committee deems desirable to carry into effect the Plan or any Options. The act or determination of a majority of the Committee shall be the act or determination of the Committee and any decision reduced to writing and signed by all of the members of the Committee shall be fully effective as if it had been made by a majority at a meeting duly held. Subject to the provisions of the Plan, any action taken or determination made by the Committee pursuant to this and the other Sections of the Plan shall be conclusive on all parties.

### 3. Designation of Optionees.

The persons eligible for participation in the Plan as recipients of Options (the "Optionees") shall comprise senior operating officers and directors of the Company or any Subsidiary; provided that Incentive Options may only be granted to senior operating officers and directors who are employees of the Company and the Subsidiaries. In selecting Optionees, and in determining the number of shares to be covered by each Option granted to Optionees, the Committee may consider the office or position held by the Optionee or the Optionee's relationship to the Company, the Optionee's degree of responsibility for and contribution to the growth and success of the Company or any Subsidiary, the Optionee's length of service, age, promotions, potential and any other factors that the Committee may consider relevant. An Optionee who has been granted an Option hereunder may be granted an additional Option or Options, if the Committee shall so determine.

### 4. Stock Reserved for the Plan.

Subject to adjustment as provided in Section 7 hereof, a total of 900,000 of the Company's Common Shares (the "Stock") shall be subject to the Plan. The shares of Stock subject to the Plan shall consist of unissued shares or previously issued shares held by any Subsidiary of the Company, and such amount of shares of Stock shall be and is hereby reserved for such purpose. Any of such shares of Stock that may remain unsold and that are not subject to outstanding Options at the termination of the Plan shall cease to be reserved for the purposes of the Plan, but until termination of the Plan the Company shall at all times reserve a sufficient number of shares of Stock to meet the requirements of the Plan. Should any Option expire or be cancelled prior to its exercise in full or should the number of shares of Stock to be delivered upon the exercise in full of an Option be reduced for any reason, the shares of Stock theretofore subject to such Option may be subject to future Options under the Plan.

### 5. Terms and Conditions of Options.

Options granted under the Plan shall be subject to the following conditions and shall contain such additional terms and conditions, not inconsistent with the terms of the Plan, as the

Committee shall deem desirable:

(a) Option Price. The purchase price of each share of Stock purchasable under an Incentive Option shall be determined by the Committee at the time of grant, but shall not be less than 100% of the Fair Market Value (as defined below) of such share of Stock on the date the Option is granted; provided, however, that with respect to an Optionee who, at the time such Incentive Option is granted, owns (within the meaning of Section 424(d) of the Code) more than 10% of the total combined voting power of all classes of stock of the Company or of any Subsidiary, the purchase price per share of Stock shall be at least 110% of the Fair Market Value per share of Stock on the date of grant. The purchase price of each share of Stock purchasable under a Nonqualified Option shall not be less than 50% of the Fair Market Value of such share of Stock on the date the Option is granted; provided, however, that an Optionee who is a Canadian taxpayer may require that any Nonqualified Option granted to him provide for the purchase of shares of Stock upon exercise thereof at a price equal to the Fair Market Value per share of Stock on the date of grant. The exercise price for each Option shall be subject to adjustment as provided in Section 7 below. Fair Market Value means the closing price of publicly traded shares of Stock on the principal United States securities exchange on which shares of Stock are listed (if the shares of Stock are so listed), or on the NASDAQ Stock Market (if the shares of Stock are regularly quoted on the NASDAQ Stock Market), or, if not so listed or regularly quoted, the mean between the closing bid and asked prices of publicly traded shares of Stock in the over-the-counter market, or, if such bid and asked prices shall not be available, as reported by any nationally recognized quotation service selected by the Company, or as determined by the Committee in a manner consistent with the provisions of the Code. Anything in this Section 5(a) to the contrary notwithstanding, in no event shall the purchase price of a share of Stock be less than the minimum price permitted under rules and policies of the American Stock Exchange and the Vancouver Stock Exchange.

(b) Option Term. The term of each Option shall be fixed by the Committee, but no Option shall be exercisable more than six years after the date such Option is granted.

(c) Exercisability. Subject to Section 5(j) hereof, Options shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Committee at the time of grant. No option may be exercised to the extent that such exercise will cause the Company to issue, upon exercise of options to purchase shares of Stock granted by the Company without shareholder approval, that number of shares of Stock as equals or exceeds (i) 5% of the number of outstanding shares of Stock in any 12-month period, or (ii) 10% of the number of outstanding shares of Stock in any five-year period.

(d) Method of Exercise. Options to the extent then exercisable may be exercised in whole or in part at any time during the option period, by giving written notice to the Company specifying the number of shares of Stock to be purchased, accompanied by payment in full of the purchase price, in cash, by check or such other instrument as may be acceptable to the Committee. As determined by the Committee, in its sole discretion, at or after grant, payment in full or in part may also be made in the form of Stock owned by the Optionee (based on the Fair Market Value of the Stock on the trading day before the Option is exercised). An Optionee shall have the right to dividends and other rights of a stockholder with respect to shares of Stock purchased upon exercise of an Option after (i) the Optionee has given written notice of exercise and has paid in full for such shares and (ii) becomes a stockholder of record with respect thereto.

(e) Non-transferability of Options. Options are not transferable and may be exercised solely by the Optionee during his lifetime or after his death by the person or persons entitled thereto under his will or the laws of descent and distribution. Any attempt to transfer, assign, pledge or otherwise dispose of, or to subject to execution, attachment or similar process, any Option contrary to the provisions hereof shall be void and ineffective and shall give no right to the purported transferee.

(f) Termination by Death. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of death, the Option may thereafter be exercised, to the extent then exercisable (or on such accelerated basis as the Committee shall determine at or after grant), by the legal representative of the estate or by the legatee of the Optionee under the will of the Optionee, for a period of one year after the date of such death or until the expiration of the stated term of such Option as provided under the Plan, whichever period is shorter.

(g) Termination by Reason of Disability. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of total and permanent disability, any Option held by such Optionee may thereafter be exercised, to the extent it was exercisable at the time of termination due to Disability (or on such accelerated basis as the Committee shall determine at or after grant), but may not be exercised after 30 days after the date of such termination of employment or service or the expiration of the stated term of such Option, whichever period is shorter; provided, however, that, if the Optionee dies within such 30 day period, any unexercised Option held by such Optionee shall thereafter be exercisable to the extent to which it was exercisable at the time of death for a period of one year

after the date of

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such death or for the stated term of such Option, whichever period is shorter.

(h) Termination by Reason of Retirement. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates by reason of Normal or Early Retirement (as such terms are defined below), any Option held by such Optionee may thereafter be exercised to the extent it was exercisable at the time of such Retirement (or on such accelerated basis as the Committee shall determine at or after grant), but may not be exercised after 30 days after the date of such termination of employment or service or the expiration of the stated term of such Option, whichever period is shorter; provided, however, that, if the Optionee dies within such 30 day period, any unexercised Option held by such Optionee shall thereafter be exercisable, to the extent to which it was exercisable at the time of death, for a period of one year after the date of such death or for the stated term of such Option, whichever period is shorter.

For purposes of this paragraph (h), Normal Retirement shall mean retirement from active employment with the Company or any Subsidiary on or after the normal retirement date specified in the applicable Company or Subsidiary pension plan or if no such pension plan, age 65. Early Retirement shall mean retirement from active employment with the Company or any Subsidiary pursuant to the early retirement provisions of the applicable Company or Subsidiary pension plan or if no such pension plan, age 55.

(i) Other Termination. Unless otherwise determined by the Committee at grant, if any Optionee's employment with or service to the Company or any Subsidiary terminates for any reason other than death, Disability or Normal or Early Retirement, the Option shall thereupon terminate, except that the portion of any Option that was exercisable on the date of such termination of employment may be exercised for the lesser of 30 days after the date of termination or the balance of such Option's term if the Optionee's employment or service with the Company or any Subsidiary is terminated by the Company or such Subsidiary without cause (the determination as to whether termination was for cause to be made by the Committee). The transfer of an Optionee from the employ of the Company to a Subsidiary, or vice versa, or from one Subsidiary to another, shall not be deemed to constitute a termination of employment for purposes of the Plan.

(j) Limit on Value of Incentive Options. The aggregate Fair Market Value, determined as of the date the Incentive Option is granted, of Stock

for which Incentive Options are exercisable for the first time by any Optionee during any calendar year under the Plan (and/or any other stock option plans of the Company or any Subsidiary) shall not exceed \$100,000.

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(k) Transfer of Incentive Option Shares. The stock option agreement evidencing any Incentive Options granted under this Plan shall provide that if the Optionee makes a disposition, within the meaning of Section 424(c) of the Code and regulations promulgated thereunder, of any share or shares of Stock issued to him upon exercise of an Incentive Option granted under the Plan within the two-year period commencing on the day after the date of the grant of such Incentive Option or within a one-year period commencing on the day after the date of transfer of the share or shares to him pursuant to the exercise of such Incentive Option, he shall, within 10 days after such disposition, notify the Company thereof and immediately deliver to the Company any amount of United States federal income tax withholding required by law.

(l) Limitation on Options Held by One Person. The aggregate number of shares of Stock subject to options held by any one person shall not exceed that number of shares as equals 5% of the outstanding shares of the Company.

#### 6. Term of Plan.

No Option shall be granted pursuant to the Plan on or after May 21, 2006, but Options theretofore granted may extend beyond that date.

#### 7. Capital Change of the Company.

In the event of any merger, reorganization, consolidation, recapitalization, stock dividend, or other change in corporate structure affecting the Stock, the Committee shall make an appropriate and equitable adjustment in the number and kind of shares reserved for issuance under the Plan and in the number and option price of shares subject to outstanding Options granted under the Plan, to the end that after such event each Optionee's proportionate interest shall be maintained as immediately before the occurrence of such event.

#### 8. Purchase for Investment.

Unless the Options and shares covered by the Plan have been registered under the United States Securities Act of 1933, as amended (the "Securities Act"), or the Company has determined that such registration is unnecessary, each

person exercising an Option under the Plan may be required by the Company to give a representation in writing that he is acquiring the shares for his own account for investment and not with a view to, or for sale in connection with, the distribution of any part thereof.

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#### 9. Taxes.

The Company may make such provisions as it may deem appropriate, consistent with applicable law, in connection with any Options granted under the Plan with respect to the withholding of any United States or Canadian taxes or any other tax matters.

#### 10. Effective Date of Plan.

The Plan shall be effective on May 22, 1996.

#### 11. Amendment and Termination.

The Board may amend, suspend, or terminate the Plan, except that no amendment shall be made that would impair the rights of any Optionee under any Option theretofore granted without his consent, and except that no amendment shall be made which, without the approval of the shareholders of the Company would:

(a) materially increase the number of shares that may be issued under the Plan, except as is provided in Section 7;

(b) materially increase the benefits accruing to the Optionees under the Plan;

(c) materially modify the requirements as to eligibility for participation in the Plan;

(d) decrease the exercise price of an Incentive Option to less than 100% of the Fair Market Value per share of Stock on the date of grant thereof or the exercise price of a Nonqualified Option to less than 80% of the Fair Market Value per share of Stock on the date of grant thereof; or

(e) extend the term of any Option beyond that provided for in Section 5(b).

The Committee may amend the terms of any Option theretofore granted, prospectively or retroactively, but no such amendment shall impair the rights of any Optionee without his consent. The Committee may also substitute new Options

for previously granted Options, including options granted under other plans applicable to the participant and previously granted Options having higher option prices, upon such terms as the Committee may deem appropriate.

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## 12. Government Regulations.

The Plan, and the grant and exercise of Options hereunder, and the obligation of the Company to sell and deliver shares under such Options, shall be subject to all applicable laws, rules and regulations, and to such approvals by any governmental agencies or national securities exchanges (including the American Stock Exchange and Vancouver Stock Exchange) as may be required.

## 13. General Provisions.

(a) Certificates. All certificates for shares of Stock delivered under the Plan shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations and other requirements of the Securities and Exchange Commission, or other securities commission having jurisdiction, any applicable Federal, provincial or state securities law, any stock exchange upon which the Stock is then listed and the Committee may cause a legend or legends to be placed on any such certificates to make appropriate reference to such restrictions.

(b) Employment Matters. The adoption of the Plan shall not confer upon any Optionee of the Company or any Subsidiary, any right to continued employment or, in the case of an Optionee who is a director, continued service as a director, with the Company or a Subsidiary, as the case may be, nor shall it interfere in any way with the right of the Company or any Subsidiary to terminate the employment of any of its employees, the service of any of its directors or the retention of any of its consultants or advisors at any time.

(c) Limitation of Liability. No member of the Board or the Committee, or any officer or employee of the Company acting on behalf of the Board or the Committee, shall be personally liable for any action, determination, or interpretation taken or made in good faith with respect to the Plan, and all members of the Board or the Committee and each and any officer or employee of the Company acting on their behalf shall, to the extent permitted by law, be fully indemnified and protected by the Company in respect of any such action, determination or interpretation.

(d) Registration of Stock. Notwithstanding any other provision in the

Plan, no Option may be exercised unless and until the Stock to be issued upon the exercise thereof has been registered under the Securities Act and applicable state securities laws, or are, in the opinion of counsel to the Company, exempt from such registration in the United States or exempt from the prospectus and registration requirements under applicable provincial legislation. The Company shall not be under any obligation to register under applicable federal or state securities laws any Stock to be issued upon the exercise of an Option granted

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hereunder, or to comply with an appropriate exemption from registration under such laws or the laws of any province in order to permit the exercise of an Option and the issuance and sale of the Stock subject to such Option however, the Company may in its sole discretion register such Stock at such time as the Company shall determine. If the Company chooses to comply with such an exemption from registration, the Stock issued under the Plan may, at the direction of the Committee, bear an appropriate restrictive legend restricting the transfer or pledge of the Stock represented thereby, and the Committee may also give appropriate stop transfer instructions to the Company's transfer agents.

GST TELECOMMUNICATIONS, INC.

May 22, 1996

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AMENDED AND RESTATED

MASTER AGREEMENT

Among

Tomen America Inc.,

GST Telecommunications Inc.,

GST Telecom Inc.,

Pacwest Network, Inc.,

Pacwest Network L.L.C.,

GST New Mexico Lightwave, Inc.,

GST Pacific Lightwave, Inc., and

GST Tucson Lightwave, Inc.

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# AMENDED AND RESTATED MASTER AGREEMENT

## THIS AMENDED AND RESTATED MASTER AGREEMENT

("Agreement") is made and entered into as of May 24, 1996 by the parties set forth on the signature page hereof and amends that certain Master Agreement dated October 24, 1994 by and among Tomen America Inc., a New York corporation ("Tomen America"), GST Telecommunications, Inc., a Canadian corporation (formerly known as "Greenstar Telecommunications Inc.") ("GSI"), GST Telecom Inc., a Delaware corporation and wholly-owned subsidiary of GSI ("GST"), GST Pacwest Network L.L.C., an Oregon limited liability company, Pacwest Network Inc., a Washington corporation (Pacwest Network L.L.C. and Pacwest Network, Inc. are referred to collectively herein as "Pacwest") and GST Pacific Lightwave, Inc., a Washington corporation (formerly known as "Pacific Lightwave, Inc.") ("PLI"), with respect to the following facts and circumstances.

A. GSI and GST have or are developing plans to develop alternative access network telecommunications projects or expand existing alternative access network telecommunication projects ("Network Projects") in North, Central and South America (the "Territory");

B. Tomen is willing to: (1) provide up to one hundred million dollars (\$100,000,000) of debt financing (including amounts previously disbursed with respect to the PLI Project defined below) to Affiliates of GSI and GST which will develop the Network Projects (the "Development Companies"); and (2) act as equipment and materials procurement agent ("Procurement Agent") for such Network Projects.

C. GSI and GST are willing to grant Tomen the exclusive right to participate in financing and procurement for each of the Network Projects in the Territory.

D. The Network Project developed by PLI (the "PLI Project"), was the initial Network Project developed pursuant to these arrangements and serves as the model for the parties' other joint Network Projects.

E. The parties wish to make certain changes in the terms and conditions of Tomen Corporation's and its Affiliates' ("Tomen's") rights to acquire equity interests in Greenstar.

Subject to the terms and conditions of this Agreement and the other Related Documents, and in reliance upon the representations, warranties, covenants and agreements of the parties in this Agreement and the other Related Documents, the parties hereto agree as follows:

## 1. Interpretation.

1.1 Definitions. Unless otherwise indicated in this Agreement or any other Related Document, each term set forth in Schedule 1, when used in this Agreement or any other Related Document, shall have the respective meaning given to that term in Schedule 1 or in the provision of this Agreement or other Related Document referenced in Schedule 1.

1.2 Monetary Denomination. All references to "dollars" or "\$" mean the lawful currency of the United States of America.

## 2. Tomen Participation in GSI and GST Network Projects.

### 2.1 Exclusive Right.

(a) Commencing as of October 24, 1994, in each case prior to providing any such information to any other party, GSI and GST and their Affiliates (collectively, "Greenstar") will submit to Tomen for consideration information concerning each Network Project Greenstar intends to undertake in the Territory. Such information shall contain all necessary and relevant terms and conditions regarding the Network Project including (without limitation) a description of the proposed geographic location, a full business plan (including information with respect to marketing, network facilities, regulatory considerations, competitors and financial plans), operating budget, historical information, financial information, any special considerations, the proposed terms of Tomen's participation, and all other information required by Tomen (in Tomen's reasonable judgment) to enable Tomen to determine whether to participate in such Network Project. If additional information ("Additional Information") shall be requested by Tomen, it shall be requested if practicable, within forty-five (45) days of receipt of the information described in the preceding sentence, and if not practicable, the period described in the succeeding sentence to review and request information shall be extended up to ten (10) days after receipt by Tomen of the Additional Information. Subject to the terms of the preceding sentence, Tomen shall provide GSI and GST with notice within forty-five (45) days of Tomen's receipt of adequate information concerning a proposed Network Project whether, subject to completion of due diligence and obtaining all approvals of Tomen and its Affiliates, it will provide financing and participate as Procurement Agent for such Network Project. During the period from Greenstar's conception of the proposed Network Project to the expiration of Tomen's review period described in the preceding two sentences, Greenstar shall keep the information concerning the proposed Network Project and Tomen's potential participation confidential from all other parties. Tomen's decision to participate in any proposed Network Project shall be subject to, in each case, Tomen's satisfaction in its sole discretion with the Network Project and with the terms of its participation. In this connection, Tomen may propose debt financing terms different from those set forth in Section 4 with respect to a particular Network Project proposed by Greenstar; provided that, if the parties cannot agree on any such different terms and Tomen is unwilling to participate on the terms set forth in Section 4, such Network Project shall be considered a declined project under Subsection 2.2(b).

(b) This Subsection 2.1 shall not apply to: (i) the existing joint venture arrangement of Greenstar with IntelCom Group Inc. with respect to the development of an alternative access fiber optic telecommunication transmission network in the Phoenix, Arizona Metropolitan Area through Phoenix Fiber Access, Inc.; (ii) the existing joint venture arrangements of Greenstar with Starcom International Optics Corporation with respect to the Fiber One network proposed to be constructed between Vancouver, British Columbia and Seattle, Washington; (iii) the proposed joint venture, Kentucky Fiberlink, Co., to provide telecommunications services to the Commonwealth of Kentucky; and (iv) any other project or joint venture in which: (A) Greenstar is a passive investor with no ability to control the financing of the project, or (B) the participation of Tomen as contemplated by this Agreement is prohibited by Canadian law, including without limitation, that the participation of Tomen would render the proposed Network Project ineligible for any necessary Permits from Canadian authorities. No Greenstar entity is subject to any agreement or bound in any way (by means of a noncompetition agreement or otherwise) from developing Network Projects with Tomen in any geographic area in the Territory other than the Phoenix Arizona Metropolitan Area.

2.2 Termination of Exclusive Right. The obligation of Greenstar to provide to Tomen the exclusive right set forth in Subsection 2.1 will terminate on the earlier to occur of:

(a) such time as Tomen has provided a total of debt financing in the principal amount (such principal amount to include interest during the construction period) of one hundred million dollars (\$100,000,000) to Network Projects; and

(b) such time as Tomen has declined to provide financing for three Network Projects submitted by Greenstar, provided that such rejected Network Projects are similar to those previously undertaken by Greenstar and Greenstar is fully committed to pursuit of such Network Projects and closes the financing for each such Network Project. Tomen's decision not to provide financing for three such Network Projects shall terminate Tomen's obligation hereunder to make available any further debt financing.

2.3 Other Cooperation. GSI and Tomen shall consult with one another periodically with respect to GSI's business activities in areas other than alternative access telecommunications networks to determine whether Tomen and GSI may work together in such other areas.

### 3. Participation as Procurement Agent; Equipment Purchase Agreements.

(a) With respect to each Network Project in which Tomen elects to participate, Tomen or an Affiliate of Tomen shall act as Procurement Agent. In connection with serving as Procurement Agent: (i) Tomen has the right to charge a commission negotiated with each supplier; (ii) the materials and equipment provided for the Network Project will satisfy specifications provided by the Development Company and the suppliers will be recognized suppliers of such materials and equipment, provided that the Development

Company has the reasonable right to reject a particular supplier if the Development Company or an Affiliate has had difficulty with the supplier or the supplier's materials or equipment are known in the market to be substandard, provided further that GSI or GST provides written notice to Tomen of its objection to a particular supplier within five Business Days of the date Tomen proposes such supplier, and (iii) the price charged to the Development Company, including the commission payable to Tomen, will be competitive with the prices

available from other suppliers (understanding that competitive does not mean lowest in each case or that it will be higher in each case, but rather means reasonable compared to the prices available from other suppliers, considering the features of such other equipment and materials and the terms, including warranty and payment terms and timing of delivery, available from other suppliers). To check that prices available through Tomen are competitive, not more than once each year commencing as of October 23, 1995, GSI and GST have the right to obtain independent quotes for materials and equipment (which subject to any confidentiality restrictions shall be made available to Tomen), and Tomen has the right to revise its pricing based on such other quotes, which revised price shall be accepted by Greenstar if it is competitive as described above.

(b) From time to time the Procurement Agent may enter into agreements with equipment vendors with respect to the equipment to be purchased by a Development Company, and the Development Company and/or GST, subject to its/their review and approval of such agreements, shall enter into reciprocal agreements with the Procurement Agent on the same terms and conditions. If GST shall be a party to any such agreements with Tomen or equipment vendors, it shall enter into reciprocal agreements with the Development Company on the same terms and conditions.

4. Debt Financing for Network Projects. (a) With respect to each Network Project in which Tomen elects to participate, Tomen shall provide a loan in the amount of 75% of the Project Costs of a Network Project (a "Project Loan") on the following terms, subject to agreement otherwise with respect to a particular Network Project: (i) extension of the Project Loan will be subject to conditions, including those set forth in Article 3 of the PLI Credit Agreement; (ii) the Project Loan will cover a construction and term period, with the construction period not to exceed three years and the total term of the Project Loan not to exceed nine years; (iii) interest will be calculated and payable quarterly, with interest during the construction period to be paid from draws under the Project Loan (except to the extent that the Development Company has revenue from operations during the construction period, in which event interest will be paid currently from such revenue); (iv) the interest rate for the Project Loan will be 3 month LIBOR plus 300 basis points, subject to the Development Company having the option to convert to a fixed interest rate during the term period on any interest payment date, with the fixed rate being equal to the Treasury index rate for a term nearest to the remaining loan term, plus 300 basis points plus the swap cost associated with the conversion to the fixed interest rate; (v) principal repayment will commence at the beginning of the fourth year of the term of the Project Loan, with principal repayment based on amortization to be agreed on with respect to each Network Project over 24 quarterly payments and any outstanding principal and interest paid on the date of the scheduled 24th payment; (vi) GST will make an equity contribution equal to the 25% of the Project Costs prior to or at the same time as the initial funding under the Project Loan;

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(vii) at the initial funding under the Network Project Credit Agreement Tomen will be paid an upfront fee equal to 1.5% of the amount of the Project Loan; (viii) Tomen will be paid a commitment fee of .5% per annum of the unused principal portion of the committed amount of the Project Loan, payable quarterly in arrears together with each quarterly interest payment; (ix) the security for the Project Loan will include all of the assets of the Development Company and all ownership interests in the Development Company; (x) the Project Loan may be prepaid at any time without Tomen's consent, provided that (A) Tomen shall have a right of first refusal to provide any refinancing, (B) at the time of the prepayment Tomen shall be paid an amount equal to one-third of the net present value of the interest rate savings, if any, of the refinancing loan compared to the Project Loan, which if Tomen provides the refinancing loan will be added to the principal amount thereof, and (C) if the Project Loan has variable interest, the prepayment is on the last day of a LIBOR Interest Period, and if the Development Company has elected to convert to a fixed interest loan, the Development Company pays any costs or expenses in connection with the prepayment; and (xi) any management fees payable by the Development Company will be subordinated to the Development Company's obligations to Tomen with respect to the Project Loan and the pledge agreement described in Subsection 4(b).

(b) At any time Tomen provides debt financing to more than one Network Project, Greenstar shall cause each Development Company involved in such Network Projects, at the time of the closing of the debt financing of the second Network Project funded by Tomen and the closing of each subsequent Network Project funded by Tomen, to enter into pledge agreements pledging the Net Cash Flow of such Development Company to support the Obligations of each other Development Company to Tomen and its Affiliates in the event of a default of any other Development Company; provided however, that a default or event of default on the part of one Development Company with respect to its Network Project Credit Agreement by itself shall not constitute a default or event of default with respect to the Network Project Credit Agreement between any other Development Company and Tomen but rather the Net Cash Flow of such second Development Company shall be available to cure the default or event of default of the first Development Company.

(c) GST shall have the right to make additional capital contributions to Development Companies. GST may also make loans to Development Companies; provided that the maximum aggregate amount of such loans shall be equal to twenty percent (20%) of the Project Budget of the Development Company and such loans shall be unsecured and deeply subordinated to any Obligations to Tomen and its Affiliates.

5. Rights Related to Development Company Fundings.  
With respect to each Network Project in which Tomen elects to participate, Tomen shall have the following rights.

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5.1 GSI Equity Securities Purchase.

(a) Tomen or an Affiliate shall have the right (but not the obligation), at the time of the initial funding of the initial Project Loans for the Network Projects in Albuquerque, New Mexico and Tucson, Arizona, to purchase, for a total purchase price of \$800,000.00: (i) the number of shares of GSI Common Stock, no par value ("GSI Common Stock") equal to the quotient of the purchase price referred to in the preceding clause divided by the average of the per share closing price for the GSI Common stock quoted on the AMEX as published in the Western edition of the Wall Street Journal for the thirty (30) market trading days preceding the date of the Credit Agreement between GST New Mexico Lightwave, Inc. and GST Tucson Lightwave, Inc., respectively, as borrower and Tomen as lender, and (ii) 46,155 warrants exercisable for one share of GSI Common Stock.

(b) Tomen or an Affiliate shall have the right (but not the obligation), at the time of the initial funding of each Project Loan made after the Project Loans for the Albuquerque, New Mexico and Tucson, Arizona Project Loans, to purchase for a total purchase price equal to 10% of the total equity contribution to the Development Company by its shareholder(s): (i) the number of shares of GSI Common Stock equal to the quotient of the purchase price referred to in the preceding clause divided by the average of the per share closing price for the GSI Common stock quoted on the AMEX as published in the Western edition of the Wall Street Journal for the thirty (30) market trading days preceding the date of the Credit Agreement between such Development Company as borrower and Tomen as lender, and (ii) with respect to the Network Project to be funded in Hawaii, 75,000 warrants, each exercisable for one share of GSI Common Stock, and with respect to other Network Projects, a number of such warrants as shall be mutually agreed by Tomen and GSI.

5.2 Contractor and Construction Manager. Tomen shall have the right to approve (which approval shall not be unreasonably withheld) the contractor and construction manager for each Network Project in which Tomen participates; provided that, Tomen shall approve or disapprove any proposed contractor or construction manager within ten (10) Business Days after written notice of such proposed contractor or construction manager is provided to Tomen by Greenstar in the manner set forth in Section 14. If Tomen does not approve or disapprove within such time period, the proposed contractor or construction

manager shall be deemed to be approved.

6. Purchase of GSI Shares; Grant of Options and Warrants. As of October 24, 1994, Tomen and GSI entered into a Greenstar Telecommunications Inc. Common Stock Purchase Agreement, which was amended by Amendment No. 1 to Greenstar Telecommunications Inc. Common Stock Purchase Agreement effective as of October 24, 1994 (the "GSI Stock Purchase Agreement") for: (a) the purchase of certain GSI Common Stock and warrants exercisable for GSI Common Stock; and (b) the granting of certain options to purchase GSI Common Stock and warrants exercisable for GSI Common Stock.

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7. Network Project Financings. Concurrently with the execution of this Agreement, Tomen (as lender) is entering into Credit Agreements with GST Tucson Lightwave, Inc., an Arizona corporation ("TLI"), and GST New Mexico Lightwave, Inc., a New Mexico corporation ("NML") (both of which are wholly-owned subsidiaries of GST), as borrowers, respectively.

8. Access to Information. Upon reasonable notice and at reasonable intervals, GSI, GST, PLI, TLI, NML, and each other Development Company shall, and shall cause their officers, directors, employees, partners, auditors, agents and Affiliates to: (a) afford Tomen's officers, employees and authorized agents and representatives and its Affiliates reasonable access during normal business hours to the offices, properties and records of Greenstar, including, without limitation, access to engineers, surveyors and other agents of Tomen and cooperation in all reasonable respects in the conduct of any surveys, reviews, environmental investigations and audits; and (b) furnish to Tomen's officers, employees and authorized agents and representatives and its Affiliates such additional financial and operating data and other information regarding Greenstar (or legible copies thereof) as Tomen may from time to time reasonably request and that can be provided without unreasonable cost to or effort on the part of Greenstar. Without limiting the generality of the foregoing provisions, GSI, GST, PLI, TLI, NML and each other Development Company shall, and shall cause their Affiliates to, cooperate in all reasonable respects with Tomen's investigation of Greenstar and such other Companies and provide copies of such documents as Tomen may request to confirm the title to any and all properties or assets (real, personal, tangible, intangible or other) of Greenstar and such other Companies or used, or intended to be used by the Network Projects. Notwithstanding anything to the contrary in the Related Documents, no investigation by Tomen shall affect the representations and warranties of GSI, GST, PLI, TLI or NML under this Agreement.

9. No Restrictions. Except as provided in this Section 9, there are no restrictions on Tomen with respect to its participation in projects not related to Greenstar. Tomen is free to pursue opportunities relating to (without limitation) alternative access telecommunications networks that become available to Tomen either alone or with third parties; provided, however, that (a) once Greenstar presents a Network Project to Tomen, Tomen shall not participate in the debt or equity financing of such project without Greenstar unless Greenstar informs Tomen that it no longer has any interest in pursuing the Network Project, and (b) once each year Greenstar may provide Tomen with a list of cities in which Greenstar reasonably expects to develop Network Projects during the following twelve months and any information then available to Greenstar with respect to the planned Network Projects, and Tomen shall not, without Greenstar's consent, offer to provide debt or equity financing for an alternative access telecommunications network under development by another party in such city during such twelve month period.

10. Expenses. At any closings pursuant to Network Project Credit Agreements, Tomen's transaction expenses with respect to the negotiation, execution and delivery of the associated agreements, including legal, consulting and financial advisory fees

and other out of pocket expenses of Tomen, will be paid from the proceeds of the loan made pursuant to the related Network Project Credit Agreement, in the maximum amount of \$250,000 (it being the anticipation of the parties that the actual amount will be less than such amount).

11. Public Announcements. Neither Tomen, on the one hand, or Greenstar on the other, shall make any public announcement concerning the transactions contemplated hereby except with the prior consent of the other or as may be required by law. Tomen or Greenstar, as the case may be, shall have the right to review and provide comments on the form of any public announcement prior to issuance of such announcement by the other.

12. Representations and Warranties. Tomen, GSI, GST, PLI, TLI and NML and Pacwest each represent to the other as follows:

12.1 Organization. It is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of formation. It is duly qualified, authorized or licensed and in good standing in each of the jurisdictions where the nature of its business or the character of the properties owned, leased or operated by it requires such qualification, authorization or licensing.

12.2 Authorization; Binding Agreement. This Agreement has been duly executed and delivered by it and constitutes the valid and binding obligation of it, enforceable against it in accordance with its terms. The execution and delivery of this Agreement have been duly authorized by all necessary action, and the individual or individuals executing and delivering this Agreement on behalf of it is or are duly authorized to do so, and to bind it thereby, all in accordance with its charter documents.

12.3 Proceedings. There is no litigation, action, suit or proceeding pending or, to the best of such party's knowledge, threatened by or against such party or which could reasonably be anticipated to adversely affect, either individually or in the aggregate the transactions contemplated by this Agreement.

12.4 No Brokers. All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by such party directly and no Person may be deemed to be acting on behalf of such party in such a manner as to give rise to any valid claim against any of the parties for a brokerage commission, finder's fee or other like payment except that Pacwest is entitled to a finder's fee pursuant to Section 9.4 of the GST Shareholder Agreement. GSI and GST are responsible for paying such finder's fee to Pacwest.

12.5 Agreement Will Not Cause Breach. The execution and delivery of this Agreement and the other Related Documents and the consummation of the transactions contemplated hereby and thereby will not result in or constitute any of the following: (i) a breach of any term or provision of any Related Document by such party; (ii) a default, breach or violation or an event that, with notice or lapse of time or both, would be a default,

breach or violation of any of such party's organizing documents or any contractual obligation, license, commitment or arrangement to which such party is a party or by which such party is bound; (iii) an event that would permit any Person to terminate any contractual obligation or to accelerate the maturity of any indebtedness or other contractual obligation of such party; or (iv) the creation or imposition of any lien.

12.6 Disclosure. No representation, warranty or other

statement made by such party in this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements herein taken as a whole not misleading in light of the circumstances under which they were made.

### 13. Indemnification.

(a) Greenstar, jointly and severally, will indemnify and hold harmless Tomen, each of Tomen's directors, partners, officers and Affiliates, and each of such partners', officers' and Affiliates' officers, directors, partners, employees, representatives and Affiliates (collectively, the "Tomen Indemnitees"), against any losses, claims, damages or liabilities, joint or several, to which any Tomen Indemnatee may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) (i) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Greenstar public document, including without limitation, press releases and all documents required to be filed with the SEC, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and/or (ii) are suffered or incurred by a Tomen Indemnatee, directly or indirectly, by reason of or arising out of any litigation instituted by any shareholder of Greenstar other than a Tomen Indemnatee, and Greenstar will reimburse each Tomen Indemnatee for any legal or other expenses reasonably incurred by such Tomen Indemnatee in connection with investigating or defending any such action or claim; provided, however, that Greenstar shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in any public document, including without limitation, press releases and all documents required to be filed with the SEC, or any such amendment or supplement, in reliance upon and in conformity with written information furnished to Greenstar by Tomen expressly for use in any Greenstar public document, including without limitation, press releases and all documents required to be filed with the SEC.

(b) In the event that any third party claim is asserted against a Tomen Indemnatee with respect to which such Tomen Indemnatee is entitled to indemnification hereunder, such Tomen Indemnatee will, within thirty (30) days after learning of such claim (provided, however, that if a claim arises by virtue of litigation, then in no event less than twenty (20) days prior to the date in which an appearance or answer is due, whichever is earlier), notify Greenstar of such claim in writing. Greenstar shall, within twenty (20) days after receipt from the Tomen Indemnatee of notice of such claim, conduct at its expense the defense against such claim in its own name, or if necessary in the name of the

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Tomen Indemnatee, subject to the Tomen Indemnatee's reasonable approval of any voluntary resolution of such claim. In the event that Greenstar fails to conduct such defense or to provide notice to Tomen that it will conduct such defense, the Tomen Indemnatee will have the right to conduct such defense and to compromise and settle the claim in its sole discretion and be entitled to indemnification from Greenstar pursuant to this Section 13. The Tomen Indemnatee and Greenstar will cooperate with the Person conducting such defense and make available to such Person such assistance and materials as may be reasonably requested by it, all at the expense of Greenstar.

(c) The obligations of Greenstar under this Section 13 shall be in addition to any liability which Greenstar may otherwise have.

### 14. Miscellaneous.

14.1 Notices. All notices, notifications and other communications required or permitted by this Agreement shall be in writing and shall be delivered by hand, telegraphically transmitted, sent by facsimile (with a copy sent by overnight mail), or mailed by overnight courier to the parties at the following addresses (or such other address for a party as shall be specified

by notice given pursuant hereto):

If to Tomen: Tomen America Inc.  
1285 Avenue of the Americas  
New York, NY 10019  
Attn: Takashi Yoshida  
Facsimile No. (212) 397-3351

with a copy to: Orrick, Herrington & Sutcliffe  
400 Sansome Street  
San Francisco, CA 94111  
Attn: Michael R. Meyers  
Facsimile No. (415) 773-5759

If to GSI, GST, Pacwest, PLI,  
TLI or NML: c/o GST Telecommunications Inc.  
4317 NE Thurston Way  
Vancouver, WA 98662  
Attn: John Warta  
Facsimile No. (360) 604-2878

with a copy to: Olshan Grundman Frome & Rosenzweig, LLP  
505 Park Avenue  
New York, NY 10022  
Attn: Stephen Irwin  
Facsimile No. (212) 755-1467

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Notices delivered by hand, telegraphically transmitted, or sent by facsimile shall be deemed given the day so delivered, transmitted or sent. Notices delivered or mailed as provided herein shall be deemed given on the date of actual receipt. Failure to deliver to counsel for a party as provided above a copy of a notice shall not constitute failure to give notice hereunder.

14.2 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of Tomen, GSI, GST, Pacwest, PLI, TLI and NML. No party may assign or transfer this Agreement or any interest herein, in whole or in part, by operation of law or otherwise, except upon the prior written consent of the other parties, which prior consent may be withheld in the sole discretion of such parties.

14.3 Waiver. No delay or omission by a party hereto in exercising any right or remedy provided for herein shall constitute waiver of such right or remedy and shall not be construed as a bar to or a waiver of any such right or remedy on any future occasion.

14.4 Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of New York, except that body of law relating to choice of law.

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

14.6 Effect of Section Headings. Section headings appearing in this Agreement are inserted for convenience or reference only, and shall in no way be construed to be interpretations of text.

14.7 Amendments. This Agreement may only be modified or amended by an instrument in writing duly executed and delivered by the parties or their duly authorized representatives.

14.8 Entire Agreement. The terms and conditions set forth herein constitute the complete and exclusive statement of the agreement

between Tomen, GSI, GST, Pacwest, PLI, TLI and NML relating to the subject matter of this Agreement, superseding all previous negotiations and understandings, and may not be contradicted by evidence of any prior or contemporaneous agreement.

14.9 No Third Party Beneficiaries. The parties do not intend to confer any benefit hereunder on any other than the parties hereto.

14.10 Further Assurances. The parties agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other

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may reasonably require to consummate, evidence or confirm the agreements contained herein in the manner contemplated hereby.

14.11 Partial Invalidity. If any provision of this Agreement is found to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

14.12 Plural Terms. All terms defined in this Agreement in the singular form shall have comparable meanings when used in the plural form and vice versa.

14.13 Interpretation. Each party and its counsel have reviewed this Agreement and accordingly the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

14.14 Arbitration.

(a) Any controversy, claim or dispute between the parties hereto arising out of or related to this Agreement or the breach hereof, which cannot be settled amicably by the parties, shall be submitted for arbitration in accordance with the provisions contained herein and in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Rules"); provided, however, that notwithstanding any provisions of such Rules, the parties shall have the right to take depositions and obtain discovery regarding the subject matter of the Arbitration, as provided in the New York Civil Practice Laws and Rules. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. The arbitrators shall determine all questions of fact and law relating to any controversy, claim or dispute hereunder, including but not limited to whether or not any such controversy, claim or dispute is subject to the Arbitration provisions contained herein.

(b) Any party desiring arbitration shall serve on the other party and the New York Office of the American Arbitration Association, in accordance with the aforesaid Rules, its Notice of Intent to Arbitrate ("Arbitration Notice"), accompanied by the name of the arbitrator selected by the party serving the Arbitration Notice. A second arbitrator shall be chosen by the other party, and a third arbitrator shall be chosen by the two arbitrators so selected. If the party upon whom the Arbitration Notice is served fails to select an arbitrator and fails to advise the other party of selection within fifteen (15) days after the receipt of the Arbitration Notice, the second arbitrator shall be selected by the first arbitrator. If the two arbitrators so chosen cannot agree upon a third arbitrator within ten (10) days after the appointment of a second arbitrator, the third arbitrator shall be selected in accordance with the Rules. The arbitration proceedings provided hereunder are hereby declared to be self-executing, and it shall not be necessary to petition a court to compel arbitration.

(c) If a controversy, claim or dispute arises between the parties which is subject to the arbitration provisions hereunder, and there exists or later arises a controversy, claim or dispute between the parties and any third party, which controversy,

claim or dispute arises out of or relates to the same transaction or series of transactions, said third party controversy, claim or dispute shall be consolidated with the arbitration proceedings hereunder; provided, however, that any such third party must be a party to an agreement with Tomen, GSI, GST, Pacwest, PLI, TLI or NML which provides for arbitration of disputes thereunder in accordance with rules and procedures substantially the same in all material respects as provided for herein, or, if not, must consent to arbitration as provided for hereunder.

(d) All arbitration proceedings shall be held in New York, New York.

(e) A demand for arbitration shall be made within reasonable time after the claim, dispute or other matter in question has arisen and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.

(f) For the purposes of this Subsection 14.14, a "party" shall be Tomen, on the one hand, or GSI, GST, Pacwest, PLI, TLI and/or NML, on the other hand.

14.15 Attorneys' Fees. In the event of any litigation or arbitration to enforce the provisions of this Agreement, the prevailing party in such litigation or arbitration shall be entitled to reasonable attorneys' fees and costs as fixed by court or arbitration.

14.16 Confidential Information. (a) "Confidential Information" means, collectively, any financial information, customer information, contracts, service or product data, "know-how," or other like information provided by the Providing Party to the Receiving Party which is of a secret and proprietary nature, is in written form and marked as "CONFIDENTIAL", and is treated by the Providing Party as a trade secret. Each party, when receiving Confidential Information from the other party shall be referred to as the "Receiving Party" and when disclosing or providing access to Confidential Information to the other party shall be referred to as the "Providing Party."

(b) Each Receiving Party agrees to keep the Confidential Information of the Providing Party disclosed to it hereunder confidential; not to communicate Confidential Information of the Providing Party to any third party without the approval of the Disclosing Party except to its agents, representatives, advisors, consultants and employees; to direct its agents, representatives, advisors, consultants and employees not to disclose to any person the fact that the Confidential Information has been made available to the Receiving Party, any of the terms, conditions or other facts with respect to any possible transactions, including the status thereof except as otherwise set forth herein; and not to utilize Confidential Information of the Providing Party except for purposes of the business relationship with the Providing Party.

(c) The restrictions provided herein concerning use or disclosure of Confidential Information by the Receiving Party shall not apply with respect to Confidential Information which:

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(i) was disclosed to the Receiving Party by a third party having the right to disclose the same;

(ii) either was published or otherwise

available to the public at the time of its receipt by the Receiving Party or became published or available to the public at a subsequent date by means other than a breach of this Subsection 14.16, but in such event only as of said subsequent date;

(iii) was known to, developed or obtained by the Receiving Party independently of any disclosure to it hereunder, as shown by documents in the Receiving Party's possession; or

(iv) is disclosed by the Receiving Party to its counsel, as required by law, or in a legal proceeding.

(d) Upon the Providing Party's request, the Receiving Party shall deliver to the Providing Party any tangible materials containing Confidential Information, including all copies thereof, and all such materials shall remain the property of the Providing Party. This paragraph shall survive termination of this Agreement.

(e) Tomen and its Affiliates are authorized to (i) discuss with their advisors, agents, representatives and consultants prospective business transactions between Tomen and Greenstar or Pacwest in order to assess the feasibility thereof, and (ii) disclose Confidential Information to the extent required to perform the obligations of Procurement Agent.

(f) Except as provided in (d) above, this Subsection 14.16 shall terminate two (2) years from the date of disclosure of the Confidential Information.

(g) Each Receiving Party understands and acknowledges that any breach or threatened breach of any of its obligations under this Subsection 14.16 will cause irreparable harm to the Providing Party for which damages would not be a fully adequate remedy, and therefore, in the event of any such breach, in addition to other available remedies, the Providing Party shall have the right to obtain specific performance of this Subsection 14.16 and injunctive relief.

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

TOMEN AMERICA INC.,  
a New York corporation

GST TELECOMMUNICATIONS INC.,  
a Canadian corporation

By: /s/ Takashi Yoshida  
-----  
Name: Takashi Yoshida  
Title: Vice President

By: /s/ Clifford V. Sander  
-----  
Name: Clifford V. Sander  
Its: Senior Vice President

GST TELECOM INC.,  
a Delaware corporation

By: /s/ Clifford V. Sander  
-----  
Name: Clifford V. Sander  
Its: Vice President

GST PACIFIC LIGHTWAVE, INC.,  
a Washington corporation

By: /s/ Clifford V. Sander  
-----  
Name: Clifford V. Sander

Its: Vice President

PACWEST NETWORK L.L.C.,  
an Oregon limited liability company  
By its sole members:

/s/ John Warta

-----  
John Warta

/s/ Clifford V. Sander

-----  
Clifford V. Sander

PACWEST NETWORK, INC.,  
a Washington corporation

By: /s/ John Warta

-----  
Name: John Warta  
Its: President

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GST TUCSON LIGHTWAVE, INC.,  
an Arizona corporation

By: /s/ Clifford V. Sander

-----  
Name: Clifford V. Sander  
Title: Vice President, CFO, Treasurer  
& Assistant Secretary

GST NEW MEXICO LIGHTWAVE, INC.,  
a New Mexico corporation

By: /s/ Clifford V. Sander

-----  
Name: Clifford V. Sander  
Title: Vice President, CFO, Treasurer  
& Assistant Secretary

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SCHEDULE 1

DEFINITIONS

"Act" means the U.S. federal Securities Act of 1933, as amended.

"Additional Information" has the meaning given in Section 2.1(a) of the Master Agreement.

"Affiliate" has the meaning set forth in Rule 12b-2 of the regulations under the Securities Exchange Act of 1934, as amended provided, however, that in no case shall Tomen be deemed to be an Affiliate of Greenstar.

"AMEX" means the American Stock Exchange.

"Applicable Easement" means any Easement that is necessary at any given time in light of the stage of development, construction or operation of a Network Project to construct, test, operate, maintain, repair, own or use the Network Project as contemplated by the Operative Documents, to enter into any Operative Document or to consummate any transaction contemplated thereby.

"Applicable Permit" means any Permit, including any zoning, environmental protection, pollution, sanitation, FCC, state, safety, sitting, building or other Permit, (a) that is necessary at any given time in light of the stage of development, construction or operation of a Network Project to construct, test, operate, maintain, repair, own or use the Network Project as contemplated by the Operative Documents, to enter into any Operative Document or to consummate any transaction contemplated thereby, or (b) that is necessary so that none of the Development Company, Lender nor any Affiliate of any of them may be deemed by any Governmental Authority to be subject to regulation under the Communications Act or under any state laws or regulations as a result of the construction and operation of the Network Project.

"Arbitration Notice" has the meaning given in Section 14.14 of the Master Agreement.

"Business Day" means any day other than a Saturday, Sunday or other day on which banks are authorized to be closed in San Francisco, California or New York, New York and, with respect to the determination of the LIBOR Rate, which is also a day on which dealings in Dollar deposits are carried out in the London interbank market.

"Closing Date" means the closing date of a financing of a Development Company by Tomen.

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"Code" means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code shall include any valid regulation promulgated thereunder, and any comparable provision of any future legislation amending, supplementing or superseding such section.

"Collateral" means all real and personal property which is subject or is or is intended to become subject to the security interests or lien granted by any of the Collateral Documents.

"Collateral Documents" means the pledge agreement, the security agreements, the Consents, the other security agreements to be entered into pursuant to a credit agreement between Tomen and a Development Company, the construction deeds of trust and any financing statements and the like filed or recorded in connection with the foregoing.

"Collocation Agreements" means the agreements entered into or to be entered into between a Development Company and local exchange carriers with respect to physical or virtual collocation.

"Communications Act" means the Communication Act of 1934, as amended.

"Confidential Information" has the meaning given in Section 14.16 of the Master Agreement.

"Consents" shall mean a consent to assignment as collateral executed by each party to the Project Documents (other than Lender) in the form set forth in the Credit Documents.

"Credit Documents" means with respect to the financing by Tomen of a Network Project, the credit agreement, the note(s), the Collateral Documents and the Consents.

"Development Companies" means corporations which are direct or indirect subsidiaries of GSI and/or GST which develop Network Projects financed by Tomen.

"Dollars" and "\$" means United States dollars or such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts in the United States of America.

"Easements" means any easement, other right of way or license provided or agreed to by a Governmental Authority or other Person.

"Equity Securities" of any Person shall mean (a) all common stock, preferred stock, participations, shares, partnership interests or other equity interests in and of such Person (regardless of how designated and whether or not voting or non-voting) and (b) all warrants, options and other rights to acquire any of the foregoing.

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"FCC" means the Federal Communications Commission and its successors.

"Governmental Authority" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity, (including any zoning authority, the FCC, or any arbitrator with authority to bind a party at law.

"Governmental Rule" means any law, rule, regulation, ordinance, order, code interpretation, judgment, decree, directive, guidelines, policy or similar form of decision of any Governmental Authority.

"Greenstar" means GSI, GUS, GST, PLI and their Affiliates.

"GSI" means GST Telecommunications Inc. (formerly known as "Greenstar Telecommunications Inc."), a corporation organized under the laws of Canada.

"GSI Common Stock" means the common stock, no par value, of GSI.

"GSI Stock Purchase Agreement" means the Greenstar Telecommunications Inc. Stock Purchase Agreement between GSI and Tomen, dated October 24, 1994.

"GST" means GST Telecom Inc., a Delaware corporation.

"GUS" means Greenstar USA, Inc., a Delaware corporation.

"Interest Period" means (a) the period commencing on the Closing Date and ending on the numerically corresponding day in the third succeeding calendar month and (b) thereafter, each period commencing on the last day of the next preceding Interest Period and ending on the numerically

corresponding day in the third succeeding calendar month; provided, however, that (1) the initial Interest Period with respect to each construction loan other than the initial construction loan shall commence on the date on which such subsequent construction loan is advanced and end on the last day of the then current Interest Period as established above; (2) any Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless, such next Business Day falls in another calendar month, in which case such Interest Period shall end on the immediately preceding Business Day; (3) any Interest Period which begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month; and (4) no Interest Period shall end after the Maturity Date.

"Leases" means any lease of property necessary or entered into in connection with a Network Project.

"Lender" means Tomen and its successors and assigns.

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"Lender Representative" means an individual designated by Lender from time to time to act as liaison with a Development Company.

"LIBOR Rate" means a rate per annum determined by Lender (which determination shall, absent manifest error, be conclusive) to be equal to the rate at which deposits in Dollars are offered to Lender in the London interbank eurodollar currency market at approximately 11:00 a.m. (London time), two Business Days prior to the first day of the relevant Interest Period (for delivery on the first day of such Interest Period) and for a term equal to such Interest Period.

"Maturity Date" means the maturity date under the Credit Documents between a Development Company as borrower and Tomen as lender.

"Net Cash Flow" means with respect to a Development Company and the applicable period:

(a) the sum of:

(i) the gross receipts of the Development Company from all sources (other than capital contributions, proceeds from the Credit Agreement with Tomen or a Tomen Affiliate or other loans), including but not limited to receipts from (1) the sale of products and services, (2) interest and other investment income on investments and reserves, and (3) insurance proceeds;

(ii) any amounts released from reserves, the distribution of which is permissible and in accordance with the provisions of the Credit Agreement; and

(iii) any Net Cash Flow from a prior period not distributed but the distribution of which is permissible;

less (b) the sum of:

(i) all costs and expenses which the Development Company paid during such period in connection with the construction, ownership, management (except as provided herein), operation and maintenance of the Network Project, including, but not limited to, (1) utility costs, (2) business taxes and real and personal property tax and assessments, and fees and expenses in connection with the preparation of the Development Company's tax returns, (3) insurance premiums, (4) the actual documented costs of Network Project management, not to include management fees paid to Greenstar or any Affiliate in excess of such actual costs, (5) expenditures for capital improvements and the repair, maintenance and restoration of the improvements (including any portion of the same to the extent not covered by insurance proceeds), (6) expenditures required or deemed advisable to be made under or in connection with any contract

of the Development Company, and (7) all other costs and expenses, including capital expenditures and the purchase of spare parts and other inventory and replacement items, required to be made by the Development Company (but excluding any such amounts to the extent paid out of reserves); and

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(ii) all principal and interest and other sums and amounts payable by the Development Company to repay any Loan from Tomen payable for the applicable or pertinent period.

"Network Project Credit Agreement" means a credit agreement between Tomen, as lender and a Development Company, as borrower, to finance an alternative access network telecommunications project.

"Network Projects" means alternative access network telecommunications projects to be developed or existing alternative access projects to be expanded by GSI and/or GST in the Territory.

"NML" means GST New Mexico Lightwave, Inc., a New Mexico corporation.

"Obligations" means and includes, with respect to any Person, all loans, advances, debts, liabilities, and obligations, howsoever arising, owed by such Person to a lender of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, pursuant to the terms of a credit agreement or any other credit document, including all interest, fees, charges, expenses, attorneys' fees and accountants fees chargeable to such Person in connection with its dealings with such lender and payable by such Person hereunder or thereunder. The term "Obligations" shall also mean and include any amounts owing to Lender which arise because payments as to past transactions are rescinded or otherwise required to be surrendered by Lender after receipt.

"Operative Documents" means the Credit Documents, the Project Documents and any other contracts or agreements related to the construction, testing, maintenance, repair, operation or use of the Network Project entered into by the Development Company and any other Person subsequent to the Closing Date.

"Pacwest" means Pacwest Network L.C.C., an Oregon limited liability company.

"Parts" means any part, appliance, instrument, appurtenance, accessory or other property of any nature necessary or useful to the operation, maintenance, service or repair of the project.

"Permit" means any action, approval, consent, waiver, exemption, variance, franchise, order, permit, authorization, right or license of or from a Governmental Authority.

"Person" means and includes an individual, a partnership, a firm, an association, a corporation (including a business trust), a joint stock company, an unincorporated association, a joint venture, a Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity.

"PLI" means Pacific Lightwave, Inc., a Washington corporation.

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"PNI" shall mean Pacwest Network, Inc., a Washington corporation.

"Procurement Agent" means construction equipment and materials procurement agent for the development and construction of the Network Projects.

"Project Budget" has the meaning given in Section 3.1(1)(ii) of the PLI Credit Agreement.

"Project Costs" means (a) the cost of designing, equipping, procuring, constructing, starting up and testing the Network Project, (b) the cost of acquiring any lease, the Applicable Easements and any other necessary interest in the Network Project, (c) local property taxes and insurance premiums payable with respect to the Network Project during the Construction Loan Availability Period, (d) interest payable on any Note for the Network Project during the Construction Loan Availability Period, (e) reasonable initial working capital requirements of the Project as approved by Lender, (f) the costs of acquiring Permits for the Network Project during the Construction Loan Availability Period, (g) other fees and expenses relating to the Network Project, including financial, legal (excluding litigation) and consulting fees and expenses, all as described in the Project Budget.

"Project Documents" means the material agreements and documents relating to the development, construction, operation, maintenance and repair of a Network Project.

"Project Loan" means a loan in the amount of 75% of the Project Costs of a Network Project provided by Tomen to a Development Company pursuant to a Network Project Credit Agreement.

"Project Revenues" means, with respect to a Network Project, all income and receipts derived from the ownership or operation of the Network Project, including payments due the Development Company under the construction contracts, proceeds of any business interruption or other insurance, income derived from the Network Project, together with any receipts derived from the sale of any property pertaining to the Network Project or incidental to the operation of the Network Project, all as determined in conformity with cash accounting principles, the investment income on amounts in the accounts held by or on behalf of the related Development Company, the proceeds of any drawing under a letter of credit of which the Development Company is the beneficiary, proceeds of any insurance, condemnation or litigation or arbitration awards relating to the Network Project and proceeds from the Collateral Documents, but not including sums paid to the Development Company in satisfaction of a contractual obligation to indemnify the Development Company for third party liability to the extent such sums do not exceed the actual damage, loss or cost suffered by the Development Company in connection therewith.

"Providing Party" has the meaning given in Section 14.16 of the Master Agreement.

"Purchase Price" has the meaning given in Section 5.1 of the Master Agreement.

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"Receiving Party" has the meaning given in Section 14.16 of the Master Agreement.

"Related Documents" means the Master Agreement, the GSI Stock Purchase Agreement, and, with respect to each Network Project, the Credit Documents, the Collateral Documents, the Warrants, the GST Services Agreement and all appurtenant documents.

"Rules" shall mean the Commercial Arbitration Rules of The American Arbitration Association.

"SEC" means the U.S. Securities and Exchange Commission.

"Service District" means the geographic district to be served by the Network Project.

"Territory" means North America, Central America and South America.

"Tomen" means Tomen America and its Affiliates.

"Tomen America" means Tomen America Inc., a New York corporation.

"U.S." means the United States of America.

"Warrant" means a warrant in the form of Exhibit A to the GSI Stock Purchase Agreement.

"Warrant Shares" means shares of GSI Common Stock issuable upon exercise of the Warrants pursuant to the GSI Stock Purchase Agreement.

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#### RULES OF INTERPRETATION

1. All terms defined in the Agreement in the singular form shall have comparable meanings in the plural form and vice versa.

2. The word "or" is not exclusive.

3. A reference to a Person includes such Person's permitted successors and permitted assigns.

4. The words "include", "includes" and "including" and words of similar import are not limiting or exclusive.

5. A reference in the Agreement to an Article, Section, Exhibit, Schedule, Annex, Attachment or Appendix is to the Article, Section, Exhibit, Schedule, Annex, Attachment or Appendix of such Agreement unless otherwise indicated. Exhibits, Schedules, Annexes, Attachments or Appendices to any document shall be deemed incorporated by reference in such document.

6. References to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time.

7. The words "hereof," "herein" and "hereunder" and words of similar import when used in the Agreement shall refer to such Agreement as a whole and not to any particular provision of such document.

8. References to "days" shall mean calendar days, unless the term "Business Days" is used. References to a time of day shall mean such time in New York, New York unless otherwise specified.

9. This Agreement is the result of negotiations between, and have been reviewed by the parties and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all parties thereto, and no ambiguity shall be construed in favor of or against any party.

AMENDMENT NO. 2  
TO  
GST TELECOMMUNICATIONS, INC.  
COMMON STOCK PURCHASE AGREEMENT

THIS AMENDMENT NO. 2 TO GREENSTAR TELECOMMUNICATIONS INC. COMMON STOCK PURCHASE AGREEMENT (this "Amendment") is entered into as of May 24, 1996, by and among GST Telecommunications, Inc., a Canadian corporation formerly known as "Greenstar Telecommunications Inc." (the "Company"), Tomen America Inc., a New York corporation ("Tomen America"), and Tomen Corporation, a Japanese corporation ("Tomen Corp.").

A. The Company, Tomen Corp., and Tomen America are party to the Greenstar Telecommunications Inc. Common Stock Purchase Agreement, dated October 24, 1994, as amended by Amendment No. 1, dated as of October 24, 1994, (the "Purchase Agreement"), whereby Tomen America and Tomen Corp. agreed to purchase, and the Company agreed to sell, certain Equity Securities of the Company.

B. The Company, Tomen America and Tomen Corp. wish to amend the Purchase Agreement, to reflect certain additional rights of Tomen America and Tomen Corp. to purchase Equity Securities of the Company.

THE PARTIES HERETO AGREE AS FOLLOWS:

1. Definitions. Unless otherwise indicated in this Amendment, each term set forth in the Purchase Agreement, when used in this Amendment, shall have the respective meaning given to that term in the Purchase Agreement and the Schedules and Exhibits thereto.

2. New Section 2.3 of the Purchase Agreement is hereby added to read in its entirety as follows:

2.3 Rights Related to Development Company Fundings. With respect to each Network Project in which Tomen or an Affiliate elects to participate, Tomen, or an Affiliate shall have the following additional rights to purchase GSI Equity Securities.

(a) Tomen or an Affiliate shall have the right (but not the obligation), at the time of the initial funding of the initial Project Loans for the Network

SF3-92074.2

Projects in Albuquerque, New Mexico and Tucson, Arizona, to purchase, for a total purchase price of \$800,000.00: (i) the number of shares of GSI Common Stock, no par value ("GSI Common Stock") equal to the quotient of the purchase price referred to in the preceding clause divided by the average of the per share closing price for the GSI Common stock quoted on the AMEX as published in the Western edition of the Wall Street Journal for the thirty (30) market trading days preceding the date of the Credit Agreement between GST New Mexico Lightwave, Inc. and GST Tucson Lightwave, Inc., respectively, as borrower and Tomen or an Affiliate, as lender, and (ii) 46,155 warrants exercisable for one share of GSI Common Stock.

(b) Tomen or an Affiliate shall have the right (but not the obligation), at the time of the initial funding of each Project Loan made after the Project Loans for the Albuquerque, New Mexico and Tucson, Arizona Project Loans, to purchase for a total purchase price equal to 10% of the total equity contribution to the Development Company by its shareholder(s): (i) the number of shares of GSI Common Stock equal to the quotient of the purchase price referred to in the preceding clause divided by the average of the per share closing price for the GSI Common stock quoted on the AMEX as published in the Western edition of the Wall Street Journal for the thirty (30) market trading days preceding the date of the Credit Agreement between such Development Company as borrower and Tomen or an Affiliate as lender, and (ii) with respect to the Network Project to be funded in Hawaii, 75,000 warrants, each exercisable for one share of GSI Common Stock, and with respect to other Network Projects, a number of such warrants as shall be mutually agreed by Tomen and GSI.

(c) The representations and warranties of Tomen set forth in Article 4 of this Purchase Agreement apply to the GSI Common Stock and warrants issuable pursuant to this Section 2.3.

3. The parties hereby affirm that the Purchase Agreement, as amended hereby, and the other Related Documents, constitute the entire agreement among any of the parties hereto pertaining to the subject matter thereof and the amended Purchase Agreement supersedes all prior agreements and understandings pertaining thereto which are set forth therein. The Purchase Agreement, as amended hereby, remains in full force and effect.

4. This Amendment may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

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

GST TELECOMMUNICATIONS, INC.,  
a Canadian corporation

By: /s/ Clifford V. Sander

-----  
Name: Clifford V. Sander  
Title: Senior Vice President, Treasurer  
& Chief Accounting Officer

TOMEN AMERICA INC.,  
a New York corporation

By: /s/ Takashi Yoshida

-----  
Name: Takashi Yoshida  
Title: Vice President

TOMEN CORPORATION,  
a Japan corporation

By: /s/ Morihiko Tashiro

-----  
Name: Morihiko Tashiro  
Title: Director & General Manager  
Electronics & Telecommunications  
Division

\$8,000,000

CREDIT AGREEMENT

Dated as of May 24, 1996

GST NEW MEXICO LIGHTWAVE, INC.  
(Borrower)

and

TM COMMUNICATIONS LLC  
(Lender)

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CREDIT AGREEMENT

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This CREDIT AGREEMENT (this "Agreement") dated as of May 24, 1996 is entered into by and between:

- (1) GST New Mexico Lightwave, Inc., a New Mexico corporation ("Borrower"); and
- (2) TM Communications LLC, a Delaware limited liability company ("Lender").

RECITALS

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A. Borrower was formed to develop and operate an alternative access network telecommunications project in the Albuquerque, New Mexico area as further described in Schedule 1 (the "Project"). Pursuant to a Master Agreement dated October 24, 1994 among Pacific Lightwave, Inc., a Washington corporation (now known as "GST Pacific Lightwave, Inc."), Greenstar Telecommunications Inc., a Canadian corporation (now known as "GST Telecommunications, Inc.") ("GSI"), GST Telecom Inc., a Delaware corporation ("GST"), Pacwest Network L.L.C., an Oregon limited liability company ("Pacwest"), and Tomen America, Inc. ("Tomen America"), as amended as of the date hereof by Amendment No. 1 to the Master Agreement (the "Master Agreement"), Tomen America agreed to provide, or to cause its affiliates to provide, certain credit facilities to Borrower to finance certain construction costs of Borrower.

B. Borrower wishes to develop and operate the Project.

C. Lender, an affiliate of Tomen America, is willing to provide credit facilities for the Project upon the terms and subject to the conditions set forth herein.

In consideration of the agreements herein and in the other Credit Documents and in reliance upon the representations and warranties set forth herein and therein, the parties agree as follows:

## ARTICLE 1 - DEFINITIONS

-----

1.1. Definitions. Except as otherwise expressly provided in this Agreement or any other Credit Document, capitalized terms used in this Agreement and its Exhibits shall have the meanings given in Exhibit A or in the provision of this Agreement or other Credit Document referenced in Exhibit A.

1.2. Rules of Interpretation. Except as otherwise expressly provided, the rules of interpretation set forth in Exhibit A shall apply to this Agreement and the other Credit Documents.

## ARTICLE 2 - THE CREDIT FACILITIES

-----

### 2.1. Loan Facilities.

#### (a) Construction Loan Facility.

(i) Availability. Subject to the terms and conditions set forth in this Agreement, Lender agrees to advance to Borrower from time to time during the Construction Loan Availability Period such loans as Borrower may request under this Section 2.1(a) (individually, a "Construction Loan" and collectively the "Construction Loans"), in an aggregate principal amount not to exceed the Total Construction Loan Commitment.

(ii) Notice of Borrowing. Borrower shall request Construction Loans by delivering to Lender an irrevocable written notice in the form of Exhibit C-1, appropriately completed (a "Notice of Borrowing"), which specifies, among other things:

(A) The amount of the requested Construction Loan, which shall be in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000); and

(B) The date of the requested Construction Loan, which shall be a Business Day and which shall comply with Section 3.2(a)(i).

Borrower shall give each Notice of Borrowing, accompanied with an appropriately

completed Drawdown Certificate in the form of Exhibit C-2, to Lender at least three (3) Business Days before the date of any Construction Loan, in the manner set forth in Section 10.01.

(iii) Use of Proceeds. Borrower shall use the proceeds of each Construction Loan solely to pay Project Costs.

(b) Term Loan Facility.

(i) Conversion. Subject to the terms and conditions set forth in this Agreement, Lender agrees to convert the outstanding Construction Loans, at the request of Borrower, to term loans under this Section 2.1(b) (each, a "Term Loan") in an aggregate principal amount not to exceed the Total Term Loan Commitment.

(ii) Notice of Term Conversion. Borrower shall request a Term Conversion by delivering to Lender an irrevocable written notice in the form of Exhibit D, appropriately completed (the "Notice of Term Conversion"), which specifies, among other things, the requested date of the Term Conversion, which shall be the Construction Loan Maturity Date and a Business Day.

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Borrower shall give the Notice of Term Conversion to Lender at least three (3) Business Days before the date of the requested conversion. The Notice of Term Conversion shall be delivered by first-class mail or telecopy to Lender at the office or to the telecopy number and during the hours specified in Section 10.1; provided, however, that Borrower shall promptly deliver to Lender the original of any Notice of Term Conversion initially delivered by telecopy.

(c) Interest. Borrower shall pay interest on the unpaid principal amount of the Loan Facility with respect to the Project on the dates and at the times specified herein from and including the Closing Date to but excluding the Maturity Date, at a rate per annum equal to the LIBOR Rate plus 3.00% at all times until such time after the Term Conversion as the Term Loan interest rate may be converted to a fixed interest rate pursuant to Section 2.1(d) and thereafter at a rate per annum equal to the Fixed Rate; provided however, to the extent that Borrower has not obtained Consents to the assignment of the Project Documents listed in Section 3.1(b) (with the exception of the Competitive Access Provider Agreement between GST and Sprint dated October 12, 1995) to Lender in the forms set forth as Exhibit M on or before 60 days from May 24, 1996, Lender has the right, at its sole option, to increase the interest rate on the portion of the Loan Facility then in effect by one percent (1%) until such time as all such consents to assignment shall have been received by Lender.

All computations of interest shall be based on a year of 360 days for actual days elapsed.

(d) Conversion to Fixed Rate. Borrower may convert the interest rate on the Term Loan from the LIBOR Rate to the Fixed Rate; provided, however that any such conversion shall be made on, and only on, the last day of an Interest Period. Borrower shall request such a conversion by an irrevocable written notice to Lender in the form of Exhibit E, appropriately completed (a "Notice of Interest Rate Conversion"), which specifies, among other things, the date of the requested conversion, which shall be a Business Day.

Borrower shall give a Notice of Interest Rate Conversion to Lender at least three (3) Business Days before the date of the requested conversion. The Notice of Interest Rate Conversion shall be delivered by first-class mail or telecopy to Lender at the office or to the telecopy number and during the hours specified in Paragraph 10.1; provided, however, that Borrower shall promptly deliver to Lender the original of any Notice of Interest Rate Conversion initially delivered by telecopy.

If Borrower is in compliance with the provisions of this Agreement, no later than 2:00 p.m. on the date specified in the Notice of Interest Rate Conversion Lender shall notify Borrower of the effectiveness of the conversion, the amount of the Fixed Rate and the Liquidation Costs incurred by Lender in effecting such conversion.

(e) Scheduled Payments. (i) Borrower shall repay to Lender (A) the principal amount of the Construction Loans, accrued interest on the unpaid principal amount of the Construction Loans and all outstanding fees and costs payable to Lender with respect to the Construction Loans on the earlier of the Construction Loan Maturity Date and the Term Conversion Date, and (B), the principal amount of the Term Loan in twenty-four (24)

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equal quarterly installments payable on the 1st day of each third month, commencing on the earlier of the 1st day of the month which is (y) two years after the Term Conversion Date or (z) three years after the Closing Date, and ending six years thereafter; provided, however, that the principal payment due to Lender on each Maturity Date shall be in the amount necessary to pay all remaining unpaid principal on the relevant portion of the Loan Facility.

(ii) Borrower shall pay accrued interest on the unpaid principal amount of the Loan Facility (A) on the last day of each Interest Period, provided that, in lieu of payments on the last day of each Interest Period, Borrower shall pay accrued interest from amounts borrowed pursuant to Construction Loans until the earlier of: (1) the Term Conversion Date and (2) the date which is one year after the Closing Date; provided further, that to the extent that net revenues from operations are generated

prior to the dates set forth in the preceding clauses (1) and (2), Borrower shall forthwith pay such net revenues to Lender towards payment of accrued interest; (B) upon prepayment (to the extent thereof) and (C) at maturity (whether by acceleration or otherwise).

(f) Promissory Note. The obligation of Borrower to repay the Loan Facility and to pay interest thereon at the rates provided herein shall be evidenced by a promissory note of Borrower in substantially the form of Exhibit B (the "Note").

(g) Funding.

(i) Notice. Each Notice of Borrowing shall be delivered to Lender in accordance with Section 2.1(a)(ii).

(ii) Disbursement of Funds. No later than 2:00 p.m. on the Business Day specified in each Notice of Borrowing, if the applicable conditions precedent listed in Article 3 have been satisfied, Lender will make available the Construction Loan requested in such Notice of Borrowing (or so much thereof as Lender shall have approved pursuant to this Agreement) in Dollars and in immediately available funds, in accordance with the next succeeding sentence. At Lender's option and upon notice to Borrower, the amount of any Construction Loan may, in whole or in part, be (x) disbursed by Lender to Borrower by wire transfer to the Receipts Account established pursuant to Section 7.1(a) at Bank of America, Sacramento RBCO, ABA No. 121000358, Account Number 14899-02380, in lawful money of the United States and in immediately available funds for application in accordance with the applicable Notice of Borrowing and the Drawdown Certificate or (y) disbursed by Lender directly to the Person(s) entitled thereto as specified in the applicable Drawdown Certificate. Upon the application of funds in accordance with clause (y) of the preceding sentence, Lender shall as promptly as practicable following the disbursement of such funds provide an accounting of such payments to Borrower. Such payment shall discharge pro tanto the obligations of Lender with respect to such amounts and Borrower hereby authorizes Lender to pay such amounts on its behalf.

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(h) Prepayments.

(i) Optional Prepayments. At its option, Borrower may, upon ten (10) Business Days notice to Lender, prepay the Loan Facility in part in aggregate principal amounts of not less than Five Hundred Thousand Dollars (\$500,000) or an integral multiple of One Hundred Thousand Dollars (\$100,000) in excess thereof, or in whole, subject to this Section 2.1(h).

(ii) Mandatory Prepayments. Borrower shall prepay the Loan Facility upon a Change of Control.

(iii) Terms of Prepayments.

(A) Upon the prepayment of any Loan Facility (whether such prepayment is an optional prepayment under Section 2.1(h)(i) or a mandatory prepayment required by the terms of this Agreement or the other Credit Documents, including a prepayment upon acceleration), Borrower shall pay (1) all accrued interest to the date of such prepayment on the amount prepaid, and (2) all Liquidation Costs incurred by Lender as a result of such prepayment. All prepayments of a Loan Facility shall reduce the remaining payments required under Section 2.1(e) in the inverse order of maturity. Borrower may not reborrow the principal amount of any Construction Loan or Term Loan which is prepaid.

(B) If Borrower proposes to refinance the Project, Borrower shall deliver a written notice of the proposed refinancing in the form of Exhibit F (a "Refinancing Notice") stating Borrower's bona fide intention to refinance the Project, together with a copy of the offer to finance, including without limitation, the name and address of the proposed refinancer, the amount of the Loan Facility to be refinanced and the interest rate and other terms of the proposed refinancing. Within thirty (30) days of receipt of such Notice, Lender shall have the first right to provide the proposed refinancing to Borrower upon such interest rate, terms and conditions proposed by such refinancer as set forth in the Refinancing Notice. If the Lender elects not to provide such refinancing, Borrower may prepay the Loan Facility; provided that, Borrower refinances the Project at the interest rate and on the other terms and conditions offered by the proposed refinancer as set forth in the Refinancing Notice provided to Lender. At the time of any such prepayment, in addition to any fees, costs or expenses otherwise payable by Borrower hereunder, Borrower shall have paid to Lender an additional amount equal to one-third of the net present value of the interest rate savings, if any, of the refinancing loan compared to the Loan Facility. Net present value of the interest payable hereunder and under the proposed refinanced loan shall be calculated for the purposes of this Section by applying a discount rate equal to the interest rate set forth in the Refinancing Notice.

2.2. Total Commitments.

(a) Construction Loans. The aggregate principal amount of all Construction Loans made by the Lender shall not exceed Eight Million Dollars (\$8,000,000) (the "Total Construction Loan Commitment").

(b) Term Loan. The aggregate principal amount of the Term Loan outstanding at any time shall not exceed Eight Million Dollars (\$8,000,000) (the "Total Term Loan Commitment").

## 2.3. Fees.

(a) Upfront Fee. Borrower shall pay \$120,000.00 to Lender on the Closing Date as an upfront fee (the "Upfront Fee"). The Upfront Fee shall be paid to reimburse Lender for preliminary work done by Lender in consideration of whether to make, and in preparing its analysis for, the loan to Borrower made by Lender hereunder.

(b) Commitment Fees. The Borrower shall pay to Lender a commitment fee on the daily average unused amount of the applicable Committed Amount at a rate per annum equal to 0.5% for the period from the date of this Agreement, to but not including the Term Conversion Date. Accrued commitment fees shall be payable on the last day of each Interest Period and on the Term Conversion Date.

(c) Net of Taxes, Etc.

(i) Taxes. All payments to Lender by Borrower hereunder or under any other Credit Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, deductions, charges or withholdings now or hereafter imposed as a result of a Change of Law and all liabilities with respect thereto, excluding taxes imposed on or measured by the income or capital of Lender (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as "Taxes"). If, as a result of a Change of Law Borrower shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder or under any other Credit Document to Lender, (A) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.3(c)), Lender receives an amount equal to the sum it would have received had no such deductions been made, (B) Borrower shall make such deductions, and (C) Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. In addition, Borrower agrees to pay any present or future stamp, recording or documentary taxes and, if as a result of a Change of Law, any other excise or property taxes, charges or similar levies that arise under the laws of the United States of America, the State of New Mexico, the State of California, or the State of New York from any payment made hereunder or under any other Credit Document or from the execution or delivery or otherwise with respect to this Agreement or any other Credit Document (hereinafter referred to as "Other Taxes").

(ii) Indemnity. Borrower shall indemnify Lender for the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 2.3(c)) paid by Lender or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not

such Taxes or Other Taxes were correctly or legally asserted; provided that, Borrower shall not be obligated to indemnify Lender for any penalties, interest or expenses relating to Taxes or Other Taxes arising from Lender's gross negligence or willful misconduct. Lender agrees to give notice to Borrower of the assertion of any claim against Lender relating to such Taxes or Other Taxes as promptly as is practicable after being notified of such assertion; provided that, Lender's failure to notify Borrower promptly of such assertion shall not relieve Borrower of its obligation under this Section 2.3(c). Payments by Borrower pursuant to this indemnification shall be made within thirty (30) days from the date Lender makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. Lender agrees to repay to Borrower any refund (including that portion of any interest that was included as part of such refund with respect to Taxes or Other Taxes paid by Borrower pursuant to this Section 2.3(c)) received by Lender for Taxes or Other Taxes that were paid by Borrower pursuant to this Section 2.3(c) and to contest, with the cooperation and at the expense of Borrower, any such Taxes or Other Taxes which Lender or Borrower reasonably believes not to have been properly assessed.

(iii) Notice. Within 30 days after the date of any payment of Taxes by the Borrower, Borrower shall furnish to Lender, at its address referred to in Section 10.1 hereof, the original or a certified copy of a receipt evidencing payment thereof. Borrower shall compensate Lender for all reasonable losses and expenses sustained by Lender as a result of any failure by Borrower to so furnish such copy of such receipt.

(iv) Survival of Obligations. The obligations of Borrower under this Section 2.3(c) shall survive the termination of this Agreement and the repayment of Borrower's Obligations.

#### 2.4. Other Payment Terms.

(a) Place and Manner. Borrower shall make all payments due to Lender hereunder by wire transfer to Tomen America's Account at Citibank, N.A., ABA No. 021000089, Account No. 30753206, or as the Lender shall otherwise direct, in lawful money of the United States and in immediately available funds not later than 12:00 noon New York time on the due date.

(b) Late Payments. If any amounts required to be paid by Borrower under this Agreement or the other Credit Documents (including principal or interest payable on the Loan Facility, and any fees or other amounts otherwise payable to Lender) remain unpaid after such amounts are due, Borrower shall pay interest on the aggregate outstanding balance of such amounts from the date due until those amounts are paid in full at a per annum rate equal to the Default Rate.

(c) Application of Payments. Payments made under this Agreement or the other Credit Documents shall first be applied to any fees, costs, charges or expenses payable to Lender hereunder or under the other Credit Documents, next to any accrued but unpaid interest, and then to outstanding principal in inverse order of maturity.

## 2.5. Change of Circumstances.

(a) Inability to Determine Rates. If, on or before the first day of any Interest Period Lender shall have determined (which determination shall be conclusive and binding on all parties hereto) that the LIBOR Rate for such Interest Period cannot be adequately and reasonably determined due to the unavailability of funds in or other circumstances affecting the London interbank market, Lender shall immediately give notice of such condition to Borrower. After the giving of any such notice and until Lender shall otherwise notify Borrower that the circumstances giving rise to such condition no longer exist, Borrower's right to request the making of, and Lender's obligations to make Loans at the LIBOR Rate shall be suspended. Borrower may, in compliance with the other terms and conditions hereof, request Alternate Interest Rate Construction Loans during any periods in which the LIBOR Rate is suspended. Any LIBOR Rate Loan Facility outstanding at the commencement of any such suspension shall be converted at the end of the then current Interest Period into an Alternate Interest Rate Loan unless such suspension has then ended.

(b) Illegality. If, after the date of this Agreement, the adoption of any Governmental Rule, any change in any Governmental Rule or the application or requirements thereof (whether such change occurs in accordance with the terms of such Governmental Rule as enacted, as a result of amendment or otherwise), any change in the interpretation or administration of any Governmental Rule by any Governmental Authority, or compliance by Lender or Borrower with any request or directive (whether or not having the force of law) of any Governmental Authority (a "Change of Law") shall make it unlawful or impossible for Lender to make or maintain any Construction Loan or the Term Loan, Lender shall promptly notify Borrower of such Change of Law. Upon receipt of such notice, (i) Borrower's right to request the making of Construction Loans shall be terminated, and (ii) Borrower shall, at the request of Lender, immediately repay the Loan Facility together with all accrued and unpaid interest.

2.6. Funding Loss Indemnification. If Borrower shall (a) repay or prepay the Loan Facility or any portion thereof on any day other than the last day of an Interest Period (whether a payment upon acceleration or otherwise), (b) fail to borrow in accordance with a Notice of Borrowing delivered to Lender (whether as a result of the failure to satisfy any applicable conditions or

otherwise), or (c) prepay the Term Loan or any portion thereof after the interest rate has been converted to a Fixed Rate, Borrower shall, upon demand by Lender, reimburse Lender for and hold Lender harmless from all costs and losses, expenses and liabilities incurred by Lender as a result of such repayment, prepayment or failure (including without limitation by reason of the liquidation of deposits or other funds by Lender) ("Liquidation Costs"). Borrower understands that such Liquidation Costs may include direct losses incurred by Lender as a result of funding and other contracts entered into by Lender.

## 2.7. Security.

(a) Security Agreement, Pledge, etc. The Obligations of Borrower to Lender shall be secured by the following:

(i) The Security Agreement, between Borrower, as grantor, and Lender, in the form of Exhibit G-1, duly executed by Borrower (the "Security Agreement");

(ii) The Deposit Account Security Agreement, between Borrower, as grantor, and Lender, in the form of Exhibit G-2 duly executed by Borrower (the "Account Security Agreement");

(iii) The GST Security Agreement, between GST, as grantor, and Lender, in the form of Exhibit H, duly executed by GST (the "GST Security Agreement");

(iv) Construction Deeds of Trust in the form of Exhibit I, duly executed;

(v) The Pledge Agreement, of GST as the sole shareholder of Borrower, in the form of Exhibit J, duly executed by GST (the "Pledge Agreement");

(vi) The Net Cash Flow Agreements of GST Pacific Lightwave, Inc., GST Tucson Lightwave, Inc., Borrower and the development companies of all other Network Projects to which Lender or any of its Affiliates has provided debt funding in the form of Exhibit K-1, duly executed by such Development Companies (the "Net Cash Flow Agreements");

(vii) The Net Cash Flow Deposit Account Security Agreements of GST Pacific Lightwave, Inc., GST Tucson Lightwave, Inc. and Borrower in the form of Exhibit K-1, duly executed by such Development Companies (the "Net Cash Flow Account Security Agreements"); and

(viii) Such other documents, instruments and

agreements as Lender may request in order to grant to Lender Liens in all assets of Borrower (including, without limitation, all Permits), the shares of Borrower's capital securities (other than shares held by the Lender) and all other assets reasonably necessary for the operation and maintenance of the Project.

(b) Further Assurances. Borrower shall deliver to Lender each of the foregoing and such other instruments, agreements, certificates, opinions and documents (including Uniform Commercial Code financing statements and fixture filings and landlord waivers) as Lender may reasonably request to perfect and maintain the Liens granted to Lender by the foregoing prior to the Liens or other interests of any Person other than Lender. Borrower shall fully cooperate with Lender and perform all additional acts reasonably requested by Lender to effect the purposes of the foregoing.

### ARTICLE 3 - CONDITIONS PRECEDENT

3.1. Conditions Precedent to Closing. The obligation of Lender to make any Construction Loans is subject to the satisfaction of the following conditions on or prior to the Closing Date (unless waived by Lender):

(a) Principal Credit Documents. Lender shall have received the following Credit Documents, each of which (i) shall be in form and substance satisfactory to Lender, and (ii) shall have been duly authorized, executed and delivered by the parties thereto:

(A) This Agreement;

(B) The Note;

(C) The Security Agreement;

(D) The Account Security Agreement;

(E) The GST Security Agreement;

(F) The Pledge Agreement;

(G) The Net Cash Flow Agreements;

(H) The Net Cash Flow Account Security Agreements;

(I) An agreement duly executed by Greenstar agreeing to subordinate all payments due to Greenstar pursuant to any management

agreement between Borrower and Greenstar to the obligations of Borrower to Lender under this Agreement, the other Credit Agreements and any net cash flow pledge agreement entered into by Borrower pursuant to Section 5.17;

(J) The Construction Deeds of Trust in the form of Exhibit I for Bernalillo County; and

(K) The UCC-1 Financing Statements set forth on Schedule 7.

(b) Project Documents. Lender shall have received (i) true, complete and correct copies of the following Project Documents, and any supplements or amendments thereto, each of which (A) shall be in form and substance satisfactory to Lender, (B) shall have been duly authorized, executed and delivered by the parties thereto, and (C) shall have been certified by an authorized officer of Borrower as being true, complete and correct and in full force and effect, and (ii) evidence satisfactory to Lender that each Project Document is in full force and effect and that no party to any Project Document is or, but for the passage of time or giving of notice or both will be, in breach of any obligation thereunder which is reasonably expected to have a Material Adverse Effect:

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(A) The Construction Contracts;

(B) The Pole and Conduit Use Agreements;

(C) The City of Albuquerque License and the City of Rio Rancho License;

(D) The CPCN;

(E) The Collocation Agreements;

(F) The Interconnection Agreements;

(G) The Leases; and

(H) Each other applicable Project Document not listed in this Section 3.1(b), including without limitation, each equipment purchase agreement referenced in Section 3(b) of the Master Agreement.

(c) Borrower Documents. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A copy of one or more resolutions or other authorizations of Borrower, certified by Borrower's Secretary as being in full force and effect on the Closing Date, authorizing the borrowings herein provided for, the development of the Project and the execution, delivery and performance of this Agreement and the other Operative Documents and any instruments or agreements required hereunder or thereunder to which Borrower is a party and the consummation of the transactions contemplated thereby;

(ii) A certificate of Borrower signed by the appropriate authorized officer of Borrower and dated as of the Closing Date, as to the incumbency of the Person or Persons authorized to execute and deliver this Agreement and the other Operative Documents and any instruments or agreements required hereunder or thereunder to be executed on the Closing Date to which Borrower is a party;

(iii) Copies of the Articles of Incorporation and any Amendments to the Articles of Incorporation of Borrower (including the Articles of Merger merging GST New Mexico Inc., a Delaware corporation, with and into Borrower), certified by the New Mexico Secretary of State, and of copies of the Bylaws of Borrower, certified by the Secretary of Borrower; and

(iv) Certificates issued by the New Mexico Secretary of State and state tax authority as to the good standing of Borrower, and the tax status of Borrower, respectively.

(d) Security Filings. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A UCC-3 (or similar) report of a date not less recent than one (1) week before the Closing Date for each of the jurisdictions in which the UCC-1 financing statements and the fixture filings are intended to be filed in respect of the Collateral, showing that upon due filing or recordation (assuming such filing or recordation occurred on such date), the security interests created under such Collateral Documents will be prior to all other financing statements, fixture filings, deeds of trust, mortgages or other security documents in respect of the Collateral;

(ii) Evidence that all appropriate financing statements and fixture filings were filed and/or recorded as required hereunder or by law; and

(iii) Stock certificate(s) representing all of the

outstanding capital stock of Borrower together with stock powers duly endorsed by Borrower's stockholder attached thereto.

(e) Easements. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A schedule of Applicable Easements required to construct and operate the Project, which schedule shall be included in and made a part of this Agreement as Schedule 3, together with evidence of each Applicable Easement listed on Part I of such schedule and a certificate of an authorized officer of Borrower certifying that neither Borrower nor such authorized officer has any reason to believe that all Applicable Easements that have not been obtained prior to the Closing Date will not be obtained by the dates by which they are required; and

(ii) Other evidence requested by Lender that (A) Borrower has duly obtained the Applicable Easements set forth on Schedule 3, other than those set forth in Part II of such schedule which are not, in light of the status of the acquisition, development, construction and operation of the Project as of the Closing Date, required to have been obtained as of such Closing Date and which, in the reasonable opinion of Lender, can be obtained not later than required without substantial difficulty, expense or delay, and (B) such Applicable Easements are in full force and effect and not subject to any condition, limitation or other provision that in the reasonable judgment of Lender or its counsel could have a Material Adverse Effect.

(f) Consents and Estoppels. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) An Estoppel and Consent Certificate in the form of Exhibit L from each lessor of real property to Borrower duly executed by each such Lessor and Borrower;

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(ii) Consents to assignment of all material licenses, permits and agreements in the form attached hereto as Exhibit M-1, M-2 and M-3.

(g) Permit, Regulatory and Environmental Matters. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A schedule of Applicable Permits required to construct and operate the Project, which schedules shall be included in and made a part of this Agreement as Schedule 4, together with copies of each Applicable

Permit listed on Part I of such schedule, and a certificate of an authorized officer of Borrower certifying that neither Borrower nor such authorized officer has any reason to believe that all Applicable Permits that have not been obtained prior to the applicable Closing Date will not be obtained by the dates by which they are required; and

(ii) Other evidence requested by Lender that (A) Borrower has duly obtained or been assigned the Applicable Permits for the Project, other than those set forth in Part II of such schedule which are not, in light of the status of the acquisition, development, construction and operation of the Project as of the Closing Date, required to have been obtained or made as of the Closing Date and which, in the reasonable opinion of Lender, can be obtained not later than required without substantial difficulty, expense or delay, and (B) such Applicable Permits are in full force and effect and not subject to any appeal, restriction, condition, limitation or other provision that in the reasonable judgment of Lender or its counsel could have a Material Adverse Effect.

(iii) A certificate of Borrower, that all Permits, Easements, Licenses, Leases and other property rights necessary have been obtained and that such Permits, Easements, Licenses, Leases and other property rights form a contiguous and uninterrupted line necessary to construct and operate the Project.

(iv) Evidence that Borrower and the network to be constructed by the Project will not be subject to regulation by the New Mexico Corporation Commission to an extent unacceptable to Lender in its discretion.

(h) Capital Contribution. Lender shall have received evidence that GST Telecom Inc. has made a capital contribution to Borrower of Two Million Six Hundred Sixty Six Thousand Six Hundred Sixty-Six Dollars (\$2,666,666).

(i) Third Party Reports. Lender shall have received satisfactory third- party appraisal, feasibility, engineering, environmental and accounting reviews relating to the Project.

(j) Opinions. Lender shall have received the opinions, each in form and substance satisfactory to Lender, of:

(i) Olshan Grundman Frome & Rosenzweig, LLP, counsel for Borrower, in substantially the form of Exhibit N-1;

(ii) Jones, Snead, Wertheim, Rodriquez & Wentworth,

P.A., special New Mexico counsel for Borrower, in substantially the form of Exhibit N-2; and

(iii) Swidler & Berlin, FCC Counsel for Borrower, in substantially the form of Exhibit N-3.

(k) Certificate. Lender shall have received evidence that Borrower has obtained and is maintaining in full force and effect insurance complying with Section 5.14 hereof and Schedule 6 hereto, including (A) a certificate from Borrower's insurance broker(s), dated as of the Closing Date and identifying underwriters, type of insurance, insurance limits and policy terms, listing the special provisions required as set forth in Section 5.14 hereof and Schedule 6 hereto, describing the insurance obtained and stating that such insurance is in full force and effect and that all premiums then due thereon have been paid, and (B) certified copies of all policies evidencing such insurance (or a binder, commitment or certificates signed by the insurer or a broker authorized to bind the insurer).

(l) Financial Statements, Expenditures to Closing Date, Projections, Etc. Lender shall have received and approved the following items, each in form and substance satisfactory to Lender:

(i) The most recent annual financial statements (audited if available), most recent quarterly financial statements from Borrower, together with a certificate from the appropriate officer of such Person, stating that no material adverse change in the consolidated assets, liabilities, operations or financial condition of such Person has occurred since the date of the financial statements provided to Lender, and pro forma financial statements for Borrower giving effect to the Capital Contributions;

(ii) A budget for the Project (the "Project Budget") for all anticipated costs to be incurred in connection with the construction and start-up of the Project, including in such budget all construction and non-construction costs, and including all interest, taxes and other carrying costs, and such other information as Lender may require, together with a balanced statement of sources and uses of proceeds (and any other funds necessary to complete the Project), broken down as to separate construction phases in a manner satisfactory to Lender.

(iii) An accurate and complete accounting of expenditures of the Project as of the date five (5) Business Days before the Closing Date, certified by the Chief Financial Officer of Borrower.

(iv) Borrower shall have furnished Lender the Base Case Project Projections of operating expenses and cash flow for the Project and the Project Schedule for the Project and the Milestone Disbursement Schedule for the Project; and

(v) Evidence that there has not occurred any material adverse change in the Project Budget, Project Schedule or Base Case Project Projections, in the economics or feasibility of constructing and/or operating

condition, business or property of any Major Project Participant, which will have a Material Adverse Effect.

(m) Consents. Lender shall have received executed copies of the Consents, each in form and substance satisfactory to Lender, including without limitation, consents to assignment of each of the Project Documents in the forms of Exhibit M-1, M-2 and M-3 hereto.

(n) Due Diligence. Lender shall have approved the results of its due diligence review in connection with the transactions contemplated hereby.

(o) Other Matters. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) Such other evidence as Lender may have requested that all corporate and legal proceedings and all instruments in connection with the transactions contemplated by this Agreement are satisfactory in form and substance to Lender;

(ii) All approvals of Lender and Tomen Corporation (Lender's parent corporation);

(iii) All information and copies of all documents, including records of corporate proceedings and copies of any approval by any Governmental Authority required in connection with any transaction herein contemplated, which Lender may reasonably have requested in connection herewith, such documents where appropriate to be certified by proper corporate officers or Governmental Authorities;

(iv) Evidence that no action, suit, proceeding or investigation has been instituted or threatened by any Person, nor has any order, judgment or decree have been issued or proposed to be issued by any Governmental Authority that could have a Material Adverse Effect;

(v) Evidence that all taxes, fees and other costs payable in connection with the execution, delivery, recordation and filing of the documents and instruments referred to in this Section 3.1 have been paid in full;

(vi) Evidence that Tomen or an Affiliate of Tomen has been appointed and is serving as Procurement Agent for the Project;

(vii) Evidence that GUS is the sole stockholder of GST as of the Closing Date; and

(viii) A certificate in substantially the form of Exhibit O hereto (the "Borrower's Closing Certificate"), dated as of the Closing Date, signed by an authorized officer of Borrower.

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3.2. Conditions Precedent to Each Construction Loan. The obligation of Lender to make each Construction Loan (including the initial Construction Loan) is subject to the prior satisfaction of each of the following conditions (unless waived by Lender).

(a) The Requested Construction Loans. Lender shall be satisfied that the following are true and correct as of the date on which Borrower has requested that such Construction Loan be made:

(i) No other Construction Loan has been made for the Project during the two-week period preceding the date on which Borrower requests that such Construction Loan be made;

(ii) The sum of the undrawn Total Construction Loan Commitment, plus the unexpended portion of any Borrower Equity, is not less than the aggregate unpaid amount required to attain Completion, in accordance with all Legal Requirements, the Construction Contracts and the Plans and Specifications, prior to the Expected Completion Date and to pay or provide for all anticipated non-construction costs, all as set forth in the Project Budget (including any revisions thereto) approved by Lender; and

(iii) The amounts to be applied in connection with such Construction Loan will not cause the amount for any line item with respect to such month in the applicable Project Budget to exceed the amount set forth in such Project Budget, as such line items may be adjusted in accordance with Section 3.3(b).

(b) Drawdown Procedures. Lender shall have received the following, each in form and substance satisfactory to Lender:

(i) The Notice of Borrowing and the Drawdown Certificate within the time periods specified therein;

(ii) Evidence that Borrower has established and is maintaining the Receipts Account and the Operating Account at a bank in California reasonably acceptable to Lender; and

(iii) Evidence that all work that has been done on the Project shall have been done in a good and workmanlike manner and in accordance with the Construction Contracts and Prudent Practices, including, but not limited to, if requested by Lender, copies of all invoices for services rendered and materials delivered for the Project, and there shall not have been filed with or served upon Borrower with respect to the Project or any part thereof notice of any Lien, claim of Lien or attachment upon or claim affecting the right to receive payment of any of the moneys payable to any of the Persons named on such request which has not been released or which will not be released with the payment of such obligation out of such Construction Loan, other than Permitted Liens.

(c) Liens. Lender shall have received in form and substance satisfactory to Lender, if requested by Lender, and subject to Borrower's right to contest liens as described

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in the definition of "Permitted Liens," duly executed acknowledgments of payments and releases of mechanics' and materialmen's liens, in form satisfactory to Lender, from the Contractors and all other contractors, subcontractors and materialmen, for all work, services and materials, including equipment and fixtures of all kinds, done, previously performed, or furnished for the construction of the Project, except for such work, services and materials to be paid for with the proceeds of the requested Construction Loan.

(d) Easements. Lender shall have received evidence, in form and substance acceptable to Lender, that, except for Applicable Easements listed in Part II of Schedule 3 which are not then required in connection with the construction or operation of the Project, all Applicable Easements with respect to the construction and operation of the Project required to have been obtained by the date of such Construction Loans shall be in full force and effect, and, with respect to any of the Applicable Easements not yet required, there shall be no reason to believe that any such Applicable Easements will not be obtained, all of which shall be satisfactory in all respects to Lender. Borrower shall inform Lender as to the status of Borrower's efforts to obtain the Applicable Easements not yet obtained.

(e) Permits. Lender shall have received evidence, in form and substance acceptable to Lender, that, except for Applicable Permits listed in Part II of Schedule 4 which are not then required in connection with the construction or operation of the Project, all Applicable Permits with respect to the construction and operation of the Project required to have been obtained by the date of such Construction Loans from any Governmental Authority shall have been issued and shall be in full force and effect, and, with respect to any of

the Applicable Permits not yet required, there shall be no reason to believe that any such Applicable Permits will not be obtained, all of which shall be satisfactory in all respects to Lender.

(f) Other Documents. If requested by Lender, Lender shall have received evidence, in form and substance satisfactory to Lender, that:

(i) All of the Operative Documents to be executed and delivered with respect to the Project on or prior to the date of such Construction Loan shall be in full force and effect without change or amendment since the respective dates of their execution and delivery in a form which was approved by Lender, except as consented to in writing by Lender or as otherwise permitted pursuant to Section 6.12; and

(ii) With respect to Additional Project Documents and Applicable Permits entered into or obtained, transferred or required (whether because of the status of the construction or operation of the Project or otherwise) since the date of the most recent Construction Loan, there shall have been a delivery or a redelivery, as the case may be, to Lender of such matters as are described in Sections 3.1(b), 3.1(e), 3.1(f) and 3.1(g) and, if requested by Lender, any of the other sections of Section 3.1.

(g) Status of Borrower. Lender shall be satisfied that the following are true and correct as of the date on which Borrower has requested that such Construction Loan be made:

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(i) Each representation and warranty set forth in Article 4 is true and correct as if made on such date;

(ii) No Event of Default or Default has occurred and is continuing or will result from such Credit Event;

(iii) No event of default under and as defined in or applicable to any Project Document has occurred and is continuing; and

(iv) Each Credit Document and Project Document remains in full force and effect.

### 3.3. No Approval of Work; Adjustments to Project Budget.

(a) The making of any Construction Loan hereunder shall not be deemed an approval or acceptance by Lender of any work, labor, supplies, materials or equipment furnished or supplied with respect to the Project.

(b) If requested by Borrower, Lender may, in its reasonable

discretion, adjust the amounts of any individual categories or line items of Project Costs as set forth in the Project Budget by increasing or decreasing the amounts shown on the Project Budget for each such individual category or line item; provided that, Borrower shall have the right to adjust line items without Lender's consent up to an aggregate maximum change of twenty percent (20%) per line item from the original Project Budget; provided further, that Borrower shall immediately provide Lender with notice of any such adjustments. With respect to adjustments in excess of twenty percent (20%), Borrower shall have the right to request such adjustments from the Lender Representative no more frequently than once each thirty (30) days. The Lender Representative shall approve or disapprove such requests within four (4) Business Days. Notwithstanding anything to the contrary herein, however, no such adjustment made pursuant to this Section 3.3 shall change the aggregate amount of all of the Project Costs as shown on the Project Budget.

#### 3.4. Waiver of Funding; Adjustment of Drawdown Requests.

Notwithstanding the foregoing, Lender, without waiving any of its rights hereunder, shall have the right to make a Construction Loan or Construction Loans hereunder without full compliance by Borrower with the conditions described in this Article 3. If Lender determines that a material item or items listed in a Drawdown Certificate as a Project Cost is not properly included in such Drawdown Certificate, Lender may in its reasonable discretion cause to be made a Construction Loan or Construction Loans in the amount requested in such Drawdown Certificate less the amount of such item or items. In the event that Borrower prevails in any dispute as to whether such Project Costs were properly included in such Drawdown Certificate, Construction Loans in the amount requested but not initially made shall forthwith be made.

3.5. Expenses in Excess of Project Budget. If the amount of Project Costs with respect to the Project exceeds the applicable amount available pursuant to the Loan Facility and the Capital Contribution, GST may make a loan to Borrower in a maximum amount of the unbudgeted Project Costs equal to the difference between the amount, if any, contributed by Borrower's shareholder and twenty percent (20%) of the Project Budget; provided that such loan be unsecured and deeply subordinated to Borrower's obligations to Lender under this Agreement.

3.6. Conditions Precedent to Term Loan Conversion. The obligation of Lender to convert the Construction Loans to a Term Loan is subject to the satisfaction of the following conditions on or prior to the Term Loan Conversion Date (unless waived by Lender):

- (a) Completion. Completion of the Project shall have occurred.
- (b) Status of Borrower. Lender shall be satisfied that the

following are true and correct as of the date on which Borrower has requested that the Term Loan Conversion be made:

(i) Each representation and warranty set forth in Article 4 of this Agreement and in paragraph 3 of the Pledge Agreement is true and correct in all material respects as if made on such date (except for representations and warranties expressly made as of a specified date, which are true as of such date);

(ii) No Event of Default or Default has occurred and is continuing or will result from such Term Loan Conversion;

(iii) No material event of default under and as defined in or applicable to any Project Document has occurred and is continuing; and

(iv) Each Credit Document and Project Document remains in full force and effect.

(c) Conversion Procedure. Lender shall have received the Notice of Term Loan Conversion, in form and substance satisfactory to Lender, within the time periods specified in Section 2.1(b).

ARTICLE 4 - REPRESENTATIONS AND WARRANTIES  
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Borrower makes the following representations and warranties to and in favor of Lender as of the date hereof and as of the Closing Date. All of these representations and warranties shall survive the Closing Date and the making of the Construction Loans and Term Loans:

4.1. Organization.

(a) Borrower (i) is a corporation duly constituted, validly existing and in good standing under the laws of the State of New Mexico, (ii) is duly qualified, authorized to do business and in good standing in each jurisdiction where the character of its properties or the nature of its activities makes such qualification necessary, (iii) has all requisite corporate power and authority (A) to carry on its business as now being conducted and as proposed to be conducted by it, (B) to own or hold under lease and operate the property it purports to own or hold under lease, (C) to execute, deliver and

perform each Operative Document to which it is a party, (D) to take all action as may be necessary to consummate the transactions contemplated thereunder and (E) to grant the liens and security interest provided for in the Collateral Documents to which it is a party, and (iv) has the power and authority to execute and deliver each Operative Document to which it is a party.

4.2. Authorization; No Conflict. Borrower has duly authorized, executed and delivered each Operative Document to which Borrower is a party (or such Operative Documents have been duly and validly assigned to Borrower and Borrower has duly and validly assumed the obligations thereunder), and neither Borrower's execution and delivery thereof nor its consummation of the transactions contemplated thereby nor its compliance with the terms thereof (i) does or will contravene the Charter Documents of Borrower or any other Legal Requirement applicable to or binding on Borrower or any of its properties, (ii) does or will contravene or result in any breach of or constitute any default under, or result in or require the creation of any Lien (other than Permitted Liens) upon any of its property under, any agreement or instrument to which it is a party or by which it or any of its properties may be bound or affected, or (iii) does or will require the consent or approval of any Person which has not already been obtained.

4.3. Enforceability. Each Operative Document to which Borrower is a party or which it has assumed is a legal, valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights and subject to general equitable principles. None of the Operative Documents to which Borrower is a party or which it has assumed have been amended or modified except in accordance with this Agreement.

4.4. ERISA. There is no ERISA Plan with respect to Borrower or any ERISA Affiliate, and neither Borrower nor any ERISA Affiliate has maintained, contributed to or been obligated to contribute to any ERISA Plan at any time within the preceding five (5) years.

4.5. Taxes. Borrower has filed all federal, state and local tax returns that it is required to file, has paid all taxes it is required to pay to the extent due (other than those taxes that it is contesting in good faith and by appropriate proceedings, with adequate, segregated reserves established for such taxes) and, to the extent such taxes are not yet due, has established reserves that are adequate for the payment thereof and are required by GAAP.

4.6. Business, Debt, Contracts, Etc. Borrower has not conducted any

business other than the development of the Project and activities incidental thereto, it has no outstanding Debt or other material liabilities other than pursuant to or allowed by the Credit Documents, and it is not a party to or bound by any material contract other than the Operative Documents to which it is a party.

4.7. Filings. No filing, recording, refiling or rerecording other than those listed on Schedule 4 is necessary to perfect and maintain the perfection of the interest, title or Liens referred to in Section 4.20, and on the Closing Date all such filings or recordings (other than those that are required to be made only at a later date, which are so indicated on Schedule 7) will have been made.

4.8. Governmental Regulation. Except as described in the following sentence, neither Borrower, nor any Affiliate of Borrower will, solely as a result of the construction, ownership, leasing or operation of the Project, or the entering into any Operative Document or any transaction contemplated hereby or thereby be subject to, or not exempt from, regulation under the Communications Act, or under state laws and regulations respecting the rates or the financial or organizational regulation of fiber optic data transmission companies. Borrower is a "telecommunications common carrier," as that term is defined in the Communications Act, and is classified as a non-dominant carrier by the FCC with respect to any domestic, interstate telecommunications service it offers. Borrower is authorized to provide domestic, interstate telecommunications service as a non-dominant carrier under the FCC regulatory framework, and it has filed an appropriate tariff with the FCC. Borrower is a "telecommunications company" under the New Mexico Telecommunications Act and a "public telecommunications service" provider under the Docket No. 1099 Rules and Regulations of the New Mexico State Corporation Commission ("NMSCC"). Pursuant to a grant of authority in a Certificate of Public Convenience and Necessity by Order dated October 23, 1995 of the NMSCC in Docket No. 94-371-TC ("NMSCC October 23 Order"), Borrower has authority to provide specified intrastate interexchange telecommunications services limited to nonswitched, dedicated private line services at speeds of 1.544 Mbps or higher, within the territory of New Mexico presently served by U.S. West. The initial New Mexico state tariff of Borrower was approved by the NMSCC October 23, 1995 Order. Borrower is not subject to regulation under any Governmental Rule as to securities, rates or financial or organizational matters that would preclude any Construction Loan, or the incurrence by Borrower of any of the Obligations or the execution, delivery and performance by Borrower of the Operative Documents.

4.9. Financial Statements. The financial statements of Borrower, as of March 31, 1996, certified by an appropriate authorized officer or other authorized representative of Borrower, copies of which have been delivered to Lender, are true, complete and correct and fairly present the financial condition of Borrower as of the date thereof. The financial statements have been prepared in accordance with GAAP on a consistent basis throughout the periods indicated and with each other, except that any interim financial statements do not contain all footnotes required by GAAP and are subject to normal year-end adjustments. Borrower does not have and will not have any material liabilities, direct or contingent, except as will be disclosed in such financial statements.

4.10. Partnerships and Joint Ventures. Borrower is not a general partner or a limited partner in any general or limited partnership or a joint venturer in any joint venture.

4.11. No Default.

(a) No Event of Default or Default has occurred or is existing.

(b) Borrower is not in default under any term of any Operative Document, or any agreement relating to any obligation of Borrower for or with respect to borrowed money, and to the best of Borrower's knowledge, no other party to any Project Document is in default with respect to any term thereof.

4.12. Possession of Franchises, Licenses, Etc. Except as disclosed on Schedule 3 and those the failure of which to obtain does not and will not have a Material Adverse Effect, Borrower possesses all franchises, certificates, licenses, Permits, and other authorizations from any Governmental Authorities (including the City of Albuquerque and the City of Rio Rancho), free from unduly burdensome restrictions, that are necessary or advisable for the leasing, ownership, maintenance and operation of its properties and assets, and Borrower is not in violation of any thereof in any respect. Borrower possesses all patents, copyrights, trademarks and trade names, or rights thereto necessary to perform its duties under the Operative Documents and Borrower is not in violation thereof in any respect or of any valid rights of others with respect to any of the foregoing.

4.13. Permits. There are no Permits under existing law that are or will become Applicable Permits other than the Permits described in Schedule 3 and those the failure of which to obtain does not and will not have a Material Adverse Effect. Each Applicable Permit (including the City of Albuquerque and the City of Rio Rancho) is either (y) in full force and effect and is not subject to any appeals or further proceedings or to any unsatisfied condition that may allow material modification or revocation, in the case of those Permits listed in Part I of Schedule 3, or (z), of a type that is routinely granted on application and that would not normally be obtained before the commencement of a construction or reconstruction as contemplated by the Operative Documents in the case of those Applicable Permits listed in Part II of Schedule 3. Borrower has no reason to believe that any Permit so indicated on Schedule 3 will not be obtained before it becomes an Applicable Permit.

4.14. Offices, Location of Collateral.

(a) The chief executive office or chief place of business (as such term is used in Division 9 of the Uniform Commercial Code as in effect in the State of New Mexico from time to time) of Borrower is located at 4317 NE Thurston Way, Vancouver, Washington, 98662.

(b) All of the Collateral (other than the Accounts, the shares of Borrower's Common Stock pledged pursuant to the Pledge Agreement, and general intangibles) is, or when installed pursuant to the Project Documents will be, located on the Leased Property or the Applicable Easements.

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(c) Borrower's books of accounts and records are located at 4317 NE Thurston Way, Vancouver, Washington, 98662.

4.15. Adverse Change. To the best of Borrower's knowledge, there are no facts or conditions, with respect to the Project or Borrower which have or in the future will have (so far as Borrower can now reasonably foresee) a Material Adverse Effect which are not listed on Schedule 5.

4.16. Project Documents. Borrower makes, as of the time made, each of the representations and warranties contained in the Project Documents or any Additional Project Document to which Borrower is or will be a party to and for the benefit of Lender as if the same were set forth at length herein.

4.17. Hazardous Substances.

(a) (i) Borrower, is not and has not in the past been in violation of any Hazardous Substance Laws, which violation could result in a material liability to Borrower or its respective properties and assets or in an inability of Borrower to perform its obligations under the Operative Documents; (ii) neither the Borrower nor, to the best knowledge of Borrower, any third party has used, released, discharged, generated, manufactured, produced, stored, or disposed of in, on, under, or about the Leased Property or any part of the Project, or transported thereto or therefrom, any Hazardous Substances in any manner or in quantities that could reasonably be expected to subject Lender or Borrower to liability under any Hazardous Substance Law; (iii) there are no underground tanks, whether operative or temporarily or permanently closed, located on the Leased Property or any part of the Project; (iv) there are no polychlorinated biphenyls ("PCBs") or items containing PCBs used, stored or present at, on or near the Leased Property or any part of the Project, and (v) to the best knowledge of Borrower, there is or has been no condition, circumstance, action, activity or event that could form the basis of any violation of, or liability to Lender or its Affiliates under, any Hazardous

(b) There is no proceeding, investigation or inquiry by any Governmental Authority (including Governmental Authorities in the State of New Mexico and the U.S. Environmental Protection Agency) or any non-governmental third party with respect to the presence or release of such Hazardous Substances in, on, from or to the Leased Property or any part of the Project, and to the best knowledge of Borrower, no such proceedings have been requested, suggested or threatened by any such Governmental Authorities or non-governmental third parties.

(c) Borrower has no knowledge of any past or existing violations of any Hazardous Substances Laws by any Person relating in any way to the Leased Property or any part of the Project.

4.18. Transfer of Contracts and Other Rights. All Project Documents and Applicable Permits have been entered into by or duly and validly assigned to Borrower free

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and clear of all Liens except Permitted Liens, and all necessary Persons have duly consented to such assignment.

4.19. Litigation. There are no pending or, to the best of Borrower's knowledge, threatened actions or proceedings of any kind, including actions or proceedings of or before any Governmental Authority, to which Borrower or the Project is a party or is subject, or by which any of them or any of their properties or the Project are bound that, if adversely determined to or against Borrower or the Project, would have a Material Adverse Effect, nor, to the best of Borrower's knowledge, is there any basis for any such action or proceeding.

4.20. Title, Liens and Easements.

(a) On and after the Closing Date, Borrower will have a good, insurable and indefeasible title to the Project, and all of the Collateral relating to the Project, and a good, insurable and indefeasible interest in the Leased Property and a valid estate in the Applicable Easements other than the Easements described in Part II of Schedule 2, in each case free and clear of all Liens, encumbrances or other exceptions to title except Liens in favor of or created by Lender and Liens that do not interfere with the intended use for the Project by Borrower of the Leased Properties or Applicable Easements. The Lien of the Collateral Documents constitutes a valid and subsisting first priority perfected security interest in all the personal property described in the other Collateral Documents, subject to no Liens except the Permitted Liens.

(b) The security interests granted to Lender pursuant to the Collateral Documents in the Collateral (i) as to personal property included in

the Collateral, constitute and, with respect to subsequently acquired personal property included in the Collateral, will constitute, perfected security interests under the UCC (to the extent such personal property is subject to the UCC) and (ii) are, and, with respect to such subsequently acquired property, will be, as to Collateral perfected under the UCC (to the extent such personal property is subject to the UCC), superior and prior to the rights of all third Persons now existing or hereafter arising whether by way of mortgage, lien, security interests, encumbrance, assignment or otherwise, except for Permitted Liens. Except to the extent possession of portions of the Collateral is required for perfection, all such action as is necessary has been taken to establish and perfect Lender's rights in and to the Collateral, including any recording, filing, registration, giving of notice or other similar action. The Collateral Documents relating to the Collateral and the financing statements relating thereto have been duly filed or recorded in each office and in each jurisdiction where required in order to create and perfect the first lien and security interest described above. Borrower has properly delivered or caused to be delivered to Lender all Collateral that requires perfection of the Lien and security interest described above by possession.

(c) There are no Easements that are or will become Applicable Easements other than the Easements described in Schedule 2. Each Applicable Easement is either (y) in full force and effect and is not subject to any unsatisfied condition that may allow material modification or revocation, in the case of those Easements listed in Part I of Schedule 2, or

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(z) of a type that would not normally be obtained at the stage of the construction on the Closing Date, as contemplated by the Operative Documents, in the case of those Applicable Easements listed in Part II of Schedule 2. Borrower has no reason to believe that any Easement so indicated on Schedule 2 will not be obtained before it becomes an Applicable Easement.

4.21. Utilities. All utility services necessary for the construction and the operation of the Project for its intended purposes are available or will be so available as and when required.

#### 4.22. Sufficiency of Project Documents.

(a) Other than those that can be reasonably expected to be commercially available when and as required, the services to be performed, the materials to be supplied and the real property interests, the Applicable Easements, the Applicable Permits, and other rights granted pursuant to the Project Documents:

(i) comprise all of the property interests necessary to secure any right material to the acquisition, leasing, development, construction, installation, completion, operation and maintenance of the Project

in accordance with all Legal Requirements and in accordance with the Project Schedules, all without reference to any proprietary information not owned by Borrower;

(ii) are sufficient to enable the Project to be located, constructed and operated; and

(iii) provide adequate ingress and egress for any reasonable purpose in connection with the construction and operation of the Project.

(b) There are no services, materials or rights required for the construction or operation of the Project in accordance with the Construction Contracts, the Plans and Specifications and the Base Case Project Projections other than those that can reasonably be expected to be commercially available within the line items contained in the applicable Project Budget.

4.23. Securities. No registration of the Note under the Securities Act of 1933, as amended, or under the securities laws of any state is required in connection with the offering, issuance, sale or transfer of the Note hereunder.

4.24. Disclosure. Neither this Agreement nor any certificate furnished to Lender, or to any consultant submitting a report to Lender, by or, to the knowledge of Borrower, on behalf of Borrower in connection with the transactions contemplated by this Agreement, the other Project Documents or the design, construction, testing or operation of the Project, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading under the circumstances in which they were made at the time such statements are made. There is no

fact known to Borrower which Borrower has not disclosed in writing to Lender which does or reasonably could have a Material Adverse Effect.

4.25. Construction Budget; Projections. Borrower has prepared the Project Budget and the Base Case Project Projections and is responsible for developing the assumptions on which the Project Budget and the Base Case Project Projections are based. The Project Budget and the Base Case Project Projections (i) are, to the best of Borrower's knowledge as of the Closing Date, based on reasonable assumptions as to all legal and factual matters material to the estimates set forth therein, and (ii) as of the Closing Date are consistent with the provisions of the Project Documents. In the reasonable opinion of Borrower, as of the Closing Date the textual material accompanying the Base Case Project Projections discloses all information reasonably necessary for an understanding

of the Base Case Project Projections, and does not contain any material misstatements or omit any information which, in conjunction with other information given, would be necessary to make such information not materially misleading.

4.26. Intellectual Property. Borrower owns or has the right to use all patents, trademarks, service marks, trade names, copyrights, licenses and other rights, which are necessary for the operation of its business as presently conducted. To the best of Borrower's knowledge, (a) no product, process, method, substance, part or other material presently contemplated to be sold by or employed by Borrower in connection with its business will infringe upon any patent, trademark, service mark, trade name, copyright, license or other intellectual property right of any other Person, (b) there are no pending or threatened claims or litigation against or affecting Borrower contesting or calling into question its right to sell or use any such product, process, method, substance, part or other material or (c) there is no existing pending or proposed, patent, invention, device, application or principle or any Governmental Rule or standard or code which would prevent or inhibit or substantially reduce the projected revenues of Borrower, or otherwise have a Material Adverse Effect.

#### ARTICLE 5 - COVENANTS OF THE BORROWER

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Borrower covenants and agrees that so long as this Agreement is in effect, it will, unless Lender waives compliance in writing:

5.1. Notices. Promptly, upon acquiring notice or giving notice, as the case may be, or obtaining knowledge, give written notice to Lender of:

(a) Any litigation pending or, to the knowledge of Borrower, threatened against Borrower involving claims against Borrower or the Project in excess of \$100,000 in the aggregate or involving any injunctive or declaratory relief, such notice to include copies of all papers filed in such litigation and to be given monthly if any such papers have been filed since the last notice given;

(b) Any dispute or disputes which may exist between Borrower and any Governmental Authority and which involve (i) claims against Borrower which individually

exceed \$100,000 or in the aggregate exceed \$200,000, (ii) injunctive or declaratory relief, (iii) revocation, expiration or modification or the like of any Applicable Permit or Applicable Easement, or (iv) any Liens for taxes due but not paid;

(c) Any Event of Default or Default;

(d) Any casualty, damage or loss, whether or not insured, through fire, theft, other hazard or casualty, or any act or omission of Borrower, its employees, agents, contractors, consultants or representatives, or of any other Person if such casualty, damage or loss affects Borrower or the Project, in excess of \$50,000 for any one casualty or loss, or an aggregate of \$100,000; or

(e) Any matter which has resulted or is likely, in light of other circumstances affecting Borrower, to have a Material Adverse Effect.

## 5.2. Financial Statements, Reports, Etc.

(a) Deliver to Lender (or cause to be delivered to Lender), in form and detail reasonably satisfactory to Lender, unless delivery and/or the timing of delivery is waived by Lender:

(i) As soon as available but no later than sixty (60) days after the close of the first, second and third quarterly periods of its fiscal year, quarterly (and year-to-date) financial statements of and prepared by Borrower to include a balance sheet and an income and expense statement;

(ii) As soon as available but no later than one hundred twenty (120) days after the close of each applicable fiscal year, audited financial statements of Borrower including a statement of equity, a balance sheet as of the close of such year, an income and expense statement, reconciliation of capital accounts and a statement of cash flows, all prepared in accordance with GAAP and certified by an independent certified public accountant selected by the Person whose financial statements are being prepared and satisfactory to Lender. Such certificate shall not be qualified or limited because of restricted or limited examination by such accountant of any material portion of the records of the applicable Person;

(iii) On the tenth day of each month, with respect to the preceding month, a report with respect to the Project substantially in the form of Exhibit P hereto.

(iv) Within thirty (30) days after Completion of the Project, "as built" maps indicating the locations related to each Easement, Permit, Collation Agreement, Inter-Connection Agreement, and Pole and Conduit Use Agreement.

(v) Such other statement or statements, list of property and accounts, budgets, forecasts or reports relating to the Project, as Lender may reasonably

request from time to time and that can be provided without unreasonable cost to or effort on the part of Borrower.

(b) Each time the financial statements are delivered under subsections (i) or (ii) of Section 5.2(a), a certificate signed by the natural person who is a senior financial officer of Borrower shall be delivered along with such financial statements, certifying that such officer has made or caused to be made a review of the transactions and financial condition of the Borrower during the relevant fiscal period and that such review has not, to the best of such officer's knowledge, disclosed the existence of any event or condition which constitutes an Event of Default or a Default hereunder or under any Credit Document applicable to Borrower, or if any such event or condition existed or exists, the nature thereof and the corrective actions that Borrower has taken or proposes to take with respect thereto, and also certifying that the Borrower is in compliance with all applicable provisions of this Agreement or any other Credit Document applicable to Borrower or, if such is not the case, stating the nature of such non-compliance and the corrective actions which Borrower has taken or proposes to take with respect thereto.

5.3. Existence, Conduct of Business, Properties, Etc. Except as otherwise expressly permitted under this Agreement, (a) maintain and preserve its existence as a New Mexico corporation and all rights, privileges and franchises necessary or desirable in the normal conduct of its business, (b) perform all of its contractual obligations under the Project Documents and all other agreements and contracts by which it is bound, maintain all necessary Permits, including all Applicable Permits, with respect to its business and the Project, except such as may be contested in good faith or as to which a bona fide dispute may exist, provided that the non-payment of same would not reasonably be anticipated to result in a Material Adverse Effect or that provision is made to the satisfaction of Lender in its reasonable discretion for the posting of security (other than the Collateral) for or the bonding of such obligations or the prompt payment thereof in the event that such obligation is payable, (c) at or before the time that any Permit becomes an Applicable Permit, obtain such Permit, and (d) engage only in the business contemplated by the Operative Documents.

5.4. Obligations. Pay all Obligations, howsoever arising, as and when due and payable, including taxes and tax claims, except (a) such as may be contested in good faith or as to which a bona fide dispute may exist, provided that the non-payment of same would not reasonably be anticipated to result in a Material Adverse Effect or that provision is made to the satisfaction of Lender in its reasonable discretion for the posting of security (other than the Collateral) for or the bonding of such obligations or the prompt payment thereof in the event that such obligation is payable and (b) Borrower's trade payables which shall be paid in the ordinary course of business.

5.5. Damage and Cancellation Payments. Except as otherwise expressly permitted under this Agreement apply the proceeds of any surety, performance or similar bonds and any liquidated or other damages paid in respect of damage payments or performance payments by any contractors or subcontractors or other

Persons involved in the construction and operation of the Project, to prepay the Loan Facility.

5.6. Books, Records, Access. Maintain adequate books, accounts and records with respect to Borrower and the Project and prepare all financial statements required hereunder in accordance with GAAP and in compliance with the regulations of any Governmental Authority having jurisdiction thereof, and permit employees or agents of Lender, at any reasonable times and upon reasonable prior notice to inspect all of Borrower's properties, including the Leased Property, to examine or audit all of Borrower's books, accounts and records and make copies and memoranda thereof and to observe the operation, maintenance and repair of the Project.

5.7. Operation of Project and Annual Budget.

(a) (i) Keep the Project, or cause the same to be kept, in good operating condition consistent with Prudent Practices, all Applicable Permits and applicable Legal Requirements and all applicable requirements of the Operative Documents, and make or cause to be made all repairs (structural and non-structural, extraordinary or ordinary) necessary to keep the Project in such condition; and (ii) operate and maintain the Project in a manner consistent with Prudent Practices and in compliance with the terms of the Project Documents so as to assure, to the extent reasonably possible, the maximum generation of net revenue for the Project consistent with the Project Documents.

(b) On or before the date forty-five (45) days prior to the Expected Completion Date, deliver to Lender an update of the Project Budget for the period from the date it is delivered until the anticipated commencement of commercial operation of the Project and the Annual Operating Budget for the period from the anticipated commencement of commercial operation through the end of the first full fiscal year thereafter (collectively, the "First Annual Operating Budget"), in form and substance reasonably acceptable to Lender, setting forth all anticipated start-up costs, Project Revenues, Debt Service, proposed distributions, maintenance, repair and operation expenses (including reasonable allowance for contingencies), and all other anticipated Operation and Maintenance Costs for the Project for such period. Such First Annual Operating Budget shall be delivered by Borrower to Lender no later than August 16, 1997. No less than forty-five (45) days in advance of the beginning of each fiscal year thereafter, Borrower will similarly adopt an Annual Operating Budget for the ensuing fiscal year covering the matters (other than start-up costs) specified above in this Section 5.7(b) and such other matters as may be reasonably required by Lender. Copies of the draft Annual Operating Budget for each year of operation shall be promptly furnished to Lender for review and

approval. If Lender does not approve the draft Annual Operating Budget submitted by Borrower, Lender shall give written notice to Borrower within fifteen (15) days of Lender's receipt of such draft Annual Operating Budget in compliance with Section 10.1 hereof. If Lender and Borrower do not agree on a final Annual Operating Budget by the date the new fiscal year commences, the previous fiscal year Annual Operating Budget increased by ten percent (10%) shall be used until Lender and Borrower agree on the new final Annual Operating Budget; provided however, that if a dispute in the previous fiscal year resulted in such a ten percent (10%) increase in the Annual Operating Budget, the parties shall use the previous fiscal year Annual Operating Budget without increase. The Operation and Maintenance Costs in each such Annual Operating Budget which are subject to escalation limitations in the Project Documents shall not, absent extraordinary circumstances,

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be increased from year to year by more than the amounts provided in such Project Documents. Borrower will operate and maintain the Project, or cause the Project to be operated and maintained, within each Annual Operating Budget as approved by Lender.

5.8. Completion. Achieve Completion in a timely and diligent manner in accordance with the Project Schedule, the Construction Contracts and the Plans and Specifications, the Project Budget as the same may be extended, and in no event later than May 15, 1997.

5.9. Preservation of Rights; Further Assurances.

(a) Preserve, protect and defend the rights of Borrower under each and every Project Document, including prosecution of suits to enforce any right of Borrower thereunder and enforcement of any claims with respect thereto, and, at the request of Lender, permit Lender to participate in such capacity as it may choose in any such suit, any defense thereof or in the preparation therefor; provided, however, that upon the occurrence and during the continuance of any Event of Default, if Lender requests that certain actions be taken and Borrower fails to take the requested action within five (5) Business Days, Lender may enforce, in its own name, in the name of Lender or Borrower's name, such rights of Borrower.

(b) Use its best efforts to extend or renew the City of Albuquerque Franchise to a period at least as long as the period during which the Loan Facility is outstanding, including giving timely written notice under Section 4 of the City of Albuquerque Franchise of Borrower's intention to seek renewal of such franchise.

(c) From time to time, execute, acknowledge, record, register,

deliver and/or file all such notices, statements, instruments and other documents, including any memorandum of lease or other agreement, financing statement, continuation statement, certificate of title or estoppel certificate relating to the Loan Facility stating the interest and charges then due and any known defaults, and take such other steps as may be necessary or advisable to render fully valid and enforceable under all applicable laws the rights, liens and priorities of Lender with respect to all Collateral and other security from time to time furnished under this Agreement or intended to be so furnished, in each case in such form and at such times as shall be satisfactory to Lender, and pay all fees and expenses (including attorneys' fees and expenses) incident to compliance with this Section 5.9(b).

(d) If Borrower shall at any time acquire any real property or leasehold or other interest in real property, promptly upon such acquisition (or on the Closing Date if such acquisition occurred prior thereto) execute, deliver and record a mortgage, satisfactory in form and substance to Lender, subjecting such real property or leasehold or other interests to a lien and security interest of Lender created by such mortgage.

5.10. Construction of Project. Make or cause to be made all contracts and do or cause to be done all things reasonably necessary for the acquisition, construction, expansion, improvement and equipping of the Project, with or without advertising for bids, and cause

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the Project to be constructed, expanded, improved and equipped substantially in accordance with the Plans and Specifications, the Construction Contracts, the Project Budget and Project Schedule (insofar as necessary to comply with Section 5.7) and not exceeding the disbursements as contemplated by the Construction Contracts, except as compliance therewith may be waived pursuant to Section 6.12 hereof. Without limiting the generality of the foregoing, Borrower shall diligently pursue and enforce all of its rights and remedies under the Construction Contracts, and any other contracts or agreements related to the construction of the Project and shall ensure that the Project is constructed substantially in accordance with all such contracts and agreements, to the extent applicable.

5.11. Taxes, Other Government Charges and Utility Charges. Pay, or cause to be paid, as and when due and prior to delinquency, all taxes, assessments and governmental charges of any kind that may at any time be lawfully assessed or levied against or with respect to Borrower or the Project, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project, and all assessments and charges lawfully made by any Governmental Authority for public improvements that may be secured by a lien on the Project. However, Borrower may contest in good faith any such taxes, assessments and other charges and, in such event, may permit the taxes, assessments or other charges so contested to remain unpaid during any period,

including appeals, when Borrower is in good faith contesting the same, so long as (a) reserves reasonably satisfactory to Lender have been established in an amount sufficient to pay any such taxes, assessments or other charges, accrued interest thereon and potential penalties or other costs relating thereto, or other adequate provision for the payment thereof shall have been made, (b) enforcement of the contested tax, assessment or other charge is effectively stayed for the entire duration of such contest, and (c) any tax, assessment or other charge determined to be due, together with any interest or penalties thereon, is immediately paid after resolution of such contest.

5.12. Compliance with Laws, Instruments, Etc. At its expense, promptly (a) comply, or cause compliance, in all material respects, with all laws, rules, regulations and Legal Requirements, including laws, rules, regulations and Legal Requirements, relating to pollution control, environmental protection, equal employment opportunity or employee benefit plans and employee safety, with respect to Borrower or the Project, whether or not compliance therewith shall require structural changes in the Project or any part thereof or require major changes in operational practices or interfere with the use and enjoyment of the Project or any part thereof, and (b) procure, maintain and comply, or cause to be procured, maintained and complied with, in all material respects, all Permits required for any use of the Project or any part thereof, then being made or contemplated by the Operative Documents, except that Borrower may, at its expense, contest by appropriate proceedings conducted in good faith the validity or application of any such law, rule or regulation; provided that, (i) neither Lender nor Borrower would be subject to any criminal liability for failure to comply therewith and (ii) all proceedings to enforce such law, rule or regulation against Lender, Borrower, or the Project or any part of any of them, shall have been duly and effectively stayed during the entire pendency of such contest.

5.13. Warranty of Title. Maintain (a) good, marketable and insurable leasehold estate to the Leased Property, and good, marketable and insurable title to the Applicable

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Easements and (b) good, marketable, insurable and indefeasible title to all of its other respective properties and assets (other than properties and assets disposed of in the ordinary course of business) to the extent that failure to do so would have a Material Adverse Effect.

5.14. Maintenance of Insurance.

(a) Required Insurance. Borrower shall, without cost to Lender, maintain or cause to be maintained on its behalf in effect at all times the types of insurance set forth in Schedule 6, together with any other types of insurance required under this Agreement.

(b) Rights of Lender. If at any time the insurance as herein provided shall be reduced or cease to be maintained, then (without limiting the rights of Lender hereunder in respect of the Event of Default which arises as a result of such failure) Lender may at its option obtain and maintain the insurance required hereby and, in such event, Borrower shall reimburse Lender upon demand for the cost thereof together with interest thereon at a rate per annum equal to the Default Rate. If Borrower fails to respond in a timely and appropriate manner (as reasonably determined by Lender) to take any steps necessary or reasonably requested by Lender to collect from any insurers for any loss covered by any insurance required to be maintained by this Section 5.14, Lender shall have the right to make all proofs of loss, adjust all claims and/or receive all or any part of the proceeds of the foregoing insurance policies, either in its own name or the name of Borrower; provided, however, that Borrower shall, upon Lender's request and at Borrower's own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by Lender to collect from insurers for any loss covered by any insurance required to be obtained by this Section 5.14.

(c) Insurance Compliance. On or before the Closing Date and annually at each policy renewal Borrower shall furnish to Lender, (i) a certificate signed by a duly authorized representative of Borrower, listing the insurance then maintained by or on behalf of Borrower and stating that such insurance complies in all respects with the terms hereof, together with evidence of payment of the premiums thereon, and (ii) the report of Borrower's insurance broker, and prior to Completion, the report of Contractors' insurance broker, to the effect that Borrower's insurance complies in all respects with the terms of this Section 5.14 and Schedule 6.

(d) Borrower shall and shall cause (i) all of Borrower's contractors to, name Lender a loss payee or an additional insured on each insurance policy with respect to any aspect of the Project and (ii) all such insurance policies to provide Lender with written notice ten (10) days prior to cancellation of any such insurance policy for non-payment of premiums and thirty (30) days prior to cancellation of any such insurance policy for any other reason.

5.15. Event of Eminent Domain. If an Event of Eminent Domain shall be threatened or occur with respect to any Collateral, (a) promptly upon discovery or receipt of notice of any such threat or occurrence provide written notice thereof to Lender, (b) diligently pursue all its rights to compensation against the relevant Governmental

Authority in respect of such Event of Eminent Domain, (c) not, without the

written consent of Lender, which consent shall not be unreasonably withheld, compromise or settle any claim against such Governmental Authority, (d) hold all amounts and proceeds (including instruments) received in respect of any Event of Eminent Domain ("Eminent Domain Proceeds") in trust for the benefit of Lender, segregated from other funds of Borrower, for application in accordance with Section 7.3, and (e) forthwith pay over to Lender all such amounts and proceeds in the same form as received (with any necessary endorsement) to be held and applied in accordance with the provisions of Section 7.3. Borrower consents to the participation of Lender in any eminent domain proceedings, and Borrower shall from time to time deliver to Lender all instruments requested by it to permit such participation.

#### 5.16. Indemnification.

(a) Indemnify, defend and hold harmless Lender and, in their capacities as such, Lender's respective officers, directors, shareholders, controlling persons, employees, agents and servants (collectively, the "Indemnitees") from and against and reimburse the Indemnitees for any and all losses, claims, obligations, liabilities, damages, injuries (to person, property or natural resources), penalties, stamp or other similar taxes, actions, causes of action, suits, judgments, costs and expenses (including attorneys' and consultants' fees and expenses) of whatever kind or nature, whether or not well founded, meritorious or unmeritorious, demanded, asserted or claimed against any such Indemnatee in any way relating to, or arising out of or in connection with (i) this Agreement, the other Operative Documents or the Project; (ii) any Legal Requirement or Permit relating to the Project or Borrower, the release or presence of any Hazardous Substance at the Project or released or disposed of by the Project or by or on behalf of Borrower, whether foreseeable or unforeseeable, including all costs of removal and disposal of such Hazardous Substances, all costs required to be incurred in determining whether the Project is and causing the Project to be in compliance with all applicable Legal Requirements and Permits; and (iii) any claims, suits or liabilities against or of Borrower or its Affiliates.

(b) The foregoing indemnities shall not apply with respect to an Indemnatee, to the extent the claims, damages, liabilities or losses arise as the direct and sole result of the gross negligence or willful misconduct of such Indemnatee, but shall continue to apply to other Indemnitees.

(c) The provisions of this Section 5.16 shall survive foreclosure of the Collateral Documents and satisfaction or discharge of Borrower's obligations hereunder and shall be in addition to any other rights and remedies of Lender.

(d) In case any action, suit or proceeding shall be brought against any Indemnatee, such Indemnatee shall notify in writing Lender and Borrower of the commencement thereof, and Borrower shall be entitled, at its expense, acting through counsel reasonably acceptable to such Indemnatee, to participate in, and, to the extent that Borrower desires, to assume and control the defense thereof. Such Indemnatee shall thereafter be entitled, at its expense, to participate in any action, suit or proceeding the defense of which

has been assumed by Borrower. Notwithstanding the foregoing, Borrower

shall not be entitled to assume and control the defenses of any such action, suit or proceedings if and to the extent that, in the opinion of such Indemnatee and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on such Indemnatee or a conflict of interest between such Indemnatee and Borrower or between such Indemnatee and another Indemnatee, and in such event (other than with respect to disputes between such Indemnatee and other Indemnatees) Borrower shall pay the reasonable expenses of such Indemnatee in such defense, but not more than the expense of one additional counsel.

(e) Borrower shall report to such Indemnatee on the status of such action, suit or proceeding as developments shall occur. Borrower shall deliver to such Indemnatee a copy of each document filed or served on any party in such action, suit or proceeding, and each document which Borrower possesses relating to such action, suit or proceeding.

(f) Upon payment of any claim by Borrower pursuant to this Section 5.16 or other similar indemnity provisions contained herein to or on behalf of an Indemnatee, Borrower, without any further action, shall be subrogated to any and all claims that such Indemnatee may have relating thereto, and such Indemnatee shall cooperate with Borrower and give such further assurances as are necessary or advisable to enable Borrower vigorously to pursue such claims. Payment thereof by any Indemnatee or the payment by such Indemnatee of any judgment or claim successfully perfected against such Indemnatee shall be payable upon demand of such Indemnatee.

(g) Any amounts payable by Borrower pursuant to this Section 5.16 shall be regularly payable within thirty (30) days after Borrower receives an invoice for such amounts from any applicable Indemnatee.

5.17. Development Company Net Cash Flow Agreements. At the time of the closing of the debt financing of subsequent Network Projects funded by Lender or one of its Affiliates, enter into agreements pledging the Net Cash Flow of Borrower to support the Obligations of each other Development Company to Lender and its Affiliates upon a default or event of a default of any other Development Company; provided however, that a default or event of default on the part of another Development Company with respect to its Network Project Credit Agreement by itself, shall not constitute a default or event of default with respect to this Agreement by Borrower, but rather the Net Cash Flow of Borrower shall be available to cure the default or event of default of such other Development Company or Companies. Lender's and its Affiliates' interest in Borrower's Net Cash Flow pursuant to such pledge agreements shall be senior to all other Debt

of Borrower (except Borrower's other Obligations to Lender under this Agreement) and any obligations of Borrower to Greenstar for management fees.

5.18. Consents to Assignment. Borrower shall obtain consents to assignment from third parties to Project Documents not entered into as of the Closing at the time such Project Documents are entered into in the forms of Exhibit M-1, M-2 and M-3, as applicable. Borrower shall provide Lender with a status report with respect to Project Documents entered into and consents to assignment to be obtained no less frequently than every month in the monthly reports required pursuant to Section 5.2, commencing on the tenth day of the

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month which first occurs after the Closing Date. Borrower shall provide Lender with each new consent to assignment received within three (3) days of receipt by Borrower of such consent to assignment.

#### ARTICLE 6 - NEGATIVE COVENANTS

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Borrower covenants and agrees that until the entire principal balance of the Loan Facility, together with all interest, fees, charges and costs due to Lender under this Agreement are paid in full, it will not, without the prior written consent of Lender:

6.1. Contingent Liabilities. Except as provided in this Agreement, become liable as a surety, guarantor, accommodation endorser or otherwise, for or upon the obligation of any other Person; provided, however, that this Section 6.1 shall not be deemed to prohibit:

(a) The acquisition of goods, supplies or merchandise in the normal course of business or normal trade credit; or

(b) The endorsement of negotiable instruments received in the normal course of its business.

6.2. Limitations on Liens. Create, incur, assume or permit to exist any Lien, securing a charge or obligation on the Project or on any of the Collateral, real or personal, whether now owned or hereafter acquired, except Permitted Liens.

6.3. Indebtedness. Incur, create, assume or permit to exist any Debt except (a) the Loan Facility, (b) up to Two Hundred Fifty Thousand Dollars (\$250,000) of Debt incurred in the ordinary course of business and (c) obligations of Borrower for money borrowed to finance Project cost overruns

pursuant to Section 3.5 which is unsecured and deeply subordinated to Borrower's Obligations to Lender hereunder, or cancel, modify, renew or otherwise rearrange any Debt or make execute or deliver any assignment for the benefit of creditors, bond, confession of judgment, mortgage or deed.

6.4. Sale or Lease of Assets. Sell, lease, assign, transfer or otherwise dispose of assets or property, whether now owned or hereafter acquired, (a) except in the ordinary course of its business as contemplated by the Operative Documents and (b) except for obsolete, worn out or replaced property not used or useful in its business, in each case, at fair market value. The ordinary course of Borrower's business shall include sale or lease of irrevocable rights to use dark fiber and conduits.

6.5. Changes. Change the nature of its business or expand its business other than (i) developing and operating a fiber optic and digital telecommunications network and (ii) provision of telecommunications services and capacity.

6.6. Dividends, Redemptions, Etc. (i) Pay any dividends or make any distributions on its Equity Securities; (ii) purchase, redeem, retire, defease or otherwise acquire for value

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any of its Equity Securities; (iii) return any capital to any holder of its Equity Securities as such; (iv) make any distribution of assets, Equity Securities, obligations or securities to any holder of its Equity Securities as such; or (v) set apart any sum for any such purpose.

6.7. Investments. Make or permit to remain outstanding any advances, loans or extensions of credit to, or purchase or own any stock, bonds, notes, debentures or other securities of any Person, except Permitted Investments.

6.8. Transactions With Affiliates. Directly or indirectly, enter into any transaction or series of transactions with or for the benefit of an Affiliate or utilize the collateral in any way for the furtherance of its or any of its Affiliates' personal business activities without the prior written approval of Lender, except for (i) the Services Agreement entered into between Borrower and GST as of October 1, 1995, an executed copy of which has been delivered to Lender, as the same may be amended from time to time with Lender's prior written consent, and (ii) any other agreement for the provision of goods or services by an Affiliate of Borrower to Borrower or by Borrower to an Affiliate of Borrower; provided that all direct and indirect fees and charges thereunder are reasonable and comparable to those available from other providers of such goods or services or to other customers of Borrower, as the case may be.

6.9. Loan Proceeds; Project Revenues. Use, pay, transfer, distribute or dispose of any Loan Facility proceeds in any manner or for any purposes except as provided in Section 2.1(a)(iii) or of any Project Revenues in any manner or for any purposes except as provided in Section 7.1.

6.10. Partnerships. Become a general or limited partner in any partnership or a joint venturer in any joint venture.

6.11. Dissolution. Liquidate or dissolve, or sell or lease or otherwise transfer or dispose of all or any substantial part of its property, assets or business, or combine, merge or consolidate with or into any other entity.

6.12. Amendments; Change Orders; Completion. Cause, consent to or permit any amendment, modification, variance or waiver of timely compliance with any terms or conditions of any Project Document if it would have a Material Adverse Effect, or cancel or terminate any Operative Document to which Borrower is a party.

6.13. Name and Location; Fiscal Year. Change its name or the location of its principal place of business without notice to Lender at least thirty (30) days prior to such change, or change its fiscal year without Lender's consent.

6.14. Assignment. Assign its rights hereunder or under any of the Operative Documents to any Person.

6.15. Transfer of Ownership Interests. Cause, make, suffer, permit or consent to any sale, assignment or transfer of any ownership or other interest in Borrower or any right thereto, except that GSI or any direct or indirect subsidiary of GSI that is a direct or indirect parent of Borrower (a "Specified GSI Subsidiary") may sell securities of a specified GSI Subsidiary in a transaction which does not result in the loss of control of such Specified GSI Subsidiary by GSI or a Specified GSI Subsidiary, as the case may be ("loss of control" includes the sale or other transfer of more than 49% of the Equity Securities of such Specified GSI Subsidiary or the rights thereto, and the loss of the voting power on the board of directors required to control such Specified GSI Subsidiary). As used herein, the transfer of an ownership interest in Borrower shall include direct and indirect transfers, including sale of stock or ownership interests or rights thereto in any entity which has a direct ownership interest in Borrower; provided that the provisions of this sentence shall not be applicable to the transfer of stock or ownership interests or rights thereto in GSI or any corporation the securities of which are publicly held.

6.16. Abandonment of Project. Voluntarily abandon the development,

construction, operation, maintenance or repair of the Project.

6.17. Hazardous Substance. Release, emit or discharge into the environment any Hazardous Substances in excess of permitted levels or reportable quantities or in violation of other permitted concentrations, standards or limitations under any Hazardous Substance Laws, Legal Requirements or Applicable Permits.

6.18. ERISA. Neither Borrower nor any ERISA Affiliate shall (i) adopt or institute any ERISA Plan, (ii) take any action which will result in the partial or complete withdrawal, within the meanings of sections 4203 and 4205 of ERISA, from a Multiemployer Plan, (iii) engage or permit any Person to engage in any transaction prohibited by section 406 of ERISA or section 4975 of the Code involving any Employee Benefit Plan or Multiemployer Plan which would subject either Borrower or any ERISA Affiliate to any tax, penalty or other liability including a liability to indemnify, (iv) incur or allow to exist any accumulated funding deficiency (within the meaning of section 412 of the Code or section 302 of ERISA), (v) fail to make full payment when due of all amounts due as contributions to any Employee Benefit Plan or Multiemployer Plan, (vi) fail to comply with the requirements of section 4980B of the Code or Part 6 of Title I(B) of ERISA, or (vii) adopt any amendment to any Employee Benefit Plan which would require the posting of security pursuant to section 401(a)(29) of the Code, where singly or cumulatively, the above would have a Material Adverse Effect.

#### ARTICLE 7 - APPLICATION OF FUNDS

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##### 7.1. Receipts Account and Operating Account.

(a) On or prior to the date of the initial Construction Loan hereunder, Borrower and Lender shall establish at Bank of America, Sacramento RBCO or another bank which shall be reasonably acceptable to Lender, accounts entitled "New Mexico Lightwave

Project -- Receipts Account" (the "Receipts Account) and "New Mexico Lightwave Project -- Operating Account" (the "Operating Account"), respectively. Borrower shall deposit all Project Revenues (excluding Construction Loan proceeds disbursed by Lender directly to the Person(s) entitled thereto) in the Receipts Accounts and the Operating Account shall be used to pay all Project Costs. On the first Business Day of each month until the Loan Facility has been repaid in full, provided no Default or Event of Default has occurred and is continuing, Lender will, to the extent funds are available in the Receipts Account and are

not otherwise restricted or designated for a different use or purpose, transfer funds from the Receipts Account at the following times and in the following order of priority:

(i) Monthly, to the Operating Account the amount shown for such month on the applicable Annual Operating Budget, for the payment of Operation and Maintenance Costs currently payable and with respect to which funds have not already been withdrawn from the Operating Account;

(ii) from time to time, to the payment of all fees, costs, charges and any other amounts due and payable to Lender in connection with this Agreement and the other Credit Documents;

(iii) at the times set forth in Section 2.1(e), to the payment of interest and principal on the Loan Facility;

(iv) on or within thirty (30) days after the dates set forth in Section 2.1(e) and to the extent permitted under Section 6.6 and after the establishment of prudent reserves for any reasonably anticipated expenses or other items (which shall be retained in the Operating Account), to Borrower, any part of which may be used by Borrower to pay dividends to its shareholder in an aggregate amount up to the amount described in Section 6.6 and in compliance with applicable law.

Upon repayment in full of all amounts due under this Agreement and satisfaction of all Obligations under the Credit Documents, Lender shall disburse any amounts on deposit in the Receipts Account and the Operating Account to Borrower.

(b) Notwithstanding anything in Section 7.1(a) to the contrary, in lieu of transferring some or all of the amount shown on the applicable Annual Operating Budget into the Operating Account for the payment of Operation and Maintenance Costs, Lender may, and Borrower hereby authorizes Lender to, pay some or all of the Operation and Maintenance Costs directly to the Person(s) entitled thereto, and such payment shall discharge pro tanto the obligations of Lender hereunder with respect to such amounts.

(c) Any of the payments, disbursements or transfers of funds provided for in this Section 7.1 may be made notwithstanding the existence of a Default or Event of Default if the requirement that there be no existing Default or Event of Default is waived by Lender in its sole discretion. Such waiver may apply to any or all such payments, disbursements or transfers of funds and may apply to payments of a lesser priority without applying to payments of a greater priority. (For example, such a waiver may apply to

payments of Debt Service without necessarily applying to payment of Operation and Maintenance Costs.)

(d) Operation and Maintenance Costs payable pursuant to Section 7.1(a)(i) shall not in any event exceed the amounts shown on the approved Annual Operating Budget (as it may be revised from time to time as provided in Section 5.7(b)). Borrower shall promptly pay all Operation and Maintenance Costs in excess of the foregoing limit from funds which are otherwise distributable to Borrower hereunder, other unrestricted funds of Borrower or equity funds provided to Borrower. To the extent the Annual Operating Budget is revised pursuant to Section 5.7(b), additional amounts may be transferred to the Operating Account as set forth in Section 7.1(a).

(e) Notwithstanding the preceding provisions of this Section 7.1, so long as no Default or Event of Default has occurred and at such time as is ninety (90) days after any Default or Event of Default has been cured, provided that no other Default or Event of Default shall have occurred in such ninety (90) day period, Borrower shall have the right to operate the Receipts Account and the Operating Account consistent with the provisions of this Section 7.1 without the direct control of Lender; provided however, that Borrower will provide Lender with monthly reports on the balances, status and activity of such accounts, and provided further, that in no event shall any of the funds in such accounts be used for any purpose in violation of the terms and conditions of this Agreement, including without limitation, Section 6.6.

## 7.2. Application Of Insurance Proceeds.

(a) Each of the parties hereto agrees that all amounts and proceeds (including instruments) in respect of the proceeds of any insurance policy required to be maintained by Borrower hereunder ("Insurance Proceeds") shall, except as otherwise provided in clause (c) below, be paid by the active insurers directly to Lender (as loss payee or additional insured as provided in Section 5.14 and Schedule 6), and if paid to Borrower, such Insurance Proceeds shall be received only in trust for Lender, shall be segregated from other funds of Borrower, and shall be forthwith paid over to Lender in the same form as received (with any necessary endorsements). Each of the parties hereto agrees, to the fullest extent that it effectively may do so under applicable law, that Lender shall apply all such Insurance Proceeds in accordance with the provisions of Sections 7.2(b) and 7.2(c).

(b) Unless an Event of Default shall have occurred and be continuing, any business interruption Insurance Proceeds received by Lender or Borrower shall be deposited into the Receipts Account.

(c) (i) If there shall occur any damage or destruction of the Project with respect to which Insurance Proceeds for any single loss not in excess of \$500,000 are payable, such Insurance Proceeds shall be paid to Borrower and applied to the prompt payment of the cost of the repair or restoration of such damage or destruction.

(ii) If there shall occur any damage or destruction of the Project with respect to which Insurance Proceeds for any single loss in excess of \$500,000 are payable, Borrower shall promptly notify Lender. Such Insurance Proceeds shall be applied to the prompt repair or restoration of the Project in accordance with Section 7.2(c)(iii) to the extent determined by Borrower and, if Lender determines that such Insurance Proceeds should be applied to such repair or restoration to a greater extent in order for Borrower to be able to satisfy its obligations under the Operative Documents as well as before such damage or destruction, to such greater extent.

(iii) If there shall occur any damage to or destruction of the Project with respect to which Section 7.2(c)(i) or (ii) requires repair or restoration and

(A) if (1) such damage or destruction does not constitute the destruction of all or substantially all of the Project, (2) Borrower and an independent engineer selected by Borrower and subject to Lender's approval, certify, and Lender determines in its reasonable judgment, that repair or restoration of the Project is technically and economically feasible within a six (6) month period and that a sufficient amount of funds is or will be available to Borrower to make such repairs and restorations, (3) the Lender determines that after repair and restoration the Project will be able to repay the Loan Facility and other amounts due the Lender as and when due, (4) after giving effect to any proposed repair and restoration, but only at the time that the same are expected to be made, such damage or destruction will not result in an Event of Default or a Default, (5) Lender shall receive an opinion of counsel acceptable to Lender to the effect that no material federal, state or local governmental license, registration, recording, filing, consent, Permit, order, authorization, certificate, approval, exemption or declaration is necessary to proceed with the repair and restoration and that no material amendment to this Agreement or any of the Credit Documents is necessary (or, if any such is necessary, Borrower is reasonably likely to be able to obtain such as and when required) for the purpose of subjecting the repairs or restorations to the Liens of the Collateral Documents, except such, if any, as may be delivered to Lender and that such amendments and other instruments (if any) have been duly executed and delivered by and are valid and binding agreements of Borrower and any other party thereto and subject such repairs or restoration to the Liens of the Collateral Documents, and (6) Lender shall receive such additional title insurance, title insurance endorsements, mechanic's lien waivers, certificates, opinions or other matters as it may reasonably request as necessary or appropriate in connection with such repairs or restoration or to preserve or protect the Lender's interest hereunder or in the Collateral, or

(B) Lender shall direct Borrower to

undertake any repair or restoration, then Borrower shall cause any repairs or restoration to be commenced and completed promptly and diligently at the cost and expense of Borrower. From time to time after the Lender shall have duly approved the making of such repairs or restoration, and upon Borrower's written request and the presentation to Lender of all documents, certificates and information with respect to such Insurance Proceeds as Lender may reasonably request, including a certificate from Borrower (A) describing in reasonable detail the nature of the repairs or restoration, (B) stating the cost of such repairs or restoration and the specific amount requested to be paid over to or upon the order of Borrower and that such amount is

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requested to pay the cost thereof, (C) stating that the aggregate amount requested by Borrower in respect of such repairs or restoration (when added to any other Insurance Proceeds received by Borrower in respect of such damage or destruction) does not exceed the cost of such repairs or restoration and that a sufficient amount of funds is or will be available to Borrower to complete the Project, and (D) stating that no Event of Default has occurred and is continuing other than an Event of Default resulting solely from such damage or destruction, then any Insurance Proceeds (other than Insurance Proceeds with respect to business interruption) held by Lender arising out of such damage or destruction shall, be paid over to or at the direction of Borrower to pay for the cost of the repairs or restoration in respect of which such Insurance Proceeds were received to the extent of costs actually incurred.

(iv) If, after Insurance Proceeds have been applied to the repair or restoration of the Project as provided in Sections 7.2(c)(i) or 7.2(c)(ii), Lender determines that the Project will be able to operate at a level enabling Borrower to satisfy its obligations hereunder as well as before the damage or destruction, any excess Insurance Proceeds shall be paid into the Receipts Account; provided that such excess Insurance Proceeds shall, in lieu of being paid into the Receipts Account, if and to the extent necessary to enable Borrower to satisfy its obligations hereunder (after accounting for the prepayment described in this sentence) as well as before such damage or destruction, be applied to the repayment of the Loan Facility in accordance with Section 2.1(e).

(v) If an Event of Default or Default shall have occurred and be continuing, then any provisions of Sections 7.2(c)(i) through 7.2(c)(iv) to the contrary notwithstanding, the Insurance Proceeds (including any Permitted Investments made with such proceeds, which shall be liquidated in such manner as Lender shall deem reasonable and prudent under the circumstances) may be applied by Lender to curing such Event of Default or Default. Any Insurance Proceeds remaining thereafter shall be applied as provided in this Section 7.2.

### 7.3. Application of Eminent Domain Proceeds.

(a) All Eminent Domain Proceeds shall be paid by the condemning authority directly to Lender, and, if paid to Borrower, such Eminent Domain Proceeds shall be received only in trust for Lender, shall be segregated from other funds of Borrower and shall forthwith be paid over to Lender in the same form as received (with any necessary endorsement).

(b) (i) If the Eminent Domain Proceeds with respect to a single Event of Eminent Domain not in excess of \$500,000 are payable, Borrower shall comply with Section 5.16, and such Eminent Domain Proceeds shall be paid to Borrower and applied to the prompt payment of the cost of the replacement or restoration of the Collateral if such replacement and restoration is practicable;

(ii) If the Eminent Domain Proceeds with respect to a single Event of Eminent Domain in excess of \$500,000 are payable, Borrower shall comply with

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Section 5.15, and such Eminent Domain Proceeds shall be applied to the prompt replacement or restoration of the Collateral in accordance with Section 7.3(b)(iii) to the extent determined by Borrower and, if Lender determines that such Eminent Domain Proceeds should be applied to such replacement or restoration to a greater extent in order for Borrower to be able to satisfy its obligations under the Operative Documents as well as before such damage or destruction, to such greater extent.

(iii) If there shall occur any Event of Eminent Domain with respect to which Section 7.3(c)(i) or (ii) requires restoration or replacement and

(A) if (1) such Event of Eminent Domain does not constitute the loss of all or substantially all of the Project, (2) Borrower and an independent engineer selected by Borrower and subject to Lender's approval, certify, and Lender determines in its reasonable judgment, that replacement or restoration of the Project is technically and economically feasible within a six (6) month period and that a sufficient amount of funds is or will be available to Borrower to make such replacements and restorations, (3) the Lender determines that after replacement and restoration the Project will be able to repay the Loan Facility and other amounts due the Lender as and when due, (4) after giving effect to any proposed restoration or replacement, but only at the time that the same are expected to be made, such Event of Eminent Domain will not result in an Event of Default or a Default, (5) Lender shall receive an opinion of counsel acceptable to Lender to the effect that no material federal, state or local governmental license, registration, recording, filing, consent, Permit, Easement, order, authorization, certificate, approval,

exemption or declaration is necessary to proceed with the restoration or replacement and that no material amendment to this Agreement or any of the Credit Documents is necessary (or, if any such is necessary, Borrower is reasonably likely to be able to obtain such as and when required) for the purpose of subjecting the restored or replacement Collateral to the Liens of the Collateral Documents, except such, if any, as may be delivered to Lender and that such amendments and other instruments (if any) have been duly executed and delivered by and are valid and binding agreements of Borrower and any other party thereto and subject such replacement or restoration to the Liens of the Collateral Documents, and (6) Lender shall receive such additional title insurance, title insurance endorsements, mechanic's lien waivers, certificates, opinions or other matters as it may reasonably request as necessary or appropriate in connection with such restoration or replacement or to preserve or protect the Lender's interest hereunder or in the Collateral, or

(B) Lender shall direct Borrower to undertake any replacement or restoration, then Borrower shall cause any replacement or restoration to be commenced and completed promptly and diligently at the cost and expense of Borrower. From time to time after the Lender shall have duly approved the making of such restoration or replacement, and upon Borrower's written request and the presentation to Lender of all documents, certificates and information with respect to such Insurance Proceeds as Lender may reasonably request, including a certificate from Borrower (A) describing in reasonable detail the nature of the replacement or restoration, (B) stating the cost of such restoration or replacement and the specific amount requested to be paid over to or upon the order of Borrower and that such amount is requested to pay the cost thereof, (C) stating that the

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aggregate amount requested by Borrower in respect of such restoration or replacement (when added to any other Eminent Domain Proceeds received by Borrower in respect of such damage or destruction) does not exceed the cost of such repairs or restoration and that a sufficient amount of funds is or will be available to Borrower to complete the Project, and (D) stating that no Event of Default has occurred and is continuing other than an Event of Default resulting solely from such Event of Eminent Domain, then any Eminent Domain Proceeds held by Lender arising out of such Event of Eminent Domain shall, be paid over to or at the direction of Borrower to pay for the cost of the restoration or replacement of the Collateral in respect of which such Eminent Domain Proceeds were received to the extent of costs actually incurred.

(iv) If, after Eminent Domain Proceeds have been applied to the restoration or replacement of the Collateral as provided in Sections 7.3(c)(i) or 7.3(c)(ii), Lender determines that the Project will be able to operate at a level enabling Borrower to satisfy its obligations hereunder as well as before the Event of Eminent Domain, any excess Eminent Domain Proceeds shall be paid into the Receipts Account; provided that such

excess Eminent Domain Proceeds shall, in lieu of being paid into the Receipts Account, if and to the extent necessary to enable Borrower to satisfy its obligations hereunder (after accounting for the prepayment described in this sentence) as well as before such Event of Eminent Domain, be applied to the repayment of the Loan Facility in accordance with Section 2.1(e).

If Lender so determines that the Project should be restored, but no or insufficient replacement property is available for such restoration, then such Eminent Domain Proceeds shall be applied, after acquisition of whatever necessary replacement property is available, to the prepayment of the Loan Facility. After Eminent Domain Proceeds have been applied to the restoration of the Project as provided in the second previous sentence or if Lender has determined that the Project need not or can not be restored, any remaining Eminent Domain Proceeds or the entire fund of Eminent Domain Proceeds, as the case may be, shall be applied to the prepayment of the Loan Facility.

(v) Notwithstanding the foregoing provisions of this Section 7.3, if an Event of Default shall have occurred and be continuing, any amount to be applied pursuant to this Section 7.3, shall be paid to Lender as security for the obligations of Borrower under the Credit Documents, and may be held, applied or realized upon by Lender as provided herein or in the other Credit Documents with respect to holding, applying or realizing upon Collateral after the occurrence of an Event of Default. To the extent any Eminent Domain Proceeds then remain, at such time thereafter as no Event of Default shall be continuing, such amount shall be applied as provided in this Section 7.3.

7.4. Security Interest in Proceeds and Accounts. Borrower hereby pledges, assigns and transfers to Lender on behalf of Lender and grants Lender on behalf of Lender a security interest in and to all Insurance Proceeds and Eminent Domain Proceeds (collectively, "Proceeds") and Accounts as security for the Loan Facility and the full and faithful performance of all of Borrower's obligations hereunder and under the other Credit Documents. Borrower shall not have any rights or powers with respect to any Account except to have funds on deposit therein applied in accordance with this Agreement. Lender

is hereby authorized to reduce to cash any Permitted Investment (without regard to maturity) in order to make any application required by any Section of this Article 7 or otherwise pursuant to the Credit Documents. Upon the occurrence of an Event of Default, Lender shall have all rights and powers with respect to Proceeds as it has with respect to any other Collateral and may apply Proceeds to the payment of interest, principal, fees, costs, charges or other amounts due or payable to Lender with respect to the Loan Facility in such order as Lender may elect in its sole discretion. Borrower shall not have any rights or powers with respect to Proceeds except as expressly provided in Section 7.5.

7.5. Permitted Investments. All amounts held by Borrower and/or Lender in the Accounts or as Insurance Proceeds or Eminent Domain Proceeds shall only be invested in Permitted Investments as directed by and at the expense and risk of Borrower.

## ARTICLE 8 - EVENTS OF DEFAULT; REMEDIES

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### 8.1. Events of Default.

The occurrence of any of the following events shall constitute an event of default ("Event of Default") hereunder:

(a) Failure to Make Payments. Borrower shall fail to pay, in accordance with the terms of this Agreement, (i) any principal on any of the Loan Facility on the date that such sum is due, (ii) any interest on any of the Loan Facility within five (5) days after the date that such sum is due, or (iii) any other fee, cost, charge or other sum due under the Credit Documents within ten (10) days after the date on which written notice is given to Borrower pursuant to the provisions of Section 10.1 that such sum is due.

(b) Judgments. A judgment or judgments shall be entered against Borrower (i) in the aggregate amount of \$250,000 or more (other than (A) a judgment which is fully covered by insurance or discharged within sixty (60) days after its entry, or (B) a judgment, the execution of which is effectively stayed within sixty (60) days after its entry but only for thirty (30) days after the date on which such stay is terminated or expires) or (ii) which would reasonably be expected to materially impair or inhibit the construction of or Borrower's use or operation of the Project for the purpose for which the Project was intended or materially impair the value of the Collateral or the interests of the Lender under this Agreement and the other Credit Documents;

(c) Misstatements; Omissions. Any financial statement, representation, report, warranty or certificate made or prepared by, under the control of or on behalf of Borrower and furnished to the Lender pursuant to this Agreement or any other Credit Document, or in any separate statement or document to be delivered to the Lender hereunder or under any other Credit Document, shall contain an untrue or misleading statement of a material fact or shall fail to state a material fact necessary to make the statements therein not misleading as of the date made and as a result thereof, there is or is likely to be a Material Adverse Effect as determined by the Lender, provided that no Event of Default shall occur

pursuant hereto if, within thirty (30) days of the date on which Borrower

receives notice (from any source) that such untrue or misleading statement or failure to state a material fact has occurred, Borrower shall eliminate or otherwise address to the satisfaction of the Lender any such Material Adverse Effect relating to such misleading statement or failure to state a material fact.

(d) Bankruptcy; Insolvency. Borrower or Borrower's shareholder shall institute a voluntary case seeking liquidation or reorganization under the Bankruptcy Law (or any successor statute), or shall consent to the institution of an involuntary case thereunder against it; or Borrower or Borrower's shareholder shall file a petition, answer or consent or shall otherwise institute any similar proceeding under any other applicable federal or state law, or shall consent thereto; or Borrower or Borrower's shareholder shall apply for, or by consent or acquiescence there shall be an appointment of, a receiver, liquidator, sequestrator, trustee or other officer with similar powers, or Borrower or Borrower's shareholder shall make an assignment for the benefit of creditors; or Borrower or Borrower's shareholder shall admit in writing its inability to pay its debts generally as they become due; or if an involuntary case shall be commenced seeking the liquidation or reorganization of Borrower or Borrower's shareholder under the Bankruptcy Law (or any successor statute) or any similar proceeding shall be commenced against Borrower or Borrower's shareholder under any other applicable federal or state law and (i) the petition commencing the involuntary case is not timely controverted, (ii) the petition commencing the involuntary case is not dismissed within sixty (60) days of its filing, (iii) an interim trustee is appointed to take possession of all or a portion of the property, and/or to operate all or any part of the business of Borrower or Borrower's shareholder and such appointment is not vacated within sixty (60) days, or (iv) an order for relief shall have been issued or entered therein; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee or other officer having similar powers of Borrower or Borrower's shareholder or of all or a part of their property, shall have been entered; or any other similar relief shall be granted against Borrower or Borrower's shareholder under any applicable federal or state law.

(e) Cross Default. Borrower shall default for a period beyond any applicable grace period (i) in the payment of any principal, interest or other amount due under any agreement involving the borrowing of money or the advance of credit and the outstanding amount or amounts payable under all such agreements equals or exceeds \$250,000 in the aggregate, or (ii) in the payment of any amount or performance of any obligation due under any guarantee or other agreement if in either case, pursuant to such default, the holder of the obligation concerned exercises its right to accelerate the maturity of an indebtedness evidenced thereby which equals or exceeds \$250,000.

(f) ERISA. If Borrower or any ERISA Affiliate should establish, maintain, contribute to or become obligated to contribute to any ERISA Plan and (i) a reportable event (as defined in Section 4043(b) of ERISA) shall have occurred with respect to any ERISA Plan and, within thirty (30) days after the reporting of such reportable event to Lender by Borrower (or Lender otherwise obtaining knowledge of such event) and the furnishing of such

Lender shall have notified Borrower in writing that Lender has made a determination that, on the basis of such reportable event, there are reasonable grounds for the termination of such ERISA Plan by the PBGC or for the appointment by the appropriate United States District Court of a trustee to administer such ERISA Plan; or (ii) a trustee shall be appointed by a United States District Court to administer any ERISA Plan; or (iii) the PBGC shall institute proceedings to terminate any ERISA Plan; or (iv) a complete or partial withdrawal by Borrower or any ERISA Affiliate from any Multiemployer Plan shall have occurred, or any Multiemployer Plan shall enter reorganization status, become insolvent, or terminate (or notify Borrower or any ERISA Affiliate of its intent to terminate) under Section 4041A of ERISA; provided that any of the events described in this Section 8.1(f) shall involve (A) one or more ERISA Plans that are single-employer plans (as defined in Section 4001(a)(15) of ERISA) and under which the aggregate gross amount of unfunded benefit liabilities (as defined in Section 4001(a)(16) of ERISA), including vested unfunded liabilities which arise or might arise as the result of the termination of such ERISA Plan or Plans, and/or (B) one or more Multiemployer Plans to which the aggregate liabilities of Borrower and all ERISA Affiliates, shall exceed Five Hundred Thousand Dollars (\$500,000).

(g) Breach of Operative Documents. Borrower or any other party thereto shall breach or default under any term, condition, provision, covenant, representation or warranty contained in any Credit Document, Material Project Document or other agreement to which Borrower is a party and Lender shall have determined that such breach or default will have a Material Adverse Effect and such breach or default shall continue unremedied for thirty (30) days after notice from Lender to Borrower; provided, however, that if the breach or default cannot be remedied within such thirty (30) days despite Borrower's and/or such other party's, as the case may be, best efforts to do so and the breach or default is capable of being remedied within a period of ninety (90) days, Lender will not unreasonably withhold its consent to an extension for such additional period (not to exceed ninety (90) days) as is reasonably necessary beyond such initial thirty (30) day period to cure such breach of default if remedial action is promptly instituted within such thirty (30) day period and is thereafter diligently pursued until the breach or default is corrected. Notwithstanding the foregoing, Borrower's stockholder shall default in the performance of any of its respective obligations under its Pledge Agreement and such default is not cured within five (5) days after notice thereof to such stockholder from Lender.

(h) Breach of Terms of Agreement.

(i) Borrower shall fail to perform or observe any of the covenants set forth in Sections 5.1, 5.2, 5.4, 5.7, 5.9, 5.11, 5.13, 5.14, 5.15, or 5.16, Sections 6.1 through 6.18 or Article 7; or

(ii) Borrower shall fail to perform or observe any other covenant to be observed or performed by it hereunder or under any Credit Document and not otherwise specifically provided for in Section 8.1(h)(i) or elsewhere in Section 8.1, and such failure shall continue unremedied for a period of thirty (30) days after Borrower becomes aware thereof or receives written notice thereof from Lender, provided, however, that if such default is of a nature such that it cannot reasonably be cured within such thirty (30) day

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period but is susceptible to cure within a longer period, an Event of Default shall not result therefrom so long as (A) Borrower has, promptly upon discovery thereof, given written notice to Lender of such default (provided, that if any Event of Default is cured within any applicable time period specified herein, or waived or temporarily waived by the Lender, the failure alone to give notice of such Event of Default as provided in this sentence shall not be deemed an Event of Default); (B) Borrower as promptly as practicable commences action reasonably designed to cure such default and continues diligently to pursue such action and (C) the Lender in its sole discretion shall have determined that such default does and will not have a Material Adverse Effect.

(i) Completion. Completion shall not have occurred by the Construction Loan Maturity Date.

(j) Loss of Status.

(i) The CPCN, the City of Albuquerque License or the City of Rio Rancho License shall be revoked or suspended, or

(ii) Borrower shall lose its status as a nondominant interexchange carrier under the Communications Act and the regulations thereunder and Lender determines in its discretion, that such loss could reasonably be anticipated to have a Material Adverse Effect, or

(iii) Administrative or judicial proceedings are commenced by the City of Albuquerque, Bernalillo County, the NMSCC or the FCC that could result in the occurrence of either of subclauses (i) or (ii).

(k) Default in Construction. At any time prior to Completion, the Project shall be abandoned or work thereon shall cease for a period of more than thirty (30) days (which period shall be measured from the first occurrence of a work stoppage and continuing until work of a substantial nature is resumed and thereafter diligently continued, but which period shall not include delays caused by Force Majeure and strikes not extending for any one work stoppage or abandonment beyond 30 days so long as an independent engineer, selected by

Borrower and subject to Lender's approval, has certified that Completion is not likely to be achieved beyond the applicable Construction Loan Maturity Date, provided that Borrower gives Lender immediate written notice of all such events) for any reason, or the Project shall not be constructed substantially in accordance with the Plans and Specifications (except as to changes therein approved by the Lender or permitted by Section 6.12), or changes shall be made in the Plans and Specifications without the prior written approval of the Lender (except as to changes permitted by Section 6.12).

(l) Security. Any of the Collateral Documents, once executed and delivered, shall, except as the result of the acts or omissions of the Lender, in any material respect fail to provide the Lender the Liens, security interest, rights, titles, interest, remedies, powers or privileges intended to be created thereby or cease to be in full force and effect, or the validity thereof or the applicability thereof to this Agreement, the Loan

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Facility, the Note or any other obligations purported to be secured or guaranteed thereby or any part thereof shall be disaffirmed or questioned by or on behalf of Borrower or any other party thereto or there shall occur a default or event of default (however defined) under any of the Collateral Documents, such default or event of default shall not have been cured within thirty (30) days after its occurrence and the Lender shall determine in its sole discretion that such default or event of default could have a Material Adverse Effect.

(m) Loss of Applicable Permit. Any Applicable Permit necessary for operation of the Project shall be revoked or cancelled by the issuing agency or other Governmental Authority having jurisdiction and within ninety (90) days thereafter Borrower is not able to replace or reinstate such Permit or demonstrate to the Lender that loss of such Permit will not have a Material Adverse Effect.

(n) Loss of Collateral. Any substantial portion of Borrower's property is seized or appropriated without fair value being paid therefor such as to allow replacement of such property and/or prepayment of the Loan Facility as provided in Section 7.3 and to allow Borrower in the Lender's reasonable judgment to continue satisfying its obligations hereunder and under the other Operative Documents.

## 8.2. Remedies.

Upon the occurrence and during the continuation of an Event of Default, Lender may, without further notice of default, presentment or demand for payment, protest or notice of non-payment or dishonor, or other notices or demands of any kind, all such notices and demands being waived, exercise any or

all of the following rights and remedies, in any combination or order that the Lender may elect, in addition to such other rights or remedies as the Lender may have hereunder, under the Collateral Documents or at law or in equity:

(a) No Further Loans. Refuse, and Lender shall not be obligated, to make any additional Construction Loans or make any payments from any Account or any Proceeds or other funds held or controlled by Lender under the Credit Documents or on behalf of Borrower.

(b) Cure. Without any obligation to do so, make disbursements or Construction Loans to or on behalf of Borrower to cure any Event of Default or Default hereunder and to cure any default and render any performance under any Project Documents as the Lender in its sole discretion may consider necessary or appropriate, whether to preserve and protect the Collateral or the Lender's interests therein or for any other reason, and all sums so expended, together with interest on such total amount at the Default Rate, shall be repaid by Borrower on demand to Lender, and shall be secured by the Credit Documents, notwithstanding that such expenditures may, together with amounts advanced under this Agreement, exceed the amount of the Committed Amount.

(c) Acceleration. Declare and make all sums of accrued and outstanding principal and accrued but unpaid interest remaining under this Agreement together with all

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unpaid fees, costs (including Liquidation Costs) and charges due hereunder or under any other Credit Document, immediately due and payable.

(d) Cash Collateral. Subject to Section 10.2, apply or execute upon any amounts on deposit in any Account or any Proceeds or Borrower Equity or any other moneys of Borrower on deposit with Lender in the manner provided in the Uniform Commercial Code and other relevant statutes and decisions and interpretations thereunder with respect to cash collateral.

(e) Possession of Project. Enter into possession of the Project and perform any and all work and labor necessary to complete the Project substantially according to the Construction Contract and the Plans and Specifications or to operate, maintain and repair the Project, and all sums expended by Lender in so doing, together with interest on such total amount at the Default Rate, shall be repaid by Borrower to Lender upon demand and shall be secured by the Credit Documents, notwithstanding that such expenditures may, together with amounts advanced under this Agreement, exceed the amount of the Total Construction Loan Commitment.

(f) Remedies Under Credit Documents. Exercise any and all

rights and remedies available to it under any of the Credit Documents, including making demand for payment under any judicial or non-judicial foreclosure or public or private sale of any of the Collateral pursuant to the Collateral Documents.

## ARTICLE 9 - ASSIGNMENTS, ETC.

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### 9.1. Assignments.

Lender may in accordance with applicable law, after giving reasonable notice to Borrower, sell and assign to one or more parties (individually, an "Assignee") all or a portion of its rights and obligations under this Agreement and the other Credit Documents (such a sale and assignment to be referred to herein as an "Assignment") pursuant to an assignment agreement in the form of Exhibit Q (an "Assignment Agreement"), executed by each Assignee and Lender (as "Assignor") provided, however, that Lender shall not assign more than forty-nine percent (49%) of its rights or obligations hereunder or assign any of its rights or obligations hereunder to a competitor of Borrower or a Person who is or has been engaged in a dispute with Borrower; provided further, that upon notice that Lender intends to assign any part of its interest hereunder, Borrower shall promptly provide Lender with a list of its competitors and those Persons with which it has, or has had, disputes. Upon the execution, delivery, acceptance and recording of each Assignment Agreement, from and after the Assignment Effective Date determined pursuant to such Assignment Agreement, (A) each Assignee thereunder shall be a Lender hereunder with a Proportionate Share as set forth on Attachment 1 to such Assignment Agreement and shall have the rights, duties and obligations of Lender under this Agreement and the other Credit Documents, and (B) the Assignor thereunder shall be a Lender with a Proportionate Share as set forth on Attachment 1 to such Assignment Agreement, or, if the Proportionate Share of the Assignor has been reduced to

0%, the Assignor shall cease to be a Lender. On or prior to the Assignment Effective Date determined pursuant to each Assignment Agreement, Borrower, at its expense, shall execute and deliver to Lender in exchange for the respective surrendered Note of the Assignor thereunder, a new Note to the order of each Assignee thereunder (with each new Note to be in an amount equal to the Committed Amount assumed by such Assignee) and, if the Assignor has retained a Committed Amount hereunder, a new Note to the order of the Assignor (with the new Note to be in an amount equal to the Committed Amount retained by it). Each such new Note shall be dated the Closing Date and each such new Note shall otherwise be in the form of the Note replaced thereby. The Note surrendered by the Assignor shall be returned by Lender to Borrower marked "cancelled".

9.2. Confidentiality. Lender may disclose the Credit Documents and any financial or other information relating to Borrower to any potential Assignee.

9.3. Securities Laws. Notwithstanding the foregoing provisions of this Article 9, no sale, assignment, transfer, negotiation or other disposition of the interests of Lender hereunder or under the other Credit Documents shall be allowed if it would violate the Securities Act of 1933, as amended (the "Act"), or would require registration under the Act, any other federal securities laws or regulations or the securities laws or regulations of any applicable jurisdiction. Borrower shall, from time to time at the request and expense of Lender, execute and deliver to Lender, or to such party or parties as Lender may designate, any and all further instruments as may in the opinion of Lender be necessary or advisable to give full force and effect to such disposition.

#### ARTICLE 10 - MISCELLANEOUS

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10.1. Notices. All notices, notifications and other communications required or permitted by this Agreement shall be in writing and shall be delivered by hand, telegraphically transmitted, sent by facsimile (with a copy sent by overnight mail), or mailed by overnight courier to the parties at the following addresses (or such other address for a party as shall be specified by notice given pursuant hereto):

If to Lender:                   c/o Tomen America Inc.  
                                  1285 Avenue of the Americas  
                                  New York, NY 10019  
                                  Attn: Takashi Yoshida  
                                  Facsimile No. (212) 397-3351

with a copy to:               Orrick, Herrington & Sutcliffe  
                                  400 Sansome Street  
                                  San Francisco, CA 94111  
                                  Attn: Michael R. Meyers  
                                  Facsimile No. (415) 773-5759

If to Borrower:               GST New Mexico Lightwave, Inc.  
                                  4317 NE Thurston Way  
                                  Vancouver, WA 98662  
                                  Attn: John Warta, Chief Executive Officer  
                                  Facsimile No. (360) 260-2075

with a copy to: Olshan Grundman Frome & Rosenzweig, LLP  
505 Park Avenue  
New York, NY 10022  
Attn: Stephen Irwin  
Facsimile No. (212) 755-1467

Notices delivered by hand, telegraphically transmitted, or sent by facsimile shall be deemed given the day so delivered, transmitted or sent. Notices delivered or mailed as provided herein shall be deemed given on the date of actual receipt. Failure to deliver a copy of a notice to counsel for a party as provided above shall not constitute failure to give notice hereunder. Notice so given shall be effective upon receipt by the addressee, except that communication or notice so transmitted by telecopy or other direct written electronic means shall be deemed to have been validly and effectively given on the day (if a Business Day and, if not, on the next following Business Day) on which it is transmitted if transmitted before 4 p.m., recipient's time, and if transmitted after that time, on the next following Business Day; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by giving of thirty (30) days' notice to the other parties in the manner set forth hereinabove.

10.2. Additional Security; Right to Set-Off. Any deposits or other sums at any time credited or due from Lender and any Project Revenues, securities or other property of Borrower in the possession of Lender may at all times be treated as collateral security for the payment of amounts due with respect to the Loan Facility and the Note and all other obligations of Borrower to Lender under this Agreement and the other Credit Documents, and Borrower hereby pledges to Lender for the benefit of the Lender and grants Lender a security interest in and to all such deposits, sums, securities or other property. Regardless of the adequacy of any other collateral, Lender and only Lender, may execute or realize on the Lender's security interest in any such deposits or other sums credited by or due from Lender to Borrower, may apply any such deposits or other sums to or set them off against Borrower's obligations to Lender under the Note and this Agreement at any time after the occurrence and during the continuance of any Event of Default.

10.3. Delay and Waiver. No delay or omission to exercise any right, power or remedy accruing to the Lender upon the occurrence of any Event of Default or Default or any breach or default of Borrower under this Agreement or any other Credit Document shall impair any such right, power or remedy of the Lender, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring, nor shall any waiver of any single Event of Default,

Default or other breach or default be deemed a waiver of any other Event of Default, Default or other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of Lender of any Event of Default, Default or other breach or default under this Agreement or any other Credit Document, or any waiver on the part of Lender of any provision or condition of this Agreement or any other Credit Document, must be in writing and shall be effective only to the extent in such writing specifically set forth. All remedies, either under this Agreement or any other Credit Document or by law or otherwise afforded to Lender, shall be cumulative and not alternative.

10.4. Costs, Expenses and Attorneys' Fees. Borrower will pay to Lender on demand (a) all reasonable out-of-pocket costs, fees and expenses, including reasonable attorneys' fees and expenses, incurred by Lender in connection with the enforcement or protection (or attempted enforcement or protection) of any rights or remedies of Lender under this Agreement or any other Credit Document and (b) the reasonable fees, expenses and disbursements of any engineering, environmental, insurance, construction or other consultants to Lender incurred in connection with any of the foregoing.

10.5. Attorney-In-Fact.

(a) For the purpose of allowing Lender to exercise the rights and remedies provided in Article 8, following the occurrence and during the continuation of an Event of Default, Borrower hereby constitutes and appoints Lender its true and lawful attorney-in-fact, with full power of substitution, to complete any or all of the Project in the name of Borrower, and hereby empowers such attorney or attorneys as follows:

(i) To use any unadvanced proceeds of the Construction Loans and any Borrower Equity for the purpose of completing, operating, maintaining and repairing any or all of the Project and to perform any and all of Borrower's obligations under the Project Documents;

(ii) To make such changes and corrections in the Plans and Specifications or the operating and maintenance practices and procedures of the Project as they consider reasonably necessary or desirable to complete the work on any or all of the Project in substantially the manner contemplated by the Construction Contracts;

(iii) To employ such contractors, subcontractors, agents, architects, inspectors and other Persons as reasonably shall be required for such purposes;

(iv) To pay, settle or compromise all bills and claims which may be or become liens or security interests against any or all of the Project or the Collateral, or any part thereof, unless a bond or other security satisfactory to Lender has been provided;

(v) To execute applications and certificates in the name of Borrower which reasonably may be required by the Credit Documents or any other agreement or instrument executed by Borrower in connection with the Project;

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(vi) To prosecute and defend all actions or proceedings in connection with the Project or the Collateral or any part thereof and to take such action and require such performance as Lender reasonably deems necessary under any performance and payment bond or the Credit Documents;

(vii) To do any and every act which Borrower might do on its behalf with respect to the Collateral or any part thereof or any or all of the Project and to exercise any or all of Borrower's rights and remedies under any or all of the Project Documents; and

(viii) To use any funds in any Account to pay interest or principal with respect to the Loan Facility or fees and other amounts due to Lender, as they may be due from time to time or, to pay Project Costs.

(b) The powers of attorney set forth in this Section 10.5 shall be deemed to be powers coupled with interests and shall be irrevocable.

10.6. Entire Agreement; Amendments and Modifications. This Agreement and any agreement, document or instrument attached hereto as exhibits or schedules or otherwise or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings, in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Agreement and any such agreement, document or instrument, the terms, conditions and provisions of this Agreement shall prevail. This Agreement and the other Credit Documents may only be amended or modified by an instrument in writing signed by Borrower, Lender and any other parties to be charged or as set forth in Section 9.1.

10.7. Governing Law. This Agreement, and any instrument or agreement required hereunder (to the extent not expressly provided for therein), shall be governed by, and construed under, the laws of the State of New York without reference to conflicts of law rules.

10.8. Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect,

the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

10.9. Headings. Paragraph headings have been inserted in this Agreement as a matter of convenience for reference only and are not a part of this Agreement and shall not be used in the interpretation of any provision of this Agreement.

10.10. Accounting Terms. All accounting terms used in this Agreement or in any other Credit Document shall be construed, and all accounting and financial computations, hereunder or thereunder, shall be computed, in accordance with GAAP.

10.11. No Partnership; Etc. The Lender and Borrower intend that the relationship between them shall be solely that of creditor and debtor. Nothing contained in this

Agreement, the Note or in any of the other Credit Documents shall be deemed or construed to create a partnership, tenancy-in-common, joint tenancy, joint venture or co-ownership by or between the Lender and Borrower or any other Person. The Lender shall not be in any way responsible or liable for the debts, losses, obligations or duties of Borrower or any other Person with respect to the Project or otherwise. All obligations to pay real property or other taxes, assessments, insurance premiums, and all other fees and charges arising from the ownership, operation or occupancy of the Project and to perform all obligations and other agreements and contracts relating to the Project shall be the sole responsibility of Borrower.

10.12. Limitation on Liability. No claim shall be made by Borrower, any shareholder of Borrower or sponsor or any of their Affiliates against the Lender or any of their Affiliates, directors, employees, attorneys or agents for any special, indirect, consequential or punitive damages in respect of any breach or wrongful conduct (whether or not the claim therefor is based on contract, tort or duty imposed by law), in connection with, arising out of or in any way related to the transactions contemplated by this Agreement or the other Operative Documents or any act or omission or event occurring in connection therewith; and Borrower hereby waives, releases and agrees not to sue upon any such claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

10.13. Waiver of Jury Trial. THE LENDER AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT, OR ANY COURSE OR

CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF THE LENDER OR BORROWER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER TO ENTER INTO THIS AGREEMENT.

10.14. Consent to Jurisdiction. The Lender and Borrower agree that, except as may otherwise be required by law, any legal action or proceeding by or against Borrower or with respect to or arising out of this Agreement, the Note, or any other Credit Document may be brought in or removed to the courts of the State of New York sitting in New York City, or of the United States of America for the Southern District of New York, as Lender may elect. By execution and delivery of this Agreement, Lender and Borrower accept, for themselves and in respect of their property, generally and unconditionally, the jurisdiction of the aforesaid courts. Lender and Borrower irrevocably consent to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified airmail, postage prepaid, to Lender or Borrower, as the case may be, at their respective addresses for notices as specified herein and that such service shall be effective five (5) Business Days after such mailing. Nothing herein shall affect the right to serve process in any other manner permitted by law or the right of Lender to bring legal action or proceedings in any other competent jurisdiction, including judicial or non-judicial foreclosure of a mortgage. Notwithstanding the foregoing, service of process shall not be deemed mailed (i) to Lender until a copy of all matters to be served have been

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mailed to Orrick, Herrington & Sutcliffe, 400 Sansome Street, San Francisco, California 94111, Attention: Michael R. Meyers, Esq. or such other Person as Lender may hereafter designate by notice given pursuant to Section 10.1 or (ii) to Borrower until a copy of all matters to be served have been mailed to Olshan, Grundman, Frome & Rosenzweig, LLP, 505 Park Avenue, New York, New York 10022, Attention: Stephen Irwin, Esq. or such other Person as Borrower may hereafter designate by notice given pursuant to Section 10.1. Lender and Borrower further agree that the aforesaid courts of the State of New York and of the United States of America shall have exclusive jurisdiction with respect to any claim or counterclaim of Borrower based upon the assertion that the rate of interest charged by Lender on or under this Agreement, the Loan Facility and/or the other Credit Documents is usurious. Lender and Borrower hereby waive any right to stay or dismiss any action or proceeding under or in connection with any or all of the Project, this Agreement or any other Credit Document brought before the foregoing courts on the basis of forum non-conveniens.

10.15. Usury. Nothing contained in this Agreement or the Note shall be deemed to require the payment of interest or other charges by Borrower or any other Person in excess of the amount which Lender or other holders of the Note ("Note Holders") may lawfully charge under any applicable usury laws. In the event that Lender or other Note Holders shall collect moneys under this Agreement, the Note or any other Credit Document which are deemed to constitute

interest which would increase the effective interest rate to a rate in excess of that permitted to be charged by applicable law, all such sums deemed to constitute interest in excess of the legal rate shall, upon such determination, at the option of Lender or other Note Holders, be returned to Borrower or credited against the principal balance of the Note then outstanding.

10.16. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Borrower may not assign or otherwise transfer any of its rights under this Agreement without the prior written consent of Lender.

10.17. Counterparts. This Agreement may be executed in one or more duplicate counterparts and when signed by each of the parties listed below shall constitute a single binding agreement.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their officers thereunto duly authorized as of the day and year first above written.

GST NEW MEXICO LIGHTWAVE, INC.,  
a New Mexico corporation,  
as Borrower

By: /s/ Clifford V. Sander

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Name: Clifford V. Sander  
Title: Assistant Secretary and Vice President

TM COMMUNICATIONS LLC,  
a Delaware limited liability company,  
as Lender

By: /s/ Takashi Yoshida

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Name: Takashi Yoshida  
Title: Vice President

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## DEFINITIONS

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"Account Debtor" has the meaning given in Section 5(c) of the Security Agreement.

"Account Security Agreement" has the meaning given in Section 2.7(a) of the NML Credit Agreement.

"Accounts" means the Receipts Account and the Operating Account.

"Act" means the U.S. federal Securities Act of 1933, as amended.

"Additional Information" has the meaning given in Section 2.1(a) of the Master Agreement.

"Additional Project Documents" means any other contracts or agreements related to the construction, testing, maintenance, repair, operation or use of the Project entered into by Borrower and any other Person subsequent to the Closing Date.

"Affiliate" has the meaning set forth in Rule 12b-2 of the regulations under the Securities Exchange Act of 1934, as amended provided, however, that in no case shall Lender or any of its Affiliates be deemed to be Affiliates of Greenstar.

"Alternate Interest Rate" means a fluctuating per annum rate of interest as shall be in effect from time to time which rate shall at all times be equal to the Federal Funds Rate plus three percent (3%). Any change in the Alternate Interest Rate due to a change in the Federal Funds Rate shall be effective as of the effective date of such change in such Federal Funds Rate.

"Alternate Interest Rate Loan" means any portion of the Loan Facility converted pursuant to Section 2.5(a) of the NML Credit Agreement into a loan at the Alternate Interest Rate.

"AMEX" means the American Stock Exchange.

"Annual Operating Budget" means, with respect to any fiscal year of Borrower, an annual operating budget setting forth all reasonably anticipated Project Revenues, Debt Service, Operation and Maintenance Costs, allowances for reserves, and information described in Section 5.7(b) of the NML Credit Agreement. "Annual Operating Budget" includes the First Annual Operating Budget.

"Applicable Easement" means any Easement that is necessary at any given time in light of the stage of development, construction or operation of the Project to

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construct, test, operate, maintain, repair, own or use the Project as contemplated by the Operative Documents, to enter into any Operative Document or to consummate any transaction contemplated thereby.

"Applicable Permit" means any Permit, including any zoning, environmental protection, pollution, sanitation, FCC, NMSCC, safety, sitting, building or other Permit, (a) that is necessary at any given time in light of the stage of development, construction or operation of the Project to construct, test, operate, maintain, repair, own or use the Project as contemplated by the Operative Documents, to enter into any Operative Document or to consummate any transaction contemplated thereby, or (b) that is necessary so that neither Borrower nor any Affiliate may be deemed by any Governmental Authority to be subject to regulation under the Communications Act or under any state laws or regulations as a result of the construction and operation of the Project.

"Assigned Agreement" has the meaning given in Section 2(d)(i) of the Security Agreement.

"Assignee" has the meaning given in Section 9.1 of the NML Credit Agreement.

"Assignment" has the meaning given in Section 9.1 of the NML Credit Agreement.

"Assignment Agreement" has the meaning given in Section 9.1 of the NML Credit Agreement.

"Assignor" has the meaning given in Section 9.1 of the NML Credit Agreement.

"Bankruptcy Law" means Title 11 of the United States Code, and any other state or federal insolvency, reorganization, moratorium or similar law for the relief of debtors.

"Base Case Project Projection" means a projection of operating results for the Project over a period ending no sooner than five (5) years beyond the Expected Completion Date, showing at a minimum Borrower's reasonable good faith estimates, as of the applicable Closing Date, of revenue, operating expenses, debt service coverage ratios and sources and uses of revenues over the

forecast period, which projection shall be delivered at the applicable Closing Date.

"Borrower" means GST New Mexico Lightwave, Inc., a New Mexico corporation.

"Borrower Equity" means any non-borrowed funds contributed by Borrower, or any shareholder of Borrower on behalf of Borrower, toward Project Costs.

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"Business Day" means any day other than a Saturday, Sunday or other day on which banks are authorized to be closed in Albuquerque, New Mexico or New York, New York and, with respect to the determination of the LIBOR Rate, which is also a day on which dealings in Dollar deposits are carried out in the London interbank market.

"Capital Contribution" means the contribution to capital to be made prior to the Closing as set forth in Section 3.1(h) of the NML Credit Agreement.

"Change of Control" means any of the following: (i) the sale, lease, conveyance or other disposition of assets of the Borrower valued in excess of \$5,000,000; (ii) the liquidation or dissolution of the Borrower; and (iii) any transaction or series of transactions that results in GSI ceasing to hold and control, directly or indirectly, fifty percent (50%) or more of the Equity Securities of Borrower.

"Change of Law" has the meaning given in Section 2.5(b) of the NML Credit Agreement.

"Charter Documents" means, as to any Person other than a natural person, the charter, certificate or articles of incorporation, bylaws or other organizational or governing documents of such Person, including, with respect to a partnership, a partnership agreement and any certificate of limited partnership or similar document.

"City of Albuquerque License" means the nonexclusive franchise, right and privilege to erect, construct, maintain and operate within the corporate limits of the City of Albuquerque, New Mexico, a telecommunication system to supply city residents and others with telecommunication service granted to Borrower by the City of Albuquerque on July 17, 1995.

"City of Rio Rancho License" means the non-exclusive right and

privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public way and public places now in use or dedicated, and all extensions thereof, and additions thereto, in the City of Rio Rancho, poles, wires, cables, underground conduits, manholes and other telecommunications facilities necessary or proper for the maintenance and operation in said City of Rio Rancho, the Company's telecommunications business as that term is defined in ss.63-9A-3.L, NMSA 1978, and set forth in its CPCN as amended from time to time, granted to Borrower by the City of Rio Rancho on January 24, 1996.

"Closing Date" means the date when each of the conditions precedent listed in Section 3.1 of the NML Credit Agreement has been satisfied (or waived in writing by Lender).

"Code" means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code shall include any valid regulation promulgated thereunder, and any comparable provision of any future legislation amending, supplementing or superseding such section.

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"Collateral" means all real and personal property which is subject or is or is intended to become subject to the security interests or lien granted by any of the Collateral Documents.

"Collateral Documents" means the Pledge Agreement, the Security Agreement, the Account Security Agreement, the GST Security Agreement, the Consents, the Net Cash Flow Agreements, the Net Cash Flow Account Security Agreements, and the other agreements to be entered into pursuant to Section 5.17 of the NML Credit Agreement, the Construction Deeds of Trust and any financing statements and the like filed or recorded in connection with the foregoing.

"Collocation Agreements" means the agreements entered into or to be entered into between NML and local exchange carriers with respect to physical or virtual collocation with respect to the Project.

"Committed Amount" means Eight Million Dollars (\$8,000,000).

"Communications Act" means the Communication Act of 1934, as amended.

"Completion" means, with respect to the Project, that the Project shall have been substantially completed in all material respects and that all work under the Construction Contracts shall have occurred and that completion of all such work shall have been in accordance with the Plans and

Specifications and the requirements of all Applicable Permits for the Project.

"Completion Date" means, with respect to the Project, the earlier of: (i) the date of Completion of the Project, and (ii) May 15, 1997.

"Consents" shall mean a consent executed by each party to the Project Documents (other than Lender) in substantially the form of Exhibit M-1, M-2 or M-3 hereto, as applicable.

"Construction Contracts" means the Construction Contract between NML and US Communications, Inc. dated September 26, 1995 and the other Construction Agreements to be entered into with respect to the construction of the Project, subject to the terms and conditions of the NML Credit Agreement.

"Construction Deeds of Trust" shall mean the construction deeds of trust filed in connection with the Closing, in substantially the form of Exhibit I.

"Construction Loan" has the meaning given in Section 2.1(a) (i) of the NML Credit Agreement.

"Construction Loan Availability Period" means with respect to the Project the period from the Closing Date to the earlier of Completion or the Construction Loan Maturity Date.

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"Construction Loan Borrowing" means a borrowing by Borrower consisting of a Construction Loan made by the Lender.

"Construction Loan Maturity Date" shall mean, with respect to the Project, the date which is one year after the Closing Date.

"Contractors" means U. S. Communications, Inc. and such other contractors as may be selected by Borrower and approved by Lender.

"CPCN" means the Certificate of Public Convenience and Necessity Granted to Borrower by the NMSCC on October 23, 1995.

"Credit Documents" means the NML Credit Agreement, the Note, the Collateral Documents and the Consents.

"Credit Event" means the making of any Construction Loan and any other extension of credit hereunder.

"Debt" of any Person at any date means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person under leases which are or should be, in accordance with GAAP, recorded as capital leases in respect of which such Person is liable, (e) all obligations of such Person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities (or property), (f) all deferred obligations of such Person to reimburse any bank or other Person in respect of amounts paid or advanced under a letter of credit or other instrument, (g) all Debt of others secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person and (h) all Debt of others guaranteed directly or indirectly by such person or as to which such Person has an obligation substantially the economic equivalent of a guarantee.

"Debt Service" means for any Person and any period all Obligations for principal and interest payments on Debt of such Persons due in such period.

"Default" means any occurrence, circumstance or event, or any combination thereof, which, with the lapse of time and/or the giving of notice, would constitute an Event of Default.

"Default Rate" means an interest rate per annum equal to the interest rate then in effect on the Loan Facility plus three percent (3%). All computations of interest with respect to the Default Rate shall be based on a year of 360 days and actual days elapsed.

"Depository Bank" has the meaning given in Section 8(b) of the Security Agreement.

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"Development Companies" means corporations which are direct or indirect subsidiaries of GSI and/or GST which will develop the Network Projects.

"Dollars" and "\$" means United States dollars or such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts in the United States of America.

"Drawdown Certificate" means a certificate delivered to Lender pursuant to Section 3.2(b) of the NML Credit Agreement substantially in the form

of Exhibit C-2 thereto.

"Easement Property" means the property subject to all Easements and similar agreements described on Schedule 2 attached hereto.

"Easements" means any easement, other right of way or license provided or agreed to by any Person other than a Governmental Authority.

"Eminent Domain Proceeds" has the meaning given in Section 5.15 of the NML Credit Agreement.

"Employee Benefit Plan" means any employee benefit plan within the meaning of section 3(3) of ERISA maintained or contributed to by Borrower or any ERISA Affiliate, other than a Multiemployer Plan.

"Equipment" has the meaning given in Section 2(c) of the Security Agreement.

"Equity Securities" of any Person shall mean (a) all common stock, preferred stock, participations, shares, partnership interests or other equity interests in and of such Person (regardless of how designated and whether or not voting or non-voting) and (b) all warrants, options and other rights to acquire any of the foregoing.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, including (unless the context otherwise requires) any rules or regulations promulgated thereunder.

"ERISA Affiliate" means any Person which is treated as a single employer with Borrower under Section 414 of the Code.

"ERISA Plan" means any employee benefit plan (a) maintained by Borrower or any ERISA Affiliate, or to which any of them contributes or is obligated to contribute, for its employees and (b) covered by Title IV of ERISA or to which Section 412 of the Code applies.

"Estoppel and Consent Certificate" shall mean an estoppel and consent certificate in substantially the same form of Exhibit L.

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"Event of Default" means any event specified in Article 8 of the NML Credit Agreement.

"Event of Eminent Domain" means any compulsory transfer or taking by condemnation, eminent domain or exercise of a similar power, or

transfer under threat of such compulsory transfer or taking, of any part of the Collateral or any of the mortgaged property described in a mortgage by any agency, department, authority, commission, board, instrumentality or political subdivision of the State of New Mexico, the United States or another Governmental Authority having jurisdiction.

"Exercise Price" has the meaning given in Section 2 of the Warrant.

"Expected Completion Date" means March 31, 1997.

"FCC" means the Federal Communications Commission and its successors.

"Federal Funds Rate" means the per annum rate of interest at which Federal funds in the amount of the Loan Facility scheduled to be outstanding as of the commencement of the relevant Interest Period are offered to the Lender for such Interest Period by Federal funds brokers in New York at approximately 11:00 a.m. New York time on the date two Business Days prior to the first day of such Interest Period.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System.

"First Annual Operating Budget" has the meaning given in Section 5.7(b) of the NML Credit Agreement.

"Fixed Rate" means a rate per annum equal to the annual yield which a United States government securities dealer of recognizes standing, selected by the Lender in its sole discretion, offers to the Lender at approximately 11:00 a.m. New York time on the day preceding the date of conversion for the purchase of United States Treasury notes or bonds in an aggregate principal amount of \$1,000,000 or more maturing approximately on the Maturity Date plus 3.00% plus swap costs.

"Force Majeure" means a delay in or failure of performance by a Person attributable to unforeseeable occurrences beyond the control of such Person, including acts of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or request of any Governmental Authority; unforeseen changes in laws, regulations or orders, acts of declared or undeclared war; use of any weapon of war employing atomic fission or radioactive force, whether in time of peace or war; shipwreck; public disorder, rebellion or sabotage, revolution, epidemics, landslides, hurricanes, earthquakes, floods, riots, partial or entire failure of utilities, quarantine, or similar causes; strikes, lockouts or other labor disputes (excluding a strike at the Site or by employees of a Contractor unless such strike or disturbance is in violation of a "no strike" provision of a Project labor

agreement). Financial difficulties of any kind are explicitly excluded from this definition of Force Majeure.

"GAAP" means generally accepted accounting principles and practices as in effect in the United States of America from time to time, consistently applied.

"Governmental Authority" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity, (including any zoning authority, the FCC, the NMSCC, or any arbitrator with authority to bind a party at law).

"Governmental Charges" has the meaning given in Section 1 of the Security Agreement.

"Governmental Rule" means any law, rule, regulation, ordinance, order, code interpretation, judgment, decree, directive, guidelines, policy or similar form of decision of any Governmental Authority.

"Greenstar" means GSI, GUS, GST, PLI, NML, GST Tucson Lightwave, Inc., GST Pacwest Telecom Hawaii, Inc., and their Affiliates.

"GSI" means GST Telecommunications Inc. (formerly known as "Greenstar Telecommunications Inc."), a corporation organized under the laws of Canada.

"GST" means GST Telecom Inc., a Delaware corporation.

"GST Security Agreement" has the meaning given in Section 2.7(a) of the NML Credit Agreement.

"GST Services Agreement" means the Services Agreement between NML and GST, dated as of October 1, 1995.

"GUS" means GST USA, Inc. (formerly known as "Greenstar USA, Inc."), a Delaware corporation.

"Hazardous Substances" means substances defined as "hazardous substances," in Section 101 of the CERCLA (42 U.S.C. Section 9601); those substances defined as "hazardous waste" by the RCRA; those substances designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1321); those substances defined as "hazardous materials" in Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq. at Section 1802); those substances regulated as a hazardous chemical substance or mixture or as an imminently hazardous chemical substance or mixture pursuant to Sections 6 or 7 of the TSCA (15 U.S.C. Sections 2605,

2606); those substances defined as "contaminants" by Section 1401 of the SDWA (42 U.S.C. Section 300f), if present in any surface or ground water in excess of maximum contaminant

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levels; those substances regulated by the Oil Pollution Act; those substances defined as a pesticide pursuant to Section 2(u) of the FIFRA (7 U.S.C. Section 136(u)); those substances defined as a source, special nuclear or by-product material by Section 11 of the AEA (42 U.S.C. Section 2014); those substances defined as "residual radioactive material" by Section 101 of the UMTRCA (42 U.S.C. Section 7911); those substances defined as "toxic materials" or "harmful physical agents" pursuant to Section 6 of the Occupational Safety and Health Act (29 U.S.C. Section 651 et seq. at Section 655); those substances defined as hazardous wastes in 40 C.F.R. Part 261.3; those substances defined as hazardous waste constituents in 40 C.F.R. Part 260.10, specifically including Appendix VII and VIII of Subpart D of 40 C.F.R. Part 261; those substances designated as hazardous substances in 40 C.F.R. Parts 116.4 and 302.4; those substances defined as hazardous substances or hazardous materials in 49 C.F.R. Part 171.8; those substances regulated as hazardous materials, hazardous substances, or toxic substances in 40 C.F.R. Part 1910; and in the regulations adopted and publications promulgated pursuant to any Hazardous Substance Laws, whether or not such regulations or publications are specifically referenced herein.

"Hazardous Substance Laws" means: (a) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.) ("CERCLA"); (b) the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) ("Clean Water Act" or "CWA"); (c) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) ("RCRA"); (d) the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.) ("AEA"); (e) the Clean Air Act (42 U.S.C. Section 7401 et seq.) ("CAA"); (f) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 11001 et seq.) ("EPCRA"); (g) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Section 136 et seq.) ("FIFRA"); (h) the Oil Pollution Act of 1990 (P.L. 101-380, 104 Stat. 486); (i) the Safe Drinking Water Act (42 U.S.C. Sections 300f et seq.) ("SDWA"); (j) the Surface Mining Control and Reclamation Act of 1974 (30 U.S.C. Sections 1201 et seq.) ("SMCRA"); (k) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.) ("TSCA"); (l) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. Section 7901 et seq.) ("UMTRCA"); and (m) all other Federal, state and local Governmental Rules which govern Hazardous Substances, and the regulations adopted and publications promulgated pursuant to all such foregoing laws.

"Insurance Proceeds" has the meaning given in Section 7.2(a) of the NML Credit Agreement.

"Interconnection Agreements" means the Communications Services Agreement between NML and AT&T dated December 15, 1995, Competitive Access Provider Service Agreement between GST and Sprint Communications Company L.P. dated October 12, 1995, Building Space License Agreement for Shared Customer Provided Access between NML and AT&T, Synchronization Interconnection Agreement between NML and AT&T dated January 17, 1996, the Master Capacity Agreement between GST and MCI dated October 12, 1995 (with respect to Borrower), and any other interconnection agreement entered into or to be entered into with respect to the Project.

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"Interest Period" means (a) the period commencing on May 24, 1996 and ending on August 24, 1996 and (b) thereafter, each period commencing on the last day of the next preceding Interest Period and ending on the numerically corresponding day in the third succeeding calendar month; provided, however, that (1) the initial Interest Period with respect to each Construction Loan other than the initial Construction Loan shall commence on the date on which such subsequent Construction Loan is advanced and end on the last day of the then current Interest Period as established above; (2) any Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such next Business Day falls in another calendar month, in which case such Interest Period shall end on the immediately preceding Business Day; (3) any Interest Period which begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month; and (4) no Interest Period shall end after the Maturity Date.

"Inventory" has the meaning given in Section 2(e) of the Security Agreement.

"Leased Property" means the real property subject to or covered by the Leases.

"Leases" means any lease of property necessary or entered into in connection with respect to the Project.

"Lease Sites" means: (i) Suite 120A located at 505 Marquette, N.W., Albuquerque, N.M. (approximately 1,095 sq. ft.), (ii) Suite 1000 located at 3830 Singer Blvd., N.E., Albuquerque, N.M. (approximately 20,000 sq. ft.); (iii) building and parking space at 5540 Midway Park Place, N.E., Albuquerque, N.M. (approximately 5,700 sq. ft.) and the sites which are the subject of the other Leases to be entered into with respect to the Project, and all rights, rights of way and appurtenances thereto, covering certain real property in

Bernalillo County, New Mexico with respect to the Project.

"Legal Requirement" means, as to any Person, any requirement set forth in the Charter Documents, of such Person, any Governmental Rule, any requirement under a Permit, and any determination of any arbitrator, court, or government Governmental Authority, in each case applicable to or binding upon such Person or any of its properties or to which such Person or any of its properties is subject.

"Lender" means TM Communications LLC and its successors and assigns.

"Lender Representative" means an individual designated by Lender from time to time to act as liaison with Borrower.

"LIBOR Rate" means a rate per annum determined by Lender (which determination shall, absent manifest error, be conclusive) to be equal to the rate at which deposits in Dollars are offered to Lender in the London interbank eurodollar currency market at approximately 11:00 a.m. (London time), two Business Days prior to the first day of the

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relevant Interest Period (for delivery on the first day of such Interest Period) and for a term equal to such Interest Period.

"Lien" on any asset means any mortgage, deed of trust, lien, pledge, charge, judgment, security interest, restrictive covenant or easement or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected or effective under applicable law, as well as the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"Liquidation Costs" has the meaning given in Section 2.6 of the NML Credit Agreement.

"Loan Facility" means, collectively, the Construction Loans and the Term Loans made under the NML Credit Agreement.

"Major Project Participants" means U. S. Communications, Inc. and the other entities to be awarded contracts with respect to the construction of the Project.

"Major Subcontracts" means any contract between Contractor and any Major Subcontractor.

"Major Subcontractor" means any Person, at any tier, who performs any work, including the supply of any equipment or materials for any Contractor, involving amounts in excess in the aggregate of Two Hundred Fifty Thousand Dollars (\$250,000).

"Master Agreement" means the Master Agreement among GSI, GST, Pacwest, PLI and Tomen America dated October 24, 1994, as amended.

"Material Adverse Effect" means a material adverse effect on (a) construction or operation of the Project, or the business, assets, operations or financial or other condition of Borrower at any time or on the financial or other condition of any other Major Project Participant during the Construction Loan Availability Period, (b) the ability of Borrower or any Major Project Participant to perform its obligations under the Credit Documents or other Operative Documents, (c) the validity or enforceability of the NML Credit Agreement or any other Credit Document or any related document, instrument or agreement, or the rights and remedies of Lender hereunder or thereunder, or (d) the Lender's interest in a Project, the value of the Collateral, or Lender's security interests in the Collateral or the perfection or priority of such security interests.

"Material Project Documents" means the documents specified in Section 3.1(b) (A) through 3.1(b) (G) of the NML Credit Agreement.

"Maturity" or "maturity" means, with respect to the amount due with respect to the Loan Facility, interest, fees or other amounts payable by Borrower under the NML Credit Agreement or the other Credit Documents, the date such amounts becomes due, whether upon the stated maturity or due date, upon acceleration or otherwise.

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"Maturity Date" means the earlier of the date which is nine (9) years from the Closing Date or eight (8) years from the Term Conversion Date or such earlier date on which the entire outstanding principal balance of the Loan Facility, together with all unpaid interest, fees, charges and costs, become due and payable under the NML Credit Agreement.

"Maximum Legal Rate" has the meaning given in the Note.

"Milestone Disbursement Schedule" means the milestone disbursement schedule for the Project delivered by Borrower at the Closing Date.

"Multiemployer Plan" means any multiemployer plan within the meaning of section 3(37) of ERISA maintained or contributed to by Borrower or

any ERISA Affiliate.

"Net Cash Flow" means with respect to a Development Company and the applicable period:

(a) the sum of:

(i) the gross receipts of the Development Company from all sources (other than capital contributions, proceeds from the Credit Agreement with Tomen America or a Tomen Affiliate or other loans), including but not limited to receipts from (1) the sale of products and services, (2) interest and other investment income on investments and reserves, and (3) insurance proceeds;

(ii) any amounts released from reserves, the distribution of which is permissible and in accordance with the provisions of the Credit Agreement; and

(iii) any Net Cash Flow from a prior period not distributed but the distribution of which is permissible;

less (b) the sum of:

(i) all costs and expenses which the Development Company paid during such period in connection with the construction, ownership, management (except as provided herein), operation and maintenance of the Network Project, including, but not limited to, (1) utility costs, (2) business taxes and real and personal property tax and assessments, and fees and expenses in connection with the preparation of the Development Company's tax returns, (3) insurance premiums, (4) the actual documented costs of Network Project management, not to include management fees paid to Greenstar or any Affiliate in excess of such actual costs, (5) expenditures for capital improvements and the repair, maintenance and restoration of the improvements (including any portion of the same to the extent not covered by insurance proceeds), (6) expenditures required or deemed advisable to be made under or in connection with any contract of the Development Company, and (7) all other costs and expenses, including capital expenditures and the purchase of spare parts and other inventory and replacement items, required to be made by the Development Company (but excluding any such amounts to the extent paid out of reserves); and

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(ii) all principal and interest and other sums and amounts payable by the Development Company to repay any Loan from Tomen or any of its Affiliates payable for the applicable or pertinent period.

"Net Cash Flow Account Security Agreements" has the meaning given in Section 2.7(a).

"Net Cash Flow Agreements" means the agreements in the form of Exhibit K entered into pursuant to Section 3.1(a) and Section 5.17 of the NML Credit Agreement.

"Network Project Credit Agreement" means a credit agreement between Lender or one of its Affiliates, as lender and a Development Company, as borrower, to finance an alternative access network telecommunications project.

"Network Projects" means alternative access network telecommunications projects to be developed or existing alternative access projects to be expanded by GSI and/or GST in the Territory.

"1934 Act" means the Securities Exchange Act of 1934, as amended.

"NML" means GST New Mexico Lightwave, Inc., a New Mexico corporation.

"NML Credit Agreement" means the Credit Agreement between TM Communications LLC (as lender) and NML (as borrower) dated May 24, 1996.

"NML Project" means the Project.

"NMSCC" means the New Mexico State Corporation Commission.

"Note Holder" means the registered owner of any Note.

"Note" has the meaning given in Section 2.1(f) of the NML Credit Agreement.

"Notice of Borrowing" has the meaning given in Section 2.1(a)(ii) of the NML Credit Agreement.

"Notice of Interest Rate Conversion" has the meaning given in Section 2.1(d) of the NML Credit Agreement.

"Notice of Term Conversion" has the meaning given in Section 2.1(b)(ii) of the NML Credit Agreement.

"Obligations" means and includes, with respect to any Person, all loans, advances, debts, liabilities, and obligations, howsoever arising, owed by such Person to a lender of every kind and description (whether or not evidenced by any note or instrument,

and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, pursuant to the terms of a credit agreement or any other credit document, including all interest, fees, charges, expenses, attorneys' fees and accountants fees chargeable to such Person in connection with its dealings with such lender and payable by such Person hereunder or thereunder. The term "Obligations" shall also mean and include any amounts owing to Lender which arise because payments as to past transactions are rescinded or otherwise required to be surrendered by Lender after receipt.

"Operating Account" has the meaning given in Section 7.1 of the NML Credit Agreement.

"Operation and Maintenance Costs" means all actual cash maintenance and operation costs incurred and paid, or if appropriate, to be incurred and paid, for the Project in any particular calendar or fiscal year or period to which said term is applicable, including payments for fuel, additives or chemicals and transportation costs related thereto, local taxes, insurance, consumables, payments under any Lease, payments pursuant to the agreements for the management, operation and maintenance of the Project, reasonable legal fees and expenses paid by Borrower in connection with the management, maintenance or operation of the Project (but excluding legal fees and expenses related to litigation), fees paid in connection with obtaining, transferring, maintaining or amending any Applicable Permits and reasonable general and administrative expenses, but exclusive in all cases of non-cash charges, including depreciation or obsolescence charges or reserves therefor, amortization of intangibles or other bookkeeping entries of a similar nature, and also exclusive of all interest charges and charges for the payment or amortization of principal of indebtedness of Borrower (other than those relating to Debt permitted pursuant to Section 6.3 of the NML Credit Agreement).

"Operative Documents" means the Credit Documents, the Project Documents and any Additional Project Documents.

"Other Taxes" has the meaning given in Section 2.3(c)(i) of the NML Credit Agreement.

"Pacwest" means Pacwest Network L.L.C., an Oregon limited liability company and its Affiliates.

"Parts" means any part, appliance, instrument, appurtenance, accessory or other property of any nature necessary or useful to the operation, maintenance, service or repair of the project.

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under Title IV of ERISA.

"Permit" means any action, approval, consent, waiver,

exemption, variance, franchise, order, permit, authorization, right or license of or from a Governmental Authority.

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"Permitted Investments" means (a) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) or obligations the timely payment of the principal of and interest on which are fully guaranteed by the United States of America; (b) obligations, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following: Export-Import Lender of the United States, Federal Housing Administration or other agency or instrumentality of the United States; (c) interest-bearing demand or time deposits (including certificates of deposit) which are either (i) insured by the Federal Deposit Insurance Corporation, or (ii) held in banks and savings and loan associations, having general obligations rated at least "AA" or equivalent by Standard & Poor's Corporation ("S&P") or Moody's Investors Service, Inc. ("Moody's"), or if not so rated, secured at all times, in the manner and to the extent provided by law, by collateral security described in clauses (a) or (b) of this definition, of a market value of no less than the amount of moneys so invested; (d) commercial paper rated (on the date of acquisition thereof) at least A-1 or P-1 or equivalent by S&P or Moody's, respectively (or an equivalent rating by another nationally recognized credit rating agency of similar standing if neither of such corporations is then in the business of rating commercial paper), maturing not more than 270 days from the date of creation thereof; (e) any corporate evidence of indebtedness rated at least "A-" or equivalent by S&P or Moody's; or (f) any advances, loans or extensions of credit or any stock, bonds, notes, debentures or other securities as Lender may from time to time approve in its sole and absolute discretion.

"Permitted Liens" means (a) the rights and interests of Lender as provided in the Operative Documents, (b) Liens for any tax, assessment or other governmental charge, either secured by a bond reasonably acceptable to Lender or not yet due or being contested in good faith and by appropriate proceedings, so long as (i) such proceedings shall not involve any substantial danger of the sale, forfeiture or loss of the Project or any Applicable Easements, as the case may be, title thereto or any interest therein and shall not interfere in any material respect with the use or disposition of the Project or any Applicable Easements, or (ii) a bond or other security acceptable to Lender in its sole discretion has been posted or provided in such manner and amount as to assure Lender that any taxes, assessments or other charges determined to be due will be promptly paid in full when such contest is determined, (c) materialmen's, mechanics', workers', repairmen's, employees' or other like Liens arising in the ordinary course of business or in connection with the construction of the Project, either for amounts not yet due or for amounts being contested in good faith and by appropriate proceedings, so long as

(i) such proceedings shall not involve any substantial danger of the sale, forfeiture or loss of any part of the Project or any Applicable Easements, as the case may be, title thereto or any interest therein and shall not interfere with the use or disposition of the Project or any Applicable Easements, or (ii) a bond or other security acceptable to Lender in its sole discretion has been posted or provided in such manner and amount as to assure Lender that any amounts determined to be due will be promptly paid in full when such contest is determined, (d) Liens arising out of judgments or awards, but only so long as an appeal or proceeding for review is being prosecuted in good faith with a reasonable likelihood of success and for the payment of which adequate reserves, bonds or other security acceptable to Lender in its sole discretion have been provided or are fully covered by insurance, (e) mineral rights the use and enjoyment of which do not materially

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interfere with the use and enjoyment of the Project or any Applicable Easements, (f) Liens, deposits or pledges to secure statutory obligations or performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or for purposes of like general nature in the ordinary course of its business, (g) Liens incident to the ordinary course of business that are not incurred in connection with the obtaining of any loan, advance or credit and that do not in the aggregate materially impair the use of the property or assets of Borrower or the value of such property or assets for the purposes of such business, (h) Liens of trade vendors created in connection with Debt allowed under Section 6.3 of the NML Credit Agreement, and (i) Liens created in connection with a Net Cash Flow Agreement.

"Person" means and includes an individual, a partnership, a firm, an association, a corporation (including a business trust), a joint stock company, an unincorporated association, a joint venture, a Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity.

"Plans and Specifications" means the plans and specifications for the construction and design of the Project, including any document describing the scope of work performed by the Contractors under the Construction Contracts or any other contract or subcontract for the construction of the Project, including, without limitation, the Collocation Agreements, the Interconnection Agreements and the Pole and Conduit Agreements, all work drawings, engineering and construction schedules, project schedules, project monitoring systems, specifications status lists, material and procurement ledgers, drawings and drawing lists, manpower allocation documents, management and project procedures documents, project design criteria, and any other document referred to in the Construction Contracts or any of the documents referred to in this definition.

"Pledge Agreement" has the meaning given in Section 2.6 of the NML Credit Agreement.

"Pole and Conduit Use Agreements" means the Fiber Optic Construction and Use Agreement between NML and Public Service Company of New Mexico dated July 18, 1995 and any other agreements entered into or to be entered into with respect to the use of poles, conduits, the lease of fiber optic cables, or rights of way for the Project's fiber optic cable and other equipment.

"Proceeds" has the meaning given in Section 7.4 of the NML Credit Agreement.

"Procurement Agent" means construction equipment and materials procurement agent for the development and construction of the Network Projects.

"Project" means the development, construction and operation of fiber optic transmission equipment and optical fiber cable for the Service District all as more particularly described in Schedule 1 to the NML Credit Agreement, together with all Easements, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection

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therewith and all Parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto, all leases of real or personal property related thereto, and all other real and tangible and intangible personal property owned by Borrower and placed upon or used in connection therewith.

"Project Budget" has the meaning given in Section 3.1(1)(ii) of the NML Credit Agreement.

"Project Costs" means (a) the cost of designing, equipping, procuring, constructing, starting up and testing the Project, (b) the cost of acquiring any lease, the Applicable Easements and any other necessary interest in the Project, (c) local property taxes and insurance premiums payable with respect to the Project during the Construction Loan Availability Period, (d) interest payable on any Note for the Project during the Construction Loan Availability Period, (e) reasonable initial working capital requirements of the Project as approved by Lender, (f) the costs of acquiring Permits for the Project during the Construction Loan Availability Period, (g) other fees and expenses relating to the Project, including financial, legal (excluding

litigation) and consulting fees and expenses, all as described in the Project Budget.

"Project Documents" means the documents listed in Section 3.1(b) of the NML Credit Agreement, and any other material agreement or document relating to the development, construction, operation, maintenance and repair of the Project.

"Project Loan" means a loan in the amount of 75% of the Project Costs of a Network Project provided by Lender or one of its affiliates to a Development Company pursuant to a Network Project Credit Agreement.

"Project Revenues" means all income and receipts derived from the ownership or operation of the Project, including payments due Borrower under the Construction Contracts, proceeds of any business interruption or other insurance, income derived from the Project, together with any receipts derived from the sale of any property pertaining to the Project or incidental to the operation of the Project, all as determined in conformity with cash accounting principles, the investment income on amounts in the Accounts, the proceeds of any drawing under a letter of credit of which Borrower is the beneficiary, proceeds of any insurance, condemnation or litigation or arbitration awards relating to the Project and proceeds from the Collateral Documents, but not including sums paid to Borrower in satisfaction of a contractual obligation to indemnify Borrower for third party liability to the extent such sums do not exceed the actual damage, loss or cost suffered by Borrower in connection therewith.

"Project Schedule" means the Project Schedule/Milestone Disbursement Schedule for the Project delivered by Borrower at the Closing.

"Proportionate Share" has the meaning given to it in Section 9.1 of the NML Credit Agreement, and as set forth in Attachment 1 of the Assignment Agreement.

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"Prudent Practices" means those practices, methods, equipment, specifications and standards of safety and performance, as the same may change from time to time, as are commonly used by facilities similar to the Project of a type and size similar to the Project as good, safe and prudent engineering practices in connection with the design, construction, operation, maintenance, repair and use thereof with commensurate standards of safety, performance, dependability, efficiency and economy.

"Receipts Account" has the meaning given in Section 7.1(a) of

NML Credit Agreement.

"Receivables" has the meaning given in Section 2(a) of the Security Agreement.

"Refinancing Notice" shall mean a written notice of proposed financing by Borrower in substantially the same form of Exhibit F to the NML Credit Agreement.

"Rules" shall mean the Commercial Arbitration Rules of The American Arbitration Association.

"SEC" means the U.S. Securities and Exchange Commission.

"Security Agreement" has the meaning given in Section 2.7(a)(i) of the NML Credit Agreement.

"Service District" means the geographic district to be served by the Project in Albuquerque, New Mexico as further described in Schedule 1.

"Site" means the Lease Sites and the Easement Properties.

"Substantial Completion" means substantial completion of the Project in accordance with the Plans and Specifications and the requirements of all Applicable Permits and as certified by an independent engineer to the satisfaction of the Lender in its sole discretion.

"Taxes" has the meaning given in Section 2.3(c) of the NML Credit Agreement.

"Term Conversion" means the accomplishment of the conversion of Construction Loans to a Term Loan pursuant to Section 2.1(b)(i) of the NML Credit Agreement.

"Term Conversion Date" means the date on which Term Conversion occurs.

"Term Loan" has the meaning given in Section 2.1(b) of the NML Credit Agreement.

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"Territory" means North America, Central America and South America.

"Tomen" means Tomen Corporation, a corporation organized under the laws of Japan.

"Tomen America" means Tomen America Inc., a New York Corporation.

"Total Construction Loan Commitment" has the meaning given in Section 2.2(a) of the NML Credit Agreement.

"Total Term Loan Commitment" has the meaning given in Section 2.2(b) of the NML Credit Agreement.

"UCC" means the Uniform Commercial Code of the jurisdiction the law of which governs the document in which such term is used.

"U.S." means the United States of America.

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#### RULES OF INTERPRETATION

1. All terms defined in the NML Credit Agreement or any other Credit Document in the singular form shall have comparable meanings in the plural form and vice versa.

2. The word "or" is not exclusive.

3. A reference to a Governmental Rule includes any amendment or modification to such Governmental Rule.

4. A reference to a Person includes such Person's permitted successors and permitted assigns.

5. The words "include", "includes" and "including" and words of similar import are not limiting or exclusive.

6. A reference in a Credit Document to an Article, Section, Exhibit, Schedule, Annex, Attachment or Appendix is to the Article, Section, Exhibit, Schedule, Annex, Attachment or Appendix of such Credit Document unless otherwise indicated. Exhibits, Schedules, Annexes, Attachments or Appendices to any document shall be deemed incorporated by reference in such document.

7. References to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in

replacement thereof, and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time.

8. The words "hereof," "herein" and "hereunder" and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision of such document.

9. References to "days" shall mean calendar days, unless the term "Business Days" is used. References to a time of day shall mean such time in New York, New York unless otherwise specified.

10. The Credit Documents are the result of negotiations between, and have been reviewed by Borrower, Lender and their respective counsel. Accordingly, the Credit Documents shall be deemed to be the product of all parties thereto, and no ambiguity shall be construed in favor of or against Borrower or Lender.

\$8,000,000

CREDIT AGREEMENT

Dated as of May 24, 1996

GST TUCSON LIGHTWAVE, INC.  
(Borrower)

and

TM COMMUNICATIONS LLC  
(Lender)

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#### CREDIT AGREEMENT

This CREDIT AGREEMENT (this "Agreement") dated as of May 24, 1996 is entered into by and between:

- (1) GST Tucson Lightwave, Inc., an Arizona corporation (formerly known as "Tucson Lightwave, Inc.") ("Borrower"); and
- (2) TM Communications LLC, a Delaware limited liability company ("Lender").

## RECITALS

A. Borrower was formed to develop and operate an alternative access network telecommunications project in the Tucson area of Arizona in two phases as further described in Schedule 1 (the "Phase I Project") and Schedule 2 (the "Phase II Project"). Pursuant to a Master Agreement dated October 24, 1994 among Pacific Lightwave, Inc., a Washington corporation (now known as "GST Pacific Lightwave, Inc."), Greenstar Telecommunications Inc., a Canadian corporation (now known as "GST Telecommunications, Inc.") ("GSI"), GST Telecom Inc., a Delaware corporation ("GST"), Pacwest Network L.L.C., an Oregon limited liability company ("Pacwest"), and Tomen America, Inc. ("Tomen America"), as amended as of the date hereof by Amendment No. 1 to the Master Agreement (the "Master Agreement"), Tomen America agreed to provide, or to cause its affiliates to provide, certain credit facilities to Borrower to finance certain construction costs of Borrower.

B. Borrower wishes to develop and operate the Phase I Project and the Phase II Project (collectively, the "Project").

C. Lender, an affiliate of Tomen America, is willing to provide credit facilities for the Project upon the terms and subject to the conditions set forth herein.

In consideration of the agreements herein and in the other Credit Documents and in reliance upon the representations and warranties set forth herein and therein, the parties agree as follows:

## ARTICLE 1 - DEFINITIONS

1.1. Definitions. Except as otherwise expressly provided in this Agreement or any other Credit Document, capitalized terms used in this Agreement and its Exhibits shall have the meanings given in Exhibit A or in the provision of this Agreement or other Credit Document referenced in Exhibit A.

1.2. Rules of Interpretation. Except as otherwise expressly provided, the rules of interpretation set forth in Exhibit A shall apply to this Agreement and the other Credit Documents.

## ARTICLE 2 - THE CREDIT FACILITIES

2.1. Loan Facilities.

(a) Construction Loan Facility.

(i) Availability. Subject to the terms and conditions set forth in this Agreement, Lender agrees to advance to Borrower from time to time during the Construction Loan Availability Period such loans as Borrower may request under this Section 2.1(a) (individually, a "Construction Loan" and collectively the "Construction Loans"), in an aggregate principal amount not to exceed the Total Construction Loan Commitment.

(ii) Notice of Borrowing. Borrower shall request Construction Loans by delivering to Lender an irrevocable written notice in the form of Exhibit C-1, appropriately completed (a "Notice of Borrowing"), which specifies, among other things:

(A) The amount of the requested Construction Loan, which shall be in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000); and

(B) The date of the requested Construction Loan, which shall be a Business Day and which shall comply with Section 3.2(a)(i); and

(C) Whether the requested Construction Loan pertains to the Phase I Project or the Phase II Project.

Borrower shall give each Notice of Borrowing, accompanied with an appropriately completed Drawdown Certificate in the form of Exhibit C-2, to Lender at least three (3) Business Days before the date of any Construction Loan, in the manner set forth in Section 10.01.

(iii) Use of Proceeds. Borrower shall use the proceeds of each Construction Loan solely to pay Project Costs of the Project Phase for which such Construction Loan was requested.

(b) Term Loan Facility.

(i) Conversion. Subject to the terms and conditions set forth in this Agreement, Lender agrees to convert the outstanding Construction Loans, at the request of Borrower, to term loans under this Section 2.1(b) (each, a "Term Loan") in an aggregate principal amount not to exceed the Total Term Loan Commitment.

(ii) Notice of Term Conversion. Borrower shall request a Term Conversion by delivering to Lender an irrevocable written notice in the form of Exhibit D,

appropriately completed (the "Notice of Term Conversion"), which specifies, among other things, the requested date of the Term Conversion, which shall be the Construction Loan Maturity Date and a Business Day.

Borrower shall give the Notice of Term Conversion to Lender at least three (3) Business Days before the date of the requested conversion. The Notice of Term Conversion shall be delivered by first-class mail or telecopy to Lender at the office or to the telecopy number and during the hours specified in Section 10.1; provided, however, that Borrower shall promptly deliver to Lender the original of any Notice of Term Conversion initially delivered by telecopy.

(c) Interest. Borrower shall pay interest on the unpaid principal amount of the Loan Facility with respect to the Project on the dates and at the times specified herein from and including the Closing Date to but excluding the Maturity Date, at a rate per annum equal to the LIBOR Rate plus 3.00% at all times until such time after the Term Conversion as the Term Loan interest rate may be converted to a fixed interest rate pursuant to Section 2.1(d) and thereafter at a rate per annum equal to the Fixed Rate; provided however, to the extent that Borrower has not obtained Consents to the assignment of the Project Documents listed in Section 3.1(b) (with the exception of the Competitive Access Provider Agreement between GST and Sprint dated October 12, 1995) to Lender in the forms set forth as Exhibit M on or before 60 days from May 24, 1996, Lender has the right, at its sole option, to increase the interest rate on the portion of the Loan Facility then in effect by one percent (1%) until such time as all such consents to assignment shall have been received by Lender.

All computations of interest shall be based on a year of 360 days for actual days elapsed.

(d) Conversion to Fixed Rate. Borrower may convert the interest rate on the Term Loan from the LIBOR Rate to the Fixed Rate; provided, however that any such conversion shall be made on, and only on, the last day of an Interest Period. Borrower shall request such a conversion by an irrevocable written notice to Lender in the form of Exhibit E, appropriately completed (a "Notice of Interest Rate Conversion"), which specifies, among other things, the date of the requested conversion, which shall be a Business Day.

Borrower shall give a Notice of Interest Rate Conversion to Lender at least three (3) Business Days before the date of the requested conversion. The Notice of Interest Rate Conversion shall be delivered by first-class mail or telecopy to Lender at the office or to the telecopy number and during the hours specified in Paragraph 10.1; provided, however, that Borrower shall promptly deliver to Lender the original of any Notice of Interest Rate Conversion initially delivered by telecopy.

If Borrower is in compliance with the provisions of this Agreement, no later than 2:00 p.m. on the date specified in the Notice of Interest Rate Conversion

Lender shall notify Borrower of the effectiveness of the conversion, the amount of the Fixed Rate and the Liquidation Costs incurred by Lender in effecting such conversion.

(e) Scheduled Payments. (i) Borrower shall repay to Lender (A) the principal amount of the Construction Loans, accrued interest on the unpaid principal amount of the Construction Loans and all outstanding fees and costs payable to Lender with respect to the Construction Loans on the earlier of the Construction Loan Maturity Date and the Term Conversion Date, and (B), the principal amount of the Term Loan in twenty-four (24) equal quarterly installments payable on the 1st day of each third month, commencing on the earlier of the 1st day of the month which is (y) two years after the Term Conversion Date or (z) three years after the Closing Date, and ending six years thereafter; provided, however, that the principal payment due to Lender on each Maturity Date shall be in the amount necessary to pay all remaining unpaid principal on the relevant portion of the Loan Facility.

(ii) Borrower shall pay accrued interest on the unpaid principal amount of the Loan Facility (A) on the last day of each Interest Period, provided that, in lieu of payments on the last day of each Interest Period, Borrower shall pay accrued interest from amounts borrowed pursuant to Construction Loans until the earlier of: (1) the Term Conversion Date and (2) the date which is one year after the Closing Date; provided further, that to the extent that net revenues from operations are generated prior to the dates set forth in the preceding clauses (1) and (2), Borrower shall forthwith pay such net revenues to Lender towards payment of accrued interest; (B) upon prepayment (to the extent thereof) and (C) at maturity (whether by acceleration or otherwise).

(f) Promissory Note. The obligation of Borrower to repay the Loan Facility and to pay interest thereon at the rates provided herein shall be evidenced by a promissory note of Borrower in substantially the form of Exhibit B (the "Note").

(g) Funding.

(i) Notice. Each Notice of Borrowing shall be delivered to Lender in accordance with Section 2.1(a)(ii).

(ii) Disbursement of Funds. No later than 2:00 p.m. on the Business Day specified in each Notice of Borrowing, if the applicable conditions precedent listed in Article 3 have been satisfied, Lender will make

available the Construction Loan requested in such Notice of Borrowing (or so much thereof as Lender shall have approved pursuant to this Agreement) in Dollars and in immediately available funds, in accordance with the next succeeding sentence. At Lender's option and upon notice to Borrower, the amount of any Construction Loan may, in whole or in part, be (x) disbursed by Lender to Borrower by wire transfer to the Receipts Account established pursuant to Section 7.1(a) at Bank of America, Sacramento RBCO, ABA No. 121000358, Account Number 14894-02378, in lawful money of the United States and in immediately available funds for application in accordance with the applicable Notice of Borrowing and the Drawdown Certificate or (y) disbursed by Lender directly to the Person(s) entitled thereto as specified in the applicable Drawdown Certificate. Upon the application of funds in accordance with clause (y) of the preceding sentence, Lender shall as promptly as practicable following the disbursement of such funds provide an accounting of such payments to Borrower. Such payment shall discharge pro tanto the

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obligations of Lender with respect to such amounts and Borrower hereby authorizes Lender to pay such amounts on its behalf.

(h) Prepayments.

(i) Optional Prepayments. At its option, Borrower may, upon ten (10) Business Days notice to Lender, prepay the Loan Facility in part in aggregate principal amounts of not less than Five Hundred Thousand Dollars (\$500,000) or an integral multiple of One Hundred Thousand Dollars (\$100,000) in excess thereof, or in whole, subject to this Section 2.1(h).

(ii) Mandatory Prepayments. Borrower shall prepay the Loan Facility upon a Change of Control.

(iii) Terms of Prepayments.

(A) Upon the prepayment of any Loan Facility (whether such prepayment is an optional prepayment under Section 2.1(h) (i) or a mandatory prepayment required by the terms of this Agreement or the other Credit Documents, including a prepayment upon acceleration), Borrower shall pay (1) all accrued interest to the date of such prepayment on the amount prepaid, and (2) all Liquidation Costs incurred by Lender as a result of such prepayment. All prepayments of a Loan Facility shall reduce the remaining payments required under Section 2.1(e) in the inverse order of maturity. Borrower may not reborrow the principal amount of any Construction Loan or Term Loan which is prepaid.

(B) If Borrower proposes to refinance the

Project, Borrower shall deliver a written notice of the proposed refinancing in the form of Exhibit F (a "Refinancing Notice") stating Borrower's bona fide intention to refinance the Project, together with a copy of the offer to finance, including without limitation, the name and address of the proposed refinancer, the amount of the Loan Facility to be refinanced and the interest rate and other terms of the proposed refinancing. Within thirty (30) days of receipt of such Notice, Lender shall have the first right to provide the proposed refinancing to Borrower upon such interest rate, terms and conditions proposed by such refinancer as set forth in the Refinancing Notice. If the Lender elects not to provide such refinancing, Borrower may prepay the Loan Facility; provided that, Borrower refinances the Project at the interest rate and on the other terms and conditions offered by the proposed refinancer as set forth in the Refinancing Notice provided to Lender. At the time of any such prepayment, in addition to any fees, costs or expenses otherwise payable by Borrower hereunder, Borrower shall have paid to Lender an additional amount equal to one-third of the net present value of the interest rate savings, if any, of the refinancing loan compared to the Loan Facility. Net present value of the interest payable hereunder and under the proposed refinanced loan shall be calculated for the purposes of this Section by applying a discount rate equal to the interest rate set forth in the Refinancing Notice.

## 2.2. Total Commitments.

(a) Construction Loans. The aggregate principal amount of all Construction Loans made by the Lender shall not exceed Eight Million Dollars (\$8,000,000) (the "Total Construction Loan Commitment").

(b) Term Loan. The aggregate principal amount of the Term Loan outstanding at any time shall not exceed Eight Million Dollars (\$8,000,000) (the "Total Term Loan Commitment").

## 2.3. Fees.

(a) Upfront Fee. Borrower shall pay \$120,000.00 to Lender on the Closing Date as an upfront fee (the "Upfront Fee"). The Upfront Fee shall be paid to reimburse Lender for the preliminary work done by Lender in consideration of whether to make, and in preparing its analysis for, the loan to Borrower made by Lender hereunder.

(b) Commitment Fees. The Borrower shall pay to Lender a commitment fee on the daily average unused amount of the applicable Committed Amount at a rate per annum equal to 0.5% for the period from the date of this

Agreement, to but not including the Term Conversion Date. Accrued commitment fees shall be payable on the last day of each Interest Period and on the Term Conversion Date.

(c) Net of Taxes, Etc.

(i) Taxes. All payments to Lender by Borrower hereunder or under any other Credit Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, deductions, charges or withholdings now or hereafter imposed as a result of a Change of Law and all liabilities with respect thereto, excluding taxes imposed on or measured by the income or capital of Lender (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as "Taxes"). If, as a result of a Change of Law Borrower shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder or under any other Credit Document to Lender, (A) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.3(c)), Lender receives an amount equal to the sum it would have received had no such deductions been made, (B) Borrower shall make such deductions, and (C) Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. In addition, Borrower agrees to pay any present or future stamp, recording or documentary taxes and, if as a result of a Change of Law, any other excise or property taxes, charges or similar levies that arise under the laws of the United States of America, the State of Arizona, the State of California, or the State of New York from any payment made hereunder or under any other Credit Document or from the execution or delivery or

otherwise with respect to this Agreement or any other Credit Document (hereinafter referred to as "Other Taxes").

(ii) Indemnity. Borrower shall indemnify Lender for the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 2.3(c)) paid by Lender or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted; provided that, Borrower shall not be obligated to indemnify Lender for any penalties, interest or expenses relating to Taxes or Other Taxes arising from Lender's gross negligence or willful misconduct. Lender agrees to give notice to Borrower of the assertion of any claim against Lender relating to such Taxes or Other Taxes as promptly as is practicable after being

notified of such assertion; provided that, Lender's failure to notify Borrower promptly of such assertion shall not relieve Borrower of its obligation under this Section 2.3(c). Payments by Borrower pursuant to this indemnification shall be made within thirty (30) days from the date Lender makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. Lender agrees to repay to Borrower any refund (including that portion of any interest that was included as part of such refund with respect to Taxes or Other Taxes paid by Borrower pursuant to this Section 2.3(c)) received by Lender for Taxes or Other Taxes that were paid by Borrower pursuant to this Section 2.3(c) and to contest, with the cooperation and at the expense of Borrower, any such Taxes or Other Taxes which Lender or Borrower reasonably believes not to have been properly assessed.

(iii) Notice. Within 30 days after the date of any payment of Taxes by the Borrower, Borrower shall furnish to Lender, at its address referred to in Section 10.1 hereof, the original or a certified copy of a receipt evidencing payment thereof. Borrower shall compensate Lender for all reasonable losses and expenses sustained by Lender as a result of any failure by Borrower to so furnish such copy of such receipt.

(iv) Survival of Obligations. The obligations of Borrower under this Section 2.3(c) shall survive the termination of this Agreement and the repayment of Borrower's Obligations.

#### 2.4. Other Payment Terms.

(a) Place and Manner. Borrower shall make all payments due to Lender hereunder by wire transfer to Tomen America's account at Citibank, N.A., ABA No. 021000089, Account No. 30753206, or as the Lender shall otherwise direct, in lawful money of the United States and in immediately available funds not later than 12:00 noon New York time on the due date.

(b) Late Payments. If any amounts required to be paid by Borrower under this Agreement or the other Credit Documents (including principal or interest payable on the Loan Facility, and any fees or other amounts otherwise payable to Lender) remain unpaid after such amounts are due, Borrower shall pay interest on the aggregate outstanding balance

of such amounts from the date due until those amounts are paid in full at a per annum rate equal to the Default Rate.

(c) Application of Payments. Payments made under this Agreement or the other Credit Documents shall first be applied to any fees,

costs, charges or expenses payable to Lender hereunder or under the other Credit Documents, next to any accrued but unpaid interest, and then to outstanding principal in inverse order of maturity.

## 2.5. Change of Circumstances.

(a) Inability to Determine Rates. If, on or before the first day of any Interest Period Lender shall have determined (which determination shall be conclusive and binding on all parties hereto) that the LIBOR Rate for such Interest Period cannot be adequately and reasonably determined due to the unavailability of funds in or other circumstances affecting the London interbank market, Lender shall immediately give notice of such condition to Borrower. After the giving of any such notice and until Lender shall otherwise notify Borrower that the circumstances giving rise to such condition no longer exist, Borrower's right to request the making of, and Lender's obligations to make Loans at the LIBOR Rate shall be suspended. Borrower may, in compliance with the other terms and conditions hereof, request Alternate Interest Rate Construction Loans during any periods in which the LIBOR Rate is suspended. Any LIBOR Rate Loan Facility outstanding at the commencement of any such suspension shall be converted at the end of the then current Interest Period into an Alternate Interest Rate Loan unless such suspension has then ended.

(b) Illegality. If, after the date of this Agreement, the adoption of any Governmental Rule, any change in any Governmental Rule or the application or requirements thereof (whether such change occurs in accordance with the terms of such Governmental Rule as enacted, as a result of amendment or otherwise), any change in the interpretation or administration of any Governmental Rule by any Governmental Authority, or compliance by Lender or Borrower with any request or directive (whether or not having the force of law) of any Governmental Authority (a "Change of Law") shall make it unlawful or impossible for Lender to make or maintain any Construction Loan or the Term Loan, Lender shall promptly notify Borrower of such Change of Law. Upon receipt of such notice, (i) Borrower's right to request the making of Construction Loans shall be terminated, and (ii) Borrower shall, at the request of Lender, immediately repay the Loan Facility together with all accrued and unpaid interest.

2.6. Funding Loss Indemnification. If Borrower shall (a) repay or prepay the Loan Facility or any portion thereof on any day other than the last day of an Interest Period (whether a payment upon acceleration or otherwise), (b) fail to borrow in accordance with a Notice of Borrowing delivered to Lender (whether as a result of the failure to satisfy any applicable conditions or otherwise), or (c) prepay the Term Loan or any portion thereof after the interest rate has been converted to a Fixed Rate, Borrower shall, upon demand by Lender, reimburse Lender for and hold Lender harmless from all costs and losses, expenses and liabilities incurred by Lender as a result of such repayment, prepayment or failure (including without limitation by reason of the liquidation of deposits or other funds by

Lender) ("Liquidation Costs"). Borrower understands that such Liquidation Costs may include direct losses incurred by Lender as a result of funding and other contracts entered into by Lender.

## 2.7. Security.

(a) Security Agreement, Pledge, etc. The Obligations of Borrower to Lender shall be secured by the following:

(i) The Security Agreement, between Borrower, as grantor, and Lender, in the form of Exhibit G, duly executed by Borrower (the "Security Agreement");

(ii) The Deposit Account Security Agreement, between Borrower, as grantor, and Lender, in the form of Exhibit G-2 duly executed by Borrower (the "Account Security Agreement").

(iii) The GST Security Agreement, between GST, as grantor, and Lender, in the form of Exhibit H, duly executed by GST (the "GST Security Agreement");

(iv) Construction Deeds of Trust in the form of Exhibit I, duly executed;

(v) The Pledge Agreement, of GST as the sole shareholder of Borrower, in the form of Exhibit J, duly executed by GST (the "Pledge Agreement");

(vi) The Net Cash Flow Agreements of GST Pacific Lightwave, Inc., GST New Mexico Lightwave, Inc., Borrower and the development companies of all other Network Projects to which Lender or any of its Affiliates has provided debt funding in the form of Exhibit K, duly executed by such development companies (the "Net Cash Flow Agreements");

(vii) The Net Cash Flow Deposit Account Security Agreements of GST Pacific Lightwave, Inc., GST New Mexico Lightwave, Inc., and Borrower, in the form of Exhibit K-1, duly executed by such Development Companies (the "Net Cash Flow Account Security Agreement"); and

(viii) Such other documents, instruments and agreements as Lender may request in order to grant to Lender Liens in all assets of Borrower (including, without limitation, all Permits), the shares of Borrower's capital securities (other than shares held by the Lender) and all other assets reasonably necessary for the operation and maintenance of the Project.

(b) Further Assurances. Borrower shall deliver to Lender each of the foregoing and such other instruments, agreements, certificates, opinions and documents (including Uniform Commercial Code financing statements and fixture filings and landlord waivers) as Lender may reasonably request to perfect and maintain the Liens granted to Lender by the foregoing prior to the Liens or other interests of any Person other than Lender. Borrower shall fully cooperate with Lender and perform all additional acts reasonably requested by Lender to effect the purposes of the foregoing.

### ARTICLE 3 - CONDITIONS PRECEDENT

3.1. Conditions Precedent to Closing. The obligation of Lender to make any Construction Loans is subject to the satisfaction of the following conditions on or prior to the Closing Date (unless waived by Lender):

(a) Principal Credit Documents. Lender shall have received the following Credit Documents, each of which (i) shall be in form and substance satisfactory to Lender, and (ii) shall have been duly authorized, executed and delivered by the parties thereto:

(A) This Agreement;

(B) The Note;

(C) The Security Agreement;

(D) The Account Security Agreement;

(E) The GST Security Agreement;

(F) The Pledge Agreement;

(G) The Net Cash Flow Agreements;

(H) The Net Cash Flow Account Security Agreements;

(I) An agreement duly executed by Greenstar agreeing to subordinate all payments due to Greenstar pursuant to any management agreement between Borrower and Greenstar to the obligations of Borrower to Lender under this Agreement, the other Credit Agreements and any net cash flow

pledge agreement entered into by Borrower pursuant to Section 5.17;

(J) The Construction Deeds of Trust in the form of Exhibit I for Pima County; and

(K) The UCC-1 Financing Statements set forth on Schedule 7.

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(b) Project Documents. Lender shall have received (i) true, complete and correct copies of the following Project Documents, and any supplements or amendments thereto, each of which (A) shall be in form and substance satisfactory to Lender, (B) shall have been duly authorized, executed and delivered by the parties thereto, and (C) shall have been certified by an authorized officer of Borrower as being true, complete and correct and in full force and effect, and (ii) evidence satisfactory to Lender that each Project Document is in full force and effect and that no party to any Project Document is or, but for the passage of time or giving of notice or both will be, in breach of any obligation thereunder which is reasonably expected to have a Material Adverse Effect:

- (A) The applicable Construction Contracts;
- (B) The applicable Pole and Conduit Use Agreements;
- (C) The City of Tucson License, amended to permit the construction of a completely fiber optic network Project;
- (D) The applicable Collocation Agreements;
- (E) The applicable Interconnection Agreements;
- (F) The applicable Leases; and
- (G) Each other applicable Project Document not listed in this Section 3.1(b), including without limitation, each equipment purchase agreement referenced in Section 3(b) of the Master Agreement.

Notwithstanding the foregoing provisions of this Section 3.1(b), with respect to the Closing, "Project Documents" shall refer only to the

Project Documents applicable to Phase I, and the delivery of the Project Documents with respect to Phase II shall be a condition precedent to the initial Construction Loan for Phase II pursuant to Section 3.3.

(c) Borrower Documents. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A copy of one or more resolutions or other authorizations of Borrower, certified by Borrower's Secretary as being in full force and effect on the Closing Date, authorizing the borrowings herein provided for, the development of the Project and the execution, delivery and performance of this Agreement and the other Operative Documents and any instruments or agreements required hereunder or thereunder to which Borrower is a party and the consummation of the transactions contemplated thereby;

(ii) A certificate of Borrower signed by the appropriate authorized officer of Borrower and dated as of the Closing Date, as to the incumbency of the Person or Persons authorized to execute and deliver this Agreement and the other Operative Documents

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and any instruments or agreements required hereunder or thereunder to be executed on the Closing Date to which Borrower is a party;

(iii) Copies of the Articles of Incorporation and any Amendments to the Articles of Incorporation of Borrower, certified by the Arizona Secretary of State, and of copies of the Bylaws of Borrower, certified by the Secretary of Borrower; and

(iv) Certificates issued by the Arizona Secretary of State and state tax authority as to the good standing of Borrower, and the tax status of Borrower, respectively.

(d) Security Filings. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A UCC-3 (or similar) report of a date not less recent than one (1) week before the Closing Date for each of the jurisdictions in which the UCC-1 financing statements and the fixture filings are intended to be filed in respect of the Collateral, showing that upon due filing or recordation (assuming such filing or recordation occurred on such date), the security interests created under such Collateral Documents will be prior to all other financing statements, fixture filings, deeds of trust, mortgages or other security documents in respect of the Collateral;

(ii) Evidence that all appropriate financing statements and fixture filings were filed and/or recorded as required hereunder or by law; and

(iii) Stock certificate(s) representing all of the outstanding capital stock of Borrower together with stock powers duly endorsed by Borrower's stockholders attached thereto.

(e) Easements. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A schedule of Applicable Easements required to construct and operate the Project, which schedule shall be included in and made a part of this Agreement as Schedule 3 in the case of the Phase I Project, and Schedule 4 in the case of the Phase II Project, together with evidence of each Applicable Easement listed on Part I of such schedule and a certificate of an authorized officer of Borrower certifying that neither Borrower nor such authorized officer has any reason to believe that all Applicable Easements that have not been obtained prior to the Closing Date will not be obtained by the dates by which they are required; and

(ii) Other evidence requested by Lender that (A) Borrower has duly obtained the Applicable Easements set forth on Schedule 3 or Schedule 4, as applicable, other than those set forth in Part II of such schedule which are not, in light of the status of the acquisition, development, construction and operation of the Project as of the Closing Date, required to have been obtained as of such Closing Date and which, in the reasonable opinion of Lender, can be obtained not later than required without substantial difficulty,

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expense or delay, and (B) such Applicable Easements are in full force and effect and not subject to any condition, limitation or other provision that in the reasonable judgment of Lender or its counsel could have a Material Adverse Effect.

(f) Consents and Estoppels. Lender shall have received the following items, each in form and substance satisfactory to Lender with respect to the Phase I Project:

(i) An Estoppel and Consent Certificate in the form of Exhibit L from each lessor of real property to Borrower duly executed by each such Lessor and Borrower;

(ii) Consents to assignment of all material licenses, permits and agreements in the form attached hereto as Exhibit M-1, M-2 and M-3.

(g) Permit, Regulatory and Environmental Matters. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) Schedules of Applicable Permits required to construct and operate each Project Phase, which schedules shall be included in and made a part of this Agreement as Schedule 5, in the case of the Phase I Project, and Schedule 6 in the case of the Phase II Project, together with copies of each Applicable Permit listed on Part I of Schedule 5, in the case of the Phase I Project, and Schedule 6, in the case of the Phase II Project, and a certificate of an authorized officer of Borrower certifying that neither Borrower nor such authorized officer has any reason to believe that all Applicable Permits that have not been obtained prior to the applicable Closing Date will not be obtained by the dates by which they are required; and

(ii) Other evidence requested by Lender that (A) Borrower has duly obtained or been assigned the Applicable Permits for the Project set forth on Schedule 5, in the case of the Phase I Project, and Schedule 6, in the case of the Phase II Project, other than those set forth in Part II of such schedules which are not, in light of the status of the acquisition, development, construction and operation of the Project as of the Closing Date, required to have been obtained or made as of the Closing Date and which, in the reasonable opinion of Lender, can be obtained not later than required without substantial difficulty, expense or delay, and (B) such Applicable Permits are in full force and effect and not subject to any appeal, restriction, condition, limitation or other provision that in the reasonable judgment of Lender or its counsel could have a Material Adverse Effect.

(iii) A certificate of Network Development Consultants, Inc., a Nevada corporation ("NDC"), that all Permits, Easements, Licenses, Leases and other property rights necessary for the Phase I Project have been obtained and that such Permits, Easements, Licenses, Leases and other property rights form a contiguous and uninterrupted line necessary to construct and operate the Phase I Project.

(iv) Evidence that Borrower and the network to be constructed by the Project will not be subject to regulation by the Arizona Corporation Commission to an extent unacceptable to Lender in its discretion.

(h) Capital Contribution. Lender shall have received evidence that GST Telecom Inc. has made a capital contribution to Borrower of Four Million Dollars (\$4,000,000).

(i) Third Party Reports. Lender shall have received satisfactory third- party appraisal, feasibility, engineering, environmental and accounting reviews relating to the Project.

(j) Opinions. Lender shall have received the opinions, each in form and substance satisfactory to Lender, of:

(i) Olshan Grundman Frome & Rosenzweig, LLP, counsel for Borrower, in substantially the form of Exhibit N-1;

(ii) Lewis & Roca, LLP, special Arizona counsel for Borrower, in substantially the form of Exhibit N-2; and

(iii) Swidler & Berlin, FCC Counsel for Borrower, in substantially the form of Exhibit N-3.

(k) Certificate. Lender shall have received evidence that Borrower has obtained and is maintaining in full force and effect insurance complying with Section 5.14 hereof and Schedule 9 hereto, including (A) a certificate from Borrower's insurance broker(s), dated as of the Closing Date and identifying underwriters, type of insurance, insurance limits and policy terms, listing the special provisions required as set forth in Section 5.14 hereof and Schedule 9 hereto, describing the insurance obtained and stating that such insurance is in full force and effect and that all premiums then due thereon have been paid, and (B) certified copies of all policies evidencing such insurance (or a binder, commitment or certificates signed by the insurer or a broker authorized to bind the insurer).

(l) Financial Statements, Expenditures to Closing Date, Projections, Etc. Lender shall have received and approved the following items, each in form and substance satisfactory to Lender:

(i) The most recent annual financial statements (audited if available), most recent quarterly financial statements from Borrower, together with a certificate from the appropriate officer of such Person, stating that no material adverse change in the consolidated assets, liabilities, operations or financial condition of such Person has occurred since the date of the financial statements provided to Lender, and pro forma financial statements for Borrower giving effect to the Capital Contributions;

(ii) A budget for each Project Phase (the "Project Phase Budget") for all anticipated costs to be incurred in connection with the construction and start-up of the Project Phase, including in such budget all construction and non-construction costs, and including all interest, taxes and other carrying costs, and such other information as Lender may require, together with a balanced statement of sources and uses of proceeds (and any other funds necessary to complete the Project), broken down as to separate construction phases in a manner satisfactory to Lender.

(iii) An accurate and complete accounting of expenditures of each Project Phase as of the date five (5) Business Days before the Closing Date, certified by the Chief Financial Officer of Borrower.

(iv) Borrower shall have furnished Lender the Base Case Project Projections of operating expenses and cash flow for the Project and the Project Schedule for the Project and the Milestone Disbursement Schedule for the Project; and

(v) Evidence that there has not occurred any material adverse change in the Project Budget, Project Schedule or Base Case Project Projections, in the economics or feasibility of constructing and/or operating the Project, or in the financial condition, business or property of any Major Project Participant, which will have a Material Adverse Effect.

(m) Consents. Lender shall have received executed copies of the Consents, each in form and substance satisfactory to Lender, including without limitation, consents to assignment of each of the Project Documents applicable to the Phase I Project in the forms of Exhibit M-1, M-2 and M-3 hereto.

(n) Due Diligence. Lender shall have approved the results of its due diligence review in connection with the transactions contemplated hereby.

(o) Other Matters. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) Such other evidence as Lender may have requested that all corporate and legal proceedings and all instruments in connection with the transactions contemplated by this Agreement are satisfactory in form and substance to Lender;

(ii) All approvals of Lender and Tomen Corporation (Lender's parent corporation);

(iii) All information and copies of all documents, including records of corporate proceedings and copies of any approval by any Governmental Authority required in connection with any transaction herein

contemplated, which Lender may reasonably have requested in connection herewith, such documents where appropriate to be certified by proper corporate officers or Governmental Authorities;

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(iv) Evidence that no action, suit, proceeding or investigation has been instituted or threatened by any Person, nor has any order, judgment or decree have been issued or proposed to be issued by any Governmental Authority that could have a Material Adverse Effect;

(v) Evidence that the litigations involving Borrower and the City of Tucson, Brooks Fiber Properties, Inc. and Tucson Electric Power Company, respectively, have been settled or otherwise resolved to Lender's satisfaction;

(vi) Evidence that all taxes, fees and other costs payable in connection with the execution, delivery, recordation and filing of the documents and instruments referred to in this Section 3.1 have been paid in full;

(vii) Evidence that Tomen or an Affiliate of Tomen has been appointed and is serving as Procurement Agent for the Project;

(viii) Evidence that GUS is the sole stockholder of GST as of the Closing Date; and

(ix) A certificate in substantially the form of Exhibit O hereto (the "Borrower's Closing Certificate"), dated as of the Closing Date, signed by an authorized officer of Borrower.

3.2. Conditions Precedent to Each Construction Loan. The obligation of Lender to make each Construction Loan (including the initial Construction Loan for either Project Phase) is subject to the prior satisfaction of each of the following conditions (unless waived by Lender).

(a) The Requested Construction Loans. Lender shall be satisfied that the following are true and correct as of the date on which Borrower has requested that such Construction Loan be made:

(i) No other Construction Loan has been made for such Project Phase during the two-week period preceding the date on which Borrower requests that such Construction Loan be made;

(ii) The sum of the undrawn Total Construction Loan Commitment, plus the unexpended portion of any Borrower Equity is not less than the aggregate unpaid amount required to attain Completion, in accordance with all Legal Requirements, the Construction Contracts and the Plans and Specifications, prior to the Expected Completion Date and to pay or provide for all anticipated non-construction costs, all as set forth in the Project Phase Budget (including any revisions thereto) approved by Lender; and

(iii) The amounts to be applied in connection with such Construction Loan will not cause the amount for any line item with respect to such month in the applicable

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Project Phase Budget to exceed the amount set forth in such Project Phase Budget, as such line items may be adjusted in accordance with Section 3.3(b).

(b) Drawdown Procedures. Lender shall have received the following, each in form and substance satisfactory to Lender:

(i) The Notice of Borrowing and the Drawdown Certificate within the time periods specified therein;

(ii) Evidence that Borrower has established and is maintaining the Receipts Account and the Operating Account at a bank in California reasonably acceptable to Lender; and

(iii) Evidence that all work that has been done on the Project shall have been done in a good and workmanlike manner and in accordance with the Construction Contracts and Prudent Practices, including, but not limited to, if requested by Lender, copies of all invoices for services rendered and materials delivered for the Project, and there shall not have been filed with or served upon Borrower with respect to the Project or any part thereof notice of any Lien, claim of Lien or attachment upon or claim affecting the right to receive payment of any of the moneys payable to any of the Persons named on such request which has not been released or which will not be released with the payment of such obligation out of such Construction Loan, other than Permitted Liens.

(c) Liens. Lender shall have received in form and substance satisfactory to Lender, if requested by Lender, and subject to Borrower's right to contest liens as described in the definition of "Permitted Liens," duly executed acknowledgments of payments and releases of mechanics' and materialmen's liens, in form satisfactory to Lender, from the Contractors and all other contractors, subcontractors and materialmen, for all work, services

and materials, including equipment and fixtures of all kinds, done, previously performed, or furnished for the construction of the Project, except for such work, services and materials to be paid for with the proceeds of the requested Construction Loan.

(d) Easements. Lender shall have received evidence, in form and substance acceptable to Lender, that, except for Applicable Easements listed in Part II of Schedule 4 which are not then required in connection with the construction or operation of the Project, all Easements with respect to the construction and operation of the Project required to have been obtained by the date of such Construction Loans shall be in full force and effect, and, with respect to any of the Applicable Easements not yet required, there shall be no reason to believe that any such Applicable Easements will not be obtained, all of which shall be satisfactory in all respects to Lender. Borrower shall inform Lender as to the status of Borrower's efforts to obtain the Applicable Easements not yet obtained.

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(e) Permits. Lender shall have received evidence, in form and substance acceptable to Lender, that, except for Applicable Permits listed in Part II of Schedule 6 which are not then required in connection with the construction or operation of the Project, all Permits with respect to the construction and operation of the Project required to have been obtained by the date of such Construction Loans from any Governmental Authority shall have been issued and shall be in full force and effect, and, with respect to any of the Applicable Permits not yet required, there shall be no reason to believe that any such Applicable Permits will not be obtained, all of which shall be satisfactory in all respects to Lender.

(f) Other Documents. If requested by Lender, Lender shall have received evidence, in form and substance satisfactory to Lender, that:

(i) All of the Operative Documents to be executed and delivered with respect to the Project on or prior to the date of such Construction Loan shall be in full force and effect without change or amendment since the respective dates of their execution and delivery in a form which was approved by Lender, except as consented to in writing by Lender or as otherwise permitted pursuant to Section 6.12; and

(ii) With respect to Additional Project Documents and Applicable Permits entered into or obtained, transferred or required (whether because of the status of the construction or operation of the Project or otherwise) since the date of the most recent Construction Loan, there shall have

been a delivery or a redelivery, as the case may be, to Lender of such matters as are described in Sections 3.1(b), 3.1(e), 3.1(f) and 3.1(g) and, if requested by Lender, any of the other sections of Section 3.1.

(g) Status of Borrower. Lender shall be satisfied that the following are true and correct as of the date on which Borrower has requested that such Construction Loan be made:

(i) Each representation and warranty set forth in Article 4 is true and correct as if made on such date;

(ii) No Event of Default or Default has occurred and is continuing or will result from such Credit Event;

(iii) No event of default under and as defined in or applicable to any Project Document has occurred and is continuing; and

(iv) Each Credit Document and Project Document remains in full force and effect.

3.3. Additional Conditions Precedent to Initial Construction Loans for the Phase II Project. The obligation of Lender to make the initial Construction Loan for the Phase II Project is subject to the satisfaction of the following conditions on or prior to the date of the initial Construction Loan for the Phase II Project (unless waived by Lender):

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(a) Principal Credit Documents. To the extent not delivered at the Closing Lender shall have received the Credit Documents set forth in Section 3.1(a) and the following Credit Documents with respect to the Phase II Project, each of which (i) shall be in form and substance satisfactory to Lender, and (ii) shall have been duly authorized, executed and delivered by the parties thereto:

(A) The Construction Deed of Trust in the form of Exhibit I updated with the additional Phase II Project Permits, Leases and Easements; and

(B) The UCC-1 Financing Statements set forth on Schedule 7 updated with the additional Phase II Project Permits, Leases and Easements.

(b) Project Documents. To the extent not delivered at the

Closing, Lender shall have received the Project Documents set forth in Section 3.1(b) and, with respect to the Phase II Project, (i) true, complete and correct copies of the following Project Documents, and any supplements or amendments thereto, each of which (A) shall be in form and substance satisfactory to Lender, (B) shall have been duly authorized, executed and delivered by the parties thereto, and (C) shall have been certified by an authorized officer of Borrower as being true, complete and correct and in full force and effect, and (ii) evidence satisfactory to Lender that each Project Document is in full force and effect and that no party to any Project Document is or, but for the passage of time or giving of notice or both will be, in breach of any obligation thereunder which is reasonably expected to have a Material Adverse Effect:

- (A) The applicable Construction Contracts;
- (B) The applicable Pole and Conduit Use Agreements;
- (C) The applicable Collocation Agreements;
- (D) The applicable Interconnection Agreements;
- (E) The applicable Leases; and
- (F) Each other applicable Project Document not listed in this Section 3.3(b), including without limitation, each equipment purchase agreement referenced in Section 3(b) of the Master Agreement.

(c) Borrower Documents. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A copy of one or more resolutions or other authorizations of Borrower, certified by Borrower's Secretary as being in full force and effect on the date of the initial Construction Loan with respect to the Phase II Project, authorizing the borrowings herein provided for, the development of the Phase II Project and the execution, delivery and

performance of any additional Operative Documents and any instruments or agreements required hereunder or thereunder to which Borrower is a party and the consummation of the transactions contemplated thereby;

(ii) A certificate of Borrower signed by the appropriate authorized officer of Borrower and dated as of the date of the

applicable initial Construction Loan, as to the incumbency of the Person or Persons authorized to execute and deliver the Drawdown Certificate and any additional Operative Documents and any instruments or agreements required hereunder or thereunder to be executed on such date to which Borrower is a party;

(iii) Copies of the Articles of Incorporation and any Amendments to the Articles of Incorporation of Borrower, certified by the Arizona Secretary of State, and of copies of the Bylaws of Borrower, certified by the Secretary of Borrower; and

(iv) Certificates issued by the Arizona Secretary of State and state tax authorities as to the good standing of Borrower, and the tax status of Borrower.

(d) Security Filings. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A UCC-3 (or similar) report of a date not less recent than one (1) week before the initial Construction Loan for each of the jurisdictions in which the UCC-1 financing statements and the fixture filings are intended to be filed in respect of the Collateral, showing that upon due filing or recordation (assuming such filing or recordation occurred on such date), the security interests created under such Collateral Documents will be prior to all other financing statements, fixture filings, deeds of trust, mortgages or other security documents in respect of the Collateral; and

(ii) Evidence that all appropriate financing statements and fixture filings were filed and/or recorded as required hereunder or by law.

(e) Easements. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) A schedule of Applicable Easements required to construct and operate the Phase II Project, which schedules shall be included in and made a part of this Agreement, together with evidence of each Applicable Easement listed on Part I of such schedule and a certificate of an authorized officer of Borrower certifying that neither Borrower nor such authorized officer has any reason to believe that all Applicable Easements that have not been obtained prior to the date of the applicable initial Construction Loan will not be obtained by the dates by which they are required; and

(ii) Other evidence requested by Lender that (A) Borrower has duly obtained the Applicable Easements set forth on Schedule 4, other than those set forth in Part II of such schedule which are not, in light of the status of the acquisition, development, construction and operation of the Project as of the date of the applicable initial Construction

Loan with respect to the Phase II Project, required to have been obtained as of such date and which, in the reasonable opinion of Lender, can be obtained not later than required without substantial difficulty, expense or delay, and (B) such Applicable Easements are in full force and effect and not subject to any condition, limitation or other provision that in the reasonable judgment of Lender or its counsel could have a Material Adverse Effect.

(f) Other Real Estate Matters. Lender shall have received the following items, each in form and substance satisfactory to Lender, with respect to the Phase II Project:

(i) An Estoppel and Consent Certificate in the form of Exhibit I from each lessor of real property to Borrower duly executed by each such Lessor and Borrower;

(ii) Consents to assignment of all material licenses, permits and agreements in the form attached hereto as Exhibit M-1, M-2 and M-3.

(g) Permit, Regulatory and Environmental Matters. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) Schedules of Applicable Permits required to construct and operate the Phase II Project, which schedules shall be included in and made a part of this Agreement, together with copies of each Applicable Permit listed on Part I of Schedule 6, and a certificate of an authorized officer of Borrower certifying that neither Borrower nor such authorized officer has any reason to believe that all Applicable Permits that have not been obtained prior to the date of the initial Construction Loan with respect to the Phase II Project, will not be obtained by the dates by which they are required; and

(ii) Other evidence requested by Lender that (A) Borrower has duly obtained or been assigned the Applicable Permits for the Phase II Project set forth on Schedule 6, other than those set forth in Part II of such schedule which are not, in light of the status of the acquisition, development, construction and operation of the Phase II Project as of the date of the applicable initial Construction Loan, required to have been obtained or made as of such date and which, in the reasonable opinion of Lender, can be obtained not later than required without substantial difficulty, expense or delay, and (B) such Applicable Permits are in full force and effect and not subject to any appeal, restriction, condition, limitation or other provision that in the reasonable judgment of Lender or its counsel could have a Material Adverse Effect.

(iii) A certificate of NDC or another engineer, that all Permits, Easements, Licenses, Leases and other property rights necessary have been obtained and that such Permits, Easements, Licenses, Leases and other property rights form a contiguous and uninterrupted line necessary to construct and operate the Phase II Project as part of the Project.

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(h) Third Party Reports. Lender shall have received satisfactory third- party appraisal, feasibility, engineering, environmental and accounting reviews relating to the Segment.

(i) Opinions. Lender shall have received the opinions, each in form and substance satisfactory to Lender, of:

(i) Olshan Grundman Frome & Rosenzweig, counsel for Borrower, in substantially the form of Exhibit N-1; and

(ii) Lewis & Roca, LLC, special Arizona counsel for Borrower, in substantially the form of Exhibit N-2.

(j) Certificate. Lender shall have received evidence that Borrower has obtained and is maintaining in full force and effect insurance complying with Section 5.14 hereof and Schedule 9 hereto, including (A) a certificate from Borrower's insurance broker(s), dated as of the date of the applicable initial Construction Loan and identifying underwriters, type of insurance, insurance limits and policy terms, listing the special provisions required as set forth in Section 5.14 hereof and Schedule 9 hereto, describing the insurance obtained and stating that such insurance is in full force and effect and that all premiums then due thereon have been paid, and (B) certified copies of all policies evidencing such insurance (or a binder, commitment or certificates signed by the insurer or a broker authorized to bind the insurer).

(k) Financial Statements, Expenditures to Closing Date, Projections, Etc. Lender shall have received and approved the following items, each in form and substance satisfactory to Lender:

(i) An accurate and complete accounting of expenditures of the Project as of the date five (5) Business Days before the date of the applicable initial Construction Loan, certified by the Chief Financial Officer of Borrower.

(ii) Evidence that there has not occurred any material adverse change in, the Project Phase Budget (including Phase II Project

budget), Project Schedule or Base Case Project Projections, in the economics or feasibility of constructing and/or operating the Project, or in the financial condition, business or property of any Major Project Participant, which will have a Material Adverse Effect.

(l) Consents. Lender shall have received executed copies of the Consents, each in form and substance satisfactory to Lender, including without limitation, consents to assignment of each of the Project Documents for the Phase II Project in the forms of Exhibit M-1, M-2 and M-3 hereto.

(m) Due Diligence. Lender shall have approved the results of its due diligence review in connection with the Phase II Project.

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(n) Other Matters. Lender shall have received the following items, each in form and substance satisfactory to Lender:

(i) All information and copies of all documents, including records of corporate proceedings and copies of any approval by any Governmental Authority required in connection with any transaction herein contemplated with respect to the Phase II Project, which Lender may reasonably have requested in connection herewith, such documents where appropriate to be certified by proper corporate officers or Governmental Authorities;

(ii) Evidence that no action, suit, proceeding or investigation has been instituted or threatened by any Person, nor has any order, judgment or decree have been issued or proposed to be issued by any Governmental Authority that could have a Material Adverse Effect;

(iii) Evidence that all taxes, fees and other costs payable in connection with the execution, delivery, recordation and filing of the documents and instruments referred to in this Section 3.3 have been paid in full;

(iv) Evidence that Tomen or an Affiliate of Tomen is serving as Procurement Agent for the Project;

(v) A certificate substantially in the form of Exhibit O hereto, dated as of the date of the initial Construction Loan with respect to the Phase II Project, signed by an authorized officer of Borrower.

#### 3.4. No Approval of Work; Adjustments to Project Phase Budget.

(a) The making of any Construction Loan hereunder shall not be deemed an approval or acceptance by Lender of any work, labor, supplies, materials or equipment furnished or supplied with respect to the Project.

(b) If requested by Borrower, Lender may, in its reasonable discretion, adjust the amounts of any individual categories or line items of Project Costs as set forth in the applicable Project Phase Budget by increasing or decreasing the amounts shown on the Project Phase Budget for each such individual category or line item; provided that, Borrower shall have the right to adjust line items without Lender's consent up to an aggregate maximum change of twenty percent (20%) per line item from the original Project Phase Budget; provided further, that Borrower shall immediately provide Lender with notice of any such adjustments. With respect to adjustments in excess of twenty percent (20%), Borrower shall have the right to request such adjustments from the Lender Representative no more frequently than once each thirty (30) days. The Lender Representative shall approve or disapprove such requests within four (4) Business Days. Notwithstanding anything to the contrary herein, however, no such adjustment made pursuant to this Section 3.4 shall change the aggregate amount of all of the Project Costs as shown on the Project Phase Budgets.

### 3.5. Waiver of Funding; Adjustment of Drawdown Requests.

Notwithstanding the foregoing, Lender, without waiving any of its rights hereunder, shall have the right to make a Construction Loan or Construction Loans hereunder without full compliance by Borrower with the conditions described in this Article 3. If Lender determines that a material item or items listed in a Drawdown Certificate as a Project Phase Cost is not properly included in such Drawdown Certificate, Lender may in its reasonable discretion cause to be made a Construction Loan or Construction Loans in the amount requested in such Drawdown Certificate less the amount of such item or items. In the event that Borrower prevails in any dispute as to whether such Project Phase Costs were properly included in such Drawdown Certificate, Construction Loans in the amount requested but not initially made shall forthwith be made.

3.5A Expenses in Excess of Project Budget. If the amount of Project Costs with respect to the Project exceeds the applicable amount available pursuant to the Loan Facility and the Capital Contribution, GST may make a loan to Borrower in a maximum amount of the unbudgeted Project Costs equal to the difference between the amount, if any, contributed by Borrower's shareholder and fifty percent (50%) of the Project Budget; provided that such loan be unsecured and deeply subordinated to Borrower's obligations to Lender under this Agreement.

3.6. Conditions Precedent to Term Loan Conversion. The obligation of Lender to convert the Construction Loans to a Term Loan is subject to the satisfaction of the following conditions on or prior to the Term Loan Conversion Date (unless waived by Lender):

(a) Completion. Completion of the Project shall have occurred.

(b) Status of Borrower. Lender shall be satisfied that the following are true and correct as of the date on which Borrower has requested that the Term Loan Conversion be made:

(i) Each representation and warranty set forth in Article 4 of this Agreement and in paragraph 3 of the Pledge Agreement is true and correct in all material respects as if made on such date (except for representations and warranties expressly made as of a specified date, which are true as of such date);

(ii) No Event of Default or Default has occurred and is continuing or will result from such Term Loan Conversion;

(iii) No material event of default under and as defined in or applicable to any Project Document has occurred and is continuing; and

(iv) Each Credit Document and Project Document remains in full force and effect.

(c) Conversion Procedure. Lender shall have received the Notice of Term Loan Conversion, in form and substance satisfactory to Lender, within the time periods specified in Section 2.1(b).

#### ARTICLE 4 - REPRESENTATIONS AND WARRANTIES

Borrower makes the following representations and warranties to and in favor of Lender as of the date hereof and as of the Closing Date. All of these representations and warranties shall survive the Closing Date and the making of the Construction Loans and Term Loans:

##### 4.1. Organization.

(a) Borrower (i) is a corporation duly constituted, validly

existing and in good standing under the laws of the State of Arizona, (ii) is duly qualified, authorized to do business and in good standing in each jurisdiction where the character of its properties or the nature of its activities makes such qualification necessary, (iii) has all requisite corporate power and authority (A) to carry on its business as now being conducted and as proposed to be conducted by it, (B) to own or hold under lease and operate the property it purports to own or hold under lease, (C) to execute, deliver and perform each Operative Document to which it is a party, (D) to take all action as may be necessary to consummate the transactions contemplated thereunder and (E) to grant the liens and security interest provided for in the Collateral Documents to which it is a party, and (iv) has the power and authority to execute and deliver each Operative Document to which it is a party.

4.2. Authorization; No Conflict. Borrower has duly authorized, executed and delivered each Operative Document to which Borrower is a party (or such Operative Documents have been duly and validly assigned to Borrower and Borrower has duly and validly assumed the obligations thereunder), and neither Borrower's execution and delivery thereof nor its consummation of the transactions contemplated thereby nor its compliance with the terms thereof (i) does or will contravene the Charter Documents of Borrower or any other Legal Requirement applicable to or binding on Borrower or any of its properties, (ii) does or will contravene or result in any breach of or constitute any default under, or result in or require the creation of any Lien (other than Permitted Liens) upon any of its property under, any agreement or instrument to which it is a party or by which it or any of its properties may be bound or affected, or (iii) does or will require the consent or approval of any Person which has not already been obtained.

4.3. Enforceability. Each Operative Document to which Borrower is a party or which it has assumed is a legal, valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights and subject to general equitable principles. None of the Operative Documents to which Borrower is a party or which it has assumed have been amended or modified except in accordance with this Agreement.

4.4. ERISA. There is no ERISA Plan with respect to Borrower or any ERISA Affiliate, and neither Borrower nor any ERISA Affiliate has maintained, contributed to or been obligated to contribute to any ERISA Plan at any time within the preceding five (5) years.

4.5. Taxes. Borrower has filed all federal, state and local tax returns that it is required to file, has paid all taxes it is required to pay to the extent due (other than those taxes that it is contesting in good faith and by appropriate proceedings, with adequate, segregated reserves established for such taxes) and, to the extent such taxes are not yet due, has established reserves that are adequate for the payment thereof and are required by GAAP.

4.6. Business, Debt, Contracts, Etc. Borrower has not conducted any business other than the development of the Project and activities incidental thereto, it has no outstanding Debt or other material liabilities other than pursuant to or allowed by the Credit Documents, and it is not a party to or bound by any material contract other than the Operative Documents to which it is a party.

4.7. Filings. No filing, recording, refiling or rerecording other than those listed on Schedule 7 is necessary to perfect and maintain the perfection of the interest, title or Liens referred to in Section 4.20, and on the Closing Date all such filings or recordings (other than those that are required to be made only at a later date, which are so indicated on Schedule 7) will have been made.

4.8. Governmental Regulation. Except as described in the following sentence, neither Borrower, nor any Affiliate of Borrower will, solely as a result of the construction, ownership, leasing or operation of the Project, or the entering into any Operative Document or any transaction contemplated hereby or thereby be subject to, or not exempt from, regulation under the Communications Act, or under state laws and regulations respecting the rates or the financial or organizational regulation of fiber optic data transmission companies. Borrower is a "telecommunications common carrier," as that term is defined in the Communications Act, and is classified as a non-dominant carrier by the FCC with respect to any domestic, interstate telecommunications service it offers. Borrower is authorized to provide domestic, interstate telecommunications services as a non-dominant carrier under the FCC regulatory framework, and it has filed an appropriate tariff with the FCC. Borrower does not hold any State regulatory authority in Arizona. Borrower currently provides interstate switched access services and private line services in Arizona. Provision of these interstate services in Arizona does not require Borrower to obtain State regulatory authority from the State of Arizona. Borrower is not subject to regulation under any Governmental Rule as to securities, rates or financial or organizational matters that would preclude any Construction Loan, or the incurrence by Borrower of any of the Obligations or the execution, delivery and performance by Borrower of the Operative Documents.

4.9. Financial Statements. The financial statements of Borrower, as of March 31, 1996, certified by an appropriate authorized officer or other authorized representative of Borrower, copies of which have been delivered to Lender, are true, complete and correct and

fairly present the financial condition of Borrower as of the date thereof. The financial statements have been prepared in accordance with GAAP on a consistent basis throughout the periods indicated and with each other, except that any interim financial statements do not contain all footnotes required by GAAP and are subject to normal year-end adjustments. Borrower does not have and will not have any material liabilities, direct or contingent, except as will be disclosed in such financial statements.

4.10. Partnerships and Joint Ventures. Borrower is not a general partner or a limited partner in any general or limited partnership or a joint venturer in any joint venture.

4.11. No Default.

(a) No Event of Default or Default has occurred or is existing.

(b) Borrower is not in default under any term of any Operative Document, or any agreement relating to any obligation of Borrower for or with respect to borrowed money, and to the best of Borrower's knowledge, no other party to any Project Document is in default with respect to any term thereof.

4.12. Possession of Franchises, Licenses, Etc. Except as disclosed on Schedules 5 and 6 and those the failure of which to obtain does not and will not have a Material Adverse Effect, Borrower possesses all franchises, certificates, licenses, Permits, and other authorizations from any Governmental Authorities (including without limitation the City of Tucson), free from unduly burdensome restrictions, that are necessary or advisable for the leasing, ownership, maintenance and operation of its properties and assets, and Borrower is not in violation of any thereof in any respect. Borrower possesses all patents, copyrights, trademarks and trade names, or rights thereto necessary to perform its duties under the Operative Documents and Borrower is not in violation thereof in any respect or of any valid rights of others with respect to any of the foregoing.

4.13. Permits. There are no Permits under existing law that are or will become Applicable Permits other than the Permits described in Schedules 5 and 6 and those the failure of which to obtain does not and will not have a Material Adverse Effect. Each Applicable Permit (including without limitation the City of Tucson) is either (y) in full force and effect and is not subject to any appeals or further proceedings or to any unsatisfied condition that may allow material modification or revocation, in the case of those Permits listed in Part I of Schedules 5 and 6, or (z), with respect to the Phase II Project, of a type that is routinely granted on application and that would not normally be obtained before the commencement of a construction or reconstruction as contemplated by

the Operative Documents in the case of those Applicable Permits listed in Part II of Schedule 6. Borrower has no reason to believe that any Permit so indicated on Schedule 6 will not be obtained before it becomes an Applicable Permit.

#### 4.14. Offices, Location of Collateral.

(a) The chief executive office or chief place of business (as such term is used in Division 9 of the Uniform Commercial Code as in effect in the State of Arizona from time to time) of Borrower is located at 4317 NE Thurston Way, Vancouver, Washington, 98662.

(b) All of the Collateral (other than the Accounts, the shares of Borrower's Common Stock pledged pursuant to the Pledge Agreement, and general intangibles) is, or when installed pursuant to the Project Documents will be, located on the Leased Property or the Applicable Easements.

(c) Borrower's books of accounts and records are located at 4317 NE Thurston Way, Vancouver, Washington, 98662.

4.15. Adverse Change. To the best of Borrower's knowledge, there are no facts or conditions, with respect to the Project or Borrower which have or in the future will have (so far as Borrower can now reasonably foresee) a Material Adverse Effect which are not listed on Schedule 8.

4.16. Project Documents. Borrower makes, as of the time made, each of the representations and warranties contained in the Project Documents or any Additional Project Document to which Borrower is or will be a party to and for the benefit of Lender as if the same were set forth at length herein.

#### 4.17. Hazardous Substances.

(a) (i) Borrower, is not and has not in the past been in violation of any Hazardous Substance Laws, which violation could result in a material liability to Borrower or its respective properties and assets or in an inability of Borrower to perform its obligations under the Operative Documents; (ii) neither the Borrower nor, to the best knowledge of Borrower, any third party has used, released, discharged, generated, manufactured, produced, stored, or disposed of in, on, under, or about the Leased Property or any part of the Project, or transported thereto or therefrom, any Hazardous Substances in any manner or in quantities that could reasonably be expected to subject Lender or Borrower to liability under any Hazardous Substance Law; (iii) there are no underground tanks, whether operative or temporarily or permanently closed,

located on the Leased Property or any part of the Project; (iv) there are no polychlorinated biphenyls ("PCBs") or items containing PCBs used, stored or present at, on or near the Leased Property or any part of the Project, and (v) to the best knowledge of Borrower, there is or has been no condition, circumstance, action, activity or event that could form the basis of any violation of, or liability to Lender or its Affiliates under, any Hazardous Substance Law.

(b) There is no proceeding, investigation or inquiry by any Governmental Authority (including Governmental Authorities in the State of Arizona and the U.S. Environmental Protection Agency) or any non-governmental third party with respect to the

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presence or release of such Hazardous Substances in, on, from or to the Leased Property or any part of the Project, and to the best knowledge of Borrower, no such proceedings have been requested, suggested or threatened by any such Governmental Authorities or non-governmental third parties.

(c) Borrower has no knowledge of any past or existing violations of any Hazardous Substances Laws by any Person relating in any way to the Leased Property or any part of the Project.

4.18. Transfer of Contracts and Other Rights. All Project Documents and Applicable Permits have been entered into by or duly and validly assigned to Borrower free and clear of all Liens except Permitted Liens, and all necessary Persons have duly consented to such assignment.

4.19. Litigation. There are no pending or, to the best of Borrower's knowledge, threatened actions or proceedings of any kind, including actions or proceedings of or before any Governmental Authority, to which Borrower or the Project is a party or is subject, or by which any of them or any of their properties or the Project are bound that, if adversely determined to or against Borrower or the Project, would have a Material Adverse Effect, nor, to the best of Borrower's knowledge, is there any basis for any such action or proceeding.

4.20. Title, Liens and Easements.

(a) On and after the Closing Date, Borrower will have a good, insurable and indefeasible title to the Project, and all of the Collateral relating to the Project, and a good, insurable and indefeasible interest in the Leased Property and a valid estate in the Applicable Easements other than the Easements described in Part II of Schedules 3 and 4, in each case free and clear of all Liens, encumbrances or other exceptions to title except Liens in favor of

or created by Lender and Liens that do not interfere with the intended use for the Project by Borrower of the Leased Properties or Applicable Easements. The Lien of the Collateral Documents constitutes a valid and subsisting first priority perfected security interest in all the personal property described in the other Collateral Documents, subject to no Liens except the Permitted Liens.

(b) The security interests granted to Lender pursuant to the Collateral Documents in the Collateral (i) as to personal property included in the Collateral, constitute and, with respect to subsequently acquired personal property included in the Collateral, will constitute, perfected security interests under the UCC (to the extent such personal property is subject to the UCC) and (ii) are, and, with respect to such subsequently acquired property, will be, as to Collateral perfected under the UCC (to the extent such personal property is subject to the UCC), superior and prior to the rights of all third Persons now existing or hereafter arising whether by way of mortgage, lien, security interests, encumbrance, assignment or otherwise, except for Permitted Liens. Except to the extent possession of portions of the Collateral is required for perfection, all such action as is necessary has been taken to establish and perfect Lender's rights in and to the Collateral, including any

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recording, filing, registration, giving of notice or other similar action. The Collateral Documents relating to the Collateral and the financing statements relating thereto have been duly filed or recorded in each office and in each jurisdiction where required in order to create and perfect the first lien and security interest described above. Borrower has properly delivered or caused to be delivered to Lender all Collateral that requires perfection of the Lien and security interest described above by possession.

(c) There are no Easements that are or will become Applicable Easements other than the Easements described in Schedules 3 and 4. Each Applicable Easement is either (y) in full force and effect and is not subject to any unsatisfied condition that may allow material modification or revocation, in the case of those Easements listed in Part I of Schedules 3 and 4, or (z) with respect to the Phase II Project, of a type that would not normally be obtained at the stage of the construction on the Closing Date, as contemplated by the Operative Documents, in the case of those Applicable Easements listed in Part II of Schedule 4. Borrower has no reason to believe that any Easement so indicated on Schedule 4 will not be obtained before it becomes an Applicable Easement.

4.21. Utilities. All utility services necessary for the construction and the operation of the Project for its intended purposes are available or will be so available as and when required.

#### 4.22. Sufficiency of Project Documents.

(a) Other than those that can be reasonably expected to be commercially available when and as required, the services to be performed, the materials to be supplied and the real property interests, the Applicable Easements, the Applicable Permits, and other rights granted pursuant to the Project Documents:

(i) comprise all of the property interests necessary to secure any right material to the acquisition, leasing, development, construction, installation, completion, operation and maintenance of the Project in accordance with all Legal Requirements and in accordance with the Project Schedules, all without reference to any proprietary information not owned by Borrower;

(ii) are sufficient to enable the Project to be located, constructed and operated; and

(iii) provide adequate ingress and egress for any reasonable purpose in connection with the construction and operation of the Project.

(b) There are no services, materials or rights required for the construction or operation of the Project in accordance with the Construction Contracts, the Plans and Specifications and the Base Case Project Projections other than those that can reasonably be expected to be commercially available within the line items contained in the applicable Project Phase Budget.

4.23. Securities. No registration of the Note under the Securities Act of 1933, as amended, or under the securities laws of any state is required in connection with the offering, issuance, sale or transfer of the Note hereunder.

4.24. Disclosure. Neither this Agreement nor any certificate furnished to Lender, or to any consultant submitting a report to Lender, by or, to the knowledge of Borrower, on behalf of Borrower in connection with the transactions contemplated by this Agreement, the other Project Documents or the design, construction, testing or operation of the Project, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading under the circumstances in which they were made at the time such statements are made. There is no fact known to Borrower which Borrower has not disclosed in writing to Lender which does or reasonably could have a Material Adverse Effect.

4.25. Construction Budget; Projections. Borrower has prepared the Project Phase Budgets and the Base Case Project Projections and is responsible for developing the assumptions on which the Project Phase Budgets and the Base Case Project Projections are based. The Project Phase Budgets and the Base Case Project Projections (i) are, to the best of Borrower's knowledge as of the Closing Date, based on reasonable assumptions as to all legal and factual matters material to the estimates set forth therein, and (ii) as of the Closing Date are consistent with the provisions of the Project Documents. In the reasonable opinion of Borrower, as of the Closing Date the textual material accompanying the Base Case Project Projections discloses all information reasonably necessary for an understanding of the Base Case Project Projections, and does not contain any material misstatements or omit any information which, in conjunction with other information given, would be necessary to make such information not materially misleading.

4.26. Intellectual Property. Borrower owns or has the right to use all patents, trademarks, service marks, trade names, copyrights, licenses and other rights, which are necessary for the operation of its business as presently conducted. To the best of Borrower's knowledge, (a) no product, process, method, substance, part or other material presently contemplated to be sold by or employed by Borrower in connection with its business will infringe upon any patent, trademark, service mark, trade name, copyright, license or other intellectual property right of any other Person, (b) there are no pending or threatened claims or litigation against or affecting Borrower contesting or calling into question its right to sell or use any such product, process, method, substance, part or other material or (c) there is no existing pending or proposed, patent, invention, device, application or principle or any Governmental Rule or standard or code which would prevent or inhibit or substantially reduce the projected revenues of Borrower, or otherwise have a Material Adverse Effect.

## ARTICLE 5 - COVENANTS OF THE BORROWER

Borrower covenants and agrees that so long as this Agreement is in effect, it will, unless Lender waives compliance in writing:

5.1. Notices. Promptly, upon acquiring notice or giving notice, as the case may be, or obtaining knowledge, give written notice to Lender of:

(a) Any litigation pending or, to the knowledge of Borrower,

threatened against Borrower involving claims against Borrower or the Project in excess of \$100,000 in the aggregate or involving any injunctive or declaratory relief, such notice to include copies of all papers filed in such litigation and to be given monthly if any such papers have been filed since the last notice given;

(b) Any dispute or disputes which may exist between Borrower and any Governmental Authority and which involve (i) claims against Borrower which individually exceed \$100,000 or in the aggregate exceed \$200,000, (ii) injunctive or declaratory relief, (iii) revocation, expiration or modification or the like of any Applicable Permit or Applicable Easement, or (iv) any Liens for taxes due but not paid;

(c) Any Event of Default or Default;

(d) Any casualty, damage or loss, whether or not insured, through fire, theft, other hazard or casualty, or any act or omission of Borrower, its employees, agents, contractors, consultants or representatives, or of any other Person if such casualty, damage or loss affects Borrower or the Project, in excess of \$50,000 for any one casualty or loss, or an aggregate of \$100,000; or

(e) Any matter which has resulted or is likely, in light of other circumstances affecting Borrower, to have a Material Adverse Effect.

## 5.2. Financial Statements, Reports, Etc.

(a) Deliver to Lender (or cause to be delivered to Lender), in form and detail reasonably satisfactory to Lender, unless delivery and/or the timing of delivery is waived by Lender:

(i) As soon as available but no later than sixty (60) days after the close of the first, second and third quarterly periods of its fiscal year, quarterly (and year-to-date) financial statements of and prepared by Borrower to include a balance sheet and an income and expense statement;

(ii) As soon as available but no later than one hundred twenty (120) days after the close of each applicable fiscal year, audited financial statements of Borrower including a statement of equity, a balance sheet as of the close of such year, an income and expense statement, reconciliation of capital accounts and a statement of cash flows, all

public accountant selected by the Person whose financial statements are being prepared and satisfactory to Lender. Such certificate shall not be qualified or limited because of restricted or limited examination by such accountant of any material portion of the records of the applicable Person;

(iii) On the tenth day of each month, with respect to the preceding month, a report with respect to the Phase I Project and the Phase II Project substantially in the form of Exhibit P hereto.

(iv) Within thirty (30) days after Completion of each Project Phase, "as built" maps indicating the locations related to each Easement, Permit, Collation Agreement, Inter-Connection Agreement, and Pole and Conduit Use Agreement.

(v) Such other statement or statements, list of property and accounts, budgets, forecasts or reports relating to the Project, as Lender may reasonably request from time to time and that can be provided without unreasonable cost to or effort on the part of Borrower.

(b) Each time the financial statements are delivered under subsections (i) or (ii) of Section 5.2(a), a certificate signed by the natural person who is a senior financial officer of Borrower shall be delivered along with such financial statements, certifying that such officer has made or caused to be made a review of the transactions and financial condition of the Borrower during the relevant fiscal period and that such review has not, to the best of such officer's knowledge, disclosed the existence of any event or condition which constitutes an Event of Default or a Default hereunder or under any Credit Document applicable to Borrower, or if any such event or condition existed or exists, the nature thereof and the corrective actions that Borrower has taken or proposes to take with respect thereto, and also certifying that the Borrower is in compliance with all applicable provisions of this Agreement or any other Credit Document applicable to Borrower or, if such is not the case, stating the nature of such non-compliance and the corrective actions which Borrower has taken or proposes to take with respect thereto.

5.3. Existence, Conduct of Business, Properties, Etc. Except as otherwise expressly permitted under this Agreement, (a) maintain and preserve its existence as an Arizona corporation and all rights, privileges and franchises necessary or desirable in the normal conduct of its business, (b) perform all of its contractual obligations under the Project Documents and all other agreements and contracts by which it is bound, maintain all necessary Permits, including all Applicable Permits, with respect to its business and the Project, except such as may be contested in good faith or as to which a bona fide dispute may exist, provided that the non-payment of same would not reasonably be anticipated to result in a Material Adverse Effect or that provision is made to the satisfaction of Lender in its reasonable discretion for the posting of security (other than the Collateral) for or the bonding of such obligations or the prompt payment thereof in the event that such obligation is payable, (c) at or before the time that any Permit becomes an Applicable Permit, obtain such Permit, and (d) engage only in the business contemplated by the Operative Documents.

5.4. Obligations. Pay all Obligations, howsoever arising, as and when due and payable, including taxes and tax claims, except (a) such as may be contested in good faith or as to which a bona fide dispute may exist, provided that the non-payment of same would not reasonably be anticipated to result in a Material Adverse Effect or that provision is made to the satisfaction of Lender in its reasonable discretion for the posting of security (other than the Collateral) for or the bonding of such obligations or the prompt payment thereof in the event that such obligation is payable and (b) Borrower's trade payables which shall be paid in the ordinary course of business.

5.5. Damage and Cancellation Payments. Except as otherwise expressly permitted under this Agreement apply the proceeds of any surety, performance or similar bonds and any liquidated or other damages paid in respect of damage payments or performance payments by any contractors or subcontractors or other Persons involved in the construction and operation of the Project, to prepay the Loan Facility.

5.6. Books, Records, Access. Maintain adequate books, accounts and records with respect to Borrower and the Project and prepare all financial statements required hereunder in accordance with GAAP and in compliance with the regulations of any Governmental Authority having jurisdiction thereof, and permit employees or agents of Lender, at any reasonable times and upon reasonable prior notice to inspect all of Borrower's properties, including the Leased Property, to examine or audit all of Borrower's books, accounts and records and make copies and memoranda thereof and to observe the operation, maintenance and repair of the Project.

5.7. Operation of Project and Annual Budget.

(a) (i) Keep the Project, or cause the same to be kept, in good operating condition consistent with Prudent Practices, all Applicable Permits and applicable Legal Requirements and all applicable requirements of the Operative Documents, and make or cause to be made all repairs (structural and non-structural, extraordinary or ordinary) necessary to keep the Project in such condition; and (ii) operate and maintain the Project in a manner consistent with Prudent Practices and in compliance with the terms of the Project Documents so as to assure, to the extent reasonably possible, the maximum generation of net revenue for the Project consistent with the Project Documents.

(b) On or before the date forty-five (45) days prior to the Expected Completion Date, deliver to Lender an update of the Project Phase

Budget for the period from the date it is delivered until the anticipated commencement of commercial operation of the Project Phase and the Annual Operating Budget for the period from the anticipated commencement of commercial operation through the end of the first full fiscal year thereafter (collectively, the "First Annual Operating Budget"), in form and substance reasonably acceptable to Lender, setting forth all anticipated start-up costs, Project Revenues, Debt Service, proposed distributions, maintenance, repair and operation expenses (including reasonable allowance for contingencies), and all other anticipated Operation and Maintenance Costs for the Project for such period. Such First Annual Operating Budget shall be delivered by Borrower to Lender no later than August 16, 1996, in the case of the Phase I Project, and

no later than August 16, 1997, in the case of the Phase II Project, it being understood that such First Annual Operating Budget and all subsequent Annual Operating Budgets (described below) may cover the entire Project after both Project Phases have reached Completion. No less than forty-five (45) days in advance of the beginning of each fiscal year thereafter, Borrower will similarly adopt an Annual Operating Budget for the ensuing fiscal year covering the matters (other than start-up costs) specified above in this Section 5.7(b) and such other matters as may be reasonably required by Lender. Copies of the draft Annual Operating Budget for each year of operation shall be promptly furnished to Lender for review and approval. If Lender does not approve the draft Annual Operating Budget submitted by Borrower, Lender shall give written notice to Borrower within fifteen (15) days of Lender's receipt of such draft Annual Operating Budget in compliance with Section 10.1 hereof. If Lender and Borrower do not agree on a final Annual Operating Budget by the date the new fiscal year commences, the previous fiscal year Annual Operating Budget increased by ten percent (10%) shall be used until Lender and Borrower agree on the new final Annual Operating Budget; provided however, that if a dispute in the previous fiscal year resulted in such a ten percent (10%) increase in the Annual Operating Budget, the parties shall use the previous fiscal year Annual Operating Budget without increase. The Operation and Maintenance Costs in each such Annual Operating Budget which are subject to escalation limitations in the Project Documents shall not, absent extraordinary circumstances, be increased from year to year by more than the amounts provided in such Project Documents. Borrower will operate and maintain the Project, or cause the Project to be operated and maintained, within each Annual Operating Budget as approved by Lender.

5.8. Completion. Achieve Completion in a timely and diligent manner in accordance with the Project Schedule, the Construction Contracts and the Plans and Specifications, the Project Phase Budgets as the same may be extended, and in no event later than December 31, 1997.

## 5.9. Preservation of Rights; Further Assurances.

(a) Preserve, protect and defend the rights of Borrower under each and every Project Document, including prosecution of suits to enforce any right of Borrower thereunder and enforcement of any claims with respect thereto, and, at the request of Lender, permit Lender to participate in such capacity as it may choose in any such suit, any defense thereof or in the preparation therefor; provided, however, that upon the occurrence and during the continuance of any Event of Default, if Lender requests that certain actions be taken and Borrower fails to take the requested action within five (5) Business Days, Lender may enforce, in its own name, in the name of Lender or Borrower's name, such rights of Borrower.

(b) From time to time, execute, acknowledge, record, register, deliver and/or file all such notices, statements, instruments and other documents, including any memorandum of lease or other agreement, financing statement, continuation statement, certificate of title or estoppel certificate relating to the Loan Facility stating the interest and charges then due and any known defaults, and take such other steps as may be necessary or advisable to render fully valid and enforceable under all applicable laws the rights, liens and

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priorities of Lender with respect to all Collateral and other security from time to time furnished under this Agreement or intended to be so furnished, in each case in such form and at such times as shall be satisfactory to Lender, and pay all fees and expenses (including attorneys' fees and expenses) incident to compliance with this Section 5.9(b).

(c) If Borrower shall at any time acquire any real property or leasehold or other interest in real property, promptly upon such acquisition (or on the Closing Date if such acquisition occurred prior thereto) execute, deliver and record a mortgage, satisfactory in form and substance to Lender, subjecting such real property or leasehold or other interests to a lien and security interest of Lender created by such mortgage.

5.10. Construction of Project. Make or cause to be made all contracts and do or cause to be done all things reasonably necessary for the acquisition, construction, expansion, improvement and equipping of the Project, with or without advertising for bids, and cause the Project to be constructed, expanded, improved and equipped substantially in accordance with the Plans and Specifications, the Construction Contracts, the Project Phase Budget and Project Schedule (insofar as necessary to comply with Section 5.7) and not exceeding the

disbursements as contemplated by the Construction Contracts, except as compliance therewith may be waived pursuant to Section 6.12 hereof. Without limiting the generality of the foregoing, Borrower shall diligently pursue and enforce all of its rights and remedies under the Construction Contracts, and any other contracts or agreements related to the construction of the Project and shall ensure that the Project is constructed substantially in accordance with all such contracts and agreements, to the extent applicable.

5.11. Taxes, Other Government Charges and Utility Charges. Pay, or cause to be paid, as and when due and prior to delinquency, all taxes, assessments and governmental charges of any kind that may at any time be lawfully assessed or levied against or with respect to Borrower or the Project, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project, and all assessments and charges lawfully made by any Governmental Authority for public improvements that may be secured by a lien on the Project. However, Borrower may contest in good faith any such taxes, assessments and other charges and, in such event, may permit the taxes, assessments or other charges so contested to remain unpaid during any period, including appeals, when Borrower is in good faith contesting the same, so long as (a) reserves reasonably satisfactory to Lender have been established in an amount sufficient to pay any such taxes, assessments or other charges, accrued interest thereon and potential penalties or other costs relating thereto, or other adequate provision for the payment thereof shall have been made, (b) enforcement of the contested tax, assessment or other charge is effectively stayed for the entire duration of such contest, and (c) any tax, assessment or other charge determined to be due, together with any interest or penalties thereon, is immediately paid after resolution of such contest.

5.12. Compliance with Laws, Instruments, Etc. At its expense, promptly (a) comply, or cause compliance, in all material respects, with all laws, rules, regulations and Legal Requirements, including laws, rules, regulations and Legal Requirements, relating to pollution control, environmental protection, equal employment opportunity or employee benefit plans and employee safety, with respect to Borrower or the Project, whether or not

compliance therewith shall require structural changes in the Project or any part thereof or require major changes in operational practices or interfere with the use and enjoyment of the Project or any part thereof, and (b) procure, maintain and comply, or cause to be procured, maintained and complied with, in all material respects, all Permits required for any use of the Project or any part thereof, then being made or contemplated by the Operative Documents, except that Borrower may, at its expense, contest by appropriate proceedings conducted in good faith the validity or application of any such law, rule or regulation;

provided that, (i) neither Lender nor Borrower would be subject to any criminal liability for failure to comply therewith and (ii) all proceedings to enforce such law, rule or regulation against Lender, Borrower, or the Project or any part of any of them, shall have been duly and effectively stayed during the entire pendency of such contest.

5.13. Warranty of Title. Maintain (a) good, marketable and insurable leasehold estate to the Leased Property, and good, marketable and insurable title to the Applicable Easements and (b) good, marketable, insurable and indefeasible title to all of its other respective properties and assets (other than properties and assets disposed of in the ordinary course of business) to the extent that failure to do so would have a Material Adverse Effect.

#### 5.14. Maintenance of Insurance.

(a) Required Insurance. Borrower shall, without cost to Lender, maintain or cause to be maintained on its behalf in effect at all times the types of insurance set forth in Schedule 9, together with any other types of insurance required under this Agreement.

(b) Rights of Lender. If at any time the insurance as herein provided shall be reduced or cease to be maintained, then (without limiting the rights of Lender hereunder in respect of the Event of Default which arises as a result of such failure) Lender may at its option obtain and maintain the insurance required hereby and, in such event, Borrower shall reimburse Lender upon demand for the cost thereof together with interest thereon at a rate per annum equal to the Default Rate. If Borrower fails to respond in a timely and appropriate manner (as reasonably determined by Lender) to take any steps necessary or reasonably requested by Lender to collect from any insurers for any loss covered by any insurance required to be maintained by this Section 5.14, Lender shall have the right to make all proofs of loss, adjust all claims and/or receive all or any part of the proceeds of the foregoing insurance policies, either in its own name or the name of Borrower; provided, however, that Borrower shall, upon Lender's request and at Borrower's own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by Lender to collect from insurers for any loss covered by any insurance required to be obtained by this Section 5.14.

(c) Insurance Compliance. On or before the Closing Date and annually at each policy renewal Borrower shall furnish to Lender, (i) a certificate signed by a duly authorized representative of Borrower, listing the insurance then maintained by or on behalf of Borrower and stating that such insurance complies in all respects with the terms hereof, together with evidence of payment of the premiums thereon, and (ii) the report of Borrower's insurance broker, and prior to Completion, the report of Contractors' insurance broker, to

the effect that Borrower's insurance complies in all respects with the terms of this Section 5.14 and Schedule 9.

(d) Borrower shall and shall cause (i) all of Borrower's contractors to, name Lender a loss payee or an additional insured on each insurance policy with respect to any aspect of the Project or a Project Phase and (ii) all such insurance policies to provide Lender with written notice ten (10) days prior to cancellation of any such insurance policy for non-payment of premiums and thirty (30) days prior to cancellation of any such insurance policy for any other reason.

5.15. Event of Eminent Domain. If an Event of Eminent Domain shall be threatened or occur with respect to any Collateral, (a) promptly upon discovery or receipt of notice of any such threat or occurrence provide written notice thereof to Lender, (b) diligently pursue all its rights to compensation against the relevant Governmental Authority in respect of such Event of Eminent Domain, (c) not, without the written consent of Lender, which consent shall not be unreasonably withheld, compromise or settle any claim against such Governmental Authority, (d) hold all amounts and proceeds (including instruments) received in respect of any Event of Eminent Domain ("Eminent Domain Proceeds") in trust for the benefit of Lender, segregated from other funds of Borrower, for application in accordance with Section 7.3, and (e) forthwith pay over to Lender all such amounts and proceeds in the same form as received (with any necessary endorsement) to be held and applied in accordance with the provisions of Section 7.3. Borrower consents to the participation of Lender in any eminent domain proceedings, and Borrower shall from time to time deliver to Lender all instruments requested by it to permit such participation.

#### 5.16. Indemnification.

(a) Indemnify, defend and hold harmless Lender and, in their capacities as such, Lender's respective officers, directors, shareholders, controlling persons, employees, agents and servants (collectively, the "Indemnitees") from and against and reimburse the Indemnitees for any and all losses, claims, obligations, liabilities, damages, injuries (to person, property or natural resources), penalties, stamp or other similar taxes, actions, causes of action, suits, judgments, costs and expenses (including attorneys' and consultants' fees and expenses) of whatever kind or nature, whether or not well founded, meritorious or unmeritorious, demanded, asserted or claimed against any such Indemnitee in any way relating to, or arising out of or in connection with (i) this Agreement, the other Operative Documents or the Project; (ii) any Legal Requirement or Permit relating to the Project or Borrower, the release or presence of any Hazardous Substance at the Project or released or disposed of by the Project or by or on behalf of Borrower, whether foreseeable or unforeseeable, including all costs of removal and disposal of such Hazardous Substances, all costs required to be incurred in determining whether the Project is and causing the Project to be in compliance with all applicable Legal Requirements and Permits; and (iii) any claims, suits or liabilities against or

of Borrower or its Affiliates.

(b) The foregoing indemnities shall not apply with respect to an Indemnatee, to the extent the claims, damages, liabilities or losses arise as the direct and sole

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result of the gross negligence or willful misconduct of such Indemnatee, but shall continue to apply to other Indemnatees.

(c) The provisions of this Section 5.16 shall survive foreclosure of the Collateral Documents and satisfaction or discharge of Borrower's obligations hereunder and shall be in addition to any other rights and remedies of Lender.

(d) In case any action, suit or proceeding shall be brought against any Indemnatee, such Indemnatee shall notify in writing Lender and Borrower of the commencement thereof, and Borrower shall be entitled, at its expense, acting through counsel reasonably acceptable to such Indemnatee, to participate in, and, to the extent that Borrower desires, to assume and control the defense thereof. Such Indemnatee shall thereafter be entitled, at its expense, to participate in any action, suit or proceeding the defense of which has been assumed by Borrower. Notwithstanding the foregoing, Borrower shall not be entitled to assume and control the defenses of any such action, suit or proceedings if and to the extent that, in the opinion of such Indemnatee and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on such Indemnatee or a conflict of interest between such Indemnatee and Borrower or between such Indemnatee and another Indemnatee, and in such event (other than with respect to disputes between such Indemnatee and other Indemnatees) Borrower shall pay the reasonable expenses of such Indemnatee in such defense, but not more than the expense of one additional counsel.

(e) Borrower shall report to such Indemnatee on the status of such action, suit or proceeding as developments shall occur. Borrower shall deliver to such Indemnatee a copy of each document filed or served on any party in such action, suit or proceeding, and each document which Borrower possesses relating to such action, suit or proceeding.

(f) Upon payment of any claim by Borrower pursuant to this Section 5.16 or other similar indemnity provisions contained herein to or on behalf of an Indemnatee, Borrower, without any further action, shall be subrogated to any and all claims that such Indemnatee may have relating thereto, and such Indemnatee shall cooperate with Borrower and give such further assurances as are necessary or advisable to enable Borrower vigorously to pursue

such claims. Payment thereof by any Indemnatee or the payment by such Indemnatee of any judgment or claim successfully perfected against such Indemnatee shall be payable upon demand of such Indemnatee.

(g) Any amounts payable by Borrower pursuant to this Section 5.16 shall be regularly payable within thirty (30) days after Borrower receives an invoice for such amounts from any applicable Indemnatee.

5.17. Development Company Net Cash Flow Agreements. At the time of the closing of the debt financing of subsequent Network Projects funded by Lender or one of its Affiliates, enter into agreements pledging the Net Cash Flow of Borrower to support the Obligations of each other Development Company to Lender and its Affiliates upon a default or event of a default of any other Development Company; provided however, that a default or event of default on the part of another Development Company with respect to its Network

Project Credit Agreement by itself, shall not constitute a default or event of default with respect to this Agreement by Borrower, but rather the Net Cash Flow of Borrower shall be available to cure the default or event of default of such other Development Company or Companies. Lender's and its Affiliates' interest in Borrower's Net Cash Flow pursuant to such pledge agreements shall be senior to all other Debt of Borrower (except Borrower's other Obligations to Lender under this Agreement) and any obligations of Borrower to Greenstar for management fees.

5.18. Consents to Assignment. Borrower shall obtain consents to assignment from third parties to Project Documents not entered into as of the Closing at the time such Project Documents are entered into in the forms of Exhibit M-1, M-2 and M-3, as applicable. Borrower shall provide Lender with a status report with respect to Project Documents entered into and consents to assignment to be obtained no less frequently than every month in the monthly reports required pursuant to Section 5.2, commencing on the tenth day of the month which first occurs after the Closing Date. Borrower shall provide Lender with each new consent to assignment received within three (3) days of receipt by Borrower of such consent to assignment.

## ARTICLE 6 - NEGATIVE COVENANTS

Borrower covenants and agrees that until the entire principal balance of the Loan Facility, together with all interest, fees, charges and costs due to Lender under this Agreement are paid in full, it will not, without the prior written consent of Lender:

6.1. Contingent Liabilities. Except as provided in this Agreement, become liable as a surety, guarantor, accommodation endorser or otherwise, for or upon the obligation of any other Person; provided, however, that this Section 6.1 shall not be deemed to prohibit:

(a) The acquisition of goods, supplies or merchandise in the normal course of business or normal trade credit; or

(b) The endorsement of negotiable instruments received in the normal course of its business.

6.2. Limitations on Liens. Create, incur, assume or permit to exist any Lien, securing a charge or obligation on the Project or on any of the Collateral, real or personal, whether now owned or hereafter acquired, except Permitted Liens.

6.3. Indebtedness. Incur, create, assume or permit to exist any Debt except (a) the Loan Facility, (b) up to Two Hundred Fifty Thousand Dollars (\$250,000) of Debt incurred in the ordinary course of business and (c) obligations of Borrower for money borrowed to finance Project cost overruns pursuant to Section 3.5A which is unsecured and deeply subordinated to Borrower's Obligations to Lender hereunder, or cancel, modify, renew or otherwise rearrange any Debt or make execute or deliver any assignment for the benefit of creditors, bond, confession of judgment, mortgage or deed.

6.4. Sale or Lease of Assets. Sell, lease, assign, transfer or otherwise dispose of assets or property, whether now owned or hereafter acquired, (a) except in the ordinary course of its business as contemplated by the Operative Documents and (b) except for obsolete, worn out or replaced property not used or useful in its business, in each case, at fair market value. The ordinary course of Borrower's business shall include sale or lease of irrevocable rights to use dark fiber and conduits.

6.5. Changes. Change the nature of its business or expand its business other than (i) developing and operating a fiber optic and digital telecommunications network and (ii) provision of telecommunications services and capacity.

6.6. Dividends, Redemptions, Etc. Except in connection with a distribution to GST of the amount of any Contributed Capital in excess of \$4,000,000, (i) pay any dividends or make any distributions on its Equity

Securities; (ii) purchase, redeem, retire, defease or otherwise acquire for value any of its Equity Securities; (iii) return any capital to any holder of its Equity Securities as such; (iv) make any distribution of assets, Equity Securities, obligations or securities to any holder of its Equity Securities as such; or (v) set apart any sum for any such purpose.

6.7. Investments. Make or permit to remain outstanding any advances, loans or extensions of credit to, or purchase or own any stock, bonds, notes, debentures or other securities of any Person, except Permitted Investments.

6.8. Transactions With Affiliates. Directly or indirectly, enter into any transaction or series of transactions with or for the benefit of an Affiliate or utilize the collateral in any way for the furtherance of its or any of its Affiliates' personal business activities without the prior written approval of Lender, except for (i) the Services Agreement entered into between Borrower and GST on as of October 1, 1995, an executed copy of which has been delivered to Lender, as the same may be amended from time to time with Lender's prior written consent, and (ii) any other agreement for the provision of goods or services by an Affiliate of Borrower to Borrower or by Borrower to an Affiliate of Borrower; provided that all direct and indirect fees and charges thereunder are reasonable and comparable to those available from other providers of such goods or services, or to other customers of Borrower, as the case may be.

6.9. Loan Proceeds; Project Revenues. Use, pay, transfer, distribute or dispose of any Loan Facility proceeds in any manner or for any purposes except as provided in Section 2.1(a)(iii) or of any Project Revenues in any manner or for any purposes except as provided in Section 7.1.

6.10. Partnerships. Become a general or limited partner in any partnership or a joint venturer in any joint venture.

6.11. Dissolution. Liquidate or dissolve, or sell or lease or otherwise transfer or dispose of all or any substantial part of its property, assets or business, or combine, merge or consolidate with or into any other entity.

6.12. Amendments; Change Orders; Completion. Cause, consent to or permit any amendment, modification, variance or waiver of timely compliance with any terms or conditions of any Project Document if it would have a Material Adverse Effect, or cancel or terminate any Operative Document to which Borrower is a party.

6.13. Name and Location; Fiscal Year. Change its name or the location of its principal place of business without notice to Lender at least thirty (30) days prior to such change, or change its fiscal year without Lender's consent.

6.14. Assignment. Assign its rights hereunder or under any of the Operative Documents to any Person.

6.15. Transfer of Ownership Interests. Cause, make, suffer, permit or consent to any sale, assignment or transfer of any ownership or other interest in Borrower or any right thereto, except that GSI or any direct or indirect subsidiary of GSI that is a direct or indirect parent of Borrower (a "Specified GSI Subsidiary") may sell securities of a specified GSI Subsidiary in a transaction which does not result in the loss of control of such Specified GSI Subsidiary by GSI or a Specified GSI Subsidiary, as the case may be ("loss of control" includes the sale or other transfer of more than 49% of the Equity Securities of such Specified GSI Subsidiary or the rights thereto, and the loss of the voting power on the board of directors required to control such Specified GSI Subsidiary). As used herein, the transfer of an ownership interest in Borrower shall include direct and indirect transfers, including sale of stock or ownership interests or rights thereto in any entity which has a direct ownership interest in Borrower; provided that the provisions of this sentence shall not be applicable to the transfer of stock or ownership interests or rights thereto in GSI or any corporation the securities of which are publicly held.

6.16. Abandonment of Project. Voluntarily abandon the development, construction, operation, maintenance or repair of the Project or any Phase thereof.

6.17. Hazardous Substance. Release, emit or discharge into the environment any Hazardous Substances in excess of permitted levels or reportable quantities or in violation of other permitted concentrations, standards or limitations under any Hazardous Substance Laws, Legal Requirements or Applicable Permits.

6.18. ERISA. Neither Borrower nor any ERISA Affiliate shall (i) adopt or institute any ERISA Plan, (ii) take any action which will result in the partial or complete withdrawal, within the meanings of sections 4203 and 4205 of ERISA, from a Multiemployer Plan, (iii) engage or permit any Person to engage in any transaction prohibited by section 406 of ERISA or section 4975 of the Code involving any Employee Benefit Plan or Multiemployer Plan which would subject either Borrower or any ERISA Affiliate to any tax, penalty or other liability including a liability to indemnify, (iv) incur or allow to exist any accumulated funding deficiency (within the meaning of section 412 of the Code or section 302 of ERISA), (v) fail to make full payment when due of all amounts due as contributions to any Employee Benefit Plan or Multiemployer Plan, (vi) fail to comply with the requirements of section 4980B of the Code or Part 6 of Title I(B) of ERISA, or (vii) adopt any amendment to

any Employee Benefit Plan which would require the posting of security pursuant to section 401(a)(29) of the Code, where singly or cumulatively, the above would have a Material Adverse Effect.

## ARTICLE 7 - APPLICATION OF FUNDS

### 7.1. Receipts Account and Operating Account.

(a) On or prior to the date of the initial Construction Loan hereunder, Borrower and Lender shall establish at Bank of America, Sacramento RBCO, or another bank which shall be reasonably acceptable to Lender, accounts entitled "Tucson Lightwave Project -- Receipts Account" (the "Receipts Account") and "Tucson Lightwave Project -- Operating Account" (the "Operating Account"), respectively. Borrower shall deposit all Project Revenues (excluding Construction Loan proceeds disbursed by Lender directly to the Person(s) entitled thereto) in the Receipts Accounts and the Operating Account shall be used to pay all Project Costs. On the first Business Day of each month until the Loan Facility has been repaid in full, provided no Default or Event of Default has occurred and is continuing, Lender will, to the extent funds are available in the Receipts Account and are not otherwise restricted or designated for a different use or purpose, transfer funds from the Receipts Account at the following times and in the following order of priority:

(i) Monthly, to the Operating Account the amount shown for such month on the applicable Annual Operating Budget, for the payment of Operation and Maintenance Costs currently payable and with respect to which funds have not already been withdrawn from the Operating Account;

(ii) from time to time, to the payment of all fees, costs, charges and any other amounts due and payable to Lender in connection with this Agreement and the other Credit Documents;

(iii) at the times set forth in Section 2.1(e), to the payment of interest and principal on the Loan Facility;

(iv) on or within thirty (30) days after the dates set forth in Section 2.1(e) and to the extent permitted under Section 6.6 and after the establishment of prudent reserves for any reasonably anticipated expenses or other items (which shall be retained in the Operating Account), to Borrower, any part of which may be used by Borrower to pay dividends to its shareholder in an aggregate amount up to the amount described in Section 6.6 and in compliance with applicable law.

Upon repayment in full of all amounts due under this Agreement and satisfaction

of all Obligations under the Credit Documents, Lender shall disburse any amounts on deposit in the Receipts Account and the Operating Account to Borrower.

(b) Notwithstanding anything in Section 7.1(a) to the contrary, in lieu of transferring some or all of the amount shown on the applicable Annual Operating Budget into the Operating Account for the payment of Operation and Maintenance Costs, Lender may, and Borrower hereby authorizes Lender to, pay some or all of the Operation and Maintenance Costs directly to the Person(s) entitled thereto, and such payment shall discharge pro tanto the obligations of Lender hereunder with respect to such amounts.

(c) Any of the payments, disbursements or transfers of funds provided for in this Section 7.1 may be made notwithstanding the existence of a Default or Event of Default if the requirement that there be no existing Default or Event of Default is waived by Lender in its sole discretion. Such waiver may apply to any or all such payments, disbursements or transfers of funds and may apply to payments of a lesser priority without applying to payments of a greater priority. (For example, such a waiver may apply to payments of Debt Service without necessarily applying to payment of Operation and Maintenance Costs.)

(d) Operation and Maintenance Costs payable pursuant to Section 7.1(a) (i) shall not in any event exceed the amounts shown on the approved Annual Operating Budget (as it may be revised from time to time as provided in Section 5.7(b)). Borrower shall promptly pay all Operation and Maintenance Costs in excess of the foregoing limit from funds which are otherwise distributable to Borrower hereunder, other unrestricted funds of Borrower or equity funds provided to Borrower. To the extent the Annual Operating Budget is revised pursuant to Section 5.7(b), additional amounts may be transferred to the Operating Account as set forth in Section 7.1(a).

(e) Notwithstanding the preceding provisions of this Section 7.1, so long as no Default or Event of Default has occurred and at such time as is ninety (90) days after any Default or Event of Default has been cured, provided that no other Default or Event of Default shall have occurred in such ninety (90) day period, Borrower shall have the right to operate the Receipts Account and the Operating Account consistent with the provisions of this Section 7.1 without the direct control of Lender; provided however, that Borrower will provide Lender with monthly reports on the balances, status and activity of such accounts, and provided further, that in no event shall any of the funds in such accounts be used for any purpose in violation of the terms and conditions of this Agreement, including without limitation, Section 6.6.

## 7.2. Application Of Insurance Proceeds.

(a) Each of the parties hereto agrees that all amounts and proceeds (including instruments) in respect of the proceeds of any insurance policy required to be maintained by Borrower hereunder ("Insurance Proceeds") shall, except as otherwise provided in clause (c) below, be paid by the active insurers directly to Lender (as loss payee or additional insured as provided in Section 5.14 and Schedule 9), and if paid to Borrower, such Insurance Proceeds shall be received only in trust for Lender, shall be segregated from other funds of Borrower, and shall be forthwith paid over to Lender in the same form as received (with any necessary endorsements). Each of the parties hereto agrees, to the fullest

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extent that it effectively may do so under applicable law, that Lender shall apply all such Insurance Proceeds in accordance with the provisions of Sections 7.2(b) and 7.2(c).

(b) Unless an Event of Default shall have occurred and be continuing, any business interruption Insurance Proceeds received by Lender or Borrower shall be deposited into the Receipts Account.

(c) (i) If there shall occur any damage or destruction of the Project with respect to which Insurance Proceeds for any single loss not in excess of \$500,000 are payable, such Insurance Proceeds shall be paid to Borrower and applied to the prompt payment of the cost of the repair or restoration of such damage or destruction.

(ii) If there shall occur any damage or destruction of the Project with respect to which Insurance Proceeds for any single loss in excess of \$500,000 are payable, Borrower shall promptly notify Lender. Such Insurance Proceeds shall be applied to the prompt repair or restoration of the Project in accordance with Section 7.2(c)(iii) to the extent determined by Borrower and, if Lender determines that such Insurance Proceeds should be applied to such repair or restoration to a greater extent in order for Borrower to be able to satisfy its obligations under the Operative Documents as well as before such damage or destruction, to such greater extent.

(iii) If there shall occur any damage to or destruction of the Project with respect to which Section 7.2(c)(i) or (ii) requires repair or restoration and

(A) if (1) such damage or destruction does not constitute the destruction of all or substantially all of the Project, (2)

Borrower and an independent engineer selected by Borrower and subject to Lender's approval, certify, and Lender determines in its reasonable judgment, that repair or restoration of the Project is technically and economically feasible within a six (6) month period and that a sufficient amount of funds is or will be available to Borrower to make such repairs and restorations, (3) the Lender determines that after repair and restoration the Project will be able to repay the Loan Facility and other amounts due the Lender as and when due, (4) after giving effect to any proposed repair and restoration, but only at the time that the same are expected to be made, such damage or destruction will not result in an Event of Default or a Default, (5) Lender shall receive an opinion of counsel acceptable to Lender to the effect that no material federal, state or local governmental license, registration, recording, filing, consent, Permit, order, authorization, certificate, approval, exemption or declaration is necessary to proceed with the repair and restoration and that no material amendment to this Agreement or any of the Credit Documents is necessary (or, if any such is necessary, Borrower is reasonably likely to be able to obtain such as and when required) for the purpose of subjecting the repairs or restorations to the Liens of the Collateral Documents, except such, if any, as may be delivered to Lender and that such amendments and other instruments (if any) have been duly executed and delivered by and are valid and binding agreements of Borrower and any other party thereto and subject such repairs or restoration to the Liens of the Collateral Documents, and (6) Lender shall receive such additional title insurance, title insurance endorsements, mechanic's lien waivers, certificates, opinions or other matters as it may reasonably request

as necessary or appropriate in connection with such repairs or restoration or to preserve or protect the Lender's interest hereunder or in the Collateral, or

(B) Lender shall direct Borrower to undertake any repair or restoration, then Borrower shall cause any repairs or restoration to be commenced and completed promptly and diligently at the cost and expense of Borrower. From time to time after the Lender shall have duly approved the making of such repairs or restoration, and upon Borrower's written request and the presentation to Lender of all documents, certificates and information with respect to such Insurance Proceeds as Lender may reasonably request, including a certificate from Borrower (A) describing in reasonable detail the nature of the repairs or restoration, (B) stating the cost of such repairs or restoration and the specific amount requested to be paid over to or upon the order of Borrower and that such amount is requested to pay the cost thereof, (C) stating that the aggregate amount requested by Borrower in respect of such repairs or restoration (when added to any other Insurance Proceeds received by Borrower in respect of such damage or destruction) does not exceed the cost of such repairs or restoration and that a sufficient amount of funds is

or will be available to Borrower to complete the Project, and (D) stating that no Event of Default has occurred and is continuing other than an Event of Default resulting solely from such damage or destruction, then any Insurance Proceeds (other than Insurance Proceeds with respect to business interruption) held by Lender arising out of such damage or destruction shall, be paid over to or at the direction of Borrower to pay for the cost of the repairs or restoration in respect of which such Insurance Proceeds were received to the extent of costs actually incurred.

(iv) If, after Insurance Proceeds have been applied to the repair or restoration of the Project as provided in Sections 7.2(c)(i) or 7.2(c)(ii), Lender determines that the Project will be able to operate at a level enabling Borrower to satisfy its obligations hereunder as well as before the damage or destruction, any excess Insurance Proceeds shall be paid into the Receipts Account; provided that such excess Insurance Proceeds shall, in lieu of being paid into the Receipts Account, if and to the extent necessary to enable Borrower to satisfy its obligations hereunder (after accounting for the prepayment described in this sentence) as well as before such damage or destruction, be applied to the repayment of the Loan Facility in accordance with Section 2.1(e).

(v) If an Event of Default or Default shall have occurred and be continuing, then any provisions of Sections 7.2(c)(i) through 7.2(c)(iv) to the contrary notwithstanding, the Insurance Proceeds (including any Permitted Investments made with such proceeds, which shall be liquidated in such manner as Lender shall deem reasonable and prudent under the circumstances) may be applied by Lender to curing such Event of Default or Default. Any Insurance Proceeds remaining thereafter shall be applied as provided in this Section 7.2.

### 7.3. Application of Eminent Domain Proceeds.

(a) All Eminent Domain Proceeds shall be paid by the condemning authority directly to Lender, and, if paid to Borrower, such Eminent Domain Proceeds shall

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be received only in trust for Lender, shall be segregated from other funds of Borrower and shall forthwith be paid over to Lender in the same form as received (with any necessary endorsement).

(b) (i) If the Eminent Domain Proceeds with respect to a single Event of Eminent Domain not in excess of \$500,000 are payable, Borrower shall comply with Section 5.16, and such Eminent Domain Proceeds shall be paid

to Borrower and applied to the prompt payment of the cost of the replacement or restoration of the Collateral if such replacement and restoration is practicable;

(ii) If the Eminent Domain Proceeds with respect to a single Event of Eminent Domain in excess of \$500,000 are payable, Borrower shall comply with Section 5.15, and such Eminent Domain Proceeds shall be applied to the prompt replacement or restoration of the Collateral in accordance with Section 7.3(b)(iii) to the extent determined by Borrower and, if Lender determines that such Eminent Domain Proceeds should be applied to such replacement or restoration to a greater extent in order for Borrower to be able to satisfy its obligations under the Operative Documents as well as before such damage or destruction, to such greater extent.

(iii) If there shall occur any Event of Eminent Domain with respect to which Section 7.3(c)(i) or (ii) requires restoration or replacement and

(A) if (1) such Event of Eminent Domain does not constitute the loss of all or substantially all of the Project, (2) Borrower and an independent engineer selected by Borrower and subject to Lender's approval, certify, and Lender determines in its reasonable judgment, that replacement or restoration of the Project is technically and economically feasible within a six (6) month period and that a sufficient amount of funds is or will be available to Borrower to make such replacements and restorations, (3) the Lender determines that after replacement and restoration the Project will be able to repay the Loan Facility and other amounts due the Lender as and when due, (4) after giving effect to any proposed restoration or replacement, but only at the time that the same are expected to be made, such Event of Eminent Domain will not result in an Event of Default or a Default, (5) Lender shall receive an opinion of counsel acceptable to Lender to the effect that no material federal, state or local governmental license, registration, recording, filing, consent, Permit, Easement, order, authorization, certificate, approval, exemption or declaration is necessary to proceed with the restoration or replacement and that no material amendment to this Agreement or any of the Credit Documents is necessary (or, if any such is necessary, Borrower is reasonably likely to be able to obtain such as and when required) for the purpose of subjecting the restored or replacement Collateral to the Liens of the Collateral Documents, except such, if any, as may be delivered to Lender and that such amendments and other instruments (if any) have been duly executed and delivered by and are valid and binding agreements of Borrower and any other party thereto and subject such replacement or restoration to the Liens of the Collateral Documents, and (6) Lender shall receive such additional title insurance, title insurance endorsements, mechanic's lien waivers, certificates, opinions or other matters as it may reasonably request as necessary or appropriate in

connection with such restoration or replacement or to preserve or protect the Lender's interest hereunder or in the Collateral, or

(B) Lender shall direct Borrower to undertake any replacement or restoration, then Borrower shall cause any replacement or restoration to be commenced and completed promptly and diligently at the cost and expense of Borrower. From time to time after the Lender shall have duly approved the making of such restoration or replacement, and upon Borrower's written request and the presentation to Lender of all documents, certificates and information with respect to such Insurance Proceeds as Lender may reasonably request, including a certificate from Borrower (A) describing in reasonable detail the nature of the replacement or restoration, (B) stating the cost of such restoration or replacement and the specific amount requested to be paid over to or upon the order of Borrower and that such amount is requested to pay the cost thereof, (C) stating that the aggregate amount requested by Borrower in respect of such restoration or replacement (when added to any other Eminent Domain Proceeds received by Borrower in respect of such damage of destruction) does not exceed the cost of such repairs or restoration and that a sufficient amount of funds is or will be available to Borrower to complete the Project, and (D) stating that no Event of Default has occurred and is continuing other than an Event of Default resulting solely from such Event of Eminent Domain, then any Eminent Domain Proceeds held by Lender arising out of such Event of Eminent Domain shall, be paid over to or at the direction of Borrower to pay for the cost of the restoration or replacement of the Collateral in respect of which such Eminent Domain Proceeds were received to the extent of costs actually incurred.

(iv) If, after Eminent Domain Proceeds have been applied to the restoration or replacement of the Collateral as provided in Sections 7.3(c)(i) or 7.3(c)(ii), Lender determines that the Project will be able to operate at a level enabling Borrower to satisfy its obligations hereunder as well as before the Event of Eminent Domain, any excess Eminent Domain Proceeds shall be paid into the Receipts Account; provided that such excess Eminent Domain Proceeds shall, in lieu of being paid into the Receipts Account, if and to the extent necessary to enable Borrower to satisfy its obligations hereunder (after accounting for the prepayment described in this sentence) as well as before such Event of Eminent Domain, be applied to the repayment of the Loan Facility in accordance with Section 2.1(e).

If Lender so determines that the Project should be restored, but no or insufficient replacement property is available for such restoration, then such Eminent Domain Proceeds shall be applied, after acquisition of whatever necessary replacement property is available, to the prepayment of the Loan Facility. After Eminent Domain Proceeds have been applied to the restoration of the Project as provided in the second previous sentence or if Lender has determined that the Project need not or can not be restored, any remaining Eminent Domain Proceeds or the entire fund of Eminent Domain Proceeds, as the case may be, shall be applied to the prepayment of the Loan Facility.

(v) Notwithstanding the foregoing provisions of this Section 7.3, if an Event of Default shall have occurred and be continuing, any amount to be applied pursuant to this Section 7.3, shall be paid to Lender as security for the obligations of

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Borrower under the Credit Documents, and may be held, applied or realized upon by Lender as provided herein or in the other Credit Documents with respect to holding, applying or realizing upon Collateral after the occurrence of an Event of Default. To the extent any Eminent Domain Proceeds then remain, at such time thereafter as no Event of Default shall be continuing, such amount shall be applied as provided in this Section 7.3.

7.4. Security Interest in Proceeds and Accounts. Borrower hereby pledges, assigns and transfers to Lender on behalf of Lender and grants Lender on behalf of Lender a security interest in and to all Insurance Proceeds and Eminent Domain Proceeds (collectively, "Proceeds") and Accounts as security for the Loan Facility and the full and faithful performance of all of Borrower's obligations hereunder and under the other Credit Documents. Borrower shall not have any rights or powers with respect to any Account except to have funds on deposit therein applied in accordance with this Agreement. Lender is hereby authorized to reduce to cash any Permitted Investment (without regard to maturity) in order to make any application required by any Section of this Article 7 or otherwise pursuant to the Credit Documents. Upon the occurrence of an Event of Default, Lender shall have all rights and powers with respect to Proceeds as it has with respect to any other Collateral and may apply Proceeds to the payment of interest, principal, fees, costs, charges or other amounts due or payable to Lender with respect to the Loan Facility in such order as Lender may elect in its sole discretion. Borrower shall not have any rights or powers with respect to Proceeds except as expressly provided in Section 7.5.

7.5. Permitted Investments. All amounts held by Borrower and/or Lender in the Accounts or as Insurance Proceeds or Eminent Domain Proceeds shall only be invested in Permitted Investments as directed by and at the expense and risk of Borrower.

## ARTICLE 8 - EVENTS OF DEFAULT; REMEDIES

### 8.1. Events of Default.

The occurrence of any of the following events shall constitute an event of default ("Event of Default") hereunder:

(a) Failure to Make Payments. Borrower shall fail to pay, in accordance with the terms of this Agreement, (i) any principal on any of the Loan Facility on the date that such sum is due, (ii) any interest on any of the Loan Facility within five (5) days after the date that such sum is due, or (iii) any other fee, cost, charge or other sum due under the Credit Documents within ten (10) days after the date on which written notice is given to Borrower pursuant to the provisions of Section 10.1 that such sum is due.

(b) Judgments. A judgment or judgments shall be entered against Borrower (i) in the aggregate amount of \$250,000 or more (other than (A) a judgment which is fully covered by insurance or discharged within sixty (60) days after its entry, or (B) a judgment, the execution of which is effectively stayed within sixty (60) days after its entry but only for thirty (30) days after the date on which such stay is terminated or expires) or

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(ii) which would reasonably be expected to materially impair or inhibit the construction of or Borrower's use or operation of the Project for the purpose for which the Project was intended or materially impair the value of the Collateral or the interests of the Lender under this Agreement and the other Credit Documents;

(c) Misstatements; Omissions. Any financial statement, representation, report, warranty or certificate made or prepared by, under the control of or on behalf of Borrower and furnished to the Lender pursuant to this Agreement or any other Credit Document, or in any separate statement or document to be delivered to the Lender hereunder or under any other Credit Document, shall contain an untrue or misleading statement of a material fact or shall fail to state a material fact necessary to make the statements therein not misleading as of the date made and as a result thereof, there is or is likely to be a Material Adverse Effect as determined by the Lender, provided that no Event of Default shall occur pursuant hereto if, within thirty (30) days of the date on which Borrower receives notice (from any source) that such untrue or misleading statement or failure to state a material fact has occurred, Borrower shall eliminate or otherwise address to the satisfaction of the Lender any such Material Adverse Effect relating to such misleading statement or failure to state a material fact.

(d) Bankruptcy; Insolvency. Borrower or Borrower's majority shareholder shall institute a voluntary case seeking liquidation or reorganization under the Bankruptcy Law (or any successor statute), or shall consent to the institution of an involuntary case thereunder against it; or Borrower or Borrower's majority shareholder shall file a petition, answer or

consent or shall otherwise institute any similar proceeding under any other applicable federal or state law, or shall consent thereto; or Borrower or Borrower's majority shareholder shall apply for, or by consent or acquiescence there shall be an appointment of, a receiver, liquidator, sequestrator, trustee or other officer with similar powers, or Borrower or Borrower's majority shareholder shall make an assignment for the benefit of creditors; or Borrower or Borrower's majority shareholder shall admit in writing its inability to pay its debts generally as they become due; or if an involuntary case shall be commenced seeking the liquidation or reorganization of Borrower or Borrower's majority shareholder under the Bankruptcy Law (or any successor statute) or any similar proceeding shall be commenced against Borrower or Borrower's majority shareholder under any other applicable federal or state law and (i) the petition commencing the involuntary case is not timely controverted, (ii) the petition commencing the involuntary case is not dismissed within sixty (60) days of its filing, (iii) an interim trustee is appointed to take possession of all or a portion of the property, and/or to operate all or any part of the business of Borrower or Borrower's majority shareholder and such appointment is not vacated within sixty (60) days, or (iv) an order for relief shall have been issued or entered therein; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee or other officer having similar powers of Borrower or Borrower's majority shareholder or of all or a part of their property, shall have been entered; or any other similar relief shall be granted against Borrower or Borrower's majority shareholder under any applicable federal or state law.

(e) Cross Default. Borrower shall default for a period beyond any applicable grace period (i) in the payment of any principal, interest or other amount due under any agreement involving the borrowing of money or the advance of credit and the outstanding amount or amounts payable under all such agreements equals or exceeds \$250,000 in the aggregate, or (ii) in the payment of any amount or performance of any obligation due under any guarantee or other agreement if in either case, pursuant to such default, the holder of the obligation concerned exercises its right to accelerate the maturity of an indebtedness evidenced thereby which equals or exceeds \$250,000.

(f) ERISA. If Borrower or any ERISA Affiliate should establish, maintain, contribute to or become obligated to contribute to any ERISA Plan and (i) a reportable event (as defined in Section 4043(b) of ERISA) shall have occurred with respect to any ERISA Plan and, within thirty (30) days after the reporting of such reportable event to Lender by Borrower (or Lender otherwise obtaining knowledge of such event) and the furnishing of such information as Lender may reasonably request with respect thereto, Lender shall

have notified Borrower in writing that Lender has made a determination that, on the basis of such reportable event, there are reasonable grounds for the termination of such ERISA Plan by the PBGC or for the appointment by the appropriate United States District Court of a trustee to administer such ERISA Plan; or (ii) a trustee shall be appointed by a United States District Court to administer any ERISA Plan; or (iii) the PBGC shall institute proceedings to terminate any ERISA Plan; or (iv) a complete or partial withdrawal by Borrower or any ERISA Affiliate from any Multiemployer Plan shall have occurred, or any Multiemployer Plan shall enter reorganization status, become insolvent, or terminate (or notify Borrower or any ERISA Affiliate of its intent to terminate) under Section 4041A of ERISA; provided that any of the events described in this Section 8.1(f) shall involve (A) one or more ERISA Plans that are single-employer plans (as defined in Section 4001(a)(15) of ERISA) and under which the aggregate gross amount of unfunded benefit liabilities (as defined in Section 4001(a)(16) of ERISA), including vested unfunded liabilities which arise or might arise as the result of the termination of such ERISA Plan or Plans, and/or (B) one or more Multiemployer Plans to which the aggregate liabilities of Borrower and all ERISA Affiliates, shall exceed Five Hundred Thousand Dollars (\$500,000).

(g) Breach of Operative Documents. Borrower or any other party thereto shall breach or default under any term, condition, provision, covenant, representation or warranty contained in any Credit Document, Material Project Document or other agreement to which Borrower is a party and Lender shall have determined that such breach or default will have a Material Adverse Effect and such breach or default shall continue unremedied for thirty (30) days after notice from Lender to Borrower; provided, however, that if the breach or default cannot be remedied within such thirty (30) days despite Borrower's and/or such other party's, as the case may be, best efforts to do so and the breach or default is capable of being remedied within a period of ninety (90) days, Lender will not unreasonably withhold its consent to an extension for such additional period (not to exceed ninety (90) days) as is reasonably necessary beyond such initial thirty (30) day period to cure such breach of default if remedial action is promptly instituted within such thirty (30) day period and is thereafter diligently pursued until the breach or default is corrected. Notwithstanding the foregoing, any of Borrower's stockholders shall default in the performance of any of its respective

obligations under its Pledge Agreement and such default is not cured within five (5) days after notice thereof to such stockholder from Lender.

(h) Breach of Terms of Agreement.

(i) Borrower shall fail to perform or observe any of the covenants set forth in Sections 5.1, 5.2, 5.4, 5.7, 5.9, 5.11, 5.13, 5.14, 5.15, or 5.16, Sections 6.1 through 6.18 or Article 7; or

(ii) Borrower shall fail to perform or observe any other covenant to be observed or performed by it hereunder or under any Credit Document and not otherwise specifically provided for in Section 8.1(h)(i) or elsewhere in Section 8.1, and such failure shall continue unremedied for a period of thirty (30) days after Borrower becomes aware thereof or receives written notice thereof from Lender, provided, however, that if such default is of a nature such that it cannot reasonably be cured within such thirty (30) day period but is susceptible to cure within a longer period, an Event of Default shall not result therefrom so long as (A) Borrower has, promptly upon discovery thereof, given written notice to Lender of such default (provided, that if any Event of Default is cured within any applicable time period specified herein, or waived or temporarily waived by the Lender, the failure alone to give notice of such Event of Default as provided in this sentence shall not be deemed an Event of Default); (B) Borrower as promptly as practicable commences action reasonably designed to cure such default and continues diligently to pursue such action and (C) the Lender in its sole discretion shall have determined that such default does and will not have a Material Adverse Effect.

(i) Completion. Completion shall not have occurred by the Construction Loan Maturity Date.

(j) Loss of Status.

(i) The City of Tucson License shall be revoked or suspended, or

(ii) Borrower shall lose its status as a nondominant interexchange carrier under the Communications Act and the regulations thereunder and Lender determines in its discretion, that such loss could reasonably be anticipated to have a Material Adverse Effect, or

(iii) Administrative or judicial proceedings are commenced by the City of Tucson, Pima County, the ACC or the FCC that could result in the occurrence of either of subclauses (i) or (ii).

(k) Default in Construction. At any time prior to Completion, the Project Phase shall be abandoned or work thereon shall cease for a period of more than thirty (30) days (which period shall be measured from the first occurrence of a work stoppage and continuing until work of a substantial nature is resumed and thereafter diligently continued, but which period shall not include delays caused by Force Majeure and strikes not extending

for any one work stoppage or abandonment beyond 30 days so long as an independent engineer, selected by Borrower and subject to Lender's approval, has certified that Completion is not likely to be achieved beyond the applicable Construction Loan Maturity Date, provided that Borrower gives Lender immediate written notice of all such events) for any reason, or the Project Phase shall not be constructed substantially in accordance with the Plans and Specifications (except as to changes therein approved by the Lender or permitted by Section 6.12), or changes shall be made in the Plans and Specifications without the prior written approval of the Lender (except as to changes permitted by Section 6.12).

(l) Security. Any of the Collateral Documents, once executed and delivered, shall, except as the result of the acts or omissions of the Lender, in any material respect fail to provide the Lender the Liens, security interest, rights, titles, interest, remedies, powers or privileges intended to be created thereby or cease to be in full force and effect, or the validity thereof or the applicability thereof to this Agreement, the Loan Facility, the Note or any other obligations purported to be secured or guaranteed thereby or any part thereof shall be disaffirmed or questioned by or on behalf of Borrower or any other party thereto or there shall occur a default or event of default (however defined) under any of the Collateral Documents, such default or event of default shall not have been cured within thirty (30) days after its occurrence and the Lender shall determine in its sole discretion that such default or event of default could have a Material Adverse Effect.

(m) Loss of Applicable Permit. Any Applicable Permit necessary for operation of a Project Phase shall be revoked or cancelled by the issuing agency or other Governmental Authority having jurisdiction and within ninety (90) days thereafter Borrower is not able to replace or reinstate such Permit or demonstrate to the Lender that loss of such Permit will not have a Material Adverse Effect.

(n) Loss of Collateral. Any substantial portion of Borrower's property is seized or appropriated without fair value being paid therefor such as to allow replacement of such property and/or prepayment of the Loan Facility as provided in Section 7.3 and to allow Borrower in the Lender's reasonable judgment to continue satisfying its obligations hereunder and under the other Operative Documents.

## 8.2. Remedies.

Upon the occurrence and during the continuation of an Event of Default, Lender may, without further notice of default, presentment or demand for payment, protest or notice of non-payment or dishonor, or other notices or demands of any kind, all such notices and demands being waived, exercise any or all of the following rights and remedies, in any combination or order that the Lender may elect, in addition to such other rights or remedies as the Lender may have hereunder, under the Collateral Documents or at law or in equity:

(a) No Further Loans. Refuse, and Lender shall not be obligated, to make any additional Construction Loans or make any payments from any Account or any Proceeds or other funds held or controlled by Lender under the Credit Documents or on behalf of Borrower.

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(b) Cure. Without any obligation to do so, make disbursements or Construction Loans to or on behalf of Borrower to cure any Event of Default or Default hereunder and to cure any default and render any performance under any Project Documents as the Lender in its sole discretion may consider necessary or appropriate, whether to preserve and protect the Collateral or the Lender's interests therein or for any other reason, and all sums so expended, together with interest on such total amount at the Default Rate, shall be repaid by Borrower on demand to Lender, and shall be secured by the Credit Documents, notwithstanding that such expenditures may, together with amounts advanced under this Agreement, exceed the amount of the Committed Amount.

(c) Acceleration. Declare and make all sums of accrued and outstanding principal and accrued but unpaid interest remaining under this Agreement together with all unpaid fees, costs (including Liquidation Costs) and charges due hereunder or under any other Credit Document, immediately due and payable.

(d) Cash Collateral. Subject to Section 10.2, apply or execute upon any amounts on deposit in any Account or any Proceeds or Borrower Equity or any other moneys of Borrower on deposit with Lender in the manner provided in the Uniform Commercial Code and other relevant statutes and decisions and interpretations thereunder with respect to cash collateral.

(e) Possession of Project. Enter into possession of the Project and perform any and all work and labor necessary to complete the Project substantially according to the Construction Contract and the Plans and Specifications or to operate, maintain and repair the Project, and all sums expended by Lender in so doing, together with interest on such total amount at the Default Rate, shall be repaid by Borrower to Lender upon demand and shall be secured by the Credit Documents, notwithstanding that such expenditures may, together with amounts advanced under this Agreement, exceed the amount of the Total Construction Loan Commitment.

(f) Remedies Under Credit Documents. Exercise any and all rights and remedies available to it under any of the Credit Documents, including making demand for payment under any judicial or non-judicial foreclosure or

public or private sale of any of the Collateral pursuant to the Collateral Documents.

## ARTICLE 9 - ASSIGNMENTS, ETC.

### 9.1. Assignments.

Lender may in accordance with applicable law, after giving reasonable notice to Borrower, sell and assign to one or more parties (individually, an "Assignee") all or a portion of its rights and obligations under this Agreement and the other Credit Documents (such a sale and assignment to be referred to herein as an "Assignment") pursuant to an assignment agreement in the form of Exhibit Q (an "Assignment Agreement"), executed by each Assignee and Lender (as "Assignor") provided, however, that Lender shall not assign

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more than forty-nine percent (49%) of its rights or obligations hereunder or assign any of its rights or obligations hereunder to a competitor of Borrower or a Person who is or has been engaged in a dispute with Borrower; provided further, that upon notice that Lender intends to assign any part of its interest hereunder, Borrower shall promptly provide Lender with a list of its competitors and those Persons with which it has, or has had, disputes. Upon the execution, delivery, acceptance and recording of each Assignment Agreement, from and after the Assignment Effective Date determined pursuant to such Assignment Agreement, (A) each Assignee thereunder shall be a Lender hereunder with a Proportionate Share as set forth on Attachment 1 to such Assignment Agreement and shall have the rights, duties and obligations of Lender under this Agreement and the other Credit Documents, and (B) the Assignor thereunder shall be a Lender with a Proportionate Share as set forth on Attachment 1 to such Assignment Agreement, or, if the Proportionate Share of the Assignor has been reduced to 0%, the Assignor shall cease to be a Lender. On or prior to the Assignment Effective Date determined pursuant to each Assignment Agreement, Borrower, at its expense, shall execute and deliver to Lender in exchange for the respective surrendered Note of the Assignor thereunder, a new Note to the order of each Assignee thereunder (with each new Note to be in an amount equal to the Committed Amount assumed by such Assignee) and, if the Assignor has retained a Committed Amount hereunder, a new Note to the order of the Assignor (with the new Note to be in an amount equal to the Committed Amount retained by it). Each such new Note shall be dated the Closing Date and each such new Note shall otherwise be in the form of the Note replaced thereby. The Note surrendered by the Assignor shall be returned by Lender to Borrower marked "cancelled".

9.2. Confidentiality. Lender may disclose the Credit Documents and any

financial or other information relating to Borrower to any potential Assignee.

9.3. Securities Laws. Notwithstanding the foregoing provisions of this Article 9, no sale, assignment, transfer, negotiation or other disposition of the interests of Lender hereunder or under the other Credit Documents shall be allowed if it would violate the Securities Act of 1933, as amended (the "Act"), or would require registration under the Act, any other federal securities laws or regulations or the securities laws or regulations of any applicable jurisdiction. Borrower shall, from time to time at the request and expense of Lender, execute and deliver to Lender, or to such party or parties as Lender may designate, any and all further instruments as may in the opinion of Lender be necessary or advisable to give full force and effect to such disposition.

#### ARTICLE 10 - MISCELLANEOUS

10.1. Notices. All notices, notifications and other communications required or permitted by this Agreement shall be in writing and shall be delivered by hand, telegraphically transmitted, sent by facsimile (with a copy sent by overnight mail), or mailed by overnight courier to the parties at the following addresses (or such other address for a party as shall be specified by notice given pursuant hereto):

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|                 |  |
|-----------------|--|
| If to Lender:   | c/o Tomen America Inc.<br>1285 Avenue of the Americas<br>New York, NY 10019<br>Attn: Takashi Yoshida<br>Facsimile No. (212) 397-3351                   |
| with a copy to: | Orrick, Herrington & Sutcliffe<br>400 Sansome Street<br>San Francisco, CA 94111<br>Attn: Michael R. Meyers<br>Facsimile No. (415) 773-5759             |
| If to Borrower: | GST Tucson Lightwave, Inc.<br>4317 NE Thurston Way<br>Vancouver, WA 98662<br>Attn: John Warta, Chief Executive Officer<br>Facsimile No. (360) 260-2075 |
| with a copy to: | Olshan Grundman Frome & Rosenzweig, LLP  |

505 Park Avenue  
New York, NY 10022  
Attn: Stephen Irwin  
Facsimile No. (212) 755-1467

Notices delivered by hand, telegraphically transmitted, or sent by facsimile shall be deemed given the day so delivered, transmitted or sent. Notices delivered or mailed as provided herein shall be deemed given on the date of actual receipt. Failure to deliver a copy of a notice to counsel for a party as provided above shall not constitute failure to give notice hereunder. Notice so given shall be effective upon receipt by the addressee, except that communication or notice so transmitted by telecopy or other direct written electronic means shall be deemed to have been validly and effectively given on the day (if a Business Day and, if not, on the next following Business Day) on which it is transmitted if transmitted before 4 p.m., recipient's time, and if transmitted after that time, on the next following Business Day; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by giving of thirty (30) days' notice to the other parties in the manner set forth hereinabove.

10.2. Additional Security; Right to Set-Off. Any deposits or other sums at any time credited or due from Lender and any Project Revenues, securities or other property of Borrower in the possession of Lender may at all times be treated as collateral security for the payment of amounts due with respect to the Loan Facility and the Note and all other obligations of Borrower to Lender under this Agreement and the other Credit Documents, and Borrower hereby pledges to Lender for the benefit of the Lender and grants Lender a security interest in and to all such deposits, sums, securities or other property. Regardless of

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the adequacy of any other collateral, Lender and only Lender, may execute or realize on the Lender's security interest in any such deposits or other sums credited by or due from Lender to Borrower, may apply any such deposits or other sums to or set them off against Borrower's obligations to Lender under the Note and this Agreement at any time after the occurrence and during the continuance of any Event of Default.

10.3. Delay and Waiver. No delay or omission to exercise any right, power or remedy accruing to the Lender upon the occurrence of any Event of Default or Default or any breach or default of Borrower under this Agreement or any other Credit Document shall impair any such right, power or remedy of the Lender, nor shall it be construed to be a waiver of any such breach or default,

or an acquiescence therein, or of or in any similar breach or default thereafter occurring, nor shall any waiver of any single Event of Default, Default or other breach or default be deemed a waiver of any other Event of Default, Default or other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of Lender of any Event of Default, Default or other breach or default under this Agreement or any other Credit Document, or any waiver on the part of Lender of any provision or condition of this Agreement or any other Credit Document, must be in writing and shall be effective only to the extent in such writing specifically set forth. All remedies, either under this Agreement or any other Credit Document or by law or otherwise afforded to Lender, shall be cumulative and not alternative.

10.4. Costs, Expenses and Attorneys' Fees. Borrower will pay to Lender on demand (a) all reasonable out-of-pocket costs, fees and expenses, including reasonable attorneys' fees and expenses, incurred by Lender in connection with the enforcement or protection (or attempted enforcement or protection) of any rights or remedies of Lender under this Agreement or any other Credit Document and (b) the reasonable fees, expenses and disbursements of any engineering, environmental, insurance, construction or other consultants to Lender incurred in connection with any of the foregoing.

10.5. Attorney-In-Fact.

(a) For the purpose of allowing Lender to exercise the rights and remedies provided in Article 8, following the occurrence and during the continuation of an Event of Default, Borrower hereby constitutes and appoints Lender its true and lawful attorney-in-fact, with full power of substitution, to complete any or all of the Project in the name of Borrower, and hereby empowers such attorney or attorneys as follows:

(i) To use any unadvanced proceeds of the Construction Loans and any Borrower Equity for the purpose of completing, operating, maintaining and repairing any or all of the Project and to perform any and all of Borrower's obligations under the Project Documents;

(ii) To make such changes and corrections in the Plans and Specifications or the operating and maintenance practices and procedures of the Project as

they consider reasonably necessary or desirable to complete the work on any or all of the Project in substantially the manner contemplated by the Construction Contracts;

(iii) To employ such contractors, subcontractors, agents, architects, inspectors and other Persons as reasonably shall be required for such purposes;

(iv) To pay, settle or compromise all bills and claims which may be or become liens or security interests against any or all of the Project or the Collateral, or any part thereof, unless a bond or other security satisfactory to Lender has been provided;

(v) To execute applications and certificates in the name of Borrower which reasonably may be required by the Credit Documents or any other agreement or instrument executed by Borrower in connection with the Project;

(vi) To prosecute and defend all actions or proceedings in connection with the Project or the Collateral or any part thereof and to take such action and require such performance as Lender reasonably deems necessary under any performance and payment bond or the Credit Documents;

(vii) To do any and every act which Borrower might do on its behalf with respect to the Collateral or any part thereof or any or all of the Project and to exercise any or all of Borrower's rights and remedies under any or all of the Project Documents; and

(viii) To use any funds in any Account to pay interest or principal with respect to the Loan Facility or fees and other amounts due to Lender, as they may be due from time to time or, to pay Project Costs.

(b) The powers of attorney set forth in this Section 10.5 shall be deemed to be powers coupled with interests and shall be irrevocable.

10.6. Entire Agreement; Amendments and Modifications. This Agreement and any agreement, document or instrument attached hereto as exhibits or schedules or otherwise or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings, in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Agreement and any such agreement, document or instrument, the terms, conditions and provisions of this Agreement shall prevail. This Agreement and the other Credit Documents may only be amended or modified by an instrument in writing signed by Borrower, Lender and any other parties to be charged or as set forth in Section 9.1.

10.7. Governing Law. This Agreement, and any instrument or agreement required hereunder (to the extent not expressly provided for therein), shall be governed by, and construed under, the laws of the State of New York without reference to conflicts of law rules.

10.8. Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

10.9. Headings. Paragraph headings have been inserted in this Agreement as a matter of convenience for reference only and are not a part of this Agreement and shall not be used in the interpretation of any provision of this Agreement.

10.10. Accounting Terms. All accounting terms used in this Agreement or in any other Credit Document shall be construed, and all accounting and financial computations, hereunder or thereunder, shall be computed, in accordance with GAAP.

10.11. No Partnership; Etc. The Lender and Borrower intend that the relationship between them shall be solely that of creditor and debtor. Nothing contained in this Agreement, the Note or in any of the other Credit Documents shall be deemed or construed to create a partnership, tenancy-in-common, joint tenancy, joint venture or co-ownership by or between the Lender and Borrower or any other Person. The Lender shall not be in any way responsible or liable for the debts, losses, obligations or duties of Borrower or any other Person with respect to the Project or otherwise. All obligations to pay real property or other taxes, assessments, insurance premiums, and all other fees and charges arising from the ownership, operation or occupancy of the Project and to perform all obligations and other agreements and contracts relating to the Project shall be the sole responsibility of Borrower.

10.12. Limitation on Liability. No claim shall be made by Borrower, any shareholder of Borrower or sponsor or any of their Affiliates against the Lender or any of their Affiliates, directors, employees, attorneys or agents for any special, indirect, consequential or punitive damages in respect of any breach or wrongful conduct (whether or not the claim therefor is based on contract, tort or duty imposed by law), in connection with, arising out of or in any way related to the transactions contemplated by this Agreement or the other Operative Documents or any act or omission or event occurring in connection therewith; and Borrower hereby waives, releases and agrees not to sue upon any such claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

10.13. Waiver of Jury Trial. THE LENDER AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN

WRITTEN), OR ACTIONS OF THE LENDER OR BORROWER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER TO ENTER INTO THIS AGREEMENT.

10.14. Consent to Jurisdiction. The Lender and Borrower agree that, except as may otherwise be required by law, any legal action or proceeding by or against Borrower or with respect to or arising out of this Agreement, the Note, or any other Credit Document may be brought in or removed to the courts of the State of New York sitting in New York City, or of the United States of America for the Southern District of New York, as Lender may elect. By execution and delivery of this Agreement, Lender and Borrower accept, for themselves and in respect of their property, generally and unconditionally, the jurisdiction of the aforesaid courts. Lender and Borrower irrevocably consent to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified airmail, postage prepaid, to Lender or Borrower, as the case may be, at their respective addresses for notices as specified herein and that such service shall be effective five (5) Business Days after such mailing. Nothing herein shall affect the right to serve process in any other manner permitted by law or the right of Lender to bring legal action or proceedings in any other competent jurisdiction, including judicial or non-judicial foreclosure of a mortgage. Notwithstanding the foregoing, service of process shall not be deemed mailed (i) to Lender until a copy of all matters to be served have been mailed to Orrick, Herrington & Sutcliffe, 400 Sansome Street, San Francisco, California 94111, Attention: Michael R. Meyers, Esq. or such other Person as Lender may hereafter designate by notice given pursuant to Section 10.1 or (ii) to Borrower until a copy of all matters to be served have been mailed to Olshan, Grundman, Frome & Rosenzweig, LLP, 505 Park Avenue, New York, New York 10022, Attention: Stephen Irwin, Esq. or such other Person as Borrower may hereafter designate by notice given pursuant to Section 10.1. Lender and Borrower further agree that the aforesaid courts of the State of New York and of the United States of America shall have exclusive jurisdiction with respect to any claim or counterclaim of Borrower based upon the assertion that the rate of interest charged by Lender on or under this Agreement, the Loan Facility and/or the other Credit Documents is usurious. Lender and Borrower hereby waive any right to stay or dismiss any action or proceeding under or in connection with any or all of the Project, this Agreement or any other Credit Document brought before the foregoing courts on the basis of forum non-conveniens.

10.15. Usury. Nothing contained in this Agreement or the Note shall be

deemed to require the payment of interest or other charges by Borrower or any other Person in excess of the amount which Lender or other holders of the Note ("Note Holders") may lawfully charge under any applicable usury laws. In the event that Lender or other Note Holders shall collect moneys under this Agreement, the Note or any other Credit Document which are deemed to constitute interest which would increase the effective interest rate to a rate in excess of that permitted to be charged by applicable law, all such sums deemed to constitute interest in excess of the legal rate shall, upon such determination, at the option of Lender or other Note Holders, be returned to Borrower or credited against the principal balance of the Note then outstanding.

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10.16. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Borrower may not assign or otherwise transfer any of its rights under this Agreement without the prior written consent of Lender.

10.17. Counterparts. This Agreement may be executed in one or more duplicate counterparts and when signed by each of the parties listed below shall constitute a single binding agreement.

\* \* \* \*

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IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their officers thereunto duly authorized as of the day and year first above written.

GST TUCSON LIGHTWAVE, INC.,  
an Arizona corporation,  
as Borrower

By: /s/ Clifford V. Sander

-----  
Name: Clifford V. Sander

Title: Assistant Secretary and Vice President

TM COMMUNICATIONS LLC,  
a Delaware limited liability company,  
as Lender

By: /s/ Takashi Yoshida

-----  
Name: Takashi Yoshida

Title: Vice President

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EXHIBIT A

## DEFINITIONS

"ACC" means the Arizona Corporations Commission.

"Account Debtor" has the meaning given in Section 5(c) of the Security Agreement.

"Account Security Agreement" has the meaning given in Section 2.7(a) of the TLI Credit Agreement.

"Accounts" means the Receipts Account and the Operating Account.

"Act" means the U.S. federal Securities Act of 1933, as amended.

"Additional Information" has the meaning given in Section 2.1(a) of the Master Agreement.

"Additional Project Documents" means any other contracts or agreements related to the construction, testing, maintenance, repair, operation or use of the Project entered into by Borrower and any other Person subsequent to the Closing Date.

"Affiliate" has the meaning set forth in Rule 12b-2 of the regulations under the Securities Exchange Act of 1934, as amended provided, however, that in no case shall Lender or any of its Affiliates be deemed to be

Affiliates of Greenstar.

"Alternate Interest Rate" means a fluctuating per annum rate of interest as shall be in effect from time to time which rate shall at all times be equal to the Federal Funds Rate plus three percent (3%). Any change in the Alternate Interest Rate due to a change in the Federal Funds Rate shall be effective as of the effective date of such change in such Federal Funds Rate.

"Alternate Interest Rate Loan" means any portion of the Loan Facility converted pursuant to Section 2.5(a) of the TLI Credit Agreement into a loan at the Alternate Interest Rate.

"AMEX" means the American Stock Exchange.

"Annual Operating Budget" means, with respect to any fiscal year of Borrower, an annual operating budget setting forth all reasonably anticipated Project Revenues, Debt Service, Operation and Maintenance Costs, allowances for reserves, and information described in Section 5.7(b) of the TLI Credit Agreement. "Annual Operating Budget" includes the First Annual Operating Budget.

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"Applicable Easement" means any Easement that is necessary at any given time in light of the stage of development, construction or operation of the Project to construct, test, operate, maintain, repair, own or use the Project as contemplated by the Operative Documents, to enter into any Operative Document or to consummate any transaction contemplated thereby.

"Applicable Permit" means any Permit, including any zoning, environmental protection, pollution, sanitation, FCC, ACC, safety, sitting, building or other Permit, (a) that is necessary at any given time in light of the stage of development, construction or operation of the Project to construct, test, operate, maintain, repair, own or use the Project as contemplated by the Operative Documents, to enter into any Operative Document or to consummate any transaction contemplated thereby, or (b) that is necessary so that neither Borrower nor any Affiliate may be deemed by any Governmental Authority to be subject to regulation under the Communications Act or under any state laws or regulations as a result of the construction and operation of the Project.

"Assigned Agreement" has the meaning given in Section 2(d)(i) of the Security Agreement.

"Assignee" has the meaning given in Section 9.1 of the TLI

Credit Agreement.

"Assignment" has the meaning given in Section 9.1 of the TLI Credit Agreement.

"Assignment Agreement" has the meaning given in Section 9.1 of the TLI Credit Agreement.

"Assignor" has the meaning given in Section 9.1 of the TLI Credit Agreement.

"Bankruptcy Law" means Title 11 of the United States Code, and any other state or federal insolvency, reorganization, moratorium or similar law for the relief of debtors.

"Base Case Project Projection" means a projection of operating results for the applicable Project Phase over a period ending no sooner than five (5) years beyond the Expected Completion Date, showing at a minimum Borrower's reasonable good faith estimates, as of the applicable Closing Date, of revenue, operating expenses, debt service coverage ratios and sources and uses of revenues over the forecast period, which projection shall be delivered at the applicable Closing Date.

"Borrower" means GST Tucson Lightwave, Inc., an Arizona corporation formerly known as "Tucson Lightwave, Inc.".

"Borrower Equity" means any non-borrowed funds contributed by Borrower, or any shareholder of Borrower on behalf of Borrower, toward Project Costs.

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"Business Day" means any day other than a Saturday, Sunday or other day on which banks are authorized to be closed in Tucson, Arizona or New York, New York and, with respect to the determination of the LIBOR Rate, which is also a day on which dealings in Dollar deposits are carried out in the London interbank market.

"Capital Contribution" means the contribution to capital to be made prior to the Closing as set forth in Section 3.1(h) of the TLI Credit Agreement.

"Change of Control" means any of the following: (i) the sale, lease, conveyance or other disposition of assets of the Borrower valued in

excess of \$5,000,000; (ii) the liquidation or dissolution of the Borrower; and (iii) any transaction or series of transactions that results in GSI ceasing to hold and control, directly or indirectly, fifty percent (50%) or more of the Equity Securities of Borrower.

"Change of Law" has the meaning given in Section 2.5(b) of the TLI Credit Agreement.

"Charter Documents" means, as to any Person other than a natural person, the charter, certificate or articles of incorporation, bylaws or other organizational or governing documents of such Person, including, with respect to a partnership, a partnership agreement and any certificate of limited partnership or similar document.

"City of Tucson License" means the Non-exclusive License and City-wide Right of Way granted to Borrower by the City of Tucson on July 5, 1994, as amended on September 26, 1994 and November 6, 1995, to construct, maintain, and operate in designated portions of the City of Tucson, Arizona, telecommunication facilities for the purpose of providing service within the City of Tucson and further additions thereto.

"Closing Date" means the date when each of the conditions precedent listed in Section 3.1 of the TLI Credit Agreement has been satisfied (or waived in writing by Lender).

"Code" means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code shall include any valid regulation promulgated thereunder, and any comparable provision of any future legislation amending, supplementing or superseding such section.

"Collateral" means all real and personal property which is subject or is or is intended to become subject to the security interests or lien granted by any of the Collateral Documents.

"Collateral Documents" means the Pledge Agreement, the Security Agreement, the Account Security Agreement, the GST Security Agreement, the Consents, the Net Cash Flow Agreements, the Net Cash Flow Account Security Agreements, and the other agreements to be entered into pursuant to Section 5.17 of the TLI Credit Agreement, the Construction Deeds of Trust and any financing statements and the like filed or recorded in connection with the foregoing.

"Collocation Agreements" means the agreements entered into or

to be entered into between TLI and local exchange carriers with respect to physical or virtual collocation with respect to the Phase I Project and the Phase II Project.

"Committed Amount" means Eight Million Dollars (\$8,000,000).

"Communications Act" means the Communication Act of 1934, as amended.

"Completion" means, with respect to the Project, that the Project shall have been substantially completed in all material respects and that all work under the Construction Contracts shall have occurred and that completion of all such work shall have been in accordance with the Plans and Specifications and the requirements of all Applicable Permits for the Project.

"Completion Date" means, with respect to the Project, the earlier of: (i) the date of Completion of the Project, and (ii) December 31, 1997.

"Consents" shall mean a consent executed by each party to the Project Documents (other than Lender) in substantially the form of Exhibit M-1, M-2 or M-3 hereto, as applicable.

"Construction Contracts" means the Phase I Construction Contracts and the Phase II Construction Contracts.

"Construction Deeds of Trust" shall mean the construction deeds of trust filed in connection with the Closing, in substantially the form of Exhibit I.

"Construction Loan" has the meaning given in Section 2.1(a)(i) of the TLI Credit Agreement.

"Construction Loan Availability Period" means with respect to the Project the period from the Closing Date to the earlier of Completion or the Construction Loan Maturity Date.

"Construction Loan Borrowing" means a borrowing by Borrower consisting of a Construction Loan made by the Lender.

"Construction Loan Maturity Date" shall mean, with respect to the Project, December 31, 1997.

"Contractors" means Manuel Bros. Inc., Aegean Construction Services, Inc., Network Development Consultants, Inc. and such other contractors as may be selected by Borrower and approved by Lender.

"Credit Documents" means the TLI Credit Agreement, the Note, the Collateral Documents and the Consents.

"Credit Event" means the making of any Construction Loan and any other extension of credit hereunder.

"Debt" of any Person at any date means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person under leases which are or should be, in accordance with GAAP, recorded as capital leases in respect of which such Person is liable, (e) all obligations of such Person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities (or property), (f) all deferred obligations of such Person to reimburse any bank or other Person in respect of amounts paid or advanced under a letter of credit or other instrument, (g) all Debt of others secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person and (h) all Debt of others guaranteed directly or indirectly by such person or as to which such Person has an obligation substantially the economic equivalent of a guarantee.

"Debt Service" means for any Person and any period all Obligations for principal and interest payments on Debt of such Persons due in such period.

"Default" means any occurrence, circumstance or event, or any combination thereof, which, with the lapse of time and/or the giving of notice, would constitute an Event of Default.

"Default Rate" means an interest rate per annum equal to the interest rate then in effect on the Loan Facility plus three percent (3%). All computations of interest with respect to the Default Rate shall be based on a year of 360 days and actual days elapsed.

"Depository Bank" has the meaning given in Section 8(b) of the Security Agreement.

"Development Companies" means corporations which are direct or indirect subsidiaries of GSI and/or GST which will develop the Network Projects.

"Dollars" and "\$" means United States dollars or such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts in the United States of America.

"Drawdown Certificate" means a certificate delivered to Lender pursuant to Section 3.2(b) of the TLI Credit Agreement substantially in the form of Exhibit C-2 thereto.

"Easement Property" means the property subject to all Easements and similar agreements described on Schedules 3 and 4 attached hereto.

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"Easements" means any easement, other right of way or license provided or agreed to by any Person other than a Governmental Authority.

"Eminent Domain Proceeds" has the meaning given in Section 5.15 of the TLI Credit Agreement.

"Employee Benefit Plan" means any employee benefit plan within the meaning of section 3(3) of ERISA maintained or contributed to by Borrower or any ERISA Affiliate, other than a Multiemployer Plan.

"Equipment" has the meaning given in Section 2(c) of the Security Agreement.

"Equity Securities" of any Person shall mean (a) all common stock, preferred stock, participations, shares, partnership interests or other equity interests in and of such Person (regardless of how designated and whether or not voting or non-voting) and (b) all warrants, options and other rights to acquire any of the foregoing.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, including (unless the context otherwise requires) any rules or regulations promulgated thereunder.

"ERISA Affiliate" means any Person which is treated as a single employer with Borrower under Section 414 of the Code.

"ERISA Plan" means any employee benefit plan (a) maintained by Borrower or any ERISA Affiliate, or to which any of them contributes or is obligated to contribute, for its employees and (b) covered by Title IV of ERISA or to which Section 412 of the Code applies.

"Estoppel and Consent Certificate" shall mean an estoppel and consent certificate in substantially the same form of Exhibit L.

"Event of Default" means any event specified in Article 8 of the TLI Credit Agreement.

"Event of Eminent Domain" means any compulsory transfer or taking by condemnation, eminent domain or exercise of a similar power, or transfer under threat of such compulsory transfer or taking, of any part of the Collateral or any of the mortgaged property described in a mortgage by any agency, department, authority, commission, board, instrumentality or political subdivision of the State of Arizona, the United States or another Governmental Authority having jurisdiction.

"Exercise Price" has the meaning given in Section 2 of the Warrant.

"Expected Completion Date" means March 31, 1997.

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"FCC" means the Federal Communications Commission and its successors.

"Federal Funds Rate" means the per annum rate of interest at which Federal funds in the amount of the Loan Facility scheduled to be outstanding as of the commencement of the relevant Interest Period are offered to the Lender for such Interest Period by Federal funds brokers in New York at approximately 11:00 a.m. New York time on the date two Business Days prior to the first day of such Interest Period.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System.

"First Annual Operating Budget" has the meaning given in Section 5.7(b) of the TLI Credit Agreement.

"Fixed Rate" means a rate per annum equal to the annual yield which a United States government securities dealer of recognized standing, selected by the Lender in its sole discretion, offers to the Lender at approximately 11:00 a.m. New York time on the day preceding the date of conversion for the purchase of United States Treasury notes or bonds in an aggregate principal amount of \$1,000,000 or more maturing approximately on the Maturity Date plus 3.00% plus swap costs.

"Force Majeure" means a delay in or failure of performance by a Person attributable to unforeseeable occurrences beyond the control of such

Person, including acts of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or request of any Governmental Authority; unforeseen changes in laws, regulations or orders, acts of declared or undeclared war; use of any weapon of war employing atomic fission or radioactive force, whether in time of peace or war; shipwreck; public disorder, rebellion or sabotage, revolution, epidemics, landslides, hurricanes, earthquakes, floods, riots, partial or entire failure of utilities, quarantine, or similar causes; strikes, lockouts or other labor disputes (excluding a strike at the Site or by employees of a Contractor unless such strike or disturbance is in violation of a "no strike" provision of a Project labor agreement). Financial difficulties of any kind are explicitly excluded from this definition of Force Majeure.

"GAAP" means generally accepted accounting principles and practices as in effect in the United States of America from time to time, consistently applied.

"Governmental Authority" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity, (including any zoning authority, the FCC, the ACC, or any arbitrator with authority to bind a party at law).

"Governmental Charges" has the meaning given in Section 1 of the Security Agreement.

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"Governmental Rule" means any law, rule, regulation, ordinance, order, code interpretation, judgment, decree, directive, guidelines, policy or similar form of decision of any Governmental Authority.

"Greenstar" means GSI, GUS, GST, PLI, TLI, GST New Mexico Lightwave, Inc., GST Pacwest Telecom Hawaii, Inc., and their Affiliates.

"GSI" means GST Telecommunications Inc. (formerly known as "Greenstar Telecommunications Inc."), a corporation organized under the laws of Canada.

"GST" means GST Telecom Inc., a Delaware corporation.

"GST Security Agreement" has the meaning given in Section 2.7(a) of the TLI Credit Agreement.

"GST Services Agreement" means the Services Agreement between TLI and GST, dated as of October 1, 1995.

"GUS" means GST USA, Inc. (formerly known as "Greenstar USA, Inc."), a Delaware corporation.

"Hazardous Substances" means substances defined as "hazardous substances," in Section 101 of the CERCLA (42 U.S.C. Section 9601); those substances defined as "hazardous waste" by the RCRA; those substances designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1321); those substances defined as "hazardous materials" in Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq. at Section 1802); those substances regulated as a hazardous chemical substance or mixture or as an imminently hazardous chemical substance or mixture pursuant to Sections 6 or 7 of the TSCA (15 U.S.C. Sections 2605, 2606); those substances defined as "contaminants" by Section 1401 of the SDWA (42 U.S.C. Section 300f), if present in any surface or ground water in excess of maximum contaminant levels; those substances regulated by the Oil Pollution Act; those substances defined as a pesticide pursuant to Section 2(u) of the FIFRA (7 U.S.C. Section 136(u)); those substances defined as a source, special nuclear or by-product material by Section 11 of the AEA (42 U.S.C. Section 2014); those substances defined as "residual radioactive material" by Section 101 of the UMTRCA (42 U.S.C. Section 7911); those substances defined as "toxic materials" or "harmful physical agents" pursuant to Section 6 of the Occupational Safety and Health Act (29 U.S.C. Section 651 et seq. at Section 655); those substances defined as hazardous wastes in 40 C.F.R. Part 261.3; those substances defined as hazardous waste constituents in 40 C.F.R. Part 260.10, specifically including Appendix VII and VIII of Subpart D of 40 C.F.R. Part 261; those substances designated as hazardous substances in 40 C.F.R. Parts 116.4 and 302.4; those substances defined as hazardous substances or hazardous materials in 49 C.F.R. Part 171.8; those substances regulated as hazardous materials, hazardous substances, or toxic substances in 40 C.F.R. Part 1910; and in the regulations adopted and publications promulgated pursuant to any Hazardous Substance Laws, whether or not such regulations or publications are specifically referenced herein.

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"Hazardous Substance Laws" means: (a) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.) ("CERCLA"); (b) the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) ("Clean Water Act" or "CWA"); (c) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) ("RCRA");

(d) the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.) ("AEA"); (e) the Clean Air Act (42 U.S.C. Section 7401 et seq.) ("CAA"); (f) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 11001 et seq.) ("EPCRA"); (g) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Section 136 et seq.) ("FIFRA"); (h) the Oil Pollution Act of 1990 (P.L. 101-380, 104 Stat. 486); (i) the Safe Drinking Water Act (42 U.S.C. Sections 300f et seq.) ("SDWA"); (j) the Surface Mining Control and Reclamation Act of 1974 (30 U.S.C. Sections 1201 et seq.) ("SMCRA"); (k) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.) ("TSCA"); (l) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. Section 7901 et seq.) ("UMTRCA"); and (m) all other Federal, state and local Governmental Rules which govern Hazardous Substances, and the regulations adopted and publications promulgated pursuant to all such foregoing laws.

"Insurance Proceeds" has the meaning given in Section 7.2(a) of the TLI Credit Agreement.

"Interconnection Agreements" means the Phase I Interconnection Agreements and the Phase II Interconnection Agreements.

"Interest Period" means (a) the period commencing on May 24, 1996 and ending on August 24, 1996 and (b) thereafter, each period commencing on the last day of the next preceding Interest Period and ending on the numerically corresponding day in the third succeeding calendar month; provided, however, that (1) the initial Interest Period with respect to each Construction Loan other than the initial Construction Loan shall commence on the date on which such subsequent Construction Loan is advanced and end on the last day of the then current Interest Period as established above; (2) any Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such next Business Day falls in another calendar month, in which case such Interest Period shall end on the immediately preceding Business Day; (3) any Interest Period which begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month; and (4) no Interest Period shall end after the Maturity Date.

"Inventory" has the meaning given in Section 2(e) of the Security Agreement.

"Leased Property" means the real property subject to or covered by the Leases.

"Leases" means any lease of property necessary or entered into in connection with respect to the Phase I Project and the Phase II Project.

"Lease Sites" means: (i) approximately 5,000 square feet located at 3770 Park Avenue, Suite B, Tucson, Arizona; (ii) a 10,052 square foot office warehouse building located at 3836 South Evans Blvd., Tucson, Arizona; (iii) 1,023 square feet at 177 North Church Avenue, Tucson, Arizona, and the sites which are the subject of the other Leases to be entered into with respect to the Project, and all rights, rights of way and appurtenances thereto, covering certain real property in Pima County, Arizona with respect to the Project.

"Legal Requirement" means, as to any Person, any requirement set forth in the Charter Documents, of such Person, any Governmental Rule, any requirement under a Permit, and any determination of any arbitrator, court, or government Governmental Authority, in each case applicable to or binding upon such Person or any of its properties or to which such Person or any of its properties is subject.

"Lender" means TM Communications LLC and its successors and assigns.

"Lender Representative" means an individual designated by Lender from time to time to act as liaison with Borrower.

"LIBOR Rate" means a rate per annum determined by Lender (which determination shall, absent manifest error, be conclusive) to be equal to the rate at which deposits in Dollars are offered to Lender in the London interbank eurodollar currency market at approximately 11:00 a.m. (London time), two Business Days prior to the first day of the relevant Interest Period (for delivery on the first day of such Interest Period) and for a term equal to such Interest Period.

"Lien" on any asset means any mortgage, deed of trust, lien, pledge, charge, judgment, security interest, restrictive covenant or easement or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected or effective under applicable law, as well as the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"Liquidation Costs" has the meaning given in Section 2.6 of the TLI Credit Agreement.

"Loan Facility" means, collectively, the Construction Loans and the Term Loans made under the TLI Credit Agreement.

"Major Project Participants" means Aegean Construction Services, Inc. and the other entities to be awarded contracts with respect to the construction of the Project.

"Major Subcontracts" means any contract between Contractor and

any Major Subcontractor.

"Major Subcontractor" means any Person, at any tier, who performs any work, including the supply of any equipment or materials for any Contractor, involving amounts in excess in the aggregate of Two Hundred Fifty Thousand Dollars (\$250,000).

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"Master Agreement" means the Master Agreement among GSI, GST, Pacwest, PLI and Tomen America dated October 24, 1994, as amended.

"Material Adverse Effect" means a material adverse effect on (a) construction or operation of the Phase I Project or the Phase II Project, or the business, assets, operations or financial or other condition of Borrower at any time or on the financial or other condition of any other Major Project Participant during the Construction Loan Availability Period, (b) the ability of Borrower or any Major Project Participant to perform its obligations under the Credit Documents or other Operative Documents, (c) the validity or enforceability of the TLI Credit Agreement or any other Credit Document or any related document, instrument or agreement, or the rights and remedies of Lender hereunder or thereunder, or (d) the Lender's interest in a Project Phase, the value of the Collateral, or Lender's security interests in the Collateral or the perfection or priority of such security interests.

"Material Project Documents" means the documents specified in Section 3.1(b) (A) through 3.1(b) (G) of the TLI Credit Agreement.

"Maturity" or "maturity" means, with respect to the amount due with respect to the Loan Facility, interest, fees or other amounts payable by Borrower under the TLI Credit Agreement or the other Credit Documents, the date such amounts becomes due, whether upon the stated maturity or due date, upon acceleration or otherwise.

"Maturity Date" means the earlier of the date which is nine (9) years from the Closing Date or eight (8) years from the Term Conversion Date or such earlier date on which the entire outstanding principal balance of the Loan Facility, together with all unpaid interest, fees, charges and costs, become due and payable under the TLI Credit Agreement.

"Maximum Legal Rate" has the meaning given in the Note.

"Milestone Disbursement Schedule" means the milestone disbursement schedule for the Project delivered by Borrower at the Closing Date.

"Multiemployer Plan" means any multiemployer plan within the meaning of section 3(37) of ERISA maintained or contributed to by Borrower or any ERISA Affiliate.

"NDC" has the meaning given in Section 3.1(g) of the TLI Credit Agreement.

"Net Cash Flow" means with respect to a Development Company and the applicable period:

(a) the sum of:

(i) the gross receipts of the Development Company from all sources (other than capital contributions, proceeds from the Credit Agreement with Tomen America or a Tomen Affiliate or other loans), including but not limited to receipts from (1) the sale of

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products and services, (2) interest and other investment income on investments and reserves, and (3) insurance proceeds;

(ii) any amounts released from reserves, the distribution of which is permissible and in accordance with the provisions of the Credit Agreement; and

(iii) any Net Cash Flow from a prior period not distributed but the distribution of which is permissible;

less (b) the sum of:

(i) all costs and expenses which the Development Company paid during such period in connection with the construction, ownership, management (except as provided herein), operation and maintenance of the Network Project, including, but not limited to, (1) utility costs, (2) business taxes and real and personal property tax and assessments, and fees and expenses in connection with the preparation of the Development Company's tax returns, (3) insurance premiums, (4) the actual documented costs of Network Project management, not to include management fees paid to Greenstar or any Affiliate in excess of such actual costs, (5) expenditures for capital improvements and the repair, maintenance and restoration of the improvements (including any portion of the same to the extent not covered by insurance proceeds), (6) expenditures required or deemed advisable to be made under or in connection with any contract of the Development Company, and (7) all other costs and expenses, including

capital expenditures and the purchase of spare parts and other inventory and replacement items, required to be made by the Development Company (but excluding any such amounts to the extent paid out of reserves); and

(ii) all principal and interest and other sums and amounts payable by the Development Company to repay any Loan from Tomen or any of its Affiliates payable for the applicable or pertinent period.

"Net Cash Flow Account Security Agreements" has the meaning given in Section 2.7(a) of the TLI Credit Agreement.

"Net Cash Flow Agreements" means the agreements in the form of Exhibit K entered into pursuant to Section 3.1(a) and Section 5.17 of the TLI Credit Agreement.

"Network Project Credit Agreement" means a credit agreement between Lender or one of its Affiliates, as lender and a Development Company, as borrower, to finance an alternative access network telecommunications project.

"Network Projects" means alternative access network telecommunications projects to be developed or existing alternative access projects to be expanded by GSI and/or GST in the Territory.

"1934 Act" means the Securities Exchange Act of 1934, as amended.

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"Note Holder" means the registered owner of any Note.

"Note" has the meaning given in Section 2.1(f) of the TLI Credit Agreement.

"Notice of Borrowing" has the meaning given in Section 2.1(a)(ii) of the TLI Credit Agreement.

"Notice of Interest Rate Conversion" has the meaning given in Section 2.1(d) of the TLI Credit Agreement.

"Notice of Term Conversion" has the meaning given in Section 2.1(b)(ii) of the TLI Credit Agreement.

"Obligations" means and includes, with respect to any Person, all loans, advances, debts, liabilities, and obligations, howsoever arising,

owed by such Person to a lender of every kind and description (whether or not evidenced by any note or instrument, and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, pursuant to the terms of a credit agreement or any other credit document, including all interest, fees, charges, expenses, attorneys' fees and accountants fees chargeable to such Person in connection with its dealings with such lender and payable by such Person hereunder or thereunder. The term "Obligations" shall also mean and include any amounts owing to Lender which arise because payments as to past transactions are rescinded or otherwise required to be surrendered by Lender after receipt.

"Operating Account" has the meaning given in Section 7.1 of the TLI Credit Agreement.

"Operation and Maintenance Costs" means all actual cash maintenance and operation costs incurred and paid, or if appropriate, to be incurred and paid, for the Project in any particular calendar or fiscal year or period to which said term is applicable, including payments for fuel, additives or chemicals and transportation costs related thereto, local taxes, insurance, consumables, payments under any Lease, payments pursuant to the agreements for the management, operation and maintenance of the Project, reasonable legal fees and expenses paid by Borrower in connection with the management, maintenance or operation of the Project (but excluding legal fees and expenses related to litigation), fees paid in connection with obtaining, transferring, maintaining or amending any Applicable Permits and reasonable general and administrative expenses, but exclusive in all cases of non-cash charges, including depreciation or obsolescence charges or reserves therefor, amortization of intangibles or other bookkeeping entries of a similar nature, and also exclusive of all interest charges and charges for the payment or amortization of principal of indebtedness of Borrower (other than those relating to Debt permitted pursuant to Section 6.3 of the TLI Credit Agreement).

"Operative Documents" means the Credit Documents, the Project Documents and any Additional Project Documents.

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"Other Taxes" has the meaning given in Section 2.3(c)(i) of the TLI Credit Agreement.

"Pacwest" means Pacwest Network L.L.C., an Oregon limited liability company and its Affiliates.

"Parts" means any part, appliance, instrument, appurtenance,

accessory or other property of any nature necessary or useful to the operation, maintenance, service or repair of the project.

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under Title IV of ERISA.

"Permit" means any action, approval, consent, waiver, exemption, variance, franchise, order, permit, authorization, right or license of or from a Governmental Authority.

"Permitted Investments" means (a) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) or obligations the timely payment of the principal of and interest on which are fully guaranteed by the United States of America; (b) obligations, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following: Export-Import Lender of the United States, Federal Housing Administration or other agency or instrumentality of the United States; (c) interest-bearing demand or time deposits (including certificates of deposit) which are either (i) insured by the Federal Deposit Insurance Corporation, or (ii) held in banks and savings and loan associations, having general obligations rated at least "AA" or equivalent by Standard & Poor's Corporation ("S&P") or Moody's Investors Service, Inc. ("Moody's"), or if not so rated, secured at all times, in the manner and to the extent provided by law, by collateral security described in clauses (a) or (b) of this definition, of a market value of no less than the amount of moneys so invested; (d) commercial paper rated (on the date of acquisition thereof) at least A-1 or P-1 or equivalent by S&P or Moody's, respectively (or an equivalent rating by another nationally recognized credit rating agency of similar standing if neither of such corporations is then in the business of rating commercial paper), maturing not more than 270 days from the date of creation thereof; (e) any corporate evidence of indebtedness rated at least "A-" or equivalent by S&P or Moody's; or (f) any advances, loans or extensions of credit or any stock, bonds, notes, debentures or other securities as Lender may from time to time approve in its sole and absolute discretion.

"Permitted Liens" means (a) the rights and interests of Lender as provided in the Operative Documents, (b) Liens for any tax, assessment or other governmental charge, either secured by a bond reasonably acceptable to Lender or not yet due or being contested in good faith and by appropriate proceedings, so long as (i) such proceedings shall not involve any substantial danger of the sale, forfeiture or loss of the Project or any Applicable Easements, as the case may be, title thereto or any interest therein and shall not interfere in any material respect with the use or disposition of the Project or any Applicable Easements, or (ii) a bond or other security acceptable to Lender in its sole discretion has been posted or

provided in such manner and amount as to assure Lender that any taxes, assessments or other charges determined to be due will be promptly paid in full when such contest is determined, (c) materialmen's, mechanics', workers', repairmen's, employees' or other like Liens arising in the ordinary course of business or in connection with the construction of the Project, either for amounts not yet due or for amounts being contested in good faith and by appropriate proceedings, so long as (i) such proceedings shall not involve any substantial danger of the sale, forfeiture or loss of any part of the Project or any Applicable Easements, as the case may be, title thereto or any interest therein and shall not interfere with the use or disposition of the Project or any Applicable Easements, or (ii) a bond or other security acceptable to Lender in its sole discretion has been posted or provided in such manner and amount as to assure Lender that any amounts determined to be due will be promptly paid in full when such contest is determined, (d) Liens arising out of judgments or awards, but only so long as an appeal or proceeding for review is being prosecuted in good faith with a reasonable likelihood of success and for the payment of which adequate reserves, bonds or other security acceptable to Lender in its sole discretion have been provided or are fully covered by insurance, (e) mineral rights the use and enjoyment of which do not materially interfere with the use and enjoyment of the Project or any Applicable Easements, (f) Liens, deposits or pledges to secure statutory obligations or performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or for purposes of like general nature in the ordinary course of its business, (g) Liens incident to the ordinary course of business that are not incurred in connection with the obtaining of any loan, advance or credit and that do not in the aggregate materially impair the use of the property or assets of Borrower or the value of such property or assets for the purposes of such business, (h) Liens of trade vendors created in connection with Debt allowed under Section 6.3 of the TLI Credit Agreement, and (i) Liens created in connection with a Net Cash Flow Agreement.

"Person" means and includes an individual, a partnership, a firm, an association, a corporation (including a business trust), a joint stock company, an unincorporated association, a joint venture, a Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity.

"Phase I Collocation Agreements" means the Collocation Agreement between Borrower and U.S. West and any other collocation agreements entered into or to be entered into with respect to the Phase I Project.

"Phase I Construction Contracts" means that certain Professional Services agreement dated June 21, 1995 between NDC and GST; that certain underground Construction Contract dated April 6, 1995, between Borrower and Manuel Bros. and the other Construction Agreements to be entered into with respect to the construction of the Phase I Project, subject to the terms and conditions of the TLI Credit Agreement.

"Phase I Interconnection Agreements" means the Building Space License Agreement for Shared Customer-Provided Access between Borrower and AT&T dated November 10, 1995, with respect to AT&T's central office building at 112 E. Alameda Street, Tucson, Arizona; the Occupancy Agreement between Borrower and AT&T dated November 28, 1995, with respect to AT&T's conduit system at 112 E. Alameda Street,

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Tucson, Arizona; the Master Capacity Agreement between GST and MCI dated November 13, 1995 (with respect to Borrower); the Competitive Access Provider Agreement between GST and Sprint dated October 12, 1995; and any other interconnection agreement entered into or to be entered into with respect to the Phase I Project.

"Phase I Leases" means any lease of property necessary or entered into in connection with the Phase I Project.

"Phase I Pole and Conduit Use Agreements" means the Facilities Use Agreement between Tucson Electric Power Company and Borrower dated January 16, 1996; the General License Agreement for Innerduct Occupancy between U.S. West and Borrower dated October 12, 1994; the License Agreement for Usage of Communications Poles between U.S. West and Borrower dated July 21, 1994; the City of Tucson License; and any other agreements entered into or to be entered into with respect to the use of poles, conduits, the lease of fiber optic cables, or rights of way for the Phase I Project's fiber optic cable and other equipment.

"Phase I Project" means the development, construction and operation of fiber optic transmission equipment and optical fiber cable for the Service District all as more particularly described in Schedule 1 to the TLI Credit Agreement, together with all Easements, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all Parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto, all leases of real or personal property related thereto, and all other real and tangible and intangible personal property owned by Borrower and placed upon or used in connection therewith.

"Phase II Collocation Agreements" means the collocation agreement between Borrower and U.S. West and any other collocation agreements entered into or to be entered into with respect to the Phase II Project.

"Phase II Construction Contracts" means the Construction Agreements to be entered into with respect to the construction of the Phase II Project, subject to the terms and conditions of the TLI Credit Agreement.

"Phase II Interconnection Agreements" means the Phase I Interconnection Agreements and any other interconnection agreements to be entered into with respect to the Phase II Project.

"Phase II Leases" means any lease of property necessary or entered into in connection with the Phase II Project.

"Phase II Pole and Conduit Use Agreements" means the Phase I Pole and Conduit Use Agreements, and any other agreements entered into or to be entered into with

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respect to the use of poles, conduits, the lease of fiber optic cables, or rights of way for the Phase II Project's fiber optic cable and other equipment.

"Phase II Project" means the development, construction and operation of fiber optic transmission equipment and optical fiber cable for the Service District all as more particularly described in Schedule 2 to the TLI Credit Agreement, together with all Easements, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all Parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto, all leases of real or personal property related thereto, and all other real and tangible and intangible personal property owned by Borrower and placed upon or used in connection therewith.

"Plans and Specifications" means the plans and specifications for the construction and design of the relevant Project Phase, including any document describing the scope of work performed by the Contractors under the Construction Contracts or any other contract or subcontract for the construction of the relevant Project Phase, including, without limitation, the Collocation Agreements, the Interconnection Agreements and the Pole and Conduit Agreements, all work drawings, engineering and construction schedules, project schedules, project monitoring systems, specifications status lists, material and procurement ledgers, drawings and drawing lists, manpower allocation documents, management and project procedures documents, project design criteria, and any other document referred to in the Construction Contracts or any of the documents referred to in this definition.

"Pledge Agreement" has the meaning given in Section 2.6 of the TLI Credit Agreement.

"Pole and Conduit Use Agreements" means the Phase I Pole and Conduit Use Agreements and the Phase II Pole and Conduit Use Agreements.

"Proceeds" has the meaning given in Section 7.4 of the TLI Credit Agreement.

"Procurement Agent" means construction equipment and materials procurement agent for the development and construction of the Network Projects.

"Project" means the Phase I Project and the Phase II Project.

"Project Costs" means the combined Project Phase Costs for the Phase I Project plus the Phase II Project and the amount of any dividend to GST of capital previously contributed to TLI in excess of \$4,000,000.

"Project Documents" means the documents listed in Section 3.1(b) of the TLI Credit Agreement, and any other material agreement or document relating to the development, construction, operation, maintenance and repair of the Project or Phase thereof.

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"Project Loan" means a loan in the amount of 75% of the Project Costs of a Network Project provided by Lender or one of its affiliates to a Development Company pursuant to a Network Project Credit Agreement.

"Project Phase" means either the Phase I Project or the Phase II Project.

"Project Phase Budget" has the meaning given in Section 3.1(1)(ii) of the TLI Credit Agreement.

"Project Phase Costs" means (a) the cost of designing, equipping, procuring, constructing, starting up and testing the Project Phase, (b) the cost of acquiring any lease, the Applicable Easements and any other necessary interest in the Project Phase, (c) local property taxes and insurance premiums payable with respect to the Project Phase during the Construction Loan Availability Period, (d) interest payable on any Note for the Project Phase during the Construction Loan Availability Period, (e) reasonable initial working capital requirements of the Project Phase as approved by Lender, (f) the costs

of acquiring Permits for the Project Phase during the Construction Loan Availability Period, (g) other fees and expenses relating to the Project Phase, including financial, legal (excluding litigation) and consulting fees and expenses, all as described in the Project Phase Budget.

"Project Revenues" means all income and receipts derived from the ownership or operation of the Project, including payments due Borrower under the Construction Contracts, proceeds of any business interruption or other insurance, income derived from the Project, together with any receipts derived from the sale of any property pertaining to the Project or incidental to the operation of the Project, all as determined in conformity with cash accounting principles, the investment income on amounts in the Accounts, the proceeds of any drawing under a letter of credit of which Borrower is the beneficiary, proceeds of any insurance, condemnation or litigation or arbitration awards relating to the Project and proceeds from the Collateral Documents, but not including sums paid to Borrower in satisfaction of a contractual obligation to indemnify Borrower for third party liability to the extent such sums do not exceed the actual damage, loss or cost suffered by Borrower in connection therewith.

"Project Schedule" means the Project Schedule/Milestone Disbursement Schedule for each Project Phase delivered by Borrower at the Closing.

"Proportionate Share" has the meaning given to it in Section 9.1 of the TLI Credit Agreement, and as set forth in Attachment 1 of the Assignment Agreement.

"Prudent Practices" means those practices, methods, equipment, specifications and standards of safety and performance, as the same may change from time to time, as are commonly used by facilities similar to the Project of a type and size similar to the Project as good, safe and prudent engineering practices in connection with the design, construction, operation, maintenance, repair and use thereof with commensurate standards of safety, performance, dependability, efficiency and economy.

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"PU Code" means the Arizona Revised Statutes Sections 40-101 et seq., as amended.

"Receipts Account" has the meaning given in Section 7.1(a) of TLI Credit Agreement.

"Receivables" has the meaning given in Section 2(a) of the Security Agreement.

"Refinancing Notice" shall mean a written notice of proposed financing by Borrower in substantially the same form of Exhibit F to the TLI Credit Agreement.

"Rules" shall mean the Commercial Arbitration Rules of The American Arbitration Association.

"SEC" means the U.S. Securities and Exchange Commission.

"Security Agreement" has the meaning given in Section 2.7(a)(i) of the TLI Credit Agreement.

"Service District" means the geographic district to be served by the Project in Tucson, Arizona as further described in Schedules 1 and 2.

"Site" means the Lease Sites and the Easement Properties.

"Substantial Completion" means substantial completion of a Project Phase in accordance with the Plans and Specifications and the requirements of all Applicable Permits and as certified by an independent engineer to the satisfaction of the Lender in its sole discretion.

"Taxes" has the meaning given in Section 2.3(c) of the TLI Credit Agreement.

"Term Conversion" means the accomplishment of the conversion of Construction Loans to a Term Loan pursuant to Section 2.1(b)(i) of the TLI Credit Agreement.

"Term Conversion Date" means the date on which Term Conversion occurs.

"Term Loan" has the meaning given in Section 2.1(b) of the TLI Credit Agreement.

"Territory" means North America, Central America and South America.

"TLI" means GST Tucson Lightwave, Inc., an Arizona corporation formerly known as "Tucson Lightwave, Inc.".

"TLI Common Stock" means the common stock, no par value, of TLI.

"TLI Credit Agreement" means the Credit Agreement between TM Communications LLC (as lender) and TLI (as borrower) dated May 24, 1996.

"TLI Project" means the Project.

"Tomen" means Tomen Corporation, a corporation organized under the laws of Japan.

"Tomen America" means Tomen America Inc., a New York Corporation.

"Tomen Indemnitees" has the meaning given in Section 6.1 of the TLI Stock Purchase Agreement.

"Total Construction Loan Commitment" has the meaning given in Section 2.2(a) of the TLI Credit Agreement.

"Total Term Loan Commitment" has the meaning given in Section 2.2(b) of the TLI Credit Agreement.

"UCC" means the Uniform Commercial Code of the jurisdiction the law of which governs the document in which such term is used.

"U.S." means the United States of America.

#### RULES OF INTERPRETATION

1. All terms defined in the TLI Credit Agreement or any other Credit Document in the singular form shall have comparable meanings in the plural form and vice versa.

2. The word "or" is not exclusive.

3. A reference to a Governmental Rule includes any amendment or modification to such Governmental Rule.

4. A reference to a Person includes such Person's permitted successors and permitted assigns.

5. The words "include", "includes" and "including" and words of similar import are not limiting or exclusive.

6. A reference in a Credit Document to an Article, Section, Exhibit, Schedule, Annex, Attachment or Appendix is to the Article, Section, Exhibit, Schedule, Annex, Attachment or Appendix of such Credit Document unless otherwise indicated. Exhibits, Schedules, Annexes, Attachments or Appendices to any document shall be deemed incorporated by reference in such document.

7. References to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time.

8. The words "hereof," "herein" and "hereunder" and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision of such document.

9. References to "days" shall mean calendar days, unless the term "Business Days" is used. References to a time of day shall mean such time in New York, New York unless otherwise specified.

10. The Credit Documents are the result of negotiations between, and have been reviewed by Borrower, Lender and their respective counsel. Accordingly, the Credit Documents shall be deemed to be the product of all parties thereto, and no ambiguity shall be construed in favor of or against Borrower or Lender.

AMENDED AND RESTATED CONSULTING AGREEMENT

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AMENDED AND RESTATED CONSULTING AGREEMENT made as of the 1st day of September 1995, by and between SUNWEST VENTURES, INC., a British Columbia corporation with its principal place of business at 999 West Hastings Street, Vancouver, British Columbia V6C 2W2 ("Consultant"), and GST USA, INC. ("GUSA") and GST TELECOM INC. ("Telecom" and, together with GUSA, the "Corporations"), each Delaware corporations with their principal offices at 4317 N.E. Thurston Way, Vancouver, Washington 98662.

W I T N E S S E T H:

WHEREAS, Consultant has heretofore been retained to render consulting services to the Corporations' parent corporation, GST Telecommunications, Inc. ("GST"), pursuant to that certain Consulting Agreement dated as of December 30, 1994 between Consultant and GST; and

WHEREAS, Consultant, GST and the Corporations desire to amend and restate the terms of Consultant's retention and to provide that Consultant shall be jointly retained by the Corporations;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

1. Retention of Consultant. The Corporations hereby retain Consultant to render to the Corporations, GST and their subsidiaries (collectively, the "GST Companies") financial consulting services, which shall include, without limitation, the

development and evaluation of financing, merger and acquisition proposals, preparation of reports and studies thereon when advisable, and assistance in negotiations and discussions pertaining thereto and such other consulting services in connection with the operations of the GST Companies as shall be mutually agreed. All services to be rendered by Consultant hereunder shall be rendered by W. Gordon Blankstein ("Blankstein"), who hereby agrees to provide such services, and the performance of Consultant's duties hereunder may not be delegated by Consultant (except to Blankstein) or by Blankstein to any other person, firm, corporation or entity, without the prior written consent of the Corporations first had and obtained in each instance. Consultant hereby accepts such retention and agrees that, for so long as it shall be retained by the Corporations, it shall devote such time, attention, knowledge and skills as shall be required, faithfully and to the best of its ability, in the performance of its duties on behalf of the Corporations.

2. Compensation. As compensation for the services described in

Paragraph 1 hereof, the Corporations shall pay to Consultant a fee of \$190,000 annually, or such greater amount as the Board of Directors of GST (the "GST Board") may from time to time determine, in equal installments no less frequently than monthly until the earliest to occur of the events specified in Paragraph 3(a).

### 3. Term; Termination for Cause.

(a) Consultant's retention by the Corporations hereunder shall commence on the date hereof and shall continue through February 28, 1999, or until Blankstein shall die or become

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Disabled (as hereinafter defined) or until this Agreement is terminated by the Corporations for Cause (as hereinafter defined).

(b) The term Cause when utilized herein with respect to the termination of this Agreement shall mean (i) the willful and repeated failure of Consultant to perform any material duties hereunder or gross negligence of Consultant in the performance of such duties, and if such failure or gross negligence is susceptible of cure by Consultant, the failure to effect such cure within 20 days after written notice of such failure or gross negligence is given to Consultant; (ii) excessive use of alcohol or illegal drugs by Blankstein interfering with the performance of Consultant's duties hereunder; (iii) theft, embezzlement, fraud, misappropriation of funds, other acts of dishonesty or the violation of any law or ethical rule relating to Consultant's retention; (iv) the conviction of a felony or other crime involving moral turpitude by Consultant or Blankstein; or (v) the breach by Consultant of any other material provision of this Agreement, and if such breach is susceptible of cure by Consultant, the failure to effect such cure within 30 days after written notice of such breach is given to Consultant. For purposes of this Agreement, an action shall be considered "willful" if it is done intentionally, purposely or knowingly, distinguished from an act done carelessly, thoughtlessly or inadvertently. In any such event, Consultant shall be entitled to receive its compensation provided hereunder to and including the date of termination. Should Consultant in good faith dispute its termination for Cause, it shall give prompt written notice thereof to the Corporations, in which event such dispute shall be submitted to and determined by arbitration in San

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Francisco, California before an arbitrator appointed pursuant to the rules of the American Arbitration Association (the "Arbitrator"). Such arbitration shall be conducted in accordance with such rules as shall be promulgated by the Arbitrator, which may include any or all of the rules then obtaining of the American Arbitration Association. Any award or decision of the Arbitration shall be conclusive in the absence of fraud and judgment thereon may be entered in any

court having jurisdiction thereof. The costs of such arbitration shall be borne by the party against whom any award or decision is rendered. Consultant shall not be entitled to receive any compensation for periods subsequent to its dismissal pursuant to this Paragraph 3(b).

4. Additional Benefits. In addition to the compensation payable to Consultant hereunder, Blankstein (and his family) shall be entitled to participate, to the extent he is (and they are) eligible under the terms and conditions thereof, in any profit sharing, pension, retirement, hospitalization, insurance, disability, medical service, stock option, bonus or other employee benefit plan available to the executive officers of the Corporations that may be in effect from time to time during the period of Consultant's retention hereunder. The Corporations shall be under no obligation to institute or continue the existence of any such employee benefit plan.

5. Reimbursement of Expenses. The Corporations shall reimburse Consultant in accordance with applicable policies of the GST Companies for all expenses reasonably incurred by it in connection with the performance of its duties hereunder and the

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business of the GST Companies, upon the submission to the Corporations of appropriate receipts or vouchers.

6. Restrictive Covenant. In consideration of the retention of Consultant hereunder, Consultant and Blankstein agree that during the period of Consultant's retention hereunder and, in the event of termination of this Agreement (i) by Consultant otherwise than for Principal Breach (as such term is defined herein) or (ii) by the Corporation for Cause, for a further period ending on the earlier of two years after such termination or February 28, 2000, they will not (a) directly or indirectly own, manage, operate, join, control, participate in, invest in, or otherwise be connected with, in any manner, whether as an officer, director, employee, partner, investor or otherwise, any business entity that is engaged in the design, development, construction or operation of alternate access or other telecommunications networks, in providing long distance or other telecommunications services or in any other business in which the GST Companies, or any of them, are engaged during such period, within the United States of America (1) in all locations in which the GST Companies, or any of them, are doing business, and (2) in all locations in respect of which the GST Companies are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies, or any of them, theretofore have submitted any bids, provided that if such planning and/or pursuit relates to a business opportunity that is not a competitive access project (a "CAP") such planning and/or pursuit must have involved material efforts on the part of the GST Companies, or any of them, (b) for themselves or on behalf of any other person, partnership, corporation or entity, call on any

customer of the GST Companies for the purpose of soliciting, diverting or taking away any customer from the GST Companies (1) in all locations in which the GST Companies, or any of them, are doing business, and (2) in all locations in respect of which the GST Companies, or any of them, are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies, or any of them, theretofore have submitted any bids, provided that if such planning and/or pursuit relates to a business opportunity that is not a CAP, such planning and/or pursuit must have involved material efforts on the part of the GST Companies, or any of them, or (c) induce, influence or seek to induce or influence any person engaged as an employee, representative, agent, independent contractor or otherwise by the GST Companies, or any of them, to terminate his or her relationship with the GST Companies, or any of them. Nothing herein contained shall be deemed to prohibit Consultant and Blankstein from (x) investing their funds in securities of an issuer if the securities of such issuer are listed for trading on a national securities exchange or are traded in the over-the-counter market and their holdings therein represent less than 2% of the total number of shares or principal amount of the securities of such issuer outstanding, (y) owning securities, regardless of amount, of GST.

Consultant and Blankstein acknowledge that the provisions of this Paragraph 6 are reasonable and necessary for the protection of the GST Companies, and that each provision, and the period or periods of time, geographic areas and types and scope of restrictions on the activities specified herein are, and are intended to be, divisible. In the event that any provision of this

Paragraph 6, including any sentence, clause or part hereof, shall be deemed contrary to law or invalid or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions shall not be affected, but shall, subject to the discretion of such court, remain in full force and effect and any invalid and unenforceable provisions shall be deemed, without further action on the part of the parties hereto, modified, amended and limited to the extent necessary to render the same valid and enforceable.

7. Confidential Information. Consultant and Blankstein shall hold in a fiduciary capacity for the benefit of the GST Companies all information, knowledge and data relating to or concerned with their operations, sales, business and affairs, and they shall not, at any time for a period of two years after termination of Consultant's retention hereunder, use, disclose or divulge any such information, knowledge or data to any person, firm or corporation (unless the GST Companies no longer treat such information as confidential) other than to the GST Companies or their designees and employees or except as may otherwise be required in connection with the business and affairs of the GST Companies; provided, however, that Consultant and Blankstein

may use, disclose or divulge such information, knowledge or data that (i) was known to Blankstein at the commencement of Consultant's retention by GST; (ii) is or becomes generally available to the public through no wrongful act on Consultant's or Blankstein's part; or (iii) becomes available to Consultant or Blankstein from a person or entity other than the GST Companies or their agents not bound by this or a similar agreement with the GST Companies; and

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provided, further, that the provisions of this Paragraph 8 shall not apply to Blankstein's know how to the extent utilized by him in subsequent retention or employment so long as such retention or employment is not in breach of this Agreement.

8. Equitable Relief. The parties hereto acknowledge that Consultant's services are unique and that, in the event of a breach or a threatened breach by Consultant of any of its obligations under this Agreement, the Corporations will not have an adequate remedy at law. Accordingly, in the event of any such breach or threatened breach by Consultant, the Corporations shall be entitled to such equitable and injunctive relief as may be available to restrain Consultant, Blankstein and any business, firm, partnership, individual, corporation or entity participating in such breach or threatened breach from the violation of the provisions hereof. Nothing herein shall be construed as prohibiting the Corporations from pursuing any other remedies available at law or in equity for such breach or threatened breach, including the recovery of damages and the immediate termination of the retention of Consultant hereunder.

9. Survival of Provisions; Death of Blankstein. Neither the termination of this Agreement, nor of Consultant's retention hereunder, shall terminate or affect in any manner any provision of this Agreement that is intended by its terms to survive such termination.

In the event of termination of this Agreement by reason of Blankstein's death, the Corporations shall pay a benefit (the "Benefit Payment") to such person or persons as Consultant shall, at its option, from time to time designate by written

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instrument delivered to the Corporations, each subsequent designation to revoke all prior designations, or if no such designation is made, to Consultant (the "Payment Beneficiary"). The Benefit Payment shall be in an amount equal to one and one-half times Consultant's then current annual compensation payable hereunder, and shall be payable to the Payment Beneficiary in equal quarterly installments over a period of one and one-half years, provided that if the GST Companies, or any of them, then maintain a life insurance policy on the life of Blankstein under which they are the beneficiary, the amount of the death benefit payable thereunder, to a maximum amount equal to the Benefit Payment, less

installments of the Benefit Payment theretofore paid, shall be paid to the Payment Beneficiary on the Benefit Payment installment payment date next succeeding the date on which the GST Companies receive such death benefit proceeds, and the remainder of the Benefit Payment, if any, shall be paid in equal quarterly installments as provided above.

10. Disability of Blankstein. In the event that during the term of this Agreement Blankstein shall become Disabled, Consultant shall continue to receive the full amount of the compensation to which it was theretofore entitled for a period of six months after Blankstein shall be deemed to have become Disabled (the "First Disability Payment Period"). If the First Disability Payment Period shall end prior to February 28, 1999, Consultant thereafter shall be entitled to receive compensation at an annual rate equal to one-half of its then current compensation for a further period ending on the earlier of (i) one year thereafter, or (ii) February 28, 1999 (the "Second Disability Payment Period").

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Upon the expiration of the Second Disability Payment Period, Consultant shall not be entitled to receive any further payments on account of its compensation until Blankstein shall cease to be Disabled and Consultant shall have resumed its duties hereunder and provided that the Corporations shall not have theretofore terminated this Agreement as hereinafter provided. The Corporations may terminate this Agreement and Consultant's engagement hereunder at any time after Blankstein is Disabled, upon at least 10 days' prior written notice. For the purposes of this Agreement, Blankstein shall be deemed to have become Disabled when (x) by reason of physical or mental incapacity of Blankstein, Consultant is not able to perform a substantial portion of its duties hereunder for a period of 135 consecutive days or for 135 days in any consecutive 225-day period or (y) when Blankstein's physician or a physician designated by the Corporations shall have determined that by reason of Blankstein's physical or mental incapacity, Consultant will not be able to perform its duties under this Agreement. In the event that Consultant shall dispute any determination of Blankstein's Disability pursuant to clauses (x) or (y) above, the matter shall be resolved by the determination of three physicians qualified to practice medicine in the United States of America or Canada, one to be selected by each of the Corporations and Consultant and the third to be selected by the designated physicians. If Blankstein shall receive benefits under any disability policy maintained by the GST Companies, the Corporations shall be entitled to deduct the amount equal to the benefits so received from compensation that they otherwise would have been required to pay to Consultant as provided above.

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11. Termination for Breach by Corporations. Consultant may upon written notice to the Corporations terminate this Agreement (a termination for "Principal Breach") in the event of the breach by the Corporations of any

material provision of this Agreement (and the occurrence of any of the events described in subparagraph (i) of Paragraph 12 hereof shall be deemed a breach by the Corporations of a material provision of the Agreement), and if such breach relates to a provision of this Agreement other than Paragraph 12 and is susceptible of cure, the failure to effect such cure within 30 days after written notice of such breach is given to the Corporations.

12. Change of Control. (i) If prior to the termination of this Agreement, there is a Change of Control (as such term is defined herein) and thereafter any of the following occur: (a) Blankstein ceases to serve as Chairman of the Board of GST; (b) Blankstein ceases to serve as a member of the GST Board or the Boards of Directors of the Corporations (the "Boards"); (c) Consultant is assigned duties which, if performed, would result in a significant change in the functions or duties of Consultant; (d) any breach of Paragraphs 2, 4 or 5 of this Agreement; or (e) any requirement of the Corporations that the location at which Consultant performs its principal duties for the Corporations be outside a radius of 50 miles from the location at which Consultant performed such duties immediately prior to the Change of Control, then this Agreement shall be deemed to have been terminated by the Corporations otherwise than by reason of Cause and the Corporations shall pay to Consultant within five days after notice from Consultant to such effect, as liquidated damages, a lump sum cash

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payment equal to 2.99 times the "base amount" of Consultant's compensation. For purposes hereof, "base amount" shall have the meaning provided in Section 280G (b) (2) (A) of the Internal Revenue Code of 1986, as amended, and the Proposed Regulations thereunder.

(ii) For the purposes of this Agreement, a Change of Control means (A) the direct or indirect, sale, lease, exchange or other transfer of all or substantially all (50% or more) of the assets of GST or the Corporations to any person or entity or group of persons or entities acting in concert as a partnership or other group (a "Group of Persons") excluding the GST Companies, (B) the merger, consolidation or other business combination of GST or the Corporations with or into another corporation with the effect that the shareholders of GST or the Corporations, as the case may be, immediately following the merger, consolidation or other business combination, hold 50% or less of the combined voting power of the then outstanding securities of the surviving corporation of such merger, consolidation or other business combination ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors, (C) the replacement of a majority of the GST Board or any committee of the GST Board or of either of the Boards in any given year as compared to the directors who constituted the GST Board or such committee or either of the Boards at the beginning of such year, and such replacement shall not have been approved by the GST Board or the Boards, as the case may be, as constituted at the beginning of such year, (D) a person or Group of Persons shall, as a result of a tender or

exchange offer, open market purchases, privately negotiated purchases or

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otherwise, have become the beneficial owner (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended) of securities of GST or either of the Corporations representing 50% or more of the combined voting power of the then outstanding securities of such corporation ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors.

13. Independent Contractor. Consultant shall, for all purposes, be deemed an independent contractor. The Corporations shall not be obligated to deduct social security, withholding or any other payroll or related taxes from any payments to be made to Consultant under this Agreement. Consultant shall not be deemed to have been granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the Corporations in any way, except as may be specifically authorized in writing by the Corporations from time to time. The Corporations shall assume no responsibility for Consultant, its agents, servants, or employees, for any injury to any of the foregoing or to any third party, and Consultant and Blankstein hereby assume all such responsibility and agree to indemnify and hold the Corporations free and harmless from any liability therefor or on account thereof.

14. Notices. Any notice required, permitted or desired to be given pursuant to any of the provisions of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered in person or by responsible overnight delivery service or sent by certified mail, return receipt requested, postage and fees prepaid as follows:

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If to the Corporations, at their address set forth above, Attention: Chief Executive Officer, with a copy to:

Olshan Grundman Frome & Rosenzweig LLP  
505 Park Avenue  
New York, New York 10022  
Attention: Stephen Irwin

If to Consultant, at its address set forth above. Any of the parties hereto may at any time and from time to time change the address to which notice shall be sent hereunder by notice to the other parties given under this Paragraph 14. The date of the giving of any notice hand delivered or delivered by responsible overnight carrier shall be the date of its delivery and of any notice sent by mail shall be the date five days after the

date of the posting of the mail.

15. No Assignment; Binding Effect. Neither this Agreement, nor the right to receive any payments hereunder, may be assigned by Consultant or the Corporations without the prior written consent of the other parties hereto. This Agreement shall be binding upon Consultant and the Corporations, their respective successors and permitted assigns.

16. Waivers. No course of dealing nor any delay on the part of the Corporations in exercising any rights hereunder shall operate as a waiver of any such rights. No waiver of any default or breach of this Agreement shall be deemed a continuing waiver or a waiver of any other breach or default.

17. Invalidity. If any clause, paragraph, section or part of this Agreement shall be held or declared to be void, invalid or illegal, for any reason, by any court of competent jurisdiction, such provision shall be ineffective but shall not in

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any way invalidate or affect any other clause, paragraph, section or part of this Agreement.

18. Further Assurances. Each of the parties shall execute such documents and take such other actions as may be reasonably requested by the other party to carry out the provisions and purposes of this Agreement in accordance with its terms.

19. Attorneys' Fees. If any action, suit or proceeding is filed by any party to enforce or rescind this Agreement or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue shall be entitled to recover with respect to such issue, in addition to costs, reasonable attorneys' fees incurred in preparation or in prosecution or defense of such action, suit or proceeding as fixed by the arbitrator or trial court, and if any appeal is taken from the decision of the trial court, reasonable attorneys' fees as fixed on appeal.

20. Entire Agreement; Modification. This Agreement contains the full understanding of the parties hereto with respect to the subject matter hereof and there are no representations, warranties, agreements or understandings other than expressly contained herein. No termination, alteration, modification or variation or waiver of this Agreement or any of the provisions hereof shall be effective unless in writing executed by the parties hereto, or in the case of a waiver, by the party or parties waiving compliance.

21. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, except that body of law relating to choice of laws.

IN WITNESS WHEREOF, this Amended and Restated Consulting Agreement has been made and executed as of the day and year first above written.

GST USA, INC.

By: /s/ John Warta

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Name: John Warta

Title:

GST TELECOM INC.

By: /s/ John Warta

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Name:

Title:

SUNWEST VENTURES, INC.

By: /s/ Gordon Blankstein

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Gordon Blankstein, President

ACKNOWLEDGED AND AGREED:

/s/ Gordon Blankstein

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GORDON BLANKSTEIN, Individually

GST TELECOMMUNICATIONS, INC.

By: /s/ John Warta

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Name: John Warta

Title:

PERSONAL SERVICES AGREEMENT

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AGREEMENT made as of this 1st day of October, 1995, by and between GST USA, INC. and GST TELECOM INC., each Delaware corporations with their principal offices at 4317 N.E. Thurston Way, Vancouver, Washington 98662 (the "Corporations"), and STEPHEN IRWIN, with an office at 15 Eisenhower Drive, Cresskill, New Jersey 02626 ("Irwin").

W I T N E S S E T H :

WHEREAS, Irwin is an attorney at law with extensive experience in the representation of publicly held corporations and otherwise advising management of publicly held corporations in respect of corporate matters; and

WHEREAS, the Corporations desire to retain Irwin to render management and legal services to the Corporations, their parent corporation, GST Telecommunications, Inc. ("GST"), and their subsidiaries (collectively, the "GST Companies"), and Irwin is willing to be retained to render such services;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Retention of Irwin. The Corporations hereby retain Irwin to render management and legal services to the GST Companies, subject at all times to the control and direction of the Board of Directors of the Corporations. Irwin shall be appointed as a director and Vice Chairman of the Board of Directors of GST. He shall be elected to such additional offices of the GST Companies as determined by the Board of Directors of GST.

2. Acceptance of Retention. Irwin hereby accepts such retention and agrees that throughout the period of such retention, he will devote one-half of his working time and attention to the performance of his duties hereunder. Irwin further agrees to devote his knowledge and skills, faithfully, diligently and to the best of his ability, in furtherance of the business of the GST Companies, and to perform the duties assigned to him pursuant to Paragraph 1 hereof, subject, at all times, to the direction and control of the Board of Directors of the Corporations and GST. Irwin shall at all times be subject to, observe and carry out such rules, regulations, policies, directions and restrictions as the GST Companies shall from time to time establish. The Corporations acknowledge that Irwin will continue to provide legal and management services to persons and entities other than the GST Companies. The performance of such services shall not constitute a breach of this Agreement, provided that they do not interfere with the performance by Irwin of his duties hereunder. Apart from any travel required to perform Irwin's duties hereunder, he shall not be required to be regularly based outside the New

York metropolitan area without his prior written consent (which may be withheld in his discretion).

3. Term. Except as otherwise provided herein, the term of Irwin's retention hereunder shall commence as of the date hereof and shall continue to and including the 28th day of February, 1999.

4. Compensation. As compensation for his services hereunder, and in lieu of billings for his services through the firm of Olshan Grundman Frome & Rosenzweig LLP, or any other law firm with which he may hereafter become affiliated, the

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Corporations shall pay to Irwin a retainer at the rate of \$280,000 per annum, or such greater amount as the Board of Directors of GST (the "GST Board") may from time to time determine, in equal installments no less frequently than semi-monthly, and such incentive compensation and bonuses as the GST Board may from time to time determine to award him. Irwin shall, for all purposes, be deemed an independent contractor. The Corporations shall not be obligated to deduct social security, withholding or any other payroll or related taxes from any payments to be made to Irwin under this Agreement.

5. Additional Benefits. In addition to such retainer, Irwin (and his family) shall be entitled to participate, to the extent he is (and they are) eligible under the terms and conditions thereof, in any profit sharing, pension, retirement, hospitalization, insurance, disability, medical service, stock option, bonus or other benefit plan generally available to the executive officers of the Corporations that may be in effect from time to time during the period of Irwin's retention hereunder. The Corporations shall be under no obligation to institute or continue the existence of any such benefit plan. By separate agreement, GST is issuing and delivering to Irwin a five-year warrant to purchase 300,000 of its Common Shares at a price of \$6.75 per share, such warrant to become exercisable in three equal annual installments on October 1, 1996, 1997 and 1998.

6. Reimbursement of Expenses. The Corporations shall reimburse Irwin in accordance with applicable policies of the GST Companies for all expenses reasonably incurred by him in connection with the performance of his duties hereunder and the business of

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the GST Companies, upon the submission to the Chief Financial Officer of either of the Corporations of appropriate receipts or vouchers therefor.

7. Facilities and Personnel. Irwin shall be provided such

facilities, supplies, personnel and services as shall be required or reasonably requested for the performance of his duties hereunder.

8. Vacation. Irwin shall be entitled to paid vacation for such periods annually as are consistent with those taken by senior executives of the Corporations, such vacation to be taken at times mutually agreeable to Irwin and the Board of Directors of the Corporations.

9. D&O Insurance Coverage. The Corporations shall use their best efforts to cause GST to obtain and maintain, at GST's cost and expense, directors' and officers' liability insurance coverage for the directors and officers of GST, including Irwin. Nothing herein shall be deemed to require GST to provide such coverage for Irwin if it is not then providing such coverage generally to its directors and officers.

10. Restrictive Covenant. In consideration of his retention hereunder, Irwin agrees that during the period of such retention, he will not (a) directly or indirectly own, manage, operate, join, control, participate in or invest in, whether as an officer, director, employee, partner or investor, any business entity that is engaged in the design, development, construction or operation of alternate access or other telecommunications networks, in providing long distance or other telecommunications services or in any other business in which the GST Companies, or any of them,

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are engaged during such period within the United States of America (1) in all locations in which the GST Companies or any of them are doing business, and (2) in all locations in respect of which the GST Companies are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies, or any of them theretofore have submitted any bids, provided that if such planning and/or pursuit relates to a business opportunity that is not a competitive access project (a "CAP") such planning and/or pursuit must have involved material efforts on the part of the GST Companies or any of them, (b) for himself or on behalf of any other person, partnership, corporation or entity, call on any customer of the GST Companies for the purpose of soliciting, diverting or taking away any customer from the GST Companies (1) in all locations in which the GST Companies or any of them are doing business, and (2) in all locations in respect of which the GST Companies or any of them are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies or any of them theretofore have submitted any bids, provided that if such planning and/or pursuit relates to a business opportunity that is not a CAP, such planning and/or pursuit must have involved material efforts on the part of the GST Companies or any of them, or (c) induce, influence or seek to induce or influence any person engaged as an employee, representative, agent, independent contractor or otherwise by the GST Companies or any of them, to terminate his or her relationship with the GST Companies or any of them. Nothing herein contained shall be deemed to prohibit Irwin from (x) investing his funds in securities of an issuer if the securities of such issuer are listed for

exchange or are traded in the over-the-counter market and Irwin's holdings therein represent less than 2% of the total number of shares or principal amount of the securities of such issuer outstanding, (y) owning securities, regardless of amount, of GST or (z) representing as legal counsel firms or individuals engaged in any aspect of the telecommunications industry.

Irwin acknowledges that the provisions of this Paragraph 10 are reasonable and necessary for the protection of the GST Companies, and that each provision, and the period or periods of time, geographic areas and types and scope of restrictions on the activities specified herein are, and are intended to be, divisible. In the event that any provision of this Paragraph 10, including any sentence, clause or part hereof, shall be deemed contrary to law or invalid or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions shall not be affected, but shall, subject to the discretion of such court, remain in full force and effect and any invalid and unenforceable provisions shall be deemed, without further action on the part of the parties hereto, modified, amended and limited to the extent necessary to render the same valid and enforceable.

11. Confidential Information. Irwin shall hold in a fiduciary capacity for the benefit of the GST Companies all information, knowledge and data relating to or concerned with their operations, sales, business and affairs, and he shall not, at any time for a period of two years after termination of his retention hereunder, use, disclose or divulge any such information, knowledge or data to any person, firm or corporation (unless the GST Companies no longer treat such information as confidential) other

than to the GST Companies or their designees and employees or except as may otherwise be required in connection with the business and affairs of the GST Companies; provided, however, that Irwin may use, disclose or divulge such information, knowledge or data that (i) is known to Irwin at the commencement of his employment hereunder; (ii) is or becomes generally available to the public through no wrongful act on Irwin's part; or (iii) becomes available to Irwin from a person or entity other than the GST Companies or their agents not bound by this or a similar agreement with the GST Companies.

12. Equitable Relief. The parties hereto acknowledge that Irwin's services are unique and that, in the event of a breach or a threatened breach by Irwin of any of his obligations under this Agreement, the Corporations will not have an adequate remedy at law. Accordingly, in the event of any such breach or threatened breach by Irwin, the Corporations shall be entitled to such equitable and injunctive relief as may be available to restrain Irwin and any

business, firm, partnership, individual, corporation or entity participating in such breach or threatened breach from the violation of the provisions hereof. Nothing herein shall be construed as prohibiting the Corporations from pursuing any other remedies available at law or in equity for such breach or threatened breach, including the recovery of damages and the immediate termination of the retention of Irwin hereunder.

13. Survival of Provisions. Neither the termination of this Agreement, nor of Irwin's retention hereunder, shall terminate or affect in any manner any provision of this Agreement that is intended by its terms to survive such termination.

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14. Death. In the event of termination of Irwin's retention hereunder by reason of his death, the Corporations shall pay a benefit (the "Benefit Payment") to such person or persons as Irwin shall, at his option, from time to time designate by written instrument delivered to the Corporations, each subsequent designation to revoke all prior designations, or if no such designation is made, to Irwin's estate (the "Payment Beneficiary"). The Benefit Payment shall be in an amount equal to one and one-half times Irwin's then current annual retainer, and shall be payable to the Payment Beneficiary in equal quarterly installments over a period of one and one-half years, provided that if the GST Companies, or any of them, then maintain a life insurance policy on the life of Irwin under which they are the beneficiary, the amount of the death benefit payable thereunder, to a maximum amount equal to the Benefit Payment, less installments of the Benefit Payment theretofore paid, shall be paid to the Payment Beneficiary on the Benefit Payment installment payment date next succeeding the date on which the GST Companies receive such death benefit proceeds, which shall satisfy in full the Corporations' obligations under this Paragraph 14.

15. Disability. In the event that during the term of his retention by the Corporations Irwin shall become Disabled (as such term is hereinafter defined) he shall continue to receive the full amount of the retainer to which he was theretofore entitled for a period of six months after he shall be deemed to have become Disabled (the "First Disability Payment Period"). If the First Disability Payment Period shall end prior to February 28, 1999, Irwin thereafter shall be entitled to receive a retainer at an

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annual rate equal to one-half of his then current retainer for a further period ending on the earlier of (i) one year thereafter, or (ii) February 28, 1999 (the "Second Disability Payment Period"). Upon the expiration of the Second Disability Payment Period, Irwin shall not be entitled to receive any further payments on account of his retainer until he shall cease to be Disabled and shall have resumed his duties hereunder and provided that the Corporations shall

not have theretofore terminated this Agreement as hereinafter provided. The Corporations may terminate this Agreement and Irwin's retention hereunder at any time after Irwin is Disabled, upon at least 10 days' prior written notice. For the purposes of this Agreement, Irwin shall be deemed to have become Disabled when (x) by reason of physical or mental incapacity, Irwin is not able to perform a substantial portion of his duties hereunder for a period of 135 consecutive days or for 135 days in any consecutive 225-day period or (y) when Irwin's physician or a physician designated by the Corporations shall have determined that Irwin shall not be able, by reason of physical or mental incapacity, to perform a substantial portion of his duties hereunder. If Irwin shall receive benefits under any disability policy maintained by the GST Companies, the Corporations shall be entitled to deduct the amount equal to the benefits so received from the retainer that they otherwise would have been required to pay to Irwin as provided above.

The foregoing provisions regarding disability shall be adjusted during the term hereof to match the most favorable disability benefits provided to any other senior executive of the Corporations.

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16. Termination for Cause. The Corporations may at any time upon written notice to Irwin terminate Irwin's retention for Cause. For purposes of this Agreement, the following shall constitute Cause: (i) the willful and repeated failure of Irwin to perform any material duties hereunder or gross negligence of Irwin in the performance of such duties, and if such failure or gross negligence is susceptible of cure by Irwin, the failure to effect such cure within 20 days after written notice of such failure or gross negligence is given to Irwin; (ii) excessive use of alcohol or illegal drugs interfering with the performance of Irwin's duties hereunder; (iii) theft, embezzlement, fraud, misappropriation of funds, other acts of dishonesty or the violation of any law or ethical rule relating to Irwin's retention; (iv) the conviction of a felony or other crime involving moral turpitude by Irwin; or (v) the breach by Irwin of any other material provision of this Agreement, and if such breach is susceptible of cure by Irwin, the failure to effect such cure within 20 days after written notice of such breach is given to Irwin. For purposes of this Agreement, an action shall be considered "willful" if it is done intentionally, purposely or knowingly, distinguished from an act done carelessly, thoughtlessly or inadvertently. In any such event, Irwin shall be entitled to receive his retainer to and including the date of termination. Should Irwin in good faith dispute his termination for Cause, he shall give prompt written notice thereof to the Corporations, in which event such dispute shall be submitted to and determined by arbitration in New York, New York before an arbitrator appointed pursuant to the rules of the American Arbitration Association (the "Arbitrator"). Such arbitration shall

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be conducted in accordance with such rules as shall be promulgated by the Arbitrator, which shall include a discovery period not to exceed 30 days in length and which may include any or all of the rules then obtaining of the American Arbitration Association. Any award or decision of the Arbitration shall be conclusive in the absence of fraud and judgment thereon may be entered in any court having jurisdiction thereof. The costs of such arbitration shall be borne by the party against whom any award or decision is rendered. Irwin shall not be entitled to receive any compensation for periods subsequent to his dismissal pursuant to this Paragraph 16.

17. Change of Control.

(i) If prior to the termination of this Agreement, there is a Change of Control (as such term is defined herein) and thereafter any of the following occur: (a) Irwin is placed in any position of lesser stature than that of Vice Chairman of the Board of Directors of GST; is assigned duties inconsistent with those theretofore performed by him or duties which, if performed, would result in a significant change in the nature or scope of the functions or duties theretofore performed by him; is assigned performance requirements or working conditions that are at variance with the performance requirements and working conditions in effect on the date hereof; or is accorded treatment on a general basis that is in derogation of his status as Vice Chairman of the Board of GST; (b) Irwin ceases to serve as a member of the GST Board; (c) any breach of Paragraph 2 or Paragraphs 4 through 8, inclusive, of this Agreement; or (d) any requirement of the Corporations that the location at which Irwin performs his principal duties for the

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Corporations be outside a radius of 50 miles from the location at which Irwin performed such duties immediately prior to the Change of Control, then the Agreement shall be deemed to have been terminated by the Corporation otherwise than by reason of Cause and the Corporations shall pay to Irwin within five days after notice from Irwin to such effect, as liquidated damages, a lump sum cash payment equal to 2.99 times the "base amount" of Irwin's compensation hereunder. For purposes hereof, "base amount" shall have the meaning provided in Section 280G (b) (2) (A) of the Internal Revenue Code of 1986, as amended, and the Proposed Regulations thereunder.

(ii) For the purposes of this Agreement, a Change of Control means (i) the direct or indirect sale, lease, exchange or other transfer of all or substantially all (50% or more) of the assets of GST or the Corporations to any person or entity or group of persons or entities acting in concert as a partnership or other group (a "Group of Persons") excluding the GST Companies (ii) the merger, consolidation or other business combination of GST or the Corporations with or into another corporation with the effect that the shareholders of GST or the Corporations, as the case may be, immediately following the merger, consolidation or other business combination, hold 50% or

less of the combined voting power of the then outstanding securities of the surviving corporation of such merger, consolidation or other business combination ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors, (iii) the replacement of a majority of the GST Board or of any committee of the GST Board or of either of the Boards in any given year as compared to the

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directors who constituted the GST Board or such committee or either of the Boards at the beginning of such year, and such replacement shall not have been approved by the GST Board or the Boards, as the case may be, as constituted at the beginning of such year, (iv) a person or Group of Persons shall, as a result of a tender or exchange offer, open market purchases, privately negotiated purchases or otherwise, have become the beneficial owner (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended) of securities of GST or either of the Corporations representing 50% or more of the combined voting power of the then outstanding securities of such corporation ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors.

18. Insurance Policies. The GST Companies shall have the right from time to time to purchase, increase, modify or terminate insurance policies on the life of Irwin for the benefit of the Corporation, in such amounts as the GST Companies shall determine in their sole discretion. In connection therewith, Irwin shall, at such place or places as the GST Companies may reasonably direct, submit himself to physical examinations on an annual basis (or more frequently) should an insurer or prospective insurer so require, and execute and deliver such documents as the GST Companies may deem necessary to obtain such insurance policies.

19. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and any prior agreement between the Corporations and Irwin with respect to the subject matter hereof is hereby superseded and terminated effective immediately and shall be

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without further force or effect. No amendment or modification himself shall be valid or binding unless made in writing and signed by the party against whom enforcement thereof is sought.

20. Notices. Any notice required, permitted or desired to be given pursuant to any of the provisions of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered in person or by responsible overnight delivery service or sent by certified mail, return

receipt requested, postage and fees prepaid to the parties at their respective addresses set forth above (in the case of the Corporations, Attention: Chief Executive Officer). Any of the parties hereto may at any time and from time to time change the address to which notice shall be sent hereunder by notice to the other parties given under this Paragraph 20. The date of the giving of any notice hand delivered or delivered by responsible overnight carrier shall be the date of its delivery and of any notice sent by mail shall be the date five days after the date of the posting of the mail.

21. No Assignment; Binding Effect. Neither this Agreement, nor the right to receive any payments hereunder, may be assigned by Irwin or the Corporations without the prior written consent of the other parties hereto. This Agreement shall be binding upon Irwin, his heirs, executors and administrators and upon the Corporations, their respective successors and permitted assigns.

22. Waivers. No course of dealing nor any delay on the part of the Corporations in exercising any rights hereunder shall operate as a waiver of any such rights. No waiver of any default

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or breach of this Agreement shall be deemed a continuing waiver or a waiver of any other breach or default.

23. Governing Law; Forum. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Delaware, except that body of law relating to choice of laws. Except as otherwise provided in Paragraph 16 hereof, any action, suit or proceeding with respect to this Agreement and the respective rights, remedies, duties and liabilities of the parties hereunder shall be brought in the courts of the State of New York located in New York, New York or in the United States District Court for the Southern District of New York, and by execution and delivery of this Agreement, each party accepts for itself, generally and unconditionally, the jurisdiction of such courts. The parties hereto irrevocably waive any objection that they may now or hereafter have to the commencement of any such action, suit or proceeding in such courts.

24. Invalidity. If any clause, paragraph, section or part of this Agreement shall be held or declared to be void, invalid or illegal, for any reason, by any court of competent jurisdiction, such provision shall be ineffective but shall not in any way invalidate or affect any other clause, paragraph, section or part of this Agreement.

25. Further Assurances. Each of the parties shall execute such documents and take such other actions as may be reasonably requested by the other party to carry out the provisions and purposes of this Agreement in accordance with its terms.

26. Attorneys' Fees. If any action, suit or proceeding is filed by any party to enforce or rescind this Agreement or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue shall be entitled to recover with respect to such issue, in addition to costs, reasonable attorneys' fees incurred in preparation or in prosecution or defense of such action, suit or proceeding as fixed by the arbitrator or trial court, and if any appeal is taken from the decision of the trial court, reasonable attorneys' fees as fixed on appeal.

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

GST USA, INC.

By: /s/ Gordon Blankstein

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(Title)

GST TELECOM INC.

By: /s/ Gordon Blankstein

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(Title)

/s/ Stephen Irwin

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STEPHEN IRWIN

THE FOREGOING AGREEMENT IS  
CONSENT TO AND ACKNOWLEDGED:

GST TELECOMMUNICATIONS, INC.

By: /s/ Gordon Blankstein

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(Title)

By: /s/ John Warta

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(Title)

RESTATED AND AMENDED EMPLOYMENT AGREEMENT

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THIS RESTATED AND AMENDED EMPLOYMENT AGREEMENT made as of this 1st day of September, 1995, by and between GST USA, INC. ("GUSA") and GST TELECOM INC. ("Telecom" and together with GUSA, the "Corporations"), each Delaware corporations with their principal offices at 4317 N.E. Thurston Way, Vancouver, Washington 98662, and JOHN WARTA, residing at 13513 N.E. 132nd Avenue, Brush Prairie, Washington 98606 (the "Executive").

W I T N E S S E T H :

WHEREAS, Executive has heretofore been employed pursuant to an Employment Agreement dated as of March 1, 1994 between Telecom and Executive; and

WHEREAS, Telecom and Executive desire to restate and amend the terms of Executive's employment and to provide that Executive shall be jointly employed by GUSA and Telecom;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Employment of Executive. The Corporations hereby employ Executive as their Chief Executive Officer, to perform the duties and responsibilities incident to such office, subject at all times to the control and direction of the Boards of Directors of the Corporations (the "Boards").

2. Acceptance of Employment; Time and Attention. Executive hereby accepts such employment and agrees that throughout the period of his employment hereunder, except as hereinafter provided, he will devote substantially all his time, attention, knowledge and skills, faithfully, diligently and to the best of his

ability, in furtherance of the business of the Corporations, their parent corporation, GST Telecommunications, Inc. ("GST") and their subsidiaries (collectively, the "GST Companies"), and will perform the duties assigned to him pursuant to Paragraph 1 hereof, subject, at all times, to the direction and control of the Boards. Executive shall be the principal executive officer of the GST Companies and shall in general manage and control all of the day-to-day operations of the GST Companies. Executive shall also perform such specific duties and shall exercise such specific authority related to the management of the day-to-day operations of the Corporations consistent with his position as Chief Executive Officer as may be assigned to Executive from time to time by the Boards. Executive shall at all times be subject to, observe and carry out such rules, regulations, policies, directions and restrictions as the GST Companies

shall from time to time establish. During the period of his employment hereunder, Executive shall not, except as hereinafter provided, directly or indirectly, accept employment or compensation from, or perform services of any nature for, any business enterprise other than the GST Companies. The Corporations acknowledge that Executive (i) is a party to that certain Consulting Agreement dated December 29, 1993 with Tomen Telecom International, Inc. ("Tomen"), pursuant to which he has agreed to provide consulting services, (ii) will also provide marketing services to Tomen, (iii) will render services to the Hi-Rim Projects, as such term is defined in the Restated and Amended Agreement effective as of June 21, 1994, by and among GST, GUSA, Pacwest Network L.L.C., Executive, Clifford V. Sander and Telecom (the "Shareholder Agreement"), (iv) will continue to

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conduct business through Green Arbor Development, Pacwest Telecom, Inc. and Pacwest Network Inc. and (iv) proposes to engage in charitable activities. Neither the performance of such services, nor such engagement, shall constitute a breach of this Agreement, provided that they do not interfere with the performance by Executive of his duties hereunder, and provided, further, that the services referred to in clauses (i), (ii), (iii) and (iv) hereof do not require the devotion of more than five percent of Executive's working hours in any year. Apart from any travel required to perform Executive's employment duties, Executive shall not be required to be regularly based at any office of the Corporation located outside the metropolitan areas of Portland, Oregon or Vancouver, Washington, without Executive's prior written consent (which may be withheld in Executive's discretion). Executive shall be elected or appointed to such offices of the GST Companies other than the Corporations as shall be determined from time to time by the Board of Directors of GST (the "GST Board"). During the period of Executive's employment hereunder, he shall not be entitled to additional compensation for serving in any offices of the GST Companies other than the Corporations to which he is elected or appointed.

3. Term. Except as otherwise provided herein, the term of Executive's employment hereunder shall commence as of the date hereof and shall continue to and including the 28th day of February, 1999.

4. Compensation. As compensation for his services hereunder, the Corporations shall pay to Executive (i) a base salary at the rate of \$200,000 per annum, payable in equal

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installments no less frequently than semi-monthly and (ii) such incentive compensation and bonuses, if any, as the GST Board (or the Compensation Committee thereof) in its absolute discretion may determine to award Executive; provided that this Agreement shall in no event be construed to require the payment to Executive of incentive compensation or bonuses. At least annually,

the GST Board or the Compensation Committee thereof shall review Executive's base salary and shall determine whether any adjustment thereof is warranted. If it is determined to adjust Executive's base salary, such adjustment shall be based upon (i) the nature, magnitude and quality of the services performed by Executive for the GST Companies, (ii) the condition (financial and other) and results of operations of the GST Companies and (iii) the compensation paid for positions of comparable responsibility and authority within the telecommunications industry, provided that no such adjustment shall reduce such base salary below \$200,000 per annum. All compensation paid to Executive shall be subject to withholding and other employment taxes imposed by applicable law.

5. Additional Benefits. In addition to such base salary and any incentive compensation and bonuses awarded Executive, he (and his family) shall be entitled to participate, to the extent he is (and they are) eligible under the terms and conditions thereof, in any profit sharing, pension, retirement, hospitalization, insurance, disability, medical service, stock option, bonus or other employee benefit plan generally available to the executive officers of the Corporations that may be in effect from time to time during the period of Executive's employment hereunder. The Corporations shall be under no obligation to institute or continue the existence of any such employee benefit plan.

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6. Reimbursement of Expenses. The Corporations shall reimburse Executive in accordance with applicable policies of the GST Companies for all expenses reasonably incurred by him in connection with the performance of his duties hereunder and the business of the GST Companies, upon the submission to the Corporations of appropriate receipts or vouchers.

7. Facilities and Personnel. Executive shall be provided a private office, secretarial services and such other facilities, supplies, personnel and services as shall be required or reasonably requested for the performance of his duties hereunder.

8. Motor Vehicle Allowance. Executive shall be entitled to receive a non-accountable expense allowance of \$400 per month to reimburse him for the cost and expense of operating and maintaining a motor vehicle in furtherance of the services rendered by him hereunder, which costs and expenses may include without limitation, vehicle loan and lease payments, insurance premiums, gasoline and repair expenditures and other similar charges.

9. Vacation. Executive shall be entitled to five weeks' paid vacation in respect of each 12-month period during the term of his employment hereunder, such vacation to be taken at times mutually agreeable to Executive and the Boards. Vacation time shall not be cumulative from one 12-month period to the next, but Executive shall receive vacation pay at the then current salary

rate for any vacation time not taken by him.

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10. D&O Insurance Coverage. The Corporations shall use their best efforts to cause GST to obtain and maintain, at GST's cost and expense, directors' and officers' liability insurance coverage for the directors and officers of GST, including Executive. Nothing herein shall be deemed to require GST to provide such coverage for Executive if it is not then providing such coverage generally to its directors and officers.

11. Restrictive Covenant. In consideration of his employment hereunder, Executive agrees that during the period of his employment hereunder and, in the event of termination of this Agreement (i) by Executive otherwise than for Employer Breach (as such term is defined herein) or (ii) by the Corporation for Cause (as such term is defined herein), for a further period ending on the earlier of two years after such termination or February 28, 2000, he will not (a) directly or indirectly own, manage, operate, join, control, participate in, invest in, or otherwise be connected with, in any manner, whether as an officer, director, employee, partner, investor or otherwise, any business entity that is engaged in the design, development, construction or operation of alternate access or other telecommunications networks, in providing long distance or other telecommunications services or in any other business in which the GST Companies, or any of them, are engaged during such period, within the United States of America (1) in all locations in which the GST Companies, or any of them, are doing business, and (2) in all locations in respect of which the GST Companies are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies, or any of them, theretofore have submitted any bids, provided that if such planning

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and/or pursuit relates to a business opportunity that is not a competitive access project (a "CAP") such planning and/or pursuit must have involved material efforts on the part of the GST Companies, or any of them, (b) for himself or on behalf of any other person, partnership, corporation or entity, call on any customer of the GST Companies for the purpose of soliciting, diverting or taking away any customer from the GST Companies (1) in all locations in which the GST Companies, or any of them, are doing business, and (2) in all locations in respect of which the GST Companies, or any of them, are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies, or any of them, theretofore have submitted any bids, provided that if such planning and/or pursuit relates to a business opportunity that is not a CAP, such planning and/or pursuit must have involved material efforts on the part of the GST Companies, or any of them, or (c) induce, influence or seek to induce or influence any person engaged as an employee, representative, agent, independent contractor or otherwise by the GST Companies, or any of them, to

terminate his or her relationship with the GST Companies, or any of them. Nothing herein contained shall be deemed to prohibit Executive from (x) investing his funds in securities of an issuer if the securities of such issuer are listed for trading on a national securities exchange or are traded in the over-the-counter market and Executive's holdings therein represent less than 2% of the total number of shares or principal amount of the securities of such issuer outstanding, (y) owning securities, regardless of amount, of GST or (z) holding an equity interest in Hi-Rim's Cuba

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Project or in Hi-Rim's Honduras Cellular System, (y) holding up to 5,925 shares of Teletek and up to 1,700 shares of Intermedia.

Executive acknowledges that the provisions of this Paragraph 11 are reasonable and necessary for the protection of the GST Companies, and that each provision, and the period or periods of time, geographic areas and types and scope of restrictions on the activities specified herein are, and are intended to be, divisible. In the event that any provision of this Paragraph 11, including any sentence, clause or part hereof, shall be deemed contrary to law or invalid or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions shall not be affected, but shall, subject to the discretion of such court, remain in full force and effect and any invalid and unenforceable provisions shall be deemed, without further action on the part of the parties hereto, modified, amended and limited to the extent necessary to render the same valid and enforceable.

12. Confidential Information. Executive shall hold in a fiduciary capacity for the benefit of the GST Companies all information, knowledge and data relating to or concerned with its operations, sales, business and affairs, and he shall not, at any time for a period of two years after termination of his employment hereunder, use, disclose or divulge any such information, knowledge or data to any person, firm or corporation (unless the GST Companies no longer treat such information as confidential) other than to the GST Companies or their designees and employees or except as may otherwise be required in connection with the business and affairs of the GST Companies; provided, however, that Executive may use, disclose or divulge such information, knowledge or data

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that (i) was known to Executive at the commencement of his employment by Telecom; (ii) is or becomes generally available to the public through no wrongful act on Executive's part; or (iii) becomes available to Executive from a person or entity other than the GST Companies or their agents not bound by this or a similar agreement with the GST Companies; and provided, further, that the provisions of this Paragraph 12 shall not apply to Executive's know how to the extent utilized by him in subsequent employment so long as such employment is

not in breach of this Agreement.

13. Equitable Relief. The parties hereto acknowledge that Executive's services are unique and that, in the event of a breach or a threatened breach by Executive of any of his obligations under this Agreement, the Corporations will not have an adequate remedy at law. Accordingly, in the event of any such breach or threatened breach by Executive, the Corporations shall be entitled to such equitable and injunctive relief as may be available to restrain Executive and any business, firm, partnership, individual, corporation or entity participating in such breach or threatened breach from the violation of the provisions hereof. Nothing herein shall be construed as prohibiting the Corporations from pursuing any other remedies available at law or in equity for such breach or threatened breach, including the recovery of damages and the immediate termination of the employment of Executive hereunder.

14. Survival of Provisions; Death. Neither the termination of this Agreement, nor of Executive's employment hereunder, shall terminate or affect in any manner any provision of this Agreement that is intended by its terms to survive such termination.

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In the event of termination of Executive's employment hereunder by reason of his death, the Corporations shall pay a benefit (the "Benefit Payment") to such person or persons as Executive shall, at his option, from time to time designate by written instrument delivered to the Corporations, each subsequent designation to revoke all prior designations, or if no such designation is made, to Executive's estate (the "Payment Beneficiary"). The Benefit Payment shall be in an amount equal to one and one-half times Executive's then current base salary, and shall be payable to the Payment Beneficiary in equal quarterly installments over a period of one and one-half years, provided that if the GST Companies, or any of them, then maintain a life insurance policy on the life of Executive under which they are the beneficiaries, the amount of the death benefit payable thereunder, to a maximum amount equal to the Benefit Payment, less installments of the Benefit Payment theretofore paid, shall be paid to the Payment Beneficiary on the Benefit Payment installment payment date next succeeding the date on which the GST Companies receive such death benefit proceeds, and the remainder of the Benefit Payment, if any, shall be paid in equal quarterly installments as provided above.

15. Disability. In the event that during the term of his employment by the Corporations Executive shall become Disabled (as such term is hereinafter defined) he shall continue to receive the full amount of the base salary to which he was theretofore entitled for a period of six months after he shall be deemed to

have become Disabled (the "First Disability Payment Period"). If the First Disability Payment Period shall end prior to February 28, 1999, Executive thereafter shall be entitled to receive salary at an annual rate equal to one-half of his then current base salary for a further period ending on the earlier of (i) one year thereafter, or (ii) February 28, 1999 (the "Second Disability Payment Period"). Upon the expiration of the Second Disability Payment Period, Executive shall not be entitled to receive any further payments on account of his base salary until he shall cease to be Disabled and shall have resumed his duties hereunder and provided that the Corporations shall not have theretofore terminated this Agreement as hereinafter provided. The Corporations may terminate this Agreement and Executive's employment hereunder at any time after Executive is Disabled, upon at least 10 days' prior written notice. For the purposes of this Agreement, Executive shall be deemed to have become Disabled when (x) by reason of physical or mental incapacity, Executive is not able to perform a substantial portion of his duties hereunder for a period of 135 consecutive days or for 135 days in any consecutive 225-day period or (y) when Executive's physician or a physician designated by the Corporations shall have determined that Executive shall not be able, by reason of physical or mental incapacity, to perform a substantial portion of his duties hereunder. In the event that Executive shall dispute any determination of his Disability pursuant to clauses (x) or (y) above, the matter shall be resolved by the determination of three physicians qualified to practice medicine in the State of Washington, one to be selected by each of the Corporations and Executive and the third to be selected

by the designated physicians. If Executive shall receive benefits under any disability policy maintained by the GST Companies, the Corporations shall be entitled to deduct the amount equal to the benefits so received from base salary that they otherwise would have been required to pay to Executive as provided above.

The foregoing provisions regarding disability shall be adjusted during the term hereof to match the most favorable disability benefits provided to any other senior executive of the Corporations.

16. Termination for Cause. The Corporations may at any time upon written notice to Executive terminate Executive's employment for Cause. For purposes of this Agreement, the following shall constitute Cause: (i) the willful and repeated failure of Executive to perform any material duties hereunder or gross negligence of Executive in the performance of such duties, and if such failure or gross negligence is susceptible of cure by Executive, the failure to effect such cure within 20 days after written notice of such failure

or gross negligence is given to Executive; (ii) excessive use of alcohol or illegal drugs interfering with the performance of Executive's duties hereunder; (iii) theft, embezzlement, fraud, misappropriation of funds, other acts of dishonesty or the violation of any law or ethical rule relating to Executive's employment; (iv) the conviction of a felony or other crime involving moral turpitude by Executive; or (v) the breach by Executive of any other material provision of this Agreement, and if such breach is susceptible of cure by Executive, the failure to effect such cure within 20 days after written notice of such breach is given to Executive. For purposes of this

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Agreement, an action shall be considered "willful" if it is done intentionally, purposely or knowingly, distinguished from an act done carelessly, thoughtlessly or inadvertently. In any such event, Executive shall be entitled to receive his base salary to and including the date of termination. Should Executive in good faith dispute his termination for Cause, he shall give prompt written notice thereof to the Corporations, in which event such dispute shall be submitted to and determined by arbitration in Seattle, Washington before an arbitrator appointed pursuant to the rules of the American Arbitration Association (the "Arbitrator"). Such arbitration shall be conducted in accordance with such rules as shall be promulgated by the Arbitrator, which shall include a discovery period not to exceed 30 days in length and which may include any or all of the rules then obtaining of the American Arbitration Association. Any award or decision of the Arbitration shall be conclusive in the absence of fraud and judgment thereon may be entered in any court having jurisdiction thereof. The costs of such arbitration shall be borne by the party against whom any award or decision is rendered. Executive shall not be entitled to receive any compensation for periods subsequent to his dismissal pursuant to this Paragraph 16.

17. Termination for Employer Breach. Executive may upon written notice to the Corporations terminate this Agreement (a termination for "Employer Breach") in the event of the breach by the Corporations of (i) any material provision of this Agreement (and the occurrence of any of the events described in subparagraph (i) of Paragraph 18 hereof shall be deemed a breach by the Corporations of a material provision of this Agreement), and if

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such breach relates to a provision of this Agreement other than Paragraph 18 and is susceptible of cure, the failure to effect such cure within 20 days after written notice of such breach is given to the Corporation; or (ii) any material provision of the Shareholder Agreement, after the expiration of any applicable cure or grace periods.

18. Change of Control.

(i) If prior to the termination of this Agreement, there is a Change of Control (as such term is defined herein) and thereafter any of the following occur: (a) Executive is placed in any position of lesser stature than that of a senior executive officer of the Corporations; is assigned duties inconsistent with a senior executive officer or duties which, if performed, would result in a significant change in the nature or scope of powers, authority, functions or duties inherent in such position on the date hereof; is assigned performance requirements or working conditions which are at variance with the performance requirements and working conditions in effect on the date hereof; or is accorded treatment on a general basis that is in derogation of his status as a senior executive officer; (b) Executive ceases to serve as a member of any of the GST Board or the Boards; (c) any breach of Paragraph 2 or Paragraphs 4 through 8, inclusive, of this Agreement; or (d) any requirement of the Corporations that the location at which Executive performs his principal duties for the Corporations be outside a radius of 50 miles from the location at which Executive performed such duties immediately prior to the Change of Control, then the Agreement shall be deemed to have been terminated by the Corporations otherwise than by reason of Cause

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and the Corporations shall pay to Executive within five days after notice from Executive to such effect, as liquidated damages, a lump sum cash payment equal to 2.99 times the "base amount" of Executive's compensation. For purposes hereof, "base amount" shall have the meaning provided in Section 280G (b) (2) (A) of the Internal Revenue Code of 1986, as amended, and the Proposed Regulations thereunder.

(ii) For the purposes of this Agreement, a Change of Control means (i) the direct or indirect sale, lease, exchange or other transfer of all or substantially all (50% or more) of the assets of GST or the Corporations to any person or entity or group of persons or entities acting in concert as a partnership or other group (a "Group of Persons") excluding the GST Companies (ii) the merger, consolidation or other business combination of GST or the Corporations with or into another corporation with the effect that the shareholders of GST or the Corporations, as the case may be, immediately following the merger, consolidation or other business combination, hold 50% or less of the combined voting power of the then outstanding securities of the surviving corporation of such merger, consolidation or other business combination ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors, (iii) the replacement of a majority of the GST Board or of any committee of the GST Board or of either of the Boards in any given year as compared to the directors who constituted the GST Board or such committee or either of the Boards at the beginning of such year, and such replacement shall not have been approved by the GST Board or the Boards, as the case may be, as constituted at the beginning of such year, (iv) a

person or Group of Persons shall, as a result of a tender or exchange offer, open market purchases, privately negotiated purchases or otherwise, have become the beneficial owner (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended) of securities of GST or either of the Corporations representing 50% or more of the combined voting power of the then outstanding securities of such corporation ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors.

19. Insurance Policies. The GST Companies shall have the right from time to time to purchase, increase, modify or terminate insurance policies on the life of Executive for the benefit of the GST Companies, in such amounts as the GST Companies shall determine in their sole discretion. In connection therewith, Executive shall, at such place or places as the GST Companies may reasonably direct, submit himself to physical examinations on an annual basis (or more frequently) should an insurer or prospective insurer so require, and execute and deliver such documents as the GST Companies may deem necessary to obtain such insurance policies.

20. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and any prior agreement between the Corporations and Executive with respect to the subject matter hereof is hereby superseded and terminated effective immediately and shall be without further force or effect. No amendment or modification himself shall be valid or binding unless made in writing and signed by the party against whom enforcement thereof is sought.

21. Notices. Any notice required, permitted or desired to be given pursuant to any of the provisions of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered in person or by responsible overnight delivery service or sent by certified mail, return receipt requested, postage and fees prepaid as follows:

If to the Corporations, at their address set forth above, Attention: Chief Operating Officer, with a copy to:

Olshan Grundman Frome & Rosenzweig LLP  
505 Park Avenue  
New York, New York 10022  
Attention: Stephen Irwin

If to Executive, at his address set forth above, with a copy to:

Kennedy & Kennedy  
Pioneer Tower - Suite 1170  
888 S.W. Fifth Avenue  
Portland, Oregon 97204

Any of the parties hereto may at any time and from time to time change the address to which notice shall be sent hereunder by notice to the other parties given under this Paragraph 21. The date of the giving of any notice hand delivered or delivered by responsible overnight carrier shall be the date of its delivery and of any notice sent by mail shall be the date five days after the date of the posting of the mail.

22. No Assignment; Binding Effect. Neither this Agreement, nor the right to receive any payments hereunder, may be assigned by Executive or the Corporations without the prior consent of the other parties hereto. This Agreement shall be binding upon Executive, his heirs, executors and administrators and upon the Corporations, their respective successors and permitted assigns.

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23. Waivers. No course of dealing nor any delay on the part of the Corporations in exercising any rights hereunder shall operate as a waiver of any such rights. No waiver of any default or breach of this Agreement shall be deemed a continuing waiver or a waiver of any other breach or default.

24. Governing Law; Forum. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Delaware, except that body of law relating to choice of laws. Except as otherwise provided in Paragraph 16 hereof, any action, suit or proceeding with respect to this Agreement and the respective rights, remedies, duties and liabilities of the parties hereunder shall be brought in the courts of the State of Washington located in Seattle, Washington or in the United States District Court for the district in which Seattle, Washington is located, and by execution and delivery of this Agreement, each party accepts for itself, generally and unconditionally, the jurisdiction of such courts. The parties hereto irrevocably waive any objection that they may now or hereafter have to the commencement of any such action, suit or proceeding in such courts.

25. Invalidity. If any clause, paragraph, section or part of this Agreement shall be held or declared to be void, invalid or illegal, for any reason, by any court of competent jurisdiction, such provision shall be ineffective but shall not in any way invalidate or affect any other clause, paragraph, section or part of this Agreement.

26. Further Assurances. Each of the parties shall execute such documents and take such other actions as may be

reasonably requested by the other party to carry out the provisions and purposes of this Agreement in accordance with its terms.

27. Attorneys Fees. If any action, suit or proceeding is filed by any party to enforce or rescind this Agreement or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue shall be entitled to recover with respect to such issue, in addition to costs, reasonable attorneys' fees incurred in preparation or in prosecution or defense of such action, suit or proceeding as fixed by the arbitrator or trial court, and if any appeal is taken from the decision of the trial court, reasonable attorneys' fees as fixed on appeal.

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

GST USA, INC.

By: /s/ Gordon Blankstein

-----  
(Title)

GST TELECOM INC.

By: /s/ Gordon Blankstein

-----  
(Title)

/s/ John Warta

-----  
JOHN WARTA

THE FOREGOING AGREEMENT IS  
CONSENTED TO AND ACKNOWLEDGED:

GST TELECOMMUNICATIONS, INC.

By: /s/ Gordon Blankstein

-----  
(Title)

RESTATED AND AMENDED EMPLOYMENT AGREEMENT

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THIS RESTATED AND AMENDED EMPLOYMENT AGREEMENT made as of this 1st day of September, 1995, by and between GST USA, INC. ("GUSA") and GST TELECOM INC. ("Telecom" and, together with GUSA, the "Corporations"), each Delaware corporations with their principal offices at 4317 N.E. Thurston Way, Vancouver, Washington 98662, and ROBERT H. HANSON, residing at Four Bear Ranch, P.O. Box 144, Wapiti, Wyoming 82450 (the "Executive").

W I T N E S S E T H :

WHEREAS, Executive has heretofore been employed pursuant to an Employment Agreement dated as of August 1, 1994 between GUSA and Executive; and

WHEREAS, GUSA and Executive desire to restate and amend the terms of Executive's employment and to provide that Executive shall be jointly employed by GUSA and Telecom;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Employment of Executive. The Corporations hereby employ Executive as a senior executive officer to perform the duties and responsibilities incident to such position, subject at all times to the control and direction of the Boards of Directors of the Corporations (the "Boards") and the Chief Executive Officers of the Corporations.

2. Acceptance of Employment; Time and Attention. Executive hereby accepts such employment and agrees that throughout the period of his employment hereunder, except as hereinafter provided, he will devote substantially all his time, attention,

knowledge and skills, faithfully, diligently and to the best of his ability, in furtherance of the business of the Corporations, their parent corporation, GST Telecommunications, Inc. ("GST"), and their subsidiaries (collectively, the "GST Companies"), and will perform the duties and responsibilities assigned to him pursuant to Paragraph 1 hereof, subject, at all times, to the direction and control of the Boards and the Chief Executive Officers of the Corporations. As a senior executive officer, Executive shall perform such specific duties and shall exercise such specific authority related to the management of the day-to-day operations of the Corporation consistent with his position as a senior executive officer as may be assigned to Executive from time to time by the Boards and the Chief Executive Officers of the Corporations. Executive shall at all times be subject to, observe and carry out such rules, regulations, policies, directions and restrictions as the GST Companies shall from time to time establish. During

the period of his employment hereunder, Executive shall not, directly or indirectly, accept employment or compensation from, or perform services of any nature for, any business enterprise other than the GST Companies. Notwithstanding the foregoing, the Corporations acknowledge that Executive proposes to engage in charitable activities and such engagement shall not constitute a breach of this Agreement. Executive shall be elected to such offices of the GST Companies as may from time to time be determined by the Board of Directors of GST (the "GST Board"). During the period of Executive's employment hereunder, he shall not be entitled to additional compensation for serving in any offices of the GST Companies to which he is elected or appointed.

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3. Term. Except as otherwise provided herein, the term of Executive's employment hereunder shall commence as of the date hereof and shall continue to and include the 28th day of February, 1999.

4. Compensation. As compensation for his services hereunder, the Corporation shall pay to Executive (i) a base salary at the rate of \$120,000 per annum, or such greater amount as may be determined from time to time by the GST Board, payable in equal installments no less frequently than semi-monthly and (ii) such incentive compensation and bonuses as the GST Board may from time to time determine to award Executive. All compensation paid to Executive shall be subject to withholding and other employment taxes imposed by applicable law.

5. Additional Benefits. In addition to such base salary and any incentive compensation and bonuses awarded Executive, he (and his family) shall be entitled to participate, to the extent he is (and they are) eligible under the terms and conditions thereof, in any profit sharing, pension, retirement, hospitalization, insurance, disability, medical service, stock option, bonus or other employee benefit plan available to the executive officers of the Corporations that may be in effect from time to time during the period of Executive's employment hereunder. The Corporations shall be under no obligation to institute or continue the existence of any such employee benefit plan.

6. Reimbursement of Expenses. The Corporations shall reimburse Executive in accordance with applicable policies of the GST Companies for all expenses reasonably incurred by him in connection with the performance of his duties hereunder and the

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business of the GST Companies, upon the submission to the Corporations of appropriate receipts or vouchers.

7. Facilities and Personnel. Executive shall be provided a private office, secretarial services and such other facilities, supplies, personnel and services as shall be required or reasonably requested for the

performance of his duties hereunder.

8. Vacation. Executive shall be entitled to five weeks' paid vacation in respect of each 12-month period during the term of his employment hereunder, such vacation to be taken at times mutually agreeable to Executive and the Boards. Vacation time shall not be cumulative from one 12-month period to the next, but Executive shall receive vacation pay at the then current salary rate for any vacation time not taken by him.

9. D&O Insurance Coverage. The Corporations shall use their best efforts to cause GST to obtain and maintain, at GST's cost and expense, directors' and officers' liability insurance coverage for the directors and officers of GST, including Executive. Nothing herein shall be deemed to require GST to provide such coverage for Executive if it is not then providing such coverage generally to its directors and officers.

10. Restrictive Covenant. In consideration of his employment hereunder, Executive agrees that during the period of his employment hereunder and, in the event of termination of this Agreement (i) by Executive otherwise than for Employer Breach (as such term is defined herein) or (ii) by the Corporation for Cause (as such term is defined herein), for a further period ending on the earlier of two years after such termination or February 28,

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2000, he will not (a) directly or indirectly own, manage, operate, join, control, participate in, invest in, or otherwise be connected with, in any manner, whether as an officer, director, employee, partner, investor or otherwise, any business entity that is engaged in the design, development, construction or operation of alternate access or other telecommunications networks, in providing long distance or other telecommunications services or in any other business in which the GST Companies, or any of them, are engaged during such period, within the United States of America (1) in all locations in which the GST Companies, or any of them, are doing business, and (2) in all locations in respect of which the GST Companies are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies, or any of them, theretofore have submitted any bids, provided that if such planning and/or pursuit relates to a business opportunity that is not a competitive access project (a "CAP") such planning and/or pursuit must have involved material efforts on the part of the GST Companies, or any of them, (b) for himself or on behalf of any other person, partnership, corporation or entity, call on any customer of the GST Companies for the purpose of soliciting, diverting or taking away any customer from the GST Companies (1) in all locations in which the GST Companies, or any of them, are doing business, and (2) in all locations in respect of which the GST Companies, or any of them, are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies, or any of them, theretofore have submitted any bids, provided that if such planning and/or pursuit relates to a business opportunity that is not a CAP, such

planning and/or pursuit must have involved

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material efforts on the part of the GST Companies, or any of them, or (c) induce, influence or seek to induce or influence any person engaged as an employee, representative, agent, independent contractor or otherwise by the GST Companies, or any of them, to terminate his or her relationship with the GST Companies, or any of them. Nothing herein contained shall be deemed to prohibit Executive from (x) investing his funds in securities of an issuer if the securities of such issuer are listed for trading on a national securities exchange or are traded in the over-the-counter market and Executive's holdings therein represent less than 2% of the total number of shares or principal amount of the securities of such issuer outstanding, or (y) owning securities, regardless of amount, of GST.

Executive acknowledges that the provisions of this Paragraph 10 are reasonable and necessary for the protection of the GST Companies, and that each provision, and the period or periods of time, geographic areas and types and scope of restrictions on the activities specified herein are, and are intended to be, divisible. In the event that any provision of this Paragraph 10, including any sentence, clause or part hereof, shall be deemed contrary to law or invalid or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions shall not be affected, but shall, subject to the discretion of such court, remain in full force and effect and any invalid and unenforceable provisions shall be deemed, without further action on the part of the parties hereto, modified, amended and limited to the extent necessary to render the same valid and enforceable.

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11. Confidential Information. Executive shall hold in a fiduciary capacity for the benefit of the GST Companies all information, knowledge and data relating to or concerned with their operations, sales, business and affairs, and he shall not, at any time for a period of two years after termination of his employment hereunder, use, disclose or divulge any such information, knowledge or data to any person, firm or corporation (unless the GST Companies no longer treat such information as confidential) other than to the GST Companies or their designees and employees or except as may otherwise be required in connection with the business and affairs of the GST Companies; provided, however, that Executive may use, disclose or divulge such information, knowledge or data that (i) was known to Executive at the commencement of his employment by GUSA; (ii) is or becomes generally available to the public through no wrongful act on Executive's part; or (iii) becomes available to Executive from a person or entity other than the GST Companies or their agents not bound by this or a similar agreement with the GST Companies; and provided, further, that the provisions of this Paragraph 11 shall not apply to Executive's know how

to the extent utilized by him in subsequent employment so long as such employment is not in breach of this Agreement.

12. Equitable Relief. The parties hereto acknowledge that Executive's services are unique and that, in the event of a breach or a threatened breach by Executive of any of his obligations under this Agreement, the Corporations will not have an adequate remedy at law. Accordingly, in the event of any such breach or threatened breach by Executive, the Corporations shall be entitled to such equitable and injunctive relief as may be

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available to restrain Executive and any business, firm, partnership, individual, corporation or entity participating in such breach or threatened breach from the violation of the provisions hereof. Nothing herein shall be construed as prohibiting the Corporations from pursuing any other remedies available at law or in equity for such breach or threatened breach, including the recovery of damages and the immediate termination of the employment of Executive hereunder.

13. Survival of Provisions; Death. Neither the termination of this Agreement, nor of Executive's employment hereunder, shall terminate or affect in any manner any provision of this Agreement that is intended by its terms to survive such termination.

In the event of termination of Executive's employment hereunder by reason of his death, the Corporations shall pay a benefit (the "Benefit Payment") to such person or persons as Executive shall, at his option, from time to time designate by written instrument delivered to the Corporations, each subsequent designation to revoke all prior designations, or if no such designation is made, to Executive's estate (the "Payment Beneficiary"). The Benefit Payment shall be in an amount equal to one and one-half times Executive's then current base salary, and shall be payable to the Payment Beneficiary in equal quarterly installments over a period of one and one-half years, provided that if the GST Companies, or any of them, then maintain a life insurance policy on the life of Executive under which they are the beneficiary, the amount of the death benefit payable thereunder, to a maximum amount equal to the Benefit Payment, less installments of

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the Benefit Payment theretofore paid, shall be paid to the Payment Beneficiary on the Benefit Payment installment payment date next succeeding the date on which the GST Companies receive such death benefit proceeds and the remainder of the Benefit Payment, if any, shall be paid in equal quarterly installments as provided above.

14. Disability. In the event that during the term of his employment by the Corporations Executive shall become Disabled (as such term is

hereinafter defined) he shall continue to receive the full amount of the base salary to which he was theretofore entitled for a period of six months after he shall be deemed to have become Disabled (the "First Disability Payment Period"). If the First Disability Payment Period shall end prior to February 28, 1999, Executive thereafter shall be entitled to receive salary at an annual rate equal to one-half of his then current base salary for a further period ending on the earlier of (i) one year thereafter, or (ii) February 28, 1999 (the "Second Disability Payment Period"). Upon the expiration of the Second Disability Payment Period, Executive shall not be entitled to receive any further payments on account of his base salary until he shall cease to be Disabled and shall have resumed his duties hereunder and provided that the Corporations shall not have theretofore terminated this Agreement as hereinafter provided. The Corporations may terminate this Agreement and Executive's employment hereunder at any time after Executive is Disabled, upon at least 10 days' prior written notice. For the purposes of this Agreement, Executive shall be deemed to have become Disabled when (x) by reason of physical or mental incapacity, Executive is not able to perform a substantial portion of his duties hereunder for

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a period of 135 consecutive days or for 135 days in any consecutive 225-day period or (y) when Executive's physician or a physician designated by the Corporations shall have determined that Executive shall not be able, by reason of physical or mental incapacity, to perform a substantial portion of his duties hereunder. In the event that Executive shall dispute any determination of his Disability pursuant to clauses (x) or (y) above, the matter shall be resolved by the determination of three physicians qualified to practice medicine in the United States of America or Canada, one to be selected by each of the Corporations and Executive and the third to be selected by the designated physicians. If Executive shall receive benefits under any disability policy maintained by the GST Companies, the Corporations shall be entitled to deduct the amount equal to the benefits so received from base salary that they otherwise would have been required to pay to Executive as provided above.

The foregoing provisions regarding disability shall be adjusted during the term hereof to match the most favorable disability benefits provided to any other senior executive of the Corporations.

15. Termination for Cause. The Corporations may at any time upon written notice to Executive terminate Executive's employment for Cause. For purposes of this Agreement, the following shall constitute Cause: (i) the willful and repeated failure of Executive to perform any material duties hereunder or gross negligence of Executive in the performance of such duties, and if such failure or gross negligence is susceptible of cure by Executive, the failure to effect such cure within 20 days after

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written notice of such failure or gross negligence is given to Executive; (ii) excessive use of alcohol or illegal drugs interfering with the performance of Executive's duties hereunder; (iii) theft, embezzlement, fraud, misappropriation of funds, other acts of dishonesty or the violation of any law or ethical rule relating to Executive's employment; (iv) the conviction of a felony or other crime involving moral turpitude by Executive; or (v) the breach by Executive of any other material provision of this Agreement, and if such breach is susceptible of cure by Executive, the failure to effect such cure within 30 days after written notice of such breach is given to Executive. For purposes of this Agreement, an action shall be considered "willful" if it is done intentionally, purposely or knowingly, distinguished from an act done carelessly, thoughtlessly or inadvertently. In any such event, Executive shall be entitled to receive his base salary to and including the date of termination. Should Executive in good faith dispute his termination for Cause, he shall give prompt written notice thereof to the Corporations, in which event such dispute shall be submitted to and determined by arbitration in San Francisco, California before an arbitrator appointed pursuant to the rules of the American Arbitration Association (the "Arbitrator"). Such arbitration shall be conducted in accordance with such rules as shall be promulgated by the Arbitrator, which may include any or all of the rules then obtaining of the American Arbitration Association. Any award or decision of the Arbitration shall be conclusive in the absence of fraud and judgment thereon may be entered in any court having jurisdiction thereof. The costs of such arbitration shall be borne by the party against whom any

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award or decision is rendered. Executive shall not be entitled to receive any compensation for periods subsequent to his dismissal pursuant to this Paragraph 15.

16. Termination for Employer Breach. Executive may upon written notice to the Corporations terminate this Agreement (a termination for "Employer Breach") in the event of the breach by the Corporations of any material provision of this Agreement (and the occurrence of any of the events described in subparagraph (i) of Paragraph 17 hereof shall be deemed a breach by the Corporations of a material provision of the Agreement), and if such breach relates to a provision of this Agreement other than Paragraph 17 and is susceptible of cure, the failure to effect such cure within 30 days after written notice of such breach is given to the Corporation.

#### 17. Change of Control.

(i) If prior to the termination of this Agreement, there is a Change of Control (as such term is defined herein) and thereafter any of the following occur: (a) Executive is placed in any position of lesser stature than that of a senior executive officer of the Corporations; is assigned duties inconsistent with a senior executive officer or duties which, if performed, would result in a significant change in the nature or scope of

powers, authority, functions or duties inherent in such position on the date hereof; is assigned performance requirements or working conditions which are at variance with the performance requirements and working conditions in effect on the date hereof; or is accorded treatment on a general basis that is in derogation of his status as a senior executive officer; (b) Executive ceases to serve as a

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member of any of the GST Board or the Boards; (c) any breach of Paragraph 2 or Paragraphs 4 through 8, inclusive, of this Agreement; or (d) any requirement of the Corporations that the location at which Executive performs his principal duties for the Corporations be outside a radius of 50 miles from the location at which Executive performed such duties immediately prior to the Change of Control, then the Agreement shall be deemed to have been terminated by the Corporations otherwise than by reason of Cause and the Corporations shall pay to Executive within five days after notice from Executive to such effect, as liquidated damages, a lump sum cash payment equal to 2.99 times the "base amount" of Executive's compensation. For purposes hereof, "base amount" shall have the meaning provided in Section 280G (b) (2) (A) of the Internal Revenue Code of 1986, as amended, and the Proposed Regulations thereunder.

(ii) For the purposes of this Agreement, a Change of Control means (i) the direct or indirect sale, lease, exchange or other transfer of all or substantially all (50% or more) of the assets of GST or the Corporations to any person or entity or group of persons or entities acting in concert as a partnership or other group (a "Group of Persons") excluding the GST Companies (ii) the merger, consolidation or other business combination of GST or the Corporations with or into another corporation with the effect that the shareholders of GST or the Corporations, as the case may be, immediately following the merger, consolidation or other business combination, hold 50% or less of the combined voting power of the then outstanding securities of the surviving corporation of such merger, consolidation or other business combination ordinarily (and

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apart from rights accruing under special circumstances) having the right to vote in the election of directors, (iii) the replacement of a majority of the GST Board or of any committee of the GST Board or of either of the Boards in any given year as compared to the directors who constituted the GST Board or such committee or either of the Boards at the beginning of such year, and such replacement shall not have been approved by the GST Board or the Boards, as the case may be, as constituted at the beginning of such year, (iv) a person or Group of Persons shall, as a result of a tender or exchange offer, open market purchases, privately negotiated purchases or otherwise, have become the beneficial owner (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended) of securities of GST or either of the Corporations representing 50% or more of the combined voting power of the then outstanding

securities of such corporation ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors.

18. Insurance Policies. The GST Companies shall have the right from time to time to purchase, increase, modify or terminate insurance policies on the life of Executive for the benefit of the GST Companies, in such amounts as the GST Companies shall determine in their sole discretion. In connection therewith, Executive shall, at such place or places as the GST Companies may reasonably direct, submit himself to physical examinations on an annual basis (or more frequently) should an insurer or prospective insurer so require, and execute and deliver such documents as the GST Companies may deem necessary to obtain such insurance policies.

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19. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and any other prior agreement between the Corporations and Executive with respect to the subject matter hereof is hereby superseded and terminated effective immediately and shall be without further force or effect. No amendment or modification himself shall be valid or binding unless made in writing and signed by the party against whom enforcement thereof is sought.

20. Notices. Any notice required, permitted or desired to be given pursuant to any of the provisions of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered in person or by responsible overnight delivery service or sent by certified mail, return receipt requested, postage and fees prepaid as follows:

If to the Corporations, at their address set forth above, Attention: Chief Executive Officer, with a copy to:

Olshan Grundman Frome & Rosenzweig LLP  
505 Park Avenue  
New York, New York 10022  
Attention: Stephen Irwin

If to Executive, at his address set forth above. Any of the parties hereto may at any time and from time to time change the address to which notice shall be sent hereunder by notice to the other parties given under this Paragraph 20. The date of the giving of any notice hand delivered or delivered by responsible overnight carrier shall be the date of its delivery and of any notice sent by mail shall be the date five days after the date of the posting of the mail.

21. No Assignment; Binding Effect. Neither this Agreement, nor the right to receive any payments hereunder, may be assigned by Executive or the Corporations without the prior written consent of the other parties hereto. This Agreement shall be binding upon Executive, his heirs, executors and administrators and upon the Corporations, their respective successors and permitted assigns.

22. Waivers. No course of dealing nor any delay on the part of the Corporations in exercising any rights hereunder shall operate as a waiver of any such rights. No waiver of any default or breach of this Agreement shall be deemed a continuing waiver or a waiver of any other breach or default.

23. Invalidity. If any clause, paragraph, section or part of this Agreement shall be held or declared to be void, invalid or illegal, for any reason, by any court of competent jurisdiction, such provision shall be ineffective but shall not in any way invalidate or affect any other clause, paragraph, section or part of this Agreement.

24. Further Assurances. Each of the parties shall execute such documents and take such other actions as may be reasonably requested by the other party to carry out the provisions and purposes of this Agreement in accordance with its terms.

25. Attorneys' Fees. If any action, suit or proceeding is filed by any party to enforce or rescind this Agreement or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue shall be entitled to recover with respect to such issue, in addition to costs, reasonable attorneys' fees incurred in preparation or in prosecution or defense of such

action, suit or proceeding as fixed by the arbitrator or trial court, and if any appeal is taken from the decision of the trial court, reasonable attorneys' fees as fixed on appeal.

26. Governing Law. This Agreement shall be governed, interpreted and construed in accordance with the terms of the State of Delaware, except that body of law relating to choice of laws.

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

GST USA, INC.

By: /s/ Gordon Blankstein

-----  
Name: Gordon Blankstein  
Title:

GST TELECOM INC.

By: /s/ Gordon Blankstein

-----  
Name: Gordon Blankstein  
Title:

/s/ Robert H. Hanson

-----  
ROBERT H. HANSON

THE FOREGOING AGREEMENT IS  
CONSENTED TO AND ACKNOWLEDGED:

GST TELECOMMUNICATIONS, INC.

By: /s/ Gordon Blankstein

-----  
Name:  
Title:

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

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THIS AMENDED AND RESTATED EMPLOYMENT AGREEMENT made as of this 1st day of September, 1995, by and between GST USA, INC. ("GUSA") and GST TELECOM INC. ("Telecom" and together with GUSA, the "Corporations"), each Delaware corporations with their principal offices at 4317 N.E. Thurston Way, Vancouver, Washington 98662, and CLIFFORD V. SANDER, residing at 15305 S.E. River Crest Drive, Vancouver, Washington 98683 (the "Executive").

W I T N E S S E T H :

WHEREAS, Executive has heretofore been employed pursuant to an Employment Agreement dated as of March 1, 1994 between Telecom and Executive; and

WHEREAS, Telecom and Executive desire to restate and amend the terms of Executive's employment and to provide that Executive shall be jointly employed by GUSA and Telecom;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Employment of Executive. GUSA hereby employs executive as its Chief Accounting Officer and Telecom hereby employs Executive as its Chief Financial Officer, to perform the duties and responsibilities incident to such offices, subject at all times to the control and direction of the Boards of Directors of the Corporations (the "Boards") and the Chief Executive Officers of the Corporations.

2. Acceptance of Employment; Time and Attention. Executive hereby accepts such employment and agrees that throughout the period of his employment hereunder, except as hereinafter

provided, he will devote substantially all his time, attention, knowledge and skills, faithfully, diligently and to the best of his ability, in furtherance of the business of the Corporations, their parent corporation, GST Telecommunications, Inc. ("GST") and their subsidiaries (collectively, the "GST Companies"), and will perform the duties assigned to him pursuant to Paragraph 1 hereof, subject, at all times, to the direction and control of the Boards and the Chief Executive Officers of the Corporations. Executive shall at all times be subject to, observe and carry out such rules, regulations, policies, directions and restrictions as the GST Companies shall from time to time establish. During the period of his employment hereunder, Executive shall not, except as hereinafter provided, directly or indirectly, accept employment or compensation from, or perform services of any nature for, any business

enterprise other than the GST Companies. The Corporations acknowledge that Executive may render financial, accounting or other consulting services to persons or entities not in competition with the GST Companies. The performance of such services shall not constitute a breach of this Agreement, provided that (i) they do not interfere with the performance by Executive of his duties hereunder, and (ii) they do not require the devotion of more than five percent of Executive's working hours in any year. Apart from any travel required to perform Executive's employment duties, Executive shall not be required to be regularly based at any office of the Corporations located outside the metropolitan areas of Portland, Oregon or Vancouver, Washington, without Executive's prior written consent (which may be withheld in Executive's discretion). Executive shall be elected or appointed to such

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offices of the GST Companies other than the Corporations as shall be determined from time to time by the Board of Directors of GST (the "GST Board"). During the period of Executive's employment hereunder, he shall not be entitled to additional compensation for serving in any offices of the GST Companies other than the Corporations to which he is elected or appointed.

3. Term. Except as otherwise provided herein, the term of Executive's employment hereunder shall commence as of the date hereof and shall continue to and including the 28th day of February, 1999.

4. Compensation. As compensation for his services hereunder, the Corporations shall pay to Executive (i) a base salary at the rate of \$120,000 per annum, payable in equal installments no less frequently than semi-monthly and (ii) such incentive compensation and bonuses, if any, as the GST Board or the Compensation Committee thereof in its absolute discretion may determine to award Executive; provided that this Agreement shall in no event be construed to require the payment to Executive of incentive compensation or bonuses. At least annually, the GST Board or the Compensation Committee thereof shall review Executive's base salary and shall determine whether any adjustment thereof is warranted. If it is determined to adjust Executive's base salary, such adjustment shall be based upon (i) the nature, magnitude and quality of the services performed by Executive for the GST Companies, (ii) the condition (financial and other) and results of operations of the GST Companies and (iii) the compensation paid for positions of comparable responsibility and authority within the telecommunications industry, provided that no

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such adjustment shall reduce such base salary below \$120,000 per annum. All compensation paid to Executive shall be subject to withholding and other employment taxes imposed by applicable law.

5. Additional Benefits. In addition to such base salary and

any incentive compensation and bonuses awarded Executive, he (and his family) shall be entitled to participate, to the extent he is (and they are) eligible under the terms and conditions thereof, in any profit sharing, pension, retirement, hospitalization, insurance, disability, medical service, stock option, bonus or other employee benefit plan generally available to the executive officers of the Corporations that may be in effect from time to time during the period of Executive's employment hereunder. The Corporations shall be under no obligation to institute or continue the existence of any such employee benefit plan.

6. Reimbursement of Expenses. The Corporations shall reimburse Executive in accordance with applicable policies of the GST Companies for all expenses reasonably incurred by him in connection with the performance of his duties hereunder and the business of the GST Companies, upon the submission to the Corporations of appropriate receipts or vouchers.

7. Facilities and Personnel. Executive shall be provided a private office, secretarial services and such other facilities, supplies, personnel and services as shall be required or reasonably requested for the performance of his duties hereunder.

8. Motor Vehicle Allowance. Executive shall be entitled to receive a non-accountable expense allowance of \$400 per

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month to reimburse him for the cost and expense of operating and maintaining a motor vehicle in furtherance of the services rendered by him hereunder, which costs and expenses may include without limitation, vehicle loan and lease payments, insurance premiums, gasoline and repair expenditures and other similar charges.

9. Vacation. Executive shall be entitled to five weeks' paid vacation in respect of each 12-month period during the term of his employment hereunder, such vacation to be taken at times mutually agreeable to Executive and the Boards. Vacation time shall not be cumulative from one 12-month period to the next, but Executive shall receive vacation pay at the then current salary rate for any vacation time not taken by him.

10. D&O Insurance Coverage. The Corporations shall use their best efforts to cause GST to obtain and maintain, at GST's cost and expense, directors' and officers' liability insurance coverage for the directors and officers of GST, including Executive. Nothing herein shall be deemed to require GST to provide such coverage for Executive if it is not then providing such coverage generally to its directors and officers.

11. Restrictive Covenant. In consideration of his employment hereunder, Executive agrees that during the period of his employment hereunder

and, in the event of termination of this Agreement (i) by Executive otherwise than for Employer Breach (as such term is defined herein) or (ii) by the Corporation for Cause (as such term is defined herein), for a further period ending on the earlier of two years after such termination or February 28, 2000, he will not (a) directly or indirectly own, manage, operate, join, control, participate in, invest in, or otherwise be connected

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with, in any manner, whether as an officer, director, employee, partner, investor or otherwise, any business entity that is engaged in the design, development, construction or operation of alternate access or other telecommunications networks, in providing long distance or other telecommunications services or in any other business in which the GST Companies, or any of them, are engaged during such period, within the United States of America (1) in all locations in which the GST Companies, or any of them, are doing business, and (2) in all locations in respect of which the GST Companies are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies, or any of them, theretofore have submitted any bids, provided that if such planning and/or pursuit relates to a business opportunity that is not a competitive access project (a "CAP") such planning and/or pursuit must have involved material efforts on the part of the GST Companies, or any of them, (b) for himself or on behalf of any other person, partnership, corporation or entity, call on any customer of the GST Companies for the purpose of soliciting, diverting or taking away any customer from the GST Companies (1) in all locations in which the GST Companies, or any of them, are doing business, and (2) in all locations in respect of which the GST Companies, or any of them, are actively planning for and/or pursuing a business opportunity, whether or not the GST Companies, or any of them, theretofore have submitted any bids, provided that if such planning and/or pursuit relates to a business opportunity that is not a CAP, such planning and/or pursuit must have involved material efforts on the part of the GST Companies, or any of them, or (c) induce, influence or seek to induce or influence any person

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engaged as an employee, representative, agent, independent contractor or otherwise by the GST Companies, or any of them, to terminate his or her relationship with the GST Companies, or any of them. Nothing herein contained shall be deemed to prohibit Executive from (x) investing his funds in securities of an issuer if the securities of such issuer are listed for trading on a national securities exchange or are traded in the over-the-counter market and Executive's holdings therein represent less than 2% of the total number of shares or principal amount of the securities of such issuer outstanding, or (y) owning securities, regardless of amount, of GST.

Executive acknowledges that the provisions of this Paragraph 11 are reasonable and necessary for the protection of the GST Companies, and

that each provision, and the period or periods of time, geographic areas and types and scope of restrictions on the activities specified herein are, and are intended to be, divisible. In the event that any provision of this Paragraph 11, including any sentence, clause or part hereof, shall be deemed contrary to law or invalid or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions shall not be affected, but shall, subject to the discretion of such court, remain in full force and effect and any invalid and unenforceable provisions shall be deemed, without further action on the part of the parties hereto, modified, amended and limited to the extent necessary to render the same valid and enforceable.

12. Confidential Information. Executive shall hold in a fiduciary capacity for the benefit of the GST Companies all information, knowledge and data relating to or concerned with their

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operations, sales, business and affairs, and he shall not, at any time for a period of two years after termination of his employment hereunder, use, disclose or divulge any such information, knowledge or data to any person, firm or corporation (unless the GST Companies no longer treat such information as confidential) other than to the GST Companies or their designees and employees or except as may otherwise be required in connection with the business and affairs of the GST Companies; provided, however, that Executive may use, disclose or divulge such information, knowledge or data that (i) was known to Executive at the commencement of his employment by Telecom; (ii) is or becomes generally available to the public through no wrongful act on Executive's part; or (iii) becomes available to Executive from a person or entity other than the GST Companies or their agents not bound by this or a similar agreement with the GST Companies; and provided, further, that the provisions of this Paragraph 12 shall not apply to Executive's know how to the extent utilized by him in subsequent employment so long as such employment is not in breach of this Agreement.

13. Equitable Relief. The parties hereto acknowledge that Executive's services are unique and that, in the event of a breach or a threatened breach by Executive of any of his obligations under this Agreement, the Corporations will not have an adequate remedy at law. Accordingly, in the event of any such breach or threatened breach by Executive, the Corporations shall be entitled to such equitable and injunctive relief as may be available to restrain Executive and any business, firm, partnership, individual, corporation or entity participating in such breach or threatened breach from the violation of the

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provisions hereof. Nothing herein shall be construed as prohibiting the Corporations from pursuing any other remedies available at law or in equity for

such breach or threatened breach, including the recovery of damages and the immediate termination of the employment of Executive hereunder.

14. Survival of Provisions; Death. Neither the termination of this Agreement, nor of Executive's employment hereunder, shall terminate or affect in any manner any provision of this Agreement that is intended by its terms to survive such termination.

In the event of termination of Executive's employment hereunder by reason of his death, the Corporations shall pay a benefit (the "Benefit Payment") to such person or persons as Executive shall, at his option, from time to time designate by written instrument delivered to the Corporations, each subsequent designation to revoke all prior designations, or if no such designation is made, to Executive's estate (the "Payment Beneficiary"). The Benefit Payment shall be in an amount equal to one and one-half times Executive's then current base salary, and shall be payable to the Payment Beneficiary in equal quarterly installments over a period of one and one-half years, provided that if the GST Companies, or any of them, then maintain a life insurance policy on the life of Executive under which they are the beneficiaries, the amount of the death benefit payable thereunder, to a maximum amount equal to the Benefit Payment, less installments of the Benefit Payment theretofore paid, shall be paid to the Payment Beneficiary on the Benefit Payment installment payment date next succeeding the date on which the GST Companies receive such

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death benefit proceeds, and the remainder of the Benefit Payment, if any, shall be paid in equal quarterly installments as provided above.

15. Disability. In the event that during the term of his employment by the Corporations Executive shall become Disabled (as such term is hereinafter defined) he shall continue to receive the full amount of the base salary to which he was theretofore entitled for a period of six months after he shall be deemed to have become Disabled (the "First Disability Payment Period"). If the First Disability Payment Period shall end prior to February 28, 1999, Executive thereafter shall be entitled to receive salary at an annual rate equal to one-half of his then current base salary for a further period ending on the earlier of (i) one year thereafter, or (ii) February 28, 1999 (the "Second Disability Payment Period"). Upon the expiration of the Second Disability Payment Period, Executive shall not be entitled to receive any further payments on account of his base salary until he shall cease to be Disabled and shall have resumed his duties hereunder and provided that the Corporations shall not have theretofore terminated this Agreement as hereinafter provided. The Corporations may terminate this Agreement and Executive's employment hereunder at any time after Executive is Disabled, upon at least 10 days' prior written notice. For the purposes of this Agreement, Executive shall be deemed to have become Disabled when (x) by reason of physical or mental incapacity, Executive is not able to perform a substantial portion of his duties hereunder for a period of

135 consecutive days or for 135 days in any consecutive 225-day period or (y) when Executive's physician or a physician

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designated by the Corporations shall have determined that Executive shall not be able, by reason of physical or mental incapacity, to perform a substantial portion of his duties hereunder. In the event that Executive shall dispute any determination of his Disability pursuant to clauses (x) or (y) above, the matter shall be resolved by the determination of three physicians qualified to practice medicine in the State of Washington, one to be selected by each of the Corporations and Executive and the third to be selected by the designated physicians. If Executive shall receive benefits under any disability policy maintained by the GST Companies, the Corporations shall be entitled to deduct the amount equal to the benefits so received from base salary that they otherwise would have been required to pay to Executive as provided above.

The foregoing provisions regarding disability shall be adjusted during the term hereof to match the most favorable disability benefits provided to any other senior executive of the Corporations.

16. Termination for Cause. The Corporations may at any time upon written notice to Executive terminate Executive's employment for Cause. For purposes of this Agreement, the following shall constitute Cause: (i) the willful and repeated failure of Executive to perform any material duties hereunder or gross negligence of Executive in the performance of such duties, and if such failure or gross negligence is susceptible of cure by Executive, the failure to effect such cure within 20 days after written notice of such failure or gross negligence is given to Executive; (ii) excessive use of alcohol or illegal drugs interfering with the performance of Executive's duties hereunder;

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(iii) theft, embezzlement, fraud, misappropriation of funds, other acts of dishonesty or the violation of any law or ethical rule relating to Executive's employment; (iv) the conviction of a felony or other crime involving moral turpitude by Executive; or (v) the breach by Executive of any other material provision of this Agreement, and if such breach is susceptible of cure by Executive, the failure to effect such cure within 20 days after written notice of such breach is given to Executive. For purposes of this Agreement, an action shall be considered "willful" if it is done intentionally, purposely or knowingly, distinguished from an act done carelessly, thoughtlessly or inadvertently. In any such event, Executive shall be entitled to receive his base salary to and including the date of termination. Should Executive in good faith dispute his termination for Cause, he shall give prompt written notice thereof to the Corporations, in which event such dispute shall be submitted to and determined by arbitration in Seattle, Washington before an arbitrator appointed pursuant to the rules of the American Arbitration Association (the

"Arbitrator"). Such arbitration shall be conducted in accordance with such rules as shall be promulgated by the Arbitrator, which shall include a discovery period not to exceed 30 days in length and which may include any or all of the rules then obtaining of the American Arbitration Association. Any award or decision of the Arbitration shall be conclusive in the absence of fraud and judgment thereon may be entered in any court having jurisdiction thereof. The costs of such arbitration shall be borne by the party against whom any award or decision is rendered. Executive shall not be entitled to

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receive any compensation for periods subsequent to his dismissal pursuant to this Paragraph 16.

17. Termination for Employer Breach. Executive may upon written notice to the Corporations terminate this Agreement (a termination for "Employer Breach") in the event of the breach by the Corporations of (i) any material provision of this Agreement (and the occurrence of any of the events described in subparagraph (i) of Paragraph 18 hereof shall be deemed a breach by the Corporations of a material provision of this Agreement), and if such breach relates to a provision of this Agreement other than Paragraph 18 and is susceptible of cure, the failure to effect such cure within 20 days after written notice of such breach is given to the Corporation; or (ii) any material provision of the Restated and Amended Agreement effective as of June 21, 1994, by and among GST, GUSA, Pacwest Network L.L.C., John Warta, Executive and Telecom, after the expiration of any applicable cure or grace periods.

#### 18. Change of Control.

(i) If prior to the termination of this Agreement, there is a Change of Control (as such term is defined herein) and thereafter any of the following occur: (a) Executive is placed in any position of lesser stature than that of a senior executive officer of the Corporations; is assigned duties inconsistent with a senior executive officer or duties which, if performed, would result in a significant change in the nature or scope of powers, authority, functions or duties inherent in such position on the date hereof; is assigned performance requirements or working conditions which are at variance with the performance requirements and working conditions in effect on the date hereof; or is accorded

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treatment on a general basis that is in derogation of his status as a senior executive officer; (b) Executive ceases to serve as a member of any of the GST Board or the Boards; (c) any breach of Paragraph 2 or Paragraphs 4 through 8, inclusive, of this Agreement; or (d) any requirement of the Corporations that the location at which Executive performs his principal duties for the Corporations be outside a radius of 50 miles from the location at which

Executive performed such duties immediately prior to the Change of Control, then the Agreement shall be deemed to have been terminated by the Corporations otherwise than by reason of Cause and the Corporations shall pay to Executive within five days after notice from Executive to such effect, as liquidated damages, a lump sum cash payment equal to 2.99 times the "base amount" of Executive's compensation. For purposes hereof, "base amount" shall have the meaning provided in Section 280G (b) (2) (A) of the Internal Revenue Code of 1986, as amended, and the Proposed Regulations thereunder.

(ii) For the purposes of this Agreement, a Change of Control means (i) the direct or indirect sale, lease, exchange or other transfer of all or substantially all (50% or more) of the assets of GST or the Corporations to any person or entity or group of persons or entities acting in concert as a partnership or other group (a "Group of Persons") excluding the GST Companies (ii) the merger, consolidation or other business combination of GST or the Corporations with or into another corporation with the effect that the shareholders of GST or the Corporations, as the case may be, immediately following the merger, consolidation or other business combination, hold 50% or less of the combined voting power of the

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then outstanding securities of the surviving corporation of such merger, consolidation or other business combination ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors, (iii) the replacement of a majority of the GST Board or of any committee of the GST Board or of either of the Boards in any given year as compared to the directors who constituted the GST Board or such committee or either of the Boards at the beginning of such year, and such replacement shall not have been approved by the GST Board or the Boards, as the case may be, as constituted at the beginning of such year, (iv) a person or Group of Persons shall, as a result of a tender or exchange offer, open market purchases, privately negotiated purchases or otherwise, have become the beneficial owner (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended) of securities of GST or either of the Corporations representing 50% or more of the combined voting power of the then outstanding securities of such corporation ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors.

19. Insurance Policies. The GST Companies shall have the right from time to time to purchase, increase, modify or terminate insurance policies on the life of Executive for the benefit of the GST Companies, in such amounts as the GST Companies shall determine in their sole discretion. In connection therewith, Executive shall, at such time or times and at such place or places as the GST Companies may reasonably direct, submit himself to such physical examinations on an annual basis (or more frequently) should an insurer or prospective insurer so require, and execute

and deliver such documents as the GST Companies may deem necessary to obtain such insurance policies.

20. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and any prior agreement between the Corporations and Executive with respect to the subject matter hereof is hereby superseded and terminated effective immediately and shall be without further force or effect. No amendment or modification himself shall be valid or binding unless made in writing and signed by the party against whom enforcement thereof is sought.

21. Notices. Any notice required, permitted or desired to be given pursuant to any of the provisions of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered in person or by responsible overnight delivery service or sent by certified mail, return receipt requested, postage and fees prepaid as follows:

If to the Corporations, at their address set forth above, Attention: Chief Executive Officer, with a copy to:

Olshan Grundman Frome & Rosenzweig LLP  
505 Park Avenue  
New York, New York 10022  
Attention: Stephen Irwin

If to Executive, at his address set forth above, with a copy to:

Kennedy & Kennedy  
Pioneer Tower - Suite 1170  
888 S.W. Fifth Avenue  
Portland, Oregon 97204

Any of the parties hereto may at any time and from time to time change the address to which notice shall be sent hereunder by

notice to the other parties given under this Paragraph 21. The date of the giving of any notice hand delivered or delivered by responsible overnight carrier shall be the date of its delivery and of any notice sent by mail shall be the date five days after the date of the posting of the mail.

22. No Assignment; Binding Effect. Neither this Agreement, nor the right to receive any payments hereunder, may be assigned by Executive or the

Corporations without the prior written consent of the other parties hereto. This Agreement shall be binding upon Executive, his heirs, executors and administrators and upon the Corporations, their respective successors and permitted assigns.

23. Waivers. No course of dealing nor any delay on the part of the Corporations in exercising any rights hereunder shall operate as a waiver of any such rights. No waiver of any default or breach of this Agreement shall be deemed a continuing waiver or a waiver of any other breach or default.

24. Governing Law; Forum. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Delaware, except that body of law relating to choice of laws. Except as otherwise provided in Paragraph 16 hereof, any action, suit or proceeding with respect to this Agreement and the respective rights, remedies, duties and liabilities of the parties hereunder shall be brought in the courts of the State of Washington located in Seattle, Washington or in the United States District Court for the district in which Seattle, Washington is located, and by execution and delivery of this Agreement, each party accepts for itself, generally and unconditionally, the jurisdiction of such

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courts. The parties hereto irrevocably waive any objection that they may now or hereafter have to the commencement of any such action, suit or proceeding in such courts.

25. Invalidity. If any clause, paragraph, section or part of this Agreement shall be held or declared to be void, invalid or illegal, for any reason, by any court of competent jurisdiction, such provision shall be ineffective but shall not in any way invalidate or affect any other clause, paragraph, section or part of this Agreement.

26. Further Assurances. Each of the parties shall execute such documents and take such other actions as may be reasonably requested by the other party to carry out the provisions and purposes of this Agreement in accordance with its terms.

27. Attorneys Fees. If any action, suit or proceeding is filed by any party to enforce or rescind this Agreement or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue shall be entitled to recover with respect to such issue, in addition to costs, reasonable attorneys' fees incurred in preparation or in prosecution or defense of such action, suit or proceeding as fixed by the arbitrator or trial court, and if any appeal is taken from the decision of the trial court, reasonable attorneys' fees as fixed on appeal.

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

GST USA, INC.

By: /s/ Gordon Blankstein

-----  
(Title)

GST TELECOM INC.

By: /s/ Gordon Blankstein

-----  
(Title)

/s/ Clifford V. Sander

-----  
CLIFFORD V. SANDER

THE FOREGOING AGREEMENT IS  
CONSENTED TO AND ACKNOWLEDGED:

GST TELECOMMUNICATIONS, INC.

By: /s/ Gordon Blankstein

-----  
(Title)

AGREEMENT AND PLAN OF MERGER

By and Among

Call America Business Communications Corporation

Call America Business Communications of Fresno, Inc.

Call America Business Communications of Bakersfield, Inc.

The Selling Shareholders listed in Exhibit A

GST Newco of California, Inc.

and

GST Telecommunications, Inc.

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Dated as of September 26, 1996  
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## AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Agreement") is made and entered into as of September 26, 1996, by and among Call America Business Communications Corporation, a California corporation ("Call America"), Call America Business Communications of Fresno, Inc., a California corporation ("CA Fresno"), Call America Business Communications of Bakersfield, Inc., a California corporation ("CA Bakersfield"), each of the persons listed in Exhibit A hereto (individually, a "Seller" and collectively, the "Sellers"), GST Newco of California, Inc., a Delaware corporation ("Sub"), and GST Telecommunications, Inc., a federally chartered Canadian corporation (the "Buyer" or "GST").

Call America, CA Fresno and CA Bakersfield are individually a "Call America Company" and collectively the "Call America Companies." The Call America Companies are affiliated entities which are under the common ownership and control of the Sellers.

Sub and GST are collectively the "GST Companies". Sub is a newly-formed corporation which is a wholly-owned subsidiary of GST. GST is a public company whose shares of Common Stock are traded on the Amex.

## PREAMBLE

GST, GST Net, Inc., Call America and the Sellers are parties to a letter of intent dated July 17, 1996, which sets forth the principal terms and conditions involving a proposed business combination of GST and Call America. The Boards of Directors of the Call America Companies and the GST Companies are of the opinion that the transactions described herein are in the best interests of the parties and their respective shareholders. This Agreement provides for the acquisition of the Call America Companies by GST pursuant to a merger whereby CA Bakersfield, CA Fresno and Sub will merge with and into Call America. At the effective time of the Merger, the outstanding shares of the capital stock of each of the Call America Companies shall be converted into the right to receive shares of the common stock of GST. As a result, the Sellers shall become shareholders of GST and the Call America Companies shall conduct their business and operations as a wholly-owned subsidiary of GST.

The transactions described in this Agreement have been approved by the Sellers, who constitute all of the shareholders of the Call America Companies, and by GST, the sole shareholder of Sub; and are subject to obtaining certain

regulatory approvals, and the satisfaction of certain other conditions described in this Agreement.

It is the intention of the parties to this Agreement that the Merger shall qualify for federal income tax purposes as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code.

Certain terms used in this Agreement are defined in Section 12.9 of this Agreement.

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

## ARTICLE I TRANSACTIONS AND TERMS OF THE MERGER

Section 1.1 Merger. Subject to the terms and conditions of this Agreement, at the Effective Time (as defined in Section 1.3 hereof), CA Fresno, CA Bakersfield and Sub shall be merged with and into Call America, in accordance with the provisions of Section 1108 of the CGCL and Section 252 of the DGCL and with the effect provided in Section 1107 of the CGCL and Sections 259 and 261 of the DGCL (each a "Merger" and collectively, the "Merger"). Call America shall be the Surviving Corporation of the Merger, and it shall be a wholly-owned subsidiary of GST and shall be governed by the Laws of the State of California. The Merger shall be consummated pursuant to the terms of this Agreement, which has been approved and adopted by the respective Boards of Directors of each of the Call America Companies, each of the GST Companies and the Sellers.

Section 1.2 Time and Place of Closing; Escrow.

(a) The closing of the transactions contemplated hereby (the "Closing") will take place at 9:00 A.M. on the date that the Effective Time (as defined below) occurs, or at such other time as the parties, acting through their authorized officers, may mutually agree.

(b) The Closing shall be held at the office of GST's counsel, Olshan Grundman Frome and Rosenzweig LLP, 505 Park Avenue, New York, New York.

Section 1.3 Effective Time. The Merger and other transactions contemplated by this Agreement shall become effective on the date and at the time the Agreement of Merger reflecting the Merger, together with officers' certificates attached thereto and such additional documents as may be required by Section 1103 of the CGCL, are filed with the Secretary of State of the State of

California, and the documents required by Section 252 of the DGCL are filed with the Secretary of State of the State of Delaware (the "Effective Time"). Subject to the terms and satisfaction of all conditions hereof, unless otherwise mutually agreed upon in writing by authorized officers of each party, the Effective Time shall occur, and the Merger Documents shall be filed, on the second business day following the later of (i) the date that all of the conditions to Closing specified in Articles VIII and IX hereof have been satisfied or waived and (ii) the effective date (including expiration of any applicable waiting period) of the last required Consent of any Regulatory Authority having authority over and approving or exempting the Merger and which is listed on Schedule 3.5.

Section 1.4 Charter. The Articles of Incorporation of Call America in effect immediately prior to the Effective Time shall be the Certificate of Incorporation of the Surviving Corporation until otherwise amended or repealed.

Section 1.5 Bylaws. The Bylaws of Call America in effect immediately prior to the Effective Time shall be the Bylaws of the Surviving Corporation until otherwise amended or repealed.

Section 1.6 Directors and Officers. The directors and officers of Call America in office immediately prior to the Effective Time, together with such additional persons as may thereafter be elected, shall serve as the respective directors and officers of the Surviving Corporation from and after the Effective Time in accordance with the Bylaws of the Surviving Corporation.

Section 1.7 Conversion of Shares. Subject to the provisions of this Section 1.7 through Section 1.9, at the Effective Time, by virtue of the Merger and without any action on the part of the Call America Companies, the GST Companies or the shareholders of any of the foregoing, the shares of the constituent corporations to the Merger shall be converted as follows:

(a) Each share of GST Capital Stock issued and outstanding immediately prior to the Effective Time shall remain issued and outstanding from and after the Effective Time.

(b) Each share of Common Stock of Sub issued and outstanding immediately prior to the Effective Time shall cease to be outstanding, and shall be converted into an aggregate of 100 shares of fully paid and non assessable common stock of the Surviving Corporation from and after the Effective Time.

(c) All of the shares of Common Stock of the Call America Companies issued and outstanding at the Effective Time (the "Call American Common Stock") shall cease to be outstanding and shall be converted into an

aggregate of 1,307,692 shares of fully paid and nonassessable GST Common Stock (the "Consideration") plus the Post-Closing Consideration (as defined in Section 1.10), if any. The Consideration and the Post-Closing Consideration shall be allocated among the Call America Companies and each of the Sellers in accordance with the percentage set forth opposite each Seller's name in Exhibit A hereto. A portion of the Consideration to be delivered to the Escrow Agent for distribution to the Sellers under Section 2.1 hereof, consisting of 130,000 shares (the "Escrow Shares") of GST Common Stock (such portion to be allocated among all the Sellers in accordance with the percentages set forth opposite each Seller's name in Exhibit A hereto), shall be deposited with the Escrow Agent, to be held as collateral for the indemnification obligations of the Sellers contained in Article X hereof, and applied pursuant to the terms and provisions of the Escrow Agreement in respect of the Sellers' obligations pursuant to Section 10.1 hereof.

Section 1.8 Anti-Dilution Provisions. In the event GST changes the number of shares of GST Common Stock issued and outstanding prior to the Effective Time as a result of a stock split, stock dividend, or similar recapitalization with respect to such stock and the record date therefor (in the case of a stock dividend) or the effective date thereof (in the case of a stock split or similar recapitalization for which a record date is not established) shall be prior to the Effective Time, the Consideration and Post-Closing Consideration shall be adjusted to reflect the same ownership percentage in GST as such Consideration and Post-Closing Consideration would have represented immediately prior to such stock split, stock dividend or similar recapitalization.

Section 1.9 Fractional Shares. Notwithstanding any other provision of this Agreement, each holder of shares of Call America Common Stock exchanged pursuant to the Merger who would otherwise have been entitled to receive a fraction of a share of GST Common Stock (after taking into account all certificates delivered by such holder) shall receive, in lieu thereof, cash (without interest) in an amount equal to such fractional part of a share of GST Common Stock multiplied by the market value of one share of GST Common Stock at the Effective Time. The market value of one share of GST Common Stock at the Effective Time shall be the last sale price of GST Common Stock on the Amex (as reported by The Wall Street Journal or, if not reported thereby, any other authoritative source) on the last trading day preceding the Effective Time. No such holder will be entitled to dividends, voting rights, or any other rights as a shareholder in respect of any fractional shares.

Section 1.10 Post-Closing Consideration. (a) If the average closing sales price of GST Common Stock for the Measurement Period (as hereinafter defined) is less than \$12.50 per share, then up to 114,489 shares of GST Common Stock shall be distributed to the Sellers as promptly as practicable after the end of the Measurement Period pursuant to Section 1.7(c) as the "Post-Closing Consideration". The precise number of shares of GST Common Stock which shall constitute the Post-Closing Consideration shall be equal to: (i) the difference between (x) \$12.50, and (y) the greater of the average closing sales price of GST Common Stock for the Measurement Period and \$11.25, (ii) divided by 1.25, (iii) times 114,489.

(b) The "Measurement Period" for purposes of Section 1.10 shall mean the 10 consecutive trading day period ending two trading days prior to the date which is 180 days after the Effective Time. The "average closing sales price" for purposes of this Section 1.10 shall mean the average last sale price of GST Common Stock on the Amex (as reported by the Wall Street Journal or, if not reported thereby, by any other authoritative source) for the 10 trading days during the Measurement Period.

(c) In the event GST changes the number of shares of GST Common Stock issued and outstanding after the Effective Time but prior to the end of the Measurement Period as a result of a stock split, stock dividend, or similar recapitalization with respect to such stock and the record date therefor (in the case of a stock dividend) or the effective date thereof (in the case of a stock split or similar recapitalization for which a record date is not established) shall be prior to the end of the Measurement Period, the Post-Closing Consideration shall be adjusted to reflect the same ownership percentage in GST as such Post-Closing Consideration would have represented immediately prior to such stock split, stock dividend or similar recapitalization.

## ARTICLE II EXCHANGE OF SHARES

Section 2.1 Exchange Procedures. The conversion of shares of Call America Common Stock into GST Common Stock as provided for by this Agreement shall occur automatically at the Effective Time without further action by the holders thereof. Until surrendered, each certificate that prior to the Effective Time represented shares of Call America Common Stock will be deemed to evidence the right to receive the number of shares of GST Common Stock into which such Call America Common Stock has been converted. At the Closing, each holder of a certificate or certificates theretofore representing a share or shares of Call America Common Stock shall be entitled to receive from GST, in exchange for and upon the surrender of all of such holder's Call America Common Stock certificates duly endorsed, the number of shares of GST Common Stock to which the holder of such certificates is entitled pursuant to Section 1.7(c) of this

Agreement (less the number of shares of GST Common Stock being deposited in escrow pursuant to this Agreement), together with all undelivered dividends or distributions in respect of such shares (without interest thereon) pursuant to Section 2.2 of this Agreement. Stock certificates for fractions of GST Common Stock shall not be issued in the Merger and such fractional interests shall not entitle the owners thereof to vote, to receive dividends or to exercise any other right of a stockholder with respect to such fractional interest.

Section 2.2 Rights of Former Shareholders of each of the Call America Companies. At the Effective Time, the stock transfer books of each of the Call America Companies shall be closed as to holders of Common Stock immediately prior to the Effective Time and no transfer of Common Stock by any such holder shall thereafter be made or recognized. Whenever a dividend or other distribution is declared by GST on the GST Common Stock, the record date for which is at or after the Effective Time, the declaration shall include dividends or other distributions on all shares of GST Common Stock issuable pursuant to this Agreement, but no dividend or other distribution payable to the holders of record of GST Common Stock as of any time subsequent to the Effective Time shall be delivered to the holder of any certificate representing shares of Common Stock of any of the Call America Companies issued and outstanding at the Effective Time until such holder surrenders such certificate for exchange as provided in Section 2.1 of this Agreement. However, upon surrender of such certificate, both the GST Common Stock certificate and any undelivered dividends or other distributions and cash payments payable hereunder (without interest) shall be delivered and paid with respect to each share represented by such certificate.

### ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE CALL AMERICA COMPANIES AND THE SELLERS

Each of the Call America Companies and each of the Sellers jointly and severally hereby represent and warrant to the Buyer as follows:

Section 3.1 Corporate Organization; Requisite Authority to Conduct Business; Articles of Incorporation and By-Laws. Each of the Call America Companies is a corporation duly organized, validly existing and in good standing under the laws of the State of California. Call America has provided the Buyer with true and complete copies of the articles of incorporation of each of the Call America Companies (certified by the Secretary of State of the State of California) and By-laws of each of the Call America Companies (certified by the respective Secretary of each of the Call America Companies) as in effect on the date hereof. Prior to the Closing, the minute books of each of the Call America Companies will be delivered to the Buyer, and will contain true and complete

records of all meetings and consents in lieu of meeting of each of the Call America Companies' Board of Directors and of each of the Call America Companies' shareholders since the incorporation of each such entity, which accurately reflect in all material respects all transactions referred to in such minutes and consents in lieu of meeting. Each of the Call America Companies has all corporate power and authority to own, operate and lease its properties and to carry on its business as the same is now being conducted, except where the failure to have such power and authority would not have a Material Adverse Effect on the Call America Companies taken as a whole. Each of the Call America Companies is duly qualified or licensed to do business and is in good standing as a foreign corporation in every jurisdiction in which the conduct of its business or the ownership or leasing of its properties requires it to be so qualified or licensed, except where the failure to be so qualified or licensed would not have a Material Adverse Effect on the Call America Companies taken as a whole. Schedule 3.1 hereto contains a listing of each such foreign jurisdiction with respect to each of the Companies.

Section 3.2 Capitalization and Shareholdings. The authorized and issued stock of each of the Call America Companies is listed in Schedule 3.2. The Sellers own all of the shares of Common Stock of each of the Call America Companies free and clear of all liens, claims or encumbrances. The Sellers have full right, power, legal capacity and authority to transfer and deliver the shares of Common Stock of each of the Call America Companies pursuant to this Agreement. The capital stock of each of the Call America Companies is duly authorized and all issued capital stock has been duly and validly issued and is fully paid and non-assessable. Except as disclosed in Schedule 3.2, none of the Call America Companies has outstanding, and is not bound by or subject to, any Rights, and no shares of capital stock of any of the Call America Companies are reserved for issuance for any purpose.

Section 3.3 Subsidiaries, Etc. None of the Call America Companies owns (directly or indirectly) any Rights in any corporation, partnership, limited liability company, joint venture, association or other entity, except as disclosed in Schedule 3.3.

Section 3.4 Authority Relative to and Validity of Agreements. Each of the Call America Companies has full corporate power and authority to execute and deliver this Agreement and to assume and perform all of its obligations hereunder. The execution and delivery of this Agreement by each of the Call America Companies and the performance by each of the Call America Companies of its obligations hereunder has been duly authorized by its respective Board of Directors and shareholders and no further authorization on the part of any of the Call America Companies is necessary to authorize the execution and delivery by it of, and the performance of its obligations under, this Agreement. Except as disclosed on Schedule 3.4 hereto, there are no corporate, contractual,

statutory or other restrictions of any kind upon the power and authority of any of the Call America Companies to execute and deliver this Agreement and to consummate the transactions contemplated hereunder, and no Consent by any Regulatory Authority is necessary to make this Agreement a valid instrument binding upon each of the Call America Companies in accordance with its terms, except any Consents that may be required by the Canadian federal law and FCC, state telecommunication and state utility regulations, and Consents and filings under the CGCL and the DGCL or where any such restriction or the failure to obtain such Consents would not have a Material Adverse Effect on the Call America Companies taken as a whole. This Agreement has been duly executed and delivered by each of the Call America Companies and constitutes a legal, valid and binding obligation of each of the Call America Companies, enforceable in accordance with their terms, except (i) as such enforceability may be limited by or subject to any bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally, (ii) as such obligations are subject to general principles of equity and (iii) as rights to indemnity may be limited by federal or state securities laws or by public policy.

Section 3.5 Required Filings and Consents; No Conflict. Except as disclosed on Schedule 3.5, none of the Call America Companies is required to submit any notice, report or other filing with any Regulatory Authority in connection with the execution, delivery or performance of this Agreement, except any filings that may be required under the CGL, the DGCL and Canadian Federal law and FCC, state utility and telecommunication regulations, or where failure to so file would not have a Material Adverse Effect on the Call America Companies taken as a whole. The execution, delivery and performance of this Agreement by each of the Call America Companies and the consummation of the transactions contemplated hereby do not and will not (a) conflict with or violate any law, regulation, judgment, order or decree binding upon any of the Call America Companies, (b) conflict with or violate any provision of its respective charter or Bylaws, or (c) except as disclosed in Schedule 3.5 hereto, conflict with or result in a breach of any condition or provision of, or constitute a Default under, or result in the creation or imposition of any Lien upon any properties or assets of any of the Call America Companies pursuant to, or cause or permit the acceleration prior to maturity of any amounts owing under, any Contract to which any of the Call America Companies is a party or which is binding upon any of the Call America Companies or by which any of its properties are bound, except where such conflict, violation, breach or default would not have a Material Adverse Effect on the Call America Companies taken as a whole. The execution, delivery and performance of this Agreement by each of the Call America Companies and the consummation of the transactions contemplated hereby will not result in the loss of any Permit possessed by any of the Call America Companies or give a right of termination to any party to any agreement or other instrument to which any of

the Call America Companies is a party or by which any of its properties are

bound except where such loss or right would not have a Material Adverse Effect on the Call America Companies taken as a whole.

Section 3.6 Financial Statements and Net Revenues. (a) Call America has heretofore delivered to Buyer (i) a balance sheet of each of the Call America Companies at December 31, 1995 and December 31, 1994, and related statements of income and retained earnings and changes in cash flows for the years then ended, all of which have been certified by Glenn, Burdette, Phillips & Bryson, Call America's independent auditors, and (ii) a balance sheet of each of the Call America Companies at June 30, 1996 and related statement of income and retained earnings and changes in cash flows for the quarter and six months then ended, as certified by the Controller of Call America (collectively, together with the notes thereto, the "Call America Financial Statements"). The Call America Financial Statements have been prepared in accordance with United States generally accepted accounting principles ("U.S. GAAP") applied on a consistent basis throughout the periods involved (except as may be indicated therein or in the notes thereto) and fairly present the financial position of the Call America Companies, taken as a whole, as of the respective dates thereof and the results of operations of the Call America Companies, taken as whole, for the periods indicated, except as disclosed on Schedule 3.6 and except that the unaudited interim financial statements are subject to normal and recurring year end adjustments which are not expected to be material in amount.

Section 3.7 No Undisclosed Liabilities. None of the Call America Companies has any Liability except:

(a) as disclosed on Schedule 3.7;

(b) those set forth or reflected in the financial statements delivered to Buyer in accordance with Section 3.6 and that have not been paid or discharged since the date thereof;

(c) those arising under agreements or other commitments expressly identified in any Schedule hereto; and

(d) liabilities arising in the ordinary and usual course of business.

Section 3.8 Absence of Certain Changes and Events. Except as disclosed or reflected in the Call America Financial Statements or on Schedule 3.8, since June 30, 1996, through the date hereof there has not been, with respect to any of the Call America Companies, (i) any Material Adverse Effect; (ii) any material strike, picketing, work slowdown or labor disturbance; (iii) any material damage, destruction or loss (whether or not covered by insurance) with

respect to any material assets or properties; (iv) any redemption or other acquisition of Common Stock of any of the Call America Companies or any

declaration or payment of any dividend or other distribution in cash, stock or property with respect thereto; (v) any entry into any material commitment or transaction (including, without limitation, any borrowing or capital expenditure) other than in the ordinary course of business or as contemplated by this Agreement; (vi) any transfer of, or rights granted under, any material leases, licenses, agreements, patents, trademarks, trade names, or copyrights other than those transferred or granted in the ordinary course of business and consistent with past practice; (vii) any Lien on any material assets or properties except in the ordinary course of business; any payment of any Liabilities other than Liabilities currently due; any cancellation of any debts or claims or forgiveness of amounts owed to any of the Call America Companies; or (viii) any change in accounting principles or methods (except insofar as may have been required by a change in U.S. GAAP). Except as disclosed or reflected in the Call America Financial Statements or on Schedule 3.8, since June 30, 1996, through the date hereof each of the Call America Companies has conducted its business only in the ordinary course and in a manner consistent with past practice and has not made any material change in the conduct of its respective business or operations. Except as disclosed or reflected in the Call America Financial Statements or on Schedule 3.8, without limiting the generality of the foregoing, since June 30, 1996, through the date hereof none of the Call America Companies has made any payments (except in the ordinary course of business and in amounts and in a manner consistent with past practice) under any Employee Benefit Plan (as hereinafter defined) or to any employee, independent contractor or consultant, entered into any new Employee Benefit Plan or any new consulting agreement, granted or established any awards under any such Employee Benefit Plan or agreement, in any such case providing for payments of more than \$10,000 or adopted or otherwise amended any of the foregoing.

Section 3.9 Taxes and Tax Returns. (a) For purposes of this Agreement, (i) the term "Taxes" shall mean all taxes, charges, fees, levies or other assessments, including, without limitation, income, gross receipts, excise, property, sales, license, payroll and franchise taxes, imposed by the United States, or any state, local or foreign government or subdivision or agency thereof whether computed on a unitary, combined or any other basis; and such term shall include any interest and penalties or additions to tax; and (ii) the term "Tax Return" shall mean any report, return or other information required to be filed with, supplied to or otherwise made available to a taxing authority in connection with Taxes.

(b) Except as disclosed on Schedule 3.9, each of the Call America Companies has (i) duly filed with the appropriate taxing authorities all Tax Returns

required to be filed by or with respect to its respective business, or are properly on extension and all such duly filed Tax Returns are true, correct and complete in all material respects, and (ii) paid in full or made adequate provisions for on its respective balance sheet (in accordance with U.S. GAAP)

all Taxes shown to be due on such Tax Returns. Except as disclosed on Schedule 3.9, there are no liens for Taxes upon the assets of any of the Call America Companies except for statutory liens for current Taxes not yet due and payable or which may thereafter be paid without penalty or are being contested in good faith. Except as disclosed on Schedule 3.9, none of the Call America Companies has received any notice of audit, is not undergoing any audit of its Tax Returns, or has received any notice of deficiency or assessment from any taxing authority with respect to liability for Taxes of its respective business which has not been fully paid or finally settled. Except as disclosed on Schedule 3.9, there have been no waivers of statutes of limitations by any of the Call America Companies with respect to any Tax Returns. None of the Call America Companies has filed a request with the Internal Revenue Service for changes in accounting methods within the last two years which change would effect the accounting for tax purposes, directly or indirectly, of its respective business.

(c) Except as disclosed on Schedule 3.9, none of the Call America Companies has executed an extension or waiver of any statute of limitations on the assessment or collection of any Tax due (excluding such statutes that relate to years currently under examination by the Internal Revenue Service or other applicable taxing authorities) that is currently in effect.

(d) Except as disclosed on Schedule 3.9, the provision for Taxes, if any, due or to become due for any of the Call America Companies for the period or periods through and including the date of the respective Call America Financial Statements that has been made and is reflected on such financial statements is sufficient to cover all such Taxes.

(e) Deferred taxes, if any, of each of the Call America Companies included in the Call America Financial Statements have been computed in accordance with GAAP.

(f) None of the Call America Companies is a party to any Tax allocation or Tax sharing agreement and none of the Call America Companies has been a member of an affiliated group filing a consolidated federal income Tax Return or has any Liability for Taxes of any Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign Law) as a transferee or successor or by Contract or otherwise.

(g) None of the Call America Companies has made any payments, is obligated to make any payments, or is a party to any Contract that could obligate it to

make any payments that would be disallowed as a deduction under Section 280G or 162(m) of the Internal Revenue Code.

Section 3.10 Employee Benefit Plans. Schedule 3.10 comprises a listing of each bonus, stock option, stock purchase, benefit, profit sharing, savings,

retirement, liability, insurance, incentive, deferred compensation, and other similar fringe or employee benefit plans, programs or arrangements for the benefit of or relating to, any employee of, or independent contractor or consultant to, and all other compensation practices, policies, terms or conditions, whether written or unwritten (the "Employee Benefit Plans") which each of the Call America Companies presently maintains, to which any of the Call America Companies presently contributes or under which any of the Call America Companies has any liability and which relate to employees or independent contractors of any of the Call America Companies. Except as disclosed on Schedule 3.10, each of the Employee Benefit Plans administered by each of the Call America Companies have been administered in all material respects in accordance with all requirements of applicable law and terms of each such plan. Each Employee Benefit Plan that is required to be qualified under ERISA, or registered or approved by a Regulatory Authority, has been so qualified, registered or approved by the appropriate governmental agency or authority and such qualification, registration or approval has not been revoked. Except as disclosed on Schedule 3.10, all contributions (including premiums) required by law or contract to have been made or accrued by each of the Call America Companies under or with respect to Employee Benefit Plans have been paid or accrued by each of the Call America Companies or will be paid in the ordinary course within 90 days. Except as disclosed on Schedule 3.10, without limiting the foregoing, there are no unfunded liabilities under any Employee Benefit Plan. Except as disclosed on Schedule 3.10, none of the Call America Companies has received notice of any investigations, litigation or other enforcement actions against it with respect to any of the Employee Benefit Plans. To Call America's Knowledge, there are no pending actions, suits or claims by former or present employees of any of the Call America Companies (or their beneficiaries) with respect to Employee Benefit Plans or the assets or fiduciaries thereof (other than routine claims for benefits).

Section 3.11 Title to Property. Each of the Call America Companies has good title, or valid leasehold or usage rights (in the case of leased property), to all real property and all personal property owned or leased by it or used in the operation of its respective business, free and clear of all encumbrances, excluding (i) encumbrances disclosed or reflected in the Call America Financial Statements, (ii) Liens for taxes, fees, levies, imposts, duties or governmental charges of any kind which are not yet delinquent or are being contested in good faith by appropriate proceedings which suspend the collection thereof; (iii)

Liens for mechanics, materialmen, laborers, employees, suppliers or other which are not yet delinquent or are being contested in good faith by appropriate proceedings; (iv) Liens created in the ordinary course of business in connection with the leasing or financing of office, computer and related equipment and supplies; (v) the rights of third parties in and to such real and personal property pursuant to the terms of any lease agreement or other agreement pursuant to which the Companies are entitled to lease or utilize such property;

(vi) easements and similar encumbrances ordinarily created for fuller utilization and enjoyment of property; and (vii) Liens or defects in title or leasehold rights that either individually or in the aggregate do not and will not have a Material Adverse Effect on the Call America Companies taken as a whole. All of such owned or leased property with a value in excess of \$20,000 is listed on Schedule 3.11 hereto.

Section 3.12 Trademarks, Patents and Copyrights. (a) Except as disclosed on Schedule 3.12 hereto, Call America owns or has the right to use all Intellectual Property used in the conduct of the businesses of the Call America Companies as being conducted as of the date hereof, except where the failure to own or possess such right would not have a Material Adverse Effect on the Call America Companies taken as a whole. Schedule 3.12 hereto lists each patent, patent right, patent application, tradename registration, trademark registration, copyright registration, copyright application, source and object code owned by each of the Call America Companies;

(b) The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby will not constitute a material breach of any instrument or agreement governing any rights to Intellectual Property of any of the Call America Companies, will not cause the forfeiture or termination or give rise to a right of forfeiture or termination of any Intellectual Property of any of the Call America Companies that is material to the Call America Companies taken as a whole or materially impair the right of any of the Call America Companies to use any Intellectual Property currently being used by the Call America Companies in their business or any portion thereof;

(c) Neither the manufacture, marketing, license, sale or intended use of any product currently licensed or sold by any of the Call America Companies or currently under development by any of the Call America Companies violates any license or agreement between any of the Call America Companies and any third party relating to such product or infringes any intellectual property right of any other party, except where such violation or infringement would have a Material Adverse Effect on the Call American Companies taken as a whole, and there is no pending or, to the Knowledge of Call America, threatened claim or litigation contesting the validity, ownership or right to use, sell, license or dispose of any Intellectual Property, nor has any of the Call America Companies

received any notice asserting that any Intellectual Property or the proposed use, sale, license or disposition thereof conflicts or will conflict with the rights of any other party, except to the extent such claim, litigation or conflict would not have a Material Adverse Effect on the Call America Companies taken as a whole; and

(d) Except as disclosed in Schedule 3.12 hereto, to the Knowledge of Call

America, no current or prior officers, employees or consultants of any of the Call America Companies claim an ownership interest in any Intellectual Property as a result of having been involved in the development of such property while employed by or consulting to any of the Call America Companies or otherwise.

Section 3.13 Legal Proceedings, Claims, Investigations, etc. Except as disclosed on Schedule 3.13, there is no litigation pending, or to the Knowledge of Call America, threatened, against any of the Call America Companies, or to Knowledge of Call America, any director, officer or employee thereof relating to their respective business that would have a Material Adverse Effect on the Call America Companies taken as a whole. Except as disclosed on Schedule 3.13, none of the Call America Companies has been informed of any violation of or default under, any laws, ordinances, regulations, judgments, injunctions, orders or decrees (including without limitation, any immigration laws or regulations) of any court, governmental department, commission, agency, instrumentality or arbitrator applicable to the business of each of the Call America Companies. None of the Companies is currently subject to any Order that would have a Material Adverse Effect on the Call America Companies taken as a whole.

Section 3.14 Insurance. Schedule 3.14 hereto sets forth a list and brief description of all existing insurance policies maintained by each of the Call America Companies pertaining to its business properties, personnel or assets. To the Knowledge of Call America, none of the Call America Companies is in Default with respect to any provision contained in any insurance policy that would have a Material Adverse Effect on the Call America Companies taken as a whole, and has failed to give any notice or present any claim under any insurance policy in due and timely fashion that would have a Material Adverse Effect on the Call America Companies taken as a whole. Prior to the Closing, all such policies shall have been delivered to the Buyer and shall continue to be in full force and effect. All payments with respect to such policies are current and none of the Call America Companies has received any notice threatening a suspension, revocation, modification or cancellation of any such policy which if implemented, would have a Material Adverse Effect on the Call America Companies taken as a whole.

Section 3.15 Material Contracts. (a) Except as set forth in Schedule 3.15 hereto, none of the Call America Companies is a party to and is bound by any Contract which has a term in excess of one year and will result in payments in excess of \$15,000 over any 12 month period other than (i) Contracts entered into in the ordinary course of business with vendors and customers and (ii) Contracts cancelable upon not more than 30 days' notice. Each of the Contracts set forth in Schedule 3.15 hereto to which any of the Call America Companies is a party, is valid and existing, in full force and effect and there is no Default or claim of Default against any of the Call America Companies or any notice of termination with respect thereto, except where such invalidity or default would not have a Material Adverse Effect on the Call America Companies taken as a

whole. Copies of all the written documents and a synopsis of all oral contracts and commitments described in Schedule 3.15 hereto have heretofore been made available to the Buyer and are true and complete and include all amendments and supplements thereto and modifications thereof to and including the date hereof.

(b) Except as set forth in Schedule 3.15 hereto, none of the Call America Companies is a party to any (i) Contract with any consultant, executive officer or other key employee the benefits of which are contingent, or the terms of which are materially altered, upon the occurrence of the transactions contemplated by this Agreement, or (ii) benefit plan, including any stock option plan, any of the benefits of which will be increased, or the vesting of the benefits of which will be accelerated, by the occurrence of the transactions contemplated by this Agreement.

Section 3.16 Certain Transactions. Except as disclosed on Schedule 3.16, none of the Call America Companies, nor any officer, director or, to the Knowledge of Call America, any employee of any of the Call America Companies, nor any member of any such person's immediate family is presently a party to any material transaction with any of the Call America Companies relating to its respective business including without limitation, any Contract or other arrangement (i) providing for the furnishing of services by, (ii) providing for the rental of real or personal property from, or (iii) otherwise requiring payments to (other than for services as officers, directors or employees of any of the Call America Companies), any such person or any corporation, partnership, trust or other entity in which any such person has a substantial interest as a stockholder, officer, director, trustee or partner.

Section 3.17 Broker. Except for the engagement by GST of the Clark Company, whose fees are to be paid solely by GST, no broker, finder or investment banker is entitled to any brokerage or finder's fee or other commission in connection with the transactions contemplated hereby based on the arrangements made by or on behalf of any of the Call America Companies or the Sellers.

Section 3.18 Environmental Matters. (a) None of the Call America Companies is the subject of, or being threatened to be the subject of (i) any enforcement proceeding, or (ii) to Call America's Knowledge any investigation, brought in either case under any Environmental Law, at any time in effect or (iii) to Call America's Knowledge any third party claim for liability relating to environmental conditions on properties of any of the Call America Companies. None of the Call America Companies has been notified that it must obtain any permits and licenses or file documents for the operation of its business under federal, state and local laws relating to pollution protection of the environment. None of the Call America Companies has been notified of any conditions on its respective properties which will give rise to any Liabilities, under any Environmental Law, or as the result of any claim of any third party with respect to any Environmental Law. For the purposes of this Section 3.18, an

investigation shall include, but is not limited to, any written notice received by any of the Call America Companies which relates to the onsite or offsite disposal, release, discharge or spill of any waste, waste water, pollutant or contaminants.

(b) Except as disclosed on Schedule 3.18, there are no toxic wastes or other toxic or hazardous substances or materials, pollutants or contaminants which any of the Call America Companies (or, to the Knowledge of Call America, any previous occupant of any of the Call America Companies' facilities) has used, stored or otherwise held in or on any of the facilities of any of the Call America Companies which, are present at or have migrated from the facilities, whether contained in ambient air, surface water, groundwater, land surface or subsurface strata in any such case that would have a Material Adverse Effect on the Call America Companies taken as a whole. None of the Call America Companies has disposed of or arranged (by Contract or otherwise) for the disposal of any material or substance that was generated or used by any of the Call America Companies at any off-site location that has been or is listed or proposed for inclusion on any list promulgated by any Regulatory Authority for the purpose of identifying sites which pose a danger to health and safety. Except as disclosed on Schedule 3.18, there have been no environmental studies, reports and analyses made or prepared in the last five years relating to the facilities of any of the Call America Companies. None of the Call America Companies has installed any underground storage tanks in any of its facilities and, to the Knowledge of Call America, none of such facilities contain any underground storage tanks.

Section 3.19 Illegal Payments. None of the Call America Companies has, directly or indirectly, paid or delivered any fee, commission or other sum of money or item of property, however characterized, to any finder, agent, government official or other party, in the United States or any other country, which is in any manner related to their respective businesses or operations, which any of the Call America Companies knows or has reason to believe to have

been illegal under any Laws or the laws of any other country having jurisdiction. None of the Call America Companies has participated, directly or indirectly, in any boycotts affecting any of its actual or potential customers.

Section 3.20 Statements True and Correct. Except as disclosed on Schedule 3.20, no statement, certificate, instrument, or other writing furnished or to be furnished by any of the Call America Companies, any Seller or any Affiliate thereof to any of the GST Companies pursuant to this Agreement or any other document, agreement, or instrument referred to herein contains or will contain any untrue statement of material fact or will omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. None of the information supplied or to be supplied by any of the Call America Companies or any Affiliate thereof for inclusion in any documents to be filed by a Call America Company or any

Affiliate thereof with any Regulatory Authority in connection with the transactions contemplated hereby, will, at the respective time such documents are filed, be false or misleading with respect to any material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. All documents that any of the Call America Companies or Affiliate thereof is responsible for filing with any Regulatory Authority in connection with the transactions contemplated hereby will comply as to form in all material respects with the provisions of applicable Law.

Section 3.21 Accounting, Tax and Regulatory Matters. None of the Call America Companies, or, to the Knowledge of Call America, any Affiliate thereof has taken any action that is reasonably likely to (i) prevent any of the Mergers from qualifying as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code, or (ii) materially impede or delay receipt of any Consents of Regulatory Authorities or result in the imposition of a condition or restriction which could materially adversely impact the economic or business benefits of the transaction contemplated by this Agreement.

#### ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE SELLERS

Each Seller hereby severally represents and warrants to the Buyer as follows:

Section 4.1 Capitalization. Except for restrictions contained in the Shareholders' Agreement (the "Shareholders' Agreement") dated May 28, 1996 by and among Jerry Linthicum ("Linthicum"), Jeffrey Buckingham and F. Scott Hinds, such Seller owns the shares of Common Stock of each of the Call America Companies set forth opposite his name in Exhibit A, free and clear of all Liens.

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Such Seller has full right, power, legal capacity and authority to transfer and deliver such shares pursuant to this Agreement.

Section 4.2 Authority Relative to and Validity of Agreements. Such Seller has full power and authority to execute and deliver this Agreement, the Escrow Agreement, the Registration Rights Agreement in the form attached hereto as Exhibit C (the "Registration Rights Agreement"), the Employment Agreement in the form attached hereto as Exhibit D (the "Employment Agreement") to which such Seller is a party and the Non-Competition Agreement to which such Seller is a party in the form attached hereto as Exhibit E (the "Non-Competition Agreements"), and to assume and perform all of his obligations hereunder and thereunder. There are no contractual, statutory or other restrictions of any kind upon the power and authority of such Seller to execute and deliver this Agreement, the Escrow Agreement, the Registration Rights Agreement, the Employment Agreement to which such Seller is a party and the Non-Competition

Agreement to which such Seller is a party and to consummate the transactions contemplated hereunder and thereunder and except Consents that may be required by Canadian federal law, FCC and state telecommunications and state utility regulations and filings that may be required by the CGCL and the DCGL, no action, waiver or consent by any Regulatory Authority is necessary to make this Agreement, the Escrow Agreement, the Registration Rights Agreement, the Employment Agreement to which such Seller is a party and the Non-Competition Agreements to which such Seller is a party, a valid instrument binding upon such Seller in accordance with its terms, except where such failure to obtain such Consent or where such restriction would not have a Material Adverse Effect on the Call America Companies taken as a whole. This Agreement has been duly executed and delivered by such Seller and constitutes, and the Escrow Agreement, the Registration Rights Agreement, the Employment Agreement to which such Seller is a party and the Non-Competition Agreement to which such Seller is a party, when executed and delivered by such Seller in accordance with their terms will constitute, legal, valid and binding obligations of such Seller, enforceable in accordance with their terms, except (i) as such enforceability may be limited by or subject to any bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally, (ii) as such obligations are subject to general principles of equity and (iii) as rights to indemnity may be limited by federal or state securities laws or by public policy.

Section 4.3 Required Filings and Consents; No Conflict. Except as disclosed on Schedule 4.3, such Seller is not required to submit any notice, report or other filing with any Regulatory Authority in connection with the execution, delivery or performance of this Agreement, the Escrow Agreement, the Registration Rights Agreement, the Employment Agreement to which such Seller is a party and the Non-Competition Agreements to which such Seller is a party, except under the CGCL, the DGCL, FCC, Canadian federal law and state

telecommunication and state utility regulations where the failure to so submit would not have a Material Adverse Effect on the Call America Companies taken as a whole. The execution, delivery and performance of this Agreement, the Escrow Agreement, the Registration Rights Agreement, the Employment Agreement to which such Seller is a party and the Non-Competition Agreement to which such Seller is a party by such Seller and the consummation of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any Law, or (b) except as disclosed on Schedule 4.3, conflict with or result in a material breach of any condition or provision of, or constitute a material Default under, or result in the creation or imposition of any Lien upon any properties or assets of such Seller pursuant to, or cause or permit the acceleration prior to maturity of any amounts owing under, any Contract to which such Seller is a party or which is binding upon such Seller or by which any of his properties are bound, except where such conflict, violation, breach or default would not have a Material Adverse Effect on the Call America Companies taken as a whole. The execution, delivery and performance of this Agreement, the Escrow Agreement, the

Registration Rights Agreement, the Employment Agreement to which such Seller is a party and the Non-Competition Agreement to which such Seller is a party by such Seller and the consummation of the transactions contemplated hereby and thereby will not result in the loss of any Permit possessed by such Seller or give a right of termination to any party to any agreement or other instrument to which such Seller is a party or by which any of his properties are bound, except where such loss or right would not have a Material Adverse Effect on the Call America Companies taken as a whole.

Section 4.4 Broker. Except for the engagement of the Clark Company by GST, whose fees are to be paid solely by GST, no broker, finder or investment banker is entitled to any brokerage or finder's fee or other commission in connection with the transactions contemplated hereby based on the arrangements made by or on behalf of such Seller.

Section 4.5 Investment. Such Seller is acquiring the consideration solely for his own account as an investment and not with a view to any distribution or resale thereof within the meanings of such terms under the Securities Act of 1933, as amended (the "Securities Act"). Such Seller is an "accredited investor" as defined in Rule 501(a) promulgated under the Securities Act. Such Seller has been advised by the Buyer that the Consideration to be acquired by such Seller has not been registered under the Securities Act, or applicable state securities laws, that such Consideration will be acquired by such Seller pursuant to exemptions from the registration requirements of these laws and that the reliance by the Buyer on these exemptions is predicated in part on such Seller's representations contained in this Agreement. Such Seller has been advised by Buyer that the certificate or certificates representing Consideration to be acquired by such Seller under this Agreement shall contain a legend stating that

the shares represented thereby have not been registered under the Securities Act and referring to applicable restrictions on transferability.

Section 4.6. Certain Sellers. Carolyn C. Hindes and Theodore B. Hindes are not employees of any of the Call America Companies.

#### ARTICLE V REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer hereby represents and warrants to each of the Call America Companies and the Sellers as follows:

Section 5.1 Corporate Organization; Requisite Authority to Conduct Business; Articles of Incorporation and By-Laws. Sub is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; GST is a corporation duly organized, validly existing and in good standing under the federal laws of Canada. The Buyer has provided the Sellers

with true and complete copies of the certificate of incorporation (certified by the Secretary of State of the State of Delaware in the case of Sub and the Director appointed under the Canada Business Corporation Act in the case of GST) and By-laws of each of the GST Companies (certified by the respective Secretary of each of the GST Companies) as in effect on the date hereof. Each of the GST Companies has all corporate power and authority to own, operate and lease its properties and to carry on its business as the same is now being conducted, except where the failure to have such power and authority would not have a Material Adverse Effect on any of the GST Companies. Each of the GST Companies is duly qualified or licensed to do business and is in good standing as a foreign corporation in every jurisdiction in which the conduct of its business or the ownership or leasing of its properties requires it to be so qualified or licensed, except where the failure to be so qualified or licensed would not have a Material Adverse Effect on the GST Companies.

Section 5.2 Authority Relative to and Validity of Agreements. Each of the GST Companies has full corporate power and authority to execute and deliver this Agreement, the Escrow Agreement and the Registration Rights Agreement, as the case may be, to assume and perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of each of this Agreement, the Escrow Agreement and the Registration Rights Agreement and the performance by each of the GST Companies of its obligations hereunder and thereunder has been duly authorized and approved by its respective Board of Directors, as the case may be, and no further action on the part of any of the GST Companies is necessary to authorize the execution and delivery by it of, and the performance of its obligations

under, this Agreement, the Escrow Agreement and the Registration Rights Agreement. There are no corporate, contractual, statutory or other restrictions of any kind upon the power and authority of any of the GST Companies to execute and deliver this Agreement, the Escrow Agreement and the Registration Rights Agreement and to consummate the transactions contemplated hereunder and thereunder and no Consent by any Regulatory Authority is necessary to make this Agreement, the Escrow Agreement and the Registration Rights Agreement a valid instrument binding upon each of the GST Companies in accordance with its terms, except any Consents that may be required by FCC and state telecommunications and state utilities regulations and Consents and filings that may be required by Canadian federal law, the CGCL or the DGCL, or where any such restrictions or the failure to obtain such Consents would not have a Material Adverse Effect on the GST Companies. This Agreement has been duly executed and delivered by each of the GST Companies and constitutes, and the Escrow Agreement and the Registration Rights Agreement will, when executed and delivered by each of the Call America Companies and the Sellers in accordance with their terms will constitute, legal, valid and binding obligations of each of the GST Companies, enforceable against them in accordance with its terms, except (i) as such enforceability may be limited by or subject to any bankruptcy, insolvency,

reorganization, moratorium or other similar laws affecting creditors' rights generally, (ii) as such obligations are subject to general principles of equity and (iii) as rights to indemnity may be limited by federal or state securities laws or by public policy.

Section 5.3 Required Filings; Consents. Except for an Amex listing application with respect to the Consideration, none of the GST Companies is required to submit any notice, report or other filing with any Regulatory Authority in connection with the execution, delivery or performance of this Agreement, the Escrow Agreement and the Registration Rights Agreement, except any filings that may be required under the CGCL, the DGCL, Canadian federal law, the FCC and state telecommunications and state utilities regulations or where failure to so file would not have a Material Adverse Effect on the GST Companies taken as a whole. The execution, delivery and performance of this Agreement, the Escrow Agreement and the Registration Rights Agreement by each of the GST Companies party thereto and the consummation of the transactions contemplated hereby and thereby does not and will not (a) conflict with or violate any law, regulation, judgment, order or decree binding upon any of the GST Companies, (b) conflict with or violate any provision of its respective charter or Bylaws, or (c) conflict with or result in a breach of any condition or provision of, or constitute a Default under, or result in the creation or imposition of any Lien upon any properties or assets of any of the GST Companies pursuant to, or cause or permit the acceleration prior to maturity of any amounts owing under, any Contract to which any of the GST Companies is a party or which is binding upon any of the GST Companies or by which any of its properties are bound, except

where such conflict, violation, breach on default would not have a Material Adverse Effect on the GST Companies. The execution, delivery and performance of this Agreement by each of the GST Companies party thereto and the consummation of the transactions contemplated hereby will not result in the loss of any Permit possessed by any of the GST Companies or give a right of termination to any party to any agreement or other instrument to which any of the GST Companies is a party or by which any of its properties are bound except where such loss or right would not have a Material Adverse Effect on the GST Companies taken as a whole.

Section 5.4 Capitalization. (a) The authorized capital stock of GST consists of (i) an unlimited number of GST Common Shares, 21,170,923 of which are issued and outstanding as of June 30, 1996, and (ii) 10,000,000 Preference Shares, none of which are issued and outstanding. The capital stock of GST is duly authorized and all issued capital stock has been duly and validly issued and is fully paid and nonassessable and free of preemptive rights. The Consideration is duly authorized and when issued in accordance with the terms and conditions of this Agreement shall be validly issued, fully paid and nonassessable. The Consideration is not subject to any preemptive rights or other similar restrictions. Except as set forth in the SEC Reports (as

hereinafter defined), as of May 31, 1996 none of the GST Companies had outstanding, or was bound by or subject to, any Rights, and no shares of capital stock of any of the GST Companies were reserved for issuance for any purpose.

(b) The authorized capital stock of Sub consists of 1,000 shares of common stock, 100 of which are issued and outstanding as of the date hereof. All of such issued shares are owned beneficially and of record by GST.

Section 5.5 SEC Reports and Financial Statements. GST has filed with the Securities and Exchange Commission (the "SEC"), and has heretofore made available to the Sellers true and complete copies of all forms, reports, schedules, statements and other documents required to be filed by it since January 1, 1995 under the Securities Act and the Securities Exchange Act of 1934, as amended (the "Exchange Act") (as such documents have been amended or supplemented since the time of their filing, collectively, the "SEC Reports"). As of their respective dates, the SEC Reports (including without limitation, any financial statements or schedules included therein) (a) did not contain any untrue statement of a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, and (b) complied in all material respects with the applicable requirements of the Securities Act and Exchange Act (as the case may be) and all applicable rules and regulations of the SEC promulgated thereunder. Each of the consolidated financial statements included in the SEC

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Reports have been prepared from, and are in accordance with the books and records of GST, comply in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with U.S. GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present in all material respects the consolidated financial position of GST and its consolidated subsidiaries as of the date thereof and their consolidated results of operations and cash flows (and changes in financial position, if any) for the periods presented therein.

Section 5.6 No Undisclosed Liabilities. Except as described in the SEC Reports, GST has no Liabilities, except as incurred in the ordinary course of business, that would have a Material Adverse Effect on GST.

Section 5.7 Broker. Except for the engagement by GST of the Clark Company, whose fees are to be paid solely by GST, no broker, finder or investment banker is entitled to any brokerage or finder's fee or other commission in connection with the transactions contemplated hereby based upon the arrangements made by or on behalf of any of the GST Companies.

Section 5.8 Legal Proceedings, Claims, Investigations, etc. There is no litigation pending, or to the Knowledge of GST, threatened, against any of the

GST Companies, or to Knowledge of GST, any director, officer or employee thereof relating to their respective business that would have a Material Adverse Effect on the GST Companies. None of the GST Companies has been informed of any violation of or default under, any laws, ordinances, regulations, judgments, injunctions, orders or decrees (including without limitation, any immigration laws or regulations) of any court, governmental department, commission, agency, instrumentality or arbitrator applicable to the business of each of the GST Companies. None of the GST Companies is currently subject to any Order that would have a Material Adverse Effect on the GST Companies.

Section 5.9 Vote Required. The vote of the holders of GST's capital stock is not required to approve the issuance of the GST Common Stock in the Merger; nor is it required to approve the Merger.

Section 5.10 Statements True and Correct. No statement, certificate, instrument, or other writing furnished or to be furnished by any of the GST Companies to any of the Call America Companies or the Sellers pursuant to this Agreement or any other document, agreement, or instrument referred to herein contains or will contain any untrue statement of material fact or will omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. None of the

information supplied or to be supplied by any of the GST Companies for inclusion in any documents to be filed by a GST Company with any Regulatory Authority in connection with the transactions contemplated hereby, will, at the respective time such documents are filed, be false or misleading with respect to any material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. All documents that any of the GST Companies is responsible for filing with any Regulatory Authority in connection with the transactions contemplated hereby will comply as to form in all material respects with the provisions of applicable Law.

Section 5.11 Accounting, Tax and Regulatory Matters. None of the GST Companies, or, to the Knowledge of GST, any Affiliate thereof has taken any action that is reasonably likely to (i) prevent any of the Mergers from qualifying a reorganization within the meaning of Section 368(a) of the Internal Revenue Code, or (ii) materially impede or delay receipt of any Consents of Regulatory Authorities or result in the imposition of a condition or restriction which could materially adversely impact the economic or business benefits of the transaction contemplated by this Agreement.

Section 5.12 No Prior Activities. Except for obligations incurred in connection with its incorporation or organization or the negotiation and consummation of this Agreement and the transactions contemplated hereby, Sub has neither incurred any obligation or liability nor engaged in any business or

activity of any type or kind whatsoever or entered into any agreement or arrangement with any person.

ARTICLE VI  
COVENANTS OF THE CALL AMERICA AND GST COMPANIES

Section 6.1 Covenants of the Call America Companies Regarding Conduct of Business Operations Pending the Closing. Except as disclosed on Schedule 6.1, each of the Call America Companies covenants and agrees that between the date of this Agreement and the Closing Date, each of the Call America Companies will carry on its business in the ordinary course and consistent with past practice, will use its best efforts to (i) preserve its respective business organization intact, (ii) retain the services of its respective present employees, and (iii) preserve the good will of its respective suppliers and customers, and will not, except in the ordinary course of business, purchase, sell, lease or dispose of any property or assets or incur any liability or enter into any other extraordinary transaction. Except as disclosed on Schedule 6.1, by way of amplification and not limitation, none of the Call America Companies shall, between the date of this Agreement and the Closing Date, directly or indirectly, do any of the following without the prior written consent of the Buyer:

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(a) (i) issue, sell, pledge, dispose of, encumber, authorize, or propose the issuance, sale, pledge, disposition, encumbrance or authorization of any shares of its capital stock of any class, or any options, warrants, convertible securities or other rights of any kind to acquire any shares of its capital stock, or any other ownership interest; (ii) amend or propose to amend its Articles of Incorporation; (iii) split, combine or reclassify any of its outstanding shares, or declare, set aside or pay any dividend or other distribution payable in cash, stock, property or otherwise with respect thereto; or (iv) redeem, purchase or otherwise acquire any shares of its capital stock;

(b) (i) make any acquisition (by merger, consolidation, or acquisition of stock or assets) of any corporation, partnership or other business organization or division thereof; (ii) except in the ordinary course of business and in a manner consistent with past practice, sell, pledge, dispose of, or encumber or authorize or propose the sale, pledge, disposition or encumbrance of any of its assets; (iii) other than under any existing credit facility, incur any indebtedness for borrowed money, assume, guarantee, endorse or otherwise become responsible for the obligations of any other individual, partnership, firm or corporation, or make any loans or advances to any individual, partnership, firm, or corporation, or enter into any contract or agreement to do so, except in the ordinary course of business and consistent with past practice; (iv) authorize any single capital expenditure or series of related capital expenditures each of which is in excess of \$50,000; or (v) release or assign any indebtedness owed to it or any claims held by it, except in the ordinary course of business and consistent with past practice;

(c) take any action other than in the ordinary course of business and in a manner consistent with past practice with respect to the grant of any severance or termination pay (otherwise than pursuant to its policies in effect on the date hereof) or with respect to any increase of benefits payable under its severance or termination pay policies in effect on the date hereof;

(d) make any payments (except in the ordinary course of business and in amounts and in a manner consistent with past practice) under any Employee Benefit Plan to any employee, independent contractor or consultant, enter into any new Employee Benefit Plan or any new consulting agreement, grant or establish any awards under such Employee Benefit Plan or agreement, in any such case providing for payments or awards having a fair market value of more than, \$10,000, or adopt or otherwise amend any of the foregoing;

(e) change any accounting policies or procedures (including without limitation its procedures with respect to the payment of accounts payable),

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other than such changes deemed necessary to comply with U.S. GAAP or required as a result of a change in law;

(f) enter into or terminate any material contract or agreement or make any material change in any of its material contracts or agreements, other than (i) Contracts entered into, and amendments thereof, in the ordinary course of business, (ii) relating to indebtedness incurred in clause (b)(iii) above or (iii) agreements, if any, relating to the transactions contemplated hereby;

(g) enter into any contract or commitment for network capacity services, switching equipment or services in excess of \$50,000; or

(h) take, or agree in writing or otherwise to take, any of the foregoing actions or any action which would make any of its representations or warranties contained in this Agreement untrue or incorrect in any material respect as of the date when made or, except for the representations and warranties contained in Section 3.8 hereof, as of a future date.

Section 6.2 No Other Negotiations. Each of the Call America Companies and the Sellers agrees that until the termination of this Agreement pursuant to the provisions of Article XI hereof (the "Termination Date"), neither the Call America Companies nor the Sellers will, nor will it permit any of its affiliates (including any officers, directors, employees, financial advisors, brokers, stockholders or any other person acting on their behalf) to, (i) enter into any agreement with a third party with respect to the acquisition, directly or indirectly, of shares or other securities of any of the Call America Companies or a material part of their respective assets, (ii) enter into discussions or negotiations with a third party regarding such an agreement, or (iii) provide a

third party with general access to their books, records or employees for the purpose of enabling such third party to conduct a due diligence investigation of the legal, financial or business condition of them.

Section 6.3 Conduct of Business of GST. Except as contemplated by this Agreement, during the period from the date hereof to the Closing Date, GST will, and will cause each of its subsidiaries to, conduct their operations with no less diligence and effort than would be applied in the absence of this Agreement, seek to preserve intact its current business organizations, keep available the service of its current officers and employees and preserve its relationships with customers, suppliers and others having business dealings with it to the end that goodwill and ongoing businesses shall be unimpaired at the Closing Date. Without limiting the generality of the foregoing, except as otherwise expressly provided in this Agreement, prior to the Closing Date,

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neither GST nor any of its subsidiaries will, without the prior written consent of Call America:

(a) knowingly take any action that would result in a failure to maintain the trading of the GST Common Stock on the Amex;

(b) adopt or propose to adopt any amendment to its charter documents, which would have an adverse impact on the consummation of the transactions contemplated by this Agreement or the value of the Consideration;

(c) take, or agree in writing or otherwise to take, any of the actions described in Sections 6.3(a) through 6.3(b) hereof or any action which would make any of the representations or warranties of GST contained in this Agreement untrue or incorrect.

## ARTICLE VII ADDITIONAL COVENANTS

Section 7.1 Covenants of the Call America Companies, the Sellers and the GST Companies. Each of the Call America Companies, the Sellers and the GST Companies covenants and agrees:

(a) Reasonable Efforts. To proceed diligently and use its reasonable efforts to take or cause to be taken all actions and to do or cause to be done all things necessary, proper and advisable to consummate the transactions contemplated by this Agreement, including the execution and delivery of the Escrow Agreement, the Registration Rights Agreement, the Non-Competition Agreements and the Employment Agreement and satisfaction of all conditions to the Merger; provided, however, that no party shall be required to pay money to any third party for the purpose of obtaining any Consent to the transaction.

(b) Compliance. Subject to Section 7.7 hereof, to comply in all material respects with all applicable rules and regulations of any Regulatory Authority in connection with the execution, delivery and performance of this Agreement and the transactions contemplated hereby; to use all reasonable efforts to obtain in a timely manner all necessary waivers, consents and approvals and to take, or cause to be taken, all other actions and to do, or cause to be done, all other things necessary, proper or advisable to consummate and make effective as promptly as practicable the transactions contemplated by this Agreement; provided, however, that no party shall be required to pay money to any third party for the purpose of obtaining any Consent to the transaction.

(c) Notice. To give prompt notice to the other party of (i) the occurrence, or failure to occur, of any event whose occurrence or failure to occur, would be likely to cause any representation or warranty contained in this Agreement to be

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untrue or incorrect in any material respect as of the date hereof or as of the Closing Date, and (ii) any material failure on its part, or on the part of any of its officers, directors, employees or agents, to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; provided, however, that the delivery of any such notice shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice.

(d) Access. To cause its affiliates, officers, directors, employees, auditors and agents to afford the officers, employees and agents of the other party hereto complete access at all reasonable times and upon reasonable notice to its properties, offices and other facilities and to all books and records, and shall furnish such other party with all financial, operating and other data and information as the other party through its officers, employees or agents, may reasonably request, provided that the party providing such access and furnishing such data and information to the other party incurs no cost in doing so.

(e) Confidentiality. All access and information obtained or furnished in connection with the transactions contemplated by this Agreement shall be subject to the terms and conditions of those certain Confidentiality Agreements (the "Confidentiality Agreements") dated July 17, 1996, by and between GST and Call America.

(f) Announcements. That all announcements, reports, statements and press releases to the public, the trade or the press or any other third party concerning the transactions contemplated by this Agreement (including any disclosure by GST of the transaction or any information or financial data relating to the Call America Companies in any filing with the Securities and Exchange Commission) shall be mutually agreed to by Call America and the Buyer before the issuance or the making thereof and, subject to the advice of counsel, no party shall issue any such announcement, report, statement or press releases

or make any such public statement prior to such mutual agreement, except as may be required by law. Copies of any such announcement, report, statements or press release, including any announcement or disclosure required by law or by any Governmental Authority, shall be delivered to each of the parties hereto prior to release.

Section 7.2 Tax Treatment. Each of the parties hereto undertakes and agrees to use its reasonable efforts to cause the Merger, and to take no action which would cause any of the Mergers not, to qualify for treatment as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code for federal income tax purposes. On or before the Closing Date, GST and Sub shall execute and deliver to Call America a tax certificate in a form mutually agreed upon by the parties hereto (the "GST Tax Certificate"), which GST and Sub

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acknowledge is a condition to the ability of Call America's counsel to render the tax opinion contemplated by Section 8.9.

Section 7.3 Employee Benefits and Contracts. Following the Effective Time, GST shall provide all employees of the Call America Companies (including officers of the Call America Companies who become employees of the Surviving Corporation) employee benefits under employee benefit and welfare plans (other than stock option or other plans involving the potential issuance of GST Common Stock), on terms and conditions which when taken as a whole are substantially similar to those currently provided by GST to its similarly situated employees. For purposes of participation, vesting and (except in the case of GST retirement plans) benefit accrual under GST's employee benefit plans, the service of the employees of the GST Companies prior to the Effective Time shall be treated as service with GST. GST also shall cause the Surviving Corporation to honor in accordance with their terms all employment, severance, consulting and other compensation Contracts disclosed in Schedule 3.15 between any of the Call America Companies and any current or former director, officer, or employee thereof, and all provisions for vested benefits or other vested amounts earned or accrued through the Effective Time under the Employee Benefit Plans.

Section 7.4 Guarantee of Performance. GST hereby guarantees the performance by Sub of its obligations under this Agreement.

Section 7.5 FABRIK Communications, Inc. Following the Effective Time, the Surviving Corporation shall, and GST and Jeffrey Buckingham (for as long as he is employed by the Surviving Corporation) agree to use their best efforts to cause the Surviving Corporation to, (i) comply with the terms and conditions of that certain Services Agreement between FABRIK and Call America dated October 21, 1994, (ii) not take any act, or omit to take any action, which would result in a Default thereunder or which would give rise to or constitute a Termination Event (as such term is defined in the Stock Purchase Agreement between FABRIK and Call America (the "FABRIK Agreement")) or otherwise cause the Purchase

Option (as defined in the FABRIK Agreement) to become exercisable, (iii) not sell, assign, or transfer the shares of common stock of FABRIK (the "FABRIK Shares") owned by the Surviving Corporation, or grant any rights to acquire such shares to any person and (iv) not take any act, or omit to take any action, which would create any lien, charge or encumbrance on the FABRIK Shares.

Section 7.6 Stock Exchange Listing. GST shall use all reasonable efforts to cause the shares of GST Common Stock to be issued in the Merger to be approved for listing on the Amex, subject to official notice of issuance, prior to the Closing Date.

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Section 7.7 Certain Regulatory Approvals. GST and GST Sub covenant and agree to proceed diligently and use their reasonable efforts to obtain in a timely manner all necessary waivers, consents and approvals with respect of the FCC and state telecommunications and utilities regulations in order to consummate and make effective the transactions contemplated by this Agreement.

Section 7.8 Certain Agreements regarding the Shares (a) Each of the Sellers shall waive any all pre-emptive rights to purchase the Shares of the other Sellers under all agreements and arrangements, including, without limitation, the Buy/Sell Agreement by and among certain of the Sellers and Call America dated April 18, 1989 and the Shareholders' Agreement, and the Sellers who are parties to the Shareholders' Agreement shall cause the Shareholders' Agreement to be terminated and null and void before the Closing Date.

(b) The Sellers and the Call America Companies shall obtain from Mark Scully, without any cost to the Call America Companies, the waiver of any and all rights, including, without limitation pursuant to the acceleration paragraphs of the Promissory Notes dated May 1, 1995 from Private Exchange Network, CA Fresno and CA Bakersfield to Mark Scully, to (i) acquire shares of GST Common Stock in connection with the transactions contemplated by this Agreement or (ii) participate in the transactions contemplated by this Agreement, except for the payment in cash of the unpaid principal and accrued and unpaid interest on such Notes to the extent that such amounts become due thereunder.

Section 7.9 Certain Insurance Policies. Call America will use its best efforts to transfer on or before the Closing Date, at no cost to Call America, the life insurance policies for the benefit of the Sellers set forth on Schedule 3.14(1), provided however, that each Seller to whom such a policy is transferred shall be responsible for the payment of premiums and all other costs and expenses relating to such insurance policy after the Closing Date.

ARTICLE VIII  
CONDITIONS PRECEDENT TO OBLIGATIONS  
OF THE CALL AMERICA COMPANIES AND THE SELLERS

The obligations of the Call America Companies and Sellers under this Agreement are subject to the satisfaction, on or prior to the Closing Date, unless waived in writing, of each of the following conditions:

Section 8.1 Representations and Warranties True. The representations and warranties of each of the GST Companies contained in this Agreement shall be true and correct in all material respects as of the date when made and at and as of the Closing Date, except as and to the extent that the facts and conditions upon which such representations and warranties are based are expressly required

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or permitted to be changed by the terms hereof, with the same force and effect as if made on and as of the Closing Date, and Call America shall have received a certificate to that effect and as to the matters set forth in Section 8.2 hereof, dated the Closing Date, from the President or Chief Executive Officer of GST.

Section 8.2 Performance of Covenants. Each of the GST Companies shall have performed or complied in all material respects with all agreements, conditions and covenants required by this Agreement to be performed or complied with by it on or before the Closing Date.

Section 8.3 No Proceedings. No statute, rule or regulation shall have been enacted and no preliminary or permanent injunction or other order (including a temporary restraining order) of any state, federal or local court or other governmental agency or of any foreign jurisdiction shall have been issued or entered and remain in effect which prohibits the consummation of the transactions which are the subject of this Agreement or prohibits the Merger or operation of the business of any of the GST Companies.

Section 8.4 Escrow Agreement. The Escrow Agreement shall have been executed by the parties thereto.

Section 8.5 Employment Agreements. The Employment Agreement shall have been executed by the parties thereto.

Section 8.6 Registration Rights Agreement. The Registration Rights Agreement shall have been executed by the parties thereto.

Section 8.7 Consents and Approvals. All filings and registrations with, and notifications to, all federal, state, local and foreign authorities required for consummation of the transactions contemplated by this Agreement shall have been made, and all consents, approvals and authorizations of all federal, state, local and foreign authorities and parties to material contracts, licenses, agreements or instruments required for consummation of the transactions contemplated by this Agreement the absence of which would have a Material

Adverse Effect on the Call America Companies taken as a whole, shall have been received and shall be in full force and effect.

Section 8.8 Opinions of Counsel. Call America and the Sellers shall have received the opinion, dated the Closing Date in form reasonably satisfactory to Call America, of (i) O'Neill and Company, Canadian counsel to the Buyer, substantially to the effect that the Consideration has been duly authorized and validly issued and is fully-paid and nonassessable and (ii) Olshan Grudman Frome & Rosenzweig LLP, counsel to the Buyer (which opinion shall be limited to the United States federal law, DGCL and the laws of the State of New York and to

the extent that the laws of any other state or jurisdiction or the commercial laws of Delaware are applicable, such counsel is entitled to assume that such laws are the same as the laws of the State of New York) substantially to the effect that: (a) each of the GST Companies is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation; (b) each of the GST Companies has the corporate power to enter into this Agreement, the Escrow Agreement, the Employment Agreement and the Registration Rights Agreement, as the case may be, and to consummate the transactions contemplated hereby and thereby; (c) the execution and delivery of this Agreement, the Escrow Agreement, the Employment Agreement and the Registration Rights Agreement, and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of each of the GST Companies as the case may be; (d) each of this Agreement, the Escrow Agreement, the Employment Agreement and the Registration Rights Agreement, has been duly executed and delivered by each of the GST Companies, as the case may be, and (assuming that each is a valid and binding obligation of the other parties thereto) is a valid and binding obligation of each of the GST Companies enforceable against each of them in accordance with its terms, subject to customary exceptions; and (e) none of the execution, delivery or performance of this Agreement, the Escrow Agreement, the Employment Agreement and the Registration Rights Agreement by each of the GST Companies, as the case may be, and the consummation by each of the GST Companies of the transactions herein and therein contemplated, conflict with or result in a breach of, or default under, their respective certificates of incorporation or bylaws or, to such counsel's knowledge, any material indenture, mortgage, deed of trust, voting trust agreement, stockholders agreement, note agreement or other material agreement or other material instrument to which any of them is a party or by which any of them is bound or to which any of their property is subject.

Section 8.9 Tax Matters. The Sellers shall have received an opinion or other advice of counsel and/or accountants, in form reasonably satisfactory to the Sellers (the "Tax Opinion"), to the effect that, for U.S. federal income tax purposes, the exchange in the Merger of Common Stock of the Call America Companies for GST Common Stock will not give rise to gain or loss to the

shareholders of any of the Call America Companies with respect to such exchange (except to the extent of any cash received).

Section 8.10 Material Changes. Since April 1, 1996, there shall not have been any Material Adverse Change in the business, operations, financial condition, assets, liabilities, prospects or regulatory status of GST and its subsidiaries, taken as a whole; provided, however, that the incurrence by GST

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and its subsidiaries of losses from operations shall not, taken alone, constitute any such Material Adverse Change.

Section 8.11 Release of Loan Guarantees. As of the Closing Date, GST shall have obtained the release of the Sellers listed on Schedule 8.11 hereto as guarantors of the loans described therein, and there shall be delivered to those Sellers documentation to that effect which is satisfactory to them in form and substance.

Section 8.12 Listing of Shares. The shares of GST Common Stock issuable to the Sellers pursuant to this Agreement shall have been authorized for listing on the Amex, subject to official notice of issuance.

ARTICLE IX  
CONDITIONS PRECEDENT TO  
OBLIGATIONS OF THE GST COMPANIES

The obligations of the GST Companies under this Agreement are subject to the satisfaction, on or prior to the Closing Date, unless waived in writing, of each of the following conditions:

Section 9.1 Representation and Warranties True. The representations and warranties of each of the Call America Companies and the Sellers contained in this Agreement shall be true and correct in all material respects as of the date when made and at and as of the Closing Date (except for the representations and warranties contained in Section 3.8 hereof, which need only to be true and correct as of the date hereof), except as and to the extent that the facts and conditions upon which such representations and warranties are based are expressly required or permitted to be changed by the terms hereof with the same force and effect as if made on and as of the Closing Date, and the Buyer shall have received a certificate to that effect and as to the matters set forth in Section 9.2 hereof, dated the Closing Date, from the President or Chief Executive Officer of Call America and from each of the Sellers.

Section 9.2 Performance of Covenants. Each of the Call America Companies and the Sellers shall have performed or complied in all material respects with all agreements, conditions and covenants required by this Agreement to be performed or complied with by them on or before the Closing Date.

Section 9.3 No Proceedings. No statute, rule or regulation shall have been enacted and no preliminary or permanent injunction or other order (including a temporary restraining order) of any state, federal or local court or other governmental agency or of any foreign jurisdiction shall have been issued or entered and remain in effect which prohibits the consummation of the transactions which are the subject of this Agreement or prohibits the Merger or

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operation of the business of any of the Call America Companies.

Section 9.4 Consents and Approvals. All filings and registrations with, and notifications to, all federal, state, local and foreign authorities required for consummation of the transactions contemplated by this Agreement shall have been made, and all consents, approvals and authorizations of all federal, state, local and foreign authorities and parties to material contracts, licenses, agreements or instruments required for consummation of the transactions contemplated by this Agreement, the absence of which would have a Material Adverse Effect on the GST Companies shall have been received and shall be in full force and effect.

Section 9.5 Escrow Agreement. The Escrow Agreement shall have been executed by the parties thereto.

Section 9.6 Employment Agreements. The Employment Agreement shall have been executed by the parties thereto.

Section 9.7 Registration Rights Agreement. The Registration Rights Agreement shall have been executed by the parties hereto.

Section 9.8 Non-Competition Agreements. Each of the Sellers other than Jeffrey Buckingham, Theodore B. Hinds and Carolyn C. Hinds shall have executed a non-competition agreement substantially in the form of Annex D hereto.

Section 9.9 Resignation of Officers and Directors. GST shall have received the resignation of each of the officers and directors of Call America as required by GST.

Section 9.10 Opinion of Counsel. The Buyer shall have received the opinion of Gibson, Dunn & Crutcher LLP, counsel to the Call America Companies (which opinion shall be limited to the United States federal law, DGCL and the laws of the State of California and to the extent that the laws of any other state or jurisdiction or the commercial laws of Delaware are applicable, such counsel is entitled to assume that such laws are the same as the laws of the State of California), dated the Closing Date, in form reasonably satisfactory to the Buyer, substantially to the effect that: (i) each of the Call America Companies is a corporation duly organized, validly existing and in good standing under the

laws of the State of California; (ii) each of the Call America Companies has the corporate power to enter into this Agreement and to consummate the transactions contemplated hereby; (iii) the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby has been duly authorized by all requisite corporate action taken on the part of each of the Call America Companies party thereto; (iv) this Agreement has been duly executed and

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delivered by each of the Call America Companies and (assuming that it is a valid and binding obligation of the other parties thereto) is a valid and binding obligation of each of the Call America Companies enforceable against each of them in accordance with its terms, subject to customary exceptions; (v) the shares of Common Stock of each of the Call America Companies are duly authorized, validly issued, fully paid and nonassessable, and (vi) none of the execution, delivery or performance of this Agreement by each of the Call America Companies of the transactions herein and therein contemplated, to the best of such counsel's knowledge, conflict with or result in a breach of, or default under, their respective Certificates of Incorporation or Bylaws or any Contracts identified with an asterisk on Schedule 3.15 hereto.

Section 9.11 Material Changes. Except as disclosed on Schedule 9.11, since May 1, 1996, there shall not have been any Material Adverse Change in the business, operations, financial condition, assets, liabilities, prospects or regulatory status of the Call America Companies, taken as a whole.

Section 9.12 Waivers. The Sellers and the Call America Companies shall have obtained the waivers contemplated by Section 7.8 (b) and there shall be delivered to GST documentation to that effect which is satisfactory to GST in form and substance.

## ARTICLE X INDEMNIFICATION

Section 10.1 Indemnification by the Sellers. Subject to the limits set forth in this Article X, the Sellers agree, jointly and severally, to indemnify, defend and hold the Buyer and each of its directors and officers harmless from and against any and all loss, liability, damage, costs and expenses (including interest, penalties and attorneys' fees) (collectively, "Losses") that the Buyer or any of its affiliates may incur or become subject to arising out of or due to (i) the claims of any broker or finder engaged by the Sellers (other than those of the Clark Company which shall borne entirely by GST) and (ii) any breach of any representation or the breach of any warranty of any of the Call America Companies or any Seller contained in Article III or Article IV of this Agreement. The Sellers will reimburse the Buyer and each controlling person for any legal or any other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, liability, action or proceeding.

Section 10.2 Indemnification by the Buyer. Subject to the limits set forth in this Article X, the Buyer agrees to indemnify, defend and hold each Seller harmless from and against any and all Losses that the Seller or its affiliates may incur or become subject to arising out of or due to (i) the claims of any broker or finder engaged by any of the GST Companies; (ii) any breach of any

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representation or the breach of any warranty of any of the GST Companies contained in Article V of this Agreement; (iii) any tax liability of the Sellers incurred in connection with the Merger; (iv) any personal injury, death or property damage attributable to products manufactured, processed or sold by any of the Call America Companies and which are sold to any third party after the Closing Date and (v) any breach of the covenant of the GST Companies contained in Section 7.5 of this Agreement unless such breach is caused by Jeffrey Buckingham. The Buyer will reimburse the Sellers for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, liability, action or proceeding.

### Section 10.3 Special Indemnification for Tax Matters.

(a) The GST Companies understand and acknowledge that the Sellers are entering into the transactions contemplated hereby on the understanding that the conditions set forth in Treasury Regulation ss.ss. 1.367(a)-3T(c)(1)(i), (ii), (iii) and (iv)(A) will be satisfied with respect to each merger comprising the Merger and with respect to each Seller, as applicable, that following the Closing, Buyer will cause Call America, as successor to each Call America Company, to comply with the reporting requirements of Treasury Regulation ss. 1.367(a)-3T(c)(4), and that following the Closing the GST Companies will comply with such other requirements as may be necessary in order to ensure that each merger constitutes a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code. The GST Companies hereby agree to indemnify and hold harmless each Seller from and against any cost, expense, liability and other damages, including, but not limited to, attorneys and accountants fees, taxes, interest and penalties, arising from or as a result of any of the Mergers of Sub, CA Bakersfield and CA Fresno into Call America and the Merger not qualifying as a "reorganization" within the meaning of Section 368(a) of the Code by reason of (a) the failure to satisfy the requirements of Treasury Regulation ss. 1.367(a)-3T(c)(1)(i), (ii) or (iii), (b) the treatment of any Seller as a "five-percent transferee shareholder," as defined in Treasury Regulation ss. 1.367(a)-3T(c)(6)(ii), (c) the failure of Call America on behalf of each Call America Company, to file on a timely basis and in a correct manner the statement described in Treasury Regulation ss. 1.367(a)-3T(c)(4), (d) the failure by the GST Companies, on behalf of each Seller, to file with the Internal Revenue Service in a timely and correct manner the information required by Treasury Regulation ss. 1.6038B-1T, or (e) the failure of any such merger to satisfy the requirements for a "reorganization" as defined in Section 368(a) of

the Internal Revenue Code by virtue of any action or inaction of any GST Company and, following the Effective Time, Call America.

(b) The indemnification provided under this Section 10.3 shall not be reduced by any tax benefit arising from an increase in the tax basis of a Seller

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in such Seller's shares of GST Common Stock received in the Merger by virtue of a merger not constituting a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code unless and until such benefit is realized in the form of a refund or a reduction in taxes otherwise actually payable.

Section 10.4 Survival. The representations and warranties of each of the Call America Companies and the Sellers set forth in Articles III and IV of this Agreement shall survive the Closing until the first anniversary of the Closing Date. The representations and warranties of the GST Companies set forth in Article V of this Agreement shall survive the closing until the first anniversary of the Closing Date. The covenants and agreements of the parties shall not survive the Closing Date, except for the covenants and agreements set forth under this Article X and Sections 7.3 and 7.5.

Section 10.5 Limitations. (a) No party shall assert, and no party shall be liable for, any claim against the other for indemnification hereunder with respect to any inaccuracy or breach of such warranties, representations, covenants or agreements unless and until the amount of all such claims shall exceed on a cumulative basis \$75,000, and then only to the extent such claim for indemnification exceeds that amount; provided, however, that a claim for indemnification hereunder with respect to any breach of the covenants contained in Section 7.5 shall not be subject to any threshold.

(b) All representations and warranties made by the parties herein shall be deemed to have been relied upon notwithstanding any investigation. The liability, including expenses, of the Sellers pursuant to Section 10.1 shall be limited to the return to GST of the Escrow Shares. No Seller shall be directly liable to GST or any other indemnified party for any indemnification under Section 10.1 and GST acknowledges that the indemnified parties' sole recourse for any Losses for which they are entitled to indemnification under Section 10.1 shall be the return of the Escrow Shares. For purposes of this Article X, the fair market value of one share of GST Common Stock shall be the closing sales price of a share of GST Common Stock on the AMEX (as reported by The Wall Street Journal or, if not reported thereby, by any other authoritative source) on the date of the Effective Time (the "Effective Date"). In the event GST or another party to be indemnified pursuant to Section 10.1 suffers any Losses for which it is entitled to indemnification, the Escrow Agent shall, subject to the procedures set forth in the Escrow Agreement, deliver to the party to be indemnified out of escrow the lesser of: (a) the number of the Escrow Shares (in whole shares) that has an aggregate market value (determined as provided above)

most nearly equal to the amount of the Losses thus to be satisfied, or (b) all of the Escrow Shares. If any distribution referred to in this Section 10.5(b)

involves fewer than all of the Escrow Shares, it shall be allocated pro rata against the Escrow Shares therein based on the Escrow Shares beneficially owned by each Seller. The liability, including expenses, of the GST Companies pursuant to Sections 10.2 and 10.3 shall not exceed the fair market value of the Escrow Shares on the Effective Date and shall be payable in cash.

(c) Buyer acknowledges and agrees that, from and after the Closing, its sole and exclusive remedy with respect to any and all claims relating to the subject matter of this Agreement shall be pursuant to the indemnification provisions set forth in this Article X. In furtherance of and subject to the foregoing, Buyer hereby waives, from and after the Closing Date, to the fullest extent permitted under applicable law, any and all rights, claims and causes of action (other than claims of, or causes of action arising from, fraud) it, the GST Companies, or any of their subsidiaries may have against the Sellers relating to the subject matter of this Agreement arising under or based on any Federal, state or local statute, law, ordinance, rule or regulation or otherwise.

Section 10.6 Third Party Claims. In order for a party (the "indemnified party") to be entitled to any indemnification provided for under this Agreement in respect of, arising out of, or involving a claim or demand or written notice made by any third party against the indemnified party (a "Third Party Claim") after the Closing Date, such indemnified party must notify the indemnifying party (the "indemnifying party") in writing and in reasonable detail of the Third Party Claim within 30 business days after receipt by such indemnified party of written notice of the Third Party Claim; provided that the failure of any indemnified party to give timely notice shall not affect his right of indemnification hereunder except to the extent the indemnifying party has actually been prejudiced or damaged thereby (except that the indemnifying party shall not be liable for any expenses during the period in which the indemnified party failed to give notice). If a Third Party Claim is made against an indemnified party, the indemnifying party shall be entitled, if it so chooses, to assume the defense thereof with counsel selected by the indemnifying party (which counsel shall be reasonably satisfactory to the indemnified party). If the indemnifying party assumes the defense of a Third Party Claim, the indemnified party will cooperate in all reasonable respects with the indemnifying party in connection with such defense, and shall have the right to participate in such defense with counsel selected by it. The fees and disbursements of such counsel, however, shall be at the expense of the indemnified party; provided, however, that, in the case of any Third Party Claim of which the indemnifying party has not employed counsel to assume the defense, the fees and disbursements of such counsel shall be at the expense of the indemnifying party.

The indemnified party shall deliver to the indemnifying party, within five business days after the indemnified party's receipt thereof, copies of all notices and documents (including court papers) received by the indemnified party relating to the Third Party Claim. If the indemnifying party chooses to defend or prosecute any Third Party Claim, all the parties hereto shall cooperate in the defense or prosecution thereof. Such cooperation shall include the retention and (upon the indemnifying party's request) the provision to the indemnifying party of records and information which are reasonably relevant to such Third Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Whether or not the indemnifying party shall have assumed the defense of a Third Party Claim, the indemnified party shall not admit any liability with respect to, or settle, compromise or discharge, such Third Party Claim without the indemnifying party's prior written consent (which consent shall not be unreasonably withheld).

In the event GST or any of the persons entitled to indemnification pursuant to Section 10.1 is an "indemnified party" with respect to a third party claim, no Escrow Shares shall be released by the Escrow Agent in settlement of any indemnification obligation unless and until a final, non-appealable settlement or judgment is reached with respect to such claim.

Section 10.7 Reduction for Insurance. The gross amount which an indemnifying party is liable to, for, or on behalf of the indemnified party pursuant to this Article X (the "Indemnifiable Loss") shall be reduced (including, without limitation, retroactively) by any insurance proceeds actually recovered by or on behalf of such indemnified party related to the Indemnifiable Loss. If an indemnified party shall have received or shall have had paid on its behalf an indemnity payment in respect of an Indemnifiable Loss and shall subsequently receive directly or indirectly insurance proceeds in respect of such Indemnifiable Loss, then such indemnified party shall pay to such indemnifying party the net amount of such insurance proceeds or, if less, the amount of such indemnity payment.

Section 10.8 Termination of Indemnification. The obligations to indemnify and hold harmless a party hereto (i) pursuant to Sections 10.1 and 10.2 hereof shall terminate one year after the Closing Date and (ii) pursuant to Section 10.3 hereof shall terminate at the time the applicable statutes of limitations with respect to the Tax liabilities in question expire (giving effect to any extension thereof); provided, however, that such obligations to indemnify and hold harmless shall not terminate with respect to any item as to which the person to be indemnified or the related party hereto shall have, before the expiration of the applicable period, previously made a claim by delivering a

notice (stating in reasonable detail the basis of such claim) to the indemnifying party.

# ARTICLE XI TERMINATION, AMENDMENT AND WAIVER

Section 11.1 Termination. This Agreement may be terminated and the transactions contemplated by this Agreement abandoned at any time prior to the Closing:

(a) By mutual written consent of GST and Call America;

(b) By either GST or Call America if the transactions contemplated by this Agreement shall not have been consummated on or before January 31, 1997.

(c) by Call America if (i) there shall have been a breach of any representation or warranty on the part of GST or Sub set forth in this Agreement, or if any representation or warranty of GST or Sub shall have become untrue, in either case such that the conditions set forth in Section 8.1 would be incapable of being satisfied by January 31, 1997 (or as otherwise extended) or (ii) there shall have been a breach by GST or Sub of any of their respective covenants or agreements hereunder having a Material Adverse Effect on GST or materially adversely affecting (or materially delaying) the consummation of the Merger, and GST or Sub, as the case may be, has not cured such breach within 20 business days after notice by Call America thereof, provided that Call America has not materially breached any of its obligations hereunder.

(d) by GST if (i) there shall have been a breach of any representation or warranty on the part of the Call America Companies set forth in this Agreement, or if any representation or warranty of the Call America Companies shall have become untrue, in either case such that the conditions set forth in Section 9.1 hereof would be incapable of being satisfied by January 31, 1997 (or as otherwise extended), or (ii) there shall have been a breach by the Call America Companies of their covenants or agreements hereunder having a Material Adverse Effect on the Call America Companies taken as a whole or materially adversely affecting (or materially delaying) the consummation of the Merger, and the Call America Companies have not cured such breach within 20 business days after notice by GST or Sub thereof, provided that neither GST nor Sub has materially breached any of their respective obligations hereunder.

(e) By either GST or Call America if a court of competent jurisdiction or Regulatory Authority shall have issued a final, non-appealable order, decree or ruling or taken any other action (which order, decree or ruling the parties hereto shall use their best efforts to lift), in each case

permanently restraining, enjoining or otherwise prohibiting any of the transactions contemplated by this Agreement.

Section 11.2 Effect of Termination. The termination of this Agreement in accordance with Section 11.1 hereof shall have no effect on whatever rights and remedies the parties hereto may have against one another as a result of any breach of this Agreement.

Section 11.3 Amendment. This Agreement may be amended by the written agreement of the parties hereto.

Section 11.4 Extension; Waiver. At any time prior to the Effective Time, each party hereto may (i) extend the time for the performance of any of the obligations or other acts of the other party, (ii) waive any inaccuracies in the representations and warranties of the other party contained herein or in any document, certificate or writing delivered pursuant hereto or (iii) waive compliance by the other party with any of the agreements or conditions contained herein. Any agreement on the part of any party hereto to any such extension or waiver shall be valid only if set forth in writing signed on behalf of such party. The failure of a party hereto to assert any of its rights hereunder shall not constitute a waiver of such rights.

## ARTICLE XII MISCELLANEOUS

Section 12.1 Expenses. All costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses (except that Call America shall also bear the costs and expenses of the Sellers, if any), regardless of the termination of this Agreement or the failure to consummate the transactions contemplated hereby .

Section 12.2 Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally or by facsimile transmission, in either case with receipt acknowledged, or three days after being sent by registered or certified mail, return receipt requested, postage prepaid:

(a) If to any of the GST Companies to:

GST Telecommunications, Inc.  
4317 N.E. Thurston Way  
Vancouver, Washington 98662  
Attention: John Warta

with a copy to:

Olshan Grundman Frome & Rosenzweig LLP  
505 Park Avenue  
New York, New York 10022  
Attention: Stephen Irwin, Esq.

(b) If to the Sellers or any of the Call America Companies to:

Call America Business Communications, Inc.  
4251 South Higuera  
Suite 800  
San Luis Obispo, California 93401  
Attention: Jeffrey Buckingham

with a copy to:

Gibson, Dunn & Crutcher  
333 South Grand Avenue  
Los Angeles, California 90071-3197  
Attention: Bradford P. Weirick, Esq.

or to such other address as any party shall have specified by notice in writing to the other in compliance with this Section 12.2.

Section 12.3 Entire Agreement. This Agreement (including the Schedules, letter agreements and other documents delivered as of the date hereof) constitutes the entire agreement among the parties hereto with respect to the subject matter hereof and thereof and supersedes all prior agreements, representations and understandings among the parties hereto including the letter of intent dated July 17, 1996 among the parties hereto except as provided in Section 7.1(e) with respect to the Confidentiality Agreements.

Section 12.4 Binding Effect, Benefits, Assignments. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns; nothing in this Agreement, expressed or implied, is intended to confer on any other person, other than the parties hereto or their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement. This Agreement may not be assigned without the prior written consent of the other parties hereto, except that GST may assign this Agreement to any of its direct wholly-owned subsidiaries.

Section 12.5 Applicable Law. This Agreement and the legal relations between the parties hereto shall be governed by and construed in accordance with the

Section 12.6 Jurisdiction. (a) Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in Denver, Colorado, administered by the American Arbitration Association in accordance with its applicable rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall be conducted before a panel of three neutral arbitrators, all of whom shall be members of the Colorado state bar actively engaged in the practice of law or retired members of the state or federal judiciary. Call America and GST shall bear equally the cost of such arbitration.

(b) Notwithstanding the provisions of Section 12.6(a), the parties hereto shall have the right to seek and obtain from a court of competent jurisdiction a temporary restraining order, injunction, specific performance or other equitable relief to enforce the provisions of this Agreement.

Section 12.7 Headings. The headings and captions in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

Section 12.8 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

#### Section 12.9 Definitions.

(a) Except as otherwise provided herein, the capitalized terms set forth below shall have the following meanings:

"Affiliate" of a Person shall mean: (i) any other Person directly, or indirectly through one or more intermediaries, controlling, controlled by or under common control with such Person; (ii) any officer, director, partner, employer, or direct or indirect beneficial owner of any 10% or greater equity or voting interest of such Person; or (iii) any other Person for which a Person described in clause (ii) acts in any such capacity.

"Agreement" shall mean this Agreement and Plan of Merger, including the Exhibits, schedules, letter agreements and other documents delivered as of the date hereof, delivered pursuant hereto and incorporated herein by reference.

"Agreement of Merger" shall mean the Merger Agreement in a form not inconsistent with the terms of this Agreement and to be mutually agreed upon by the parties hereto and to be filed with the Secretary of State of the State of California relating to the Merger as contemplated by Section 1.1 of this Agreement and/or the Certificate of Merger in a form not inconsistent with the

terms of this Agreement and to be mutually agreed upon by the parties hereto and

to be filed with the Secretary of State of the State of Delaware relating to the Merger as contemplated by Section 1.1 of this Agreement.

"Amex" shall mean the American Stock Exchange, or such other securities exchange or market system where the GST Common Stock may be primarily traded.

"Assets" of a Person shall mean all of the assets, properties, businesses and rights of such Person of every kind, nature, character and description, whether real, personal or mixed, tangible or intangible, accrued or contingent, or otherwise relating to or utilized in such Person's business, directly or indirectly, in whole or in part, whether or not carried on the books and records of such Person, and whether or not owned in the name of such Person or any Affiliate of such Person and wherever located.

"CGCL" shall mean the California General Corporation Law.

"Closing Date" shall mean the date on which the Closing occurs.

"Consent" shall mean any consent, approval, authorization, clearance, exemption, waiver, or similar affirmation by any Person pursuant to any Contract, Law, Order, or Permit.

"Contract" shall mean any written or oral agreement, arrangement, authorization, commitment, contract, franchise agreement, indenture, instrument, lease, license, obligation, plan, practice, restriction, understanding or undertaking of any kind or character, or other document to which any Person is a party or that is binding on any Person or its capital stock, Assets or business.

"Default" shall mean (i) any breach or violation of or default under any Contract, Order or Permit, (ii) any occurrence of any event that with the passage of time or the giving of notice or both would constitute a breach or violation of or default under any Contract, Order or Permit, or (iii) any giving of notice giving rise to a right to terminate or revoke, change the current terms of, or renegotiate, or to accelerate, increase, or impose any Liability under, any Contract, Order or Permit.

"DGCL" shall mean the Delaware General Corporation Law.

"Environmental Laws" shall mean all Laws relating to pollution or protection of human health or the environment (including ambient air, surface water, ground water, land surface or subsurface strata) and which are administered, interpreted or enforced by the United States Environmental Protection Agency and state and local agencies with jurisdiction over, and

including common law in respect of, pollution or protection of the environment, including the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. 9601 et seq. ("CERCLA"), the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq. ("RCRA"), and other Laws relating to emissions, discharges, releases or threatened releases of any Hazardous Material, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Material.

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

"Escrow Agent" shall mean

"Escrow Agreement" shall mean the Escrow Agreement by and among the Sellers, GST, and the Escrow Agent, substantially in the form of Exhibit B.

"FABRIK" shall mean FABRIK Communications, Inc.

"FCC" shall mean Chapter 5 of Title 47 of the United States Code and the rules and regulations promulgated thereunder.

"GST Capital Stock" shall mean, collectively, the GST Common Stock and any other class or series of capital stock of GST.

"GST Common Stock" shall mean the no par value common stock of GST.

"Hazardous Material" shall mean (i) any hazardous substance, hazardous material, hazardous waste, regulated substance or toxic substance (as those terms are defined by any applicable Environmental Laws) and (ii) any chemicals, pollutants, contaminants, petroleum, petroleum products, or oil (and specifically shall include asbestos requiring abatement, removal or encapsulation pursuant to the requirements of governmental authorities and any polychlorinated biphenyls).

"Intellectual Property" shall mean all worldwide industrial and intellectual copyrights, patents, trademarks, service marks, service names, trade names, technology rights and licenses, computer software (including any source or object codes therefor or documentation relating thereto), trade secrets, franchises, know-how, inventions, and other intellectual property rights used in the business of the Call America Companies or the GST Companies, as the case may be.

"Internal Revenue Code" shall mean the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

"Knowledge" as used with respect to a Person (including references to such Person being aware of a particular matter) shall mean those facts that are known by the Chairman, President and Chief Financial Officer of such Person.

"Law" shall mean any code, law, ordinance, regulation, reporting or licensing requirement, rule, or statute applicable to a Person or its Assets, Liabilities or business, including those promulgated, interpreted or enforced by any Regulatory Authority.

"Liability" shall mean any direct or indirect, primary or secondary, liability, indebtedness, obligation, penalty, cost or expense (including costs of investigation, collection and defense), claim, deficiency, guaranty or endorsement of or by any Person (other than endorsements of notes, bills, checks, and drafts presented for collection or deposit in the ordinary course of business) of any type, whether accrued, absolute or contingent, liquidated or unliquidated, matured or unmatured, or otherwise.

"Lien" shall mean any conditional sale agreement, default of title, easement, encroachment, encumbrance, hypothecation, infringement, lien, mortgage, pledge, reservation, restriction, security interest, title retention or other security arrangement, or any adverse right or interest, charge, or claim of any nature whatsoever of, on, or with respect to any property or property interest, other than (i) Liens for current property Taxes not yet due and payable, and (iii) Liens which do not materially impair the use of or title to the Assets subject to such Lien.

"Litigation" shall mean any action, arbitration, cause of action, claim, complaint, criminal prosecution or demand letter, or notice (written or oral) by any Person of governmental or other examination or investigation, hearing, inquiry, administrative or other proceeding alleging potential Liability, or any Regulatory Authority or other federal, state or local governmental agency or department requesting information relating to or affecting a Party, its business, its Assets (including Contracts related to it), or the transactions contemplated by this Agreement.

"Material Adverse Effect" on a party shall mean an event, change or occurrence which, individually or together with any other event, change or occurrence, has a material adverse impact on (i) the financial condition, business, or results of operations of such party and its Subsidiaries, taken as a whole, or (ii) the ability of such party to perform its obligations under this Agreement or to consummate the Merger or the other transactions contemplated by this Agreement, provided that "material adverse impact" shall not be deemed to include the impact of (a) changes in Laws of general applicability or interpretations thereof by courts or governmental authorities, (b) changes in generally accepted accounting principles or regulatory accounting principles, (c) actions and omissions of a party (or any of its subsidiaries) taken with the

prior informed written Consent of the other party in contemplation of the transactions contemplated hereby, and (z) the Merger on the operating performance of the Parties, including expenses incurred by the parties in consummating the transactions contemplated by this Agreement.

"Merger Documents" shall mean the documents to be filed with the Secretaries of State of the States of California and Delaware pursuant to Section 1.1 and the first sentence of Section 1.3 hereof.

"Order" shall mean any administrative decision or award, decree, injunction, judgment, order, quasi-judicial decision or award, ruling, or writ of any federal, state, local or foreign or other court, arbitrator, mediator, tribunal, administrative agency or Regulatory Authority.

"Permit" shall mean any federal, state, local, and foreign governmental approval, authorization, certificate, easement, filing, franchise, license, notice, permit, or right to which any Person is a party or that is or may be binding upon or inure to the benefit of any Person or its securities, Assets or business.

"Person" shall mean a natural person or any legal, commercial or governmental entity, such as, but not limited to, a corporation, general partnership, joint venture, limited partnership, limited liability company, trust, business association, group acting in concert, or any person acting in a representative capacity.

"Regulatory Authorities" shall mean, collectively, the Amex, the SEC, the Federal Trade Commission, the United States Department of Justice, the Federal Communications Commission, and all other federal, state, county, local or other foreign or domestic governmental or regulatory agencies, authorities, instrumentalities, commissions, boards or bodies having jurisdiction over the Parties and their respective Subsidiaries.

"Rights" shall mean all arrangements, calls, commitments, Contracts, options, rights to subscribe to, scrip, understandings, warrants, or other binding obligations of any character whatsoever relating to, or securities or rights convertible into or exchangeable for, shares of the capital stock of a Person or by which a Person is or may be bound to issue additional shares of its capital stock or other Rights.

"Subsidiaries" shall mean all those corporations, associations, or other business entities of which the entity in question either (i) owns or controls 50% or more of the outstanding equity securities either directly or through an unbroken chain of entities as to each of which 50% or more of the outstanding equity securities is owned directly or indirectly by its parent (provided, there

shall not be included any such entity the equity securities of which are owned

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or controlled in a fiduciary capacity), or (ii) in the case of partnerships, serves as a general partner.

"Surviving Corporation" shall mean Call America as the surviving corporation resulting from the Merger.

"Tax Return" shall mean any report, return, information return, or other information required to be supplied to a taxing authority in connection with Taxes, including any return of an affiliated or combined or unitary group that includes a Party or its Subsidiaries.

"Tax" or "Taxes" shall mean any federal, state, county, local, or foreign income, profits, franchise, gross receipts, payroll, sales, employment, use, property, withholding, excise, occupancy, and other taxes, assessments, charges, fares, or impositions, including interest, penalties, and additions imposed thereon or with respect thereto.

(b) The terms set forth below shall have the meanings ascribed thereto in the referenced sections:

|                                    |                 |
|------------------------------------|-----------------|
| Call America Financial Statements  | Section 3.6     |
| Call America Common Stock          | Section 1.7(c)  |
| Closing                            | Section 1.2     |
| Confidentiality Agreements         | Section 7.1(e)  |
| Consideration                      | Section 1.7(c)  |
| Effective Date                     | Section 10.5(b) |
| Effective Time                     | Section 1.3     |
| Employee Benefit Plans             | Section 3.10    |
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| Escrow Shares                      | Section 1.7(c)  |
| FABRIK Agreement                   | Section 7.5     |
| GST Surviving Conditions Precedent | Section 1.2(b)  |
| GST Tax Certificate                | Section 7.2     |
| Indemnifiable Loss                 | Section 10.7    |
| indemnified party                  | Section 10.6    |
| indemnifying party                 | Section 10.6    |
| Merger                             | Section 1.1     |
| Non-Competition Agreements         | Section 4.2     |
| Post-Closing Consideration         | Section 1.10(a) |
| Registration Rights Agreement      | Section 4.2     |
| Representative                     | Section 1.2(a)  |
| SEC                                | Section 5.5     |
| SEC Reports                        | Section 5.5     |

|                                       |                |
|---------------------------------------|----------------|
| Seller Surviving Conditions Precedent | Section 1.2(b) |
| Shareholders' Agreement               | Section 4.1    |
| Tax Opinion                           | Section 8.9    |
| Termination Date                      | Section 6.2    |
| Third Party Claim                     | Section 10.6   |
| U.S. GAAP                             | Section 3.6(a) |

(c) Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the words "include,"

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"includes" or "including" are used in this Agreement, they shall be deemed followed by the words "without limitation."

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year hereinabove first set forth.

GST TELECOMMUNICATIONS, INC.

By: /s/ Stephen Irwin

-----

Name: Stephen Irwin

Title: Secretary

CALL AMERICA BUSINESS  
COMMUNICATIONS CORP.

By: /s/ Jeffrey C. Buckingham

-----

Name: Jeffrey C. Buckingham

Title: President

GST NEWCO OF CALIFORNIA, INC.

By: /s/ Stephen Irwin

-----  
Name: Stephen Irwin

Title: President

CALL AMERICA BUSINESS COMMUNICATIONS  
OF FRESNO, INC.

By: /s/ Jeffrey C. Buckingham

-----  
Name: Jeffrey C. Buckingham

Title: President

CALL AMERICA BUSINESS COMMUNICATIONS  
OF BAKERSFIELD, INC.

By: /s/ Jeffrey C. Buckingham

-----  
Name: Jeffrey C. Buckingham

Title: President

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SELLERS:

/s/ Jeffrey C. Buckingham

-----  
Name: Jeffrey C. Buckingham

/s/ F. Scott Hinds

-----  
Name: F. Scott Hinds

Trustee U/A dated 2/14/84

/s/ Jerry A. Linthicum

-----  
Name: Jerry A. Linthicum

/s/ Carolyn C. Hindes

-----  
Name: Carolyn C. Hindes

/s/ Theodore B. Hindes

-----  
Name: Theodore B. Hindes

CONSENTED AND AGREED:

/s/ Joan E. Buckingham

-----  
Joan E. Buckingham

/s/ Euleta F. Linthicum

-----  
Euleta F. Linthicum

100609.10

NTFC CAPITAL CORPORATION  
EQUIPMENT LOAN AND SECURITY AGREEMENT

This EQUIPMENT LOAN AND SECURITY AGREEMENT ("Agreement"), is dated as of December 19, 1996, by and between the following parties:

LENDER/SECURED PARTY: NTFC CAPITAL CORPORATION, a Delaware corporation  
with offices at 220 Athens Way, Nashville, Tennessee 37228  
("Lender")

BORROWER/DEBTOR: GST Equipco, Inc, a Washington corporation with its  
principal place of business at 4317 N.E. Thurston Way,  
Vancouver, Washington 98662 ("Borrower")

This Loan and Security Agreement includes the general terms and conditions contained herein and all the exhibits and schedules attached hereto, all of which are incorporated herein. In the event of a conflict between the general terms and conditions and any schedule, the additional terms and conditions stated in the schedule shall control.

By executing this Loan and Security Agreement, Lender agrees to make loans to Borrower, and Borrower agrees to borrow from Lender and to provide collateral to secure such loans, all on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties have executed this Loan and Security Agreement by their duly authorized representatives:

LENDER:

-----

NTFC CAPITAL CORPORATION

BY: /s/ authorized signatory

-----

TITLE: Secretary

-----

DATE: 12/19/96

-----

BORROWER:

-----

GST EQUIPCO, INC.

BY: /s/ Clifford V. Sander

-----

TITLE: Vice President & CEO

-----

DATE: 12/19/96

-----

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## EXHIBITS TO LOAN AND SECURITY AGREEMENT

-----

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Exhibit B Form of Borrowing Certificate  
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Exhibit D Form of Landlord's Consent  
Exhibit E Form of Lease  
Exhibit F Form of Guaranty  
Exhibit G Certificate Financial Condition

## LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT ("Agreement") is dated as of the "Closing Date" set forth on Schedule 1 hereto, by and between the entity or entities described on Schedule 1 hereto (collectively, "Borrower") and NTFC CAPITAL CORPORATION, a Delaware corporation ("Lender"), with offices at 220 Athens Way, Nashville, Tennessee 37228.

## B A C K G R O U N D:

A. Borrower has entered into a certain purchase agreement with Northern Telecom Inc., as described on Schedule 1 hereto, providing for Borrower's purchase of certain telecommunications equipment and the license of associated software, all as described therein, and has requested Lender to extend credit to Borrower to finance such purchase and license, as described on Schedule 1 hereto.

B. Borrower is affiliated with certain operating Affiliates (defined below), to whom it will lease the Equipment and other Collateral defined below, subject to Lender's prior security interests and rights hereunder.

C. GST USA, Inc., the direct or indirect owner of all the capital stock of Borrower, and the Affiliates that will lease the Equipment, has partially guaranteed the obligations of Borrower hereunder.

D. Lender is willing to extend such credit to Borrower upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained and intending to be legally bound hereby, the parties

hereto agree as follows:

## ARTICLE 1: DEFINITIONS

1.1 Certain Definitions. Certain terms are defined on Schedule 1 hereto. In addition to other words and terms defined in the preamble hereof or elsewhere in this Agreement, or on the Schedules hereto, the following words and terms shall have the following meanings unless the context otherwise clearly requires:

"Advance(s)": any advance or loan of funds made by Lender to Borrower pursuant to this Agreement.

"Affiliate": as applied to any Person, any second Person directly or indirectly controlling, controlled by, or under common control with that Person, or related to such Person by blood, marriage or adoption. For purposes of this definition and the definition of "Subsidiary", a Person shall be deemed to control another Person if such first Person possesses, directly or indirectly, the power to direct, or to cause the direction of, the management and policies of such other Person, whether through ownership of voting securities, by contract or otherwise. The "Affiliates" of Borrower shall also include Affiliates that lease Equipment from Borrower and the Owners.

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"Basic Agreements": a collective reference to this Agreement, the Note, and the Security Documents.

"Borrowing Certificate": a certificate substantially in the form of Exhibit B hereto.

"Borrowing Date": any Business Day on which an Advance is made to Borrower hereunder.

"Business Day": a day other than a Saturday, Sunday or other day on which commercial banks in Nashville, Tennessee are authorized or required by law to close.

"Calendar Quarter": each three month period starting on each January 1, April 1, July 1, and October 1, during the term of this Agreement.

"Carrier": a provider of telecommunications services by interconnection with the System or contract with Borrower.

"Cash": at any time, the cash, cash equivalents or marketable investment grade securities held by Borrower free of any claims or encumbrances.

"Certificate of Financial Condition": a certificate in the form of Exhibit G hereto, executed by Borrower.

"Change in Control": any change in the direct or indirect control of, or the ability or right to control, a majority of the voting shares of any class of securities or ownership rights in the Borrower or in the right and/or the power to control the election of the board of directors of the Borrower.

"Closing Date": as defined on Schedule 1 hereto.

"Code": the Internal Revenue Code of 1986, as amended from time to time.

"Collateral": as defined in Section 3.1 hereof.

"Commitment": as defined in Section 2.1 hereof.

"Communications Law": any and all of (i) the Communications Act of 1934, as amended, and any similar or successor federal statute, and the rules and regulations of the FCC thereunder, (ii) any state law governing the provision of telecommunications services, and the rules and regulations of the PUC, all as the same may be in effect from time to time.

"Contingent Obligation": as to any Person, any obligation of such Person guaranteeing, directly or indirectly, any Indebtedness, leases, dividends or other obligations ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent, (a) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (b) to advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make

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payment of such primary obligation or (d) otherwise to assure or hold harmless the owner of such primary obligation against loss in respect thereof.

"Conversion Date": as defined on Schedule 2.2 hereto.

"Debt Service": for any fiscal period of Borrower, the sum of all principal and interest payments that Borrower is required to make during such period on account of all of its Indebtedness including, without limitation, (a) amounts

due during such period on account of capitalized leases, (b) the then current portion of any long-term Indebtedness, (c) amounts due on short-term Indebtedness, and (d) amounts due under this Agreement and the Note.

"Default": any of the conditions or occurrences specified in Section 9.1, whether or not any requirement for the giving of notice, the lapse of time, or both, or any other condition has been satisfied.

"Default Rate": a rate of interest equal to the lesser of (i) three percent (3%) over the Interest Rate, or (ii) the maximum permissible rate under applicable law in effect at any time.

"Environmental Law": any current or future federal, state and local law (including common law), statute, regulation, ordinance, rulings, codes, judicial order, administrative order or terms of licenses or permits applicable to environmental conditions (including without limitation conditions relating to ambient air, surface water, groundwater, land surface or subsurface strata), including without limitation all such laws governing employment, the generation, use, storage, disposal or transportation of toxic or hazardous substances or wastes (including, without limitation, asbestos and petroleum products), the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Superfund Amendment and Reauthorization Act of 1986, the Toxic Substances Control Act, the Clean Air Act, the Water Pollution Control Act, the Hazardous Waste Management Act, the Mineral Lands and Leasing Act, the Surface Mining Control and Reclamation Act, U.S. Department of Transportation Regulations, and all similar state and local laws, regulations, all as now or hereafter amended.

"ERISA": the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute.

"Equipment": as defined in Section 3.1 hereof.

"Equity Payment": any distribution of earnings or capital to any Owner, or any redemption of stock or other ownership interests, either directly or indirectly, whether in cash or property or in obligations of the Borrower.

"Event of Default": any of the events specified in Section 9.1 hereof, provided that any requirement for the giving of notice, the lapse of time, or both, or any other condition, under Section 9.1 or otherwise, has been satisfied.

"Financing Termination Date": as defined on Schedule 2.2 hereto.

"FCC": the Federal Communications Commission of the United States of America, and any successor, in whole or in part, to its jurisdiction.

"First Borrowing Date": the date of the first borrowing by Borrower hereunder.

"GAAP": subject to Section 1.2 hereof, generally accepted accounting principles in the United States of America (as such principles may change from time to time) applied on a consistent basis (except for changes in application in which Borrower's independent certified public accountants concur), applied both to classification of items and amounts.

"General Intangibles": as defined in Section 3.1 hereof.

"Governmental Actions": actions by any Governmental Authority.

"Governmental Authority": the federal government, any state or political subdivision thereof, any city or municipal entity, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"GST Telecommunications": GST Telecommunications, Inc.", a Canadian corporation

"Guarantor": as defined on Schedule 1 hereto.

"Guaranty": the Guaranty executed by Guarantor, pursuant to Section 2.11 hereof, substantially in the form of Exhibit F hereto.

"Indebtedness": as to any Person, at a particular time, (a) indebtedness for borrowed money or for the deferred purchase price of property or services in respect of which such Person is liable, contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which such Person otherwise assures a creditor against loss, (b) obligations under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases in respect of which obligations such Person is liable, contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person assures a creditor against loss (c) obligations of such Person to purchase or repurchase accounts receivable, chattel paper or other payment rights sold or assigned by such Person, and (d) indebtedness or obligations of such Person under or with respect to letters of credit, notes, bonds or other debt instruments.

"Indenture": the Senior Notes Indenture dated as of December 19, 1995, among GST USA, Inc., GST Telecommunications, Inc. and United States Trust Company of New York, as Trustee, as it may be amended from time to time.

"Initial Payment Date": as defined on Schedule 2.2 hereto.

"Interest Only Period": as defined on Schedule 2.2 hereto.

"Interest Payment Date": as defined on Schedule 2.2 hereto.

"Interest Rate": as defined on Schedule 2.2 hereto.

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"Landlord Consent": a consent substantially in the form of Exhibit D hereto or in other form acceptable to Lender, to be executed by the owner/landlord, sublessor and/or licensor of any real property where any of the Collateral is to be located.

"Law": any law (including common law), constitution, statute, regulation, rule, ordinance, order, injunction, writ, decree or award of any governmental body or court of competent jurisdiction or of any arbitrator (including but not limited to ERISA, the Code, the UCC, any applicable tax law, product safety law, occupational safety or health law, Communications Law, Environmental Law and/or securities laws).

"Lease": a Lease of the Equipment by Borrower as lessor and an Affiliate of Borrower as lessee.

"Lender's Expenses": as defined in Section 2.10 hereof.

"LIBOR": London Interbank Offered Rates as quoted from time to time in The Wall Street Journal.

"LIBOR Period": any calendar quarter during which a Loan is outstanding.

"Lien": any mortgage, pledge, hypothecation, lien (statutory or other), judgment lien, security interest, security agreement, charge or other encumbrance, or other security arrangement of any nature whatsoever, including, without limitation, any installment contract, conditional sale or other title retention arrangement, any sale of accounts receivable or chattel paper, and any assignment, deposit arrangement or lease intended as, or having the effect of, security and the filing of any financing statement under the UCC or comparable law of any jurisdiction.

"Loan Documents": a collective reference to this Agreement, the Note, the Security Documents, the Guaranty, and all other documents, instruments, agreements and certificates evidencing or securing any advance hereunder or any obligation for the payment or performance thereof and/or executed and delivered in connection with any of the foregoing.

"Mandatory Prepayments: as defined in Section 2.4(b) hereof.

"Material Adverse Effect" or "Material Adverse Change": a material adverse effect on, or material adverse change in, (i) the business, operations or financial condition of Borrower, (ii) the ability of Borrower to perform its obligations under this Loan Agreement, the Note, or the other Loan Documents, or (iii) the Lender's ability to enforce the rights and remedies granted under this Agreement or the other Loan Documents, in all cases whether attributable to a single circumstance or event or an aggregation of circumstances or events, such that it is unable to utilize the essential remedies provided herein.

"Maturity Date": the date defined on Schedule 2.2 hereto, on which all principal, interest, premium, expenses, fees, penalties and other amounts due under the Note shall be finally due and payable.

"Management Agreement": the Services Agreement dated as of December 17, 1996 between the Borrower and the Guarantor.

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"Note": collectively, one or more promissory notes issued by Borrower to Lender pursuant to this Agreement, and all extensions, renewals, modifications, replacements, amendments, restatements and refinancings thereof.

"NTI": Northern Telecom Inc., a Delaware corporation.

"NTI Equipment": the equipment and licensed or sub-licensed software manufactured or supplied by NTI to Borrower at any time pursuant to the NTI Purchase Agreement or any purchase order issued by Borrower to NTI, including installation and construction services provided by NTI pursuant thereto.

"NTI Purchase Agreement": the NTI Purchase Agreement identified on Schedule 4.31 hereto, together with any amendments or supplements thereto, and any other purchase agreement between NTI and Borrower for Equipment.

"Obligations": all indebtedness, liabilities and obligations of Borrower to Lender of any class or nature, whether arising under or in connection with this Agreement and/or the other Loan Documents or otherwise, whether now existing or hereafter incurred, direct or indirect, absolute or contingent, secured or unsecured, matured or unmatured, joint or several, whether for principal, interest, fees, expenses, lease obligations, indemnities or otherwise, including, without limitation, future advances of any sort, all future advances made by Lender for taxes, levies, insurance and/or repairs to or maintenance of the Collateral, the unpaid principal amount of, and accrued interest on, the Note, and any expenses of collection or protection of Lender's rights, including reasonable attorneys' fees.

"Organizational Documents": with respect to a corporation, the articles of incorporation and by-laws of such corporation; with respect to a partnership, the certificate of partnership (or limited partnership, as applicable) and partnership agreement, together with the analogous documents for any corporate or partnership general partner; with respect to a limited liability company, the articles of organization and operating agreement of such limited liability company; and in any case, any other document governing the formation and conduct of business by such entity.

"Owners": all presently existing and future shareholders of Borrower and all other Persons with direct ownership interests in Borrower.

"Payment Date": as defined on Schedule 2.2 hereto.

"Payment Schedule": as defined on Schedule 2.2 hereto.

"PBGC": the Pension Benefit Guaranty Corporation established under Title IV of ERISA or any other governmental agency, department or instrumentality succeeding to its functions.

"Permits": all consents, licenses, notices, approvals, authorizations, filings, orders, registrations, and permits required by any Governmental Authority for the operation of the Equipment (excluding Regulatory Authorizations), issued or obtained as and when required in accordance with all Requirements of Law.

"Permitted Encumbrances": the Liens permitted under Section 8.2 hereof.

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"Person": an individual, corporation, limited liability company, partnership, business or other trust, unincorporated association, joint venture, joint-stock company, Governmental Authority or any other entity.

"Plan": any employee pension benefit plan to which Section 4021 of ERISA applies and (i) which is maintained for employees of Borrower or (ii) to which Borrower made, or was required to make, contributions at any time within the preceding five (5) years.

"Proceeds": as defined in Section 3.1 hereof.

"PUC": the public utilities commission for the state or any other jurisdiction in which the Borrower operates its telecommunications business or any portion of the Equipment is located, or any successor agency, and any

successor, in whole or in part, to its functions or jurisdictions.

"Qualifying Lease": a Lease to an Affiliate of Borrower in a form substantially similar to Exhibit E hereto.

"Regulatory Authorizations": all approvals, authorizations, licenses, filings, notices, registrations, consents, permits, exemptions, registrations, qualifications, designations, declarations, or other actions or undertakings now or hereafter made by, to or in respect of any telecommunications governmental or other regulatory authority, including, without limitation, any certificates of public convenience and all grants, approvals, licenses, filings and registrations from or to the FCC or PUC or under any Communications Law necessary in order to enable the Borrower to own and maintain the Equipment, and any authorizations specified on Schedule 1 hereto.

"Regulatory Event": any of the following events: (i) Lender becomes subject to regulation as a "carrier," a "telephone company," a "common carrier," a "public utility" under any applicable law or governmental regulation, federal, state or local, solely as a result of the transactions contemplated by this Agreement and the other Loan Documents, or (ii) Borrower becomes subject to regulation by any Governmental Authority in any way that is materially different from the regulation existing at the Closing Date and that could materially adversely affect Borrower's ability to perform its material obligations under the Loan Documents or Lender's rights thereunder, or (iii) the FCC or PUC issues an order revoking, denying or refusing to renew, or recommending the revocation, denial or non-renewal of, any Regulatory Authorization.

"Reportable Event": (i) a reportable event described in Section 4043 of ERISA and regulations thereunder, (ii) a withdrawal by a substantial employer from a Plan to which more than one employer contributes, as referred to in Section 4063(b) of ERISA, or (iii) a cessation of operations at a facility causing more than twenty percent (20%) of Plan participants to be separated from employment, as referred to in Section 4062(f) of ERISA.

"Required Consents": the Governmental Authority approvals or consents of other Persons required with respect to the Borrower's execution, delivery and performance of this Agreement and the other Loan Documents, as described in Section 4.4 hereto.

"Requirement of Law": as to any Person, the Organizational Documents of such Person, and any law, treaty, rule or regulation, or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its properties or

transactions or to which such Person or any of its property or transactions is subject, including without limitation, all applicable common law and equitable principles, all provisions of all applicable state and federal constitutions, statutes, rules, regulations and orders of governmental bodies, all Permits or Regulatory Authorizations issued to Borrower, all Communications Laws, and all Environmental Laws.

"Responsible Officer": with respect to a corporation, its Chairman, President or any Vice President, its Chief Financial Officer or Treasurer; with respect to a partnership, its general partner (or the President, any Vice President or Treasurer of any corporate general partner, as applicable); with respect to a limited liability company, a member or manager (or the Chairman, President, any Vice President, Chief Financial Officer or Treasurer of any corporate member or manager), or the President or any Vice President of any other Person.

"Security Documents": this Agreement, the Landlord Consents, all financing statements, and any other documents granting, evidencing, or perfecting any security interest or Lien with respect to or securing any of the Obligations.

"Site(s)": any of the sites where Equipment is or is to be located.

"Software" and "Software Licenses": any software now or hereafter owned by, or licensed to, Borrower or with respect to which Borrower has or may have license or use rights, which software is used in connection with the operation of Equipment.

"Subsidiary": as to any Person, any corporation or other entity that is an Affiliate of such Person and of which shares of stock or equity interests having ordinary voting power with respect to the election of one or more directors or other managers of such corporation are at the time directly or indirectly owned or controlled by such Person (regardless of any contingency which does or may suspend or dilute the voting rights of such class).

"System": the complete telecommunications network or system of which the Equipment forms or will form a part, as described on Schedule 1 hereto.

"Total Debt": at any time, the total outstanding liabilities of the Borrower, including, without limitation, current liabilities, long term Indebtedness, all lease obligations under finance leases, operating leases and/or capital leases, all Contingent Obligations, and all the Obligations.

"UCC": the Uniform Commercial Code as the same may from time to time be in effect in the State of New York, or the Uniform Commercial Code of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

"Working Capital": unencumbered and unrestricted capital of Borrower available for general operational purposes after provision for all current liabilities.

1.2 Accounting Principles; Subsidiaries. Except as otherwise provided in this Agreement, all computations and determinations as to accounting or financial matters and all financial statements to be delivered pursuant to this Agreement shall be made and prepared in accordance with GAAP (including principles of consolidation where appropriate), consistently applied, and all accounting or financial terms shall have the meanings ascribed to such terms by GAAP. If at any time Borrower has any Subsidiaries, all accounting and financial terms herein shall be deemed to include references to

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consolidated and consolidating principles, and covenants, representations and agreements with respect to the Borrower and its properties and activities shall be deemed to refer to the Borrower and its consolidated Subsidiaries collectively.

1.3 UCC Terms. Except as otherwise provided or amplified (but not limited) herein, terms used in this Agreement that are defined in Article 9 of the UCC shall have the same meanings herein.

1.4 General Construction; Captions. All definitions and other terms used in this Agreement shall be equally applicable to the singular and plural forms thereof, and all references to any gender shall include all other genders. The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, subsection, schedule and exhibit references are to this Agreement unless otherwise specified. The captions and table of contents in this Agreement and the other Loan Documents are for convenience only, and in no way limit or amplify the provisions hereof.

1.5 References to Documents and Laws. All defined terms and references in this Agreement or the other Loan Documents with respect to any agreements, notes, instruments, certificates or other documents shall be deemed to refer to such documents and to any amendments, modifications, renewals, extensions, replacements, restatements, substitutions and supplements of and to such documents. All references to statutes and related regulations shall include any amendments thereof and any successor statutes and regulations.

## ARTICLE 2: LOANS

2.1 Commitment. Subject to the terms and conditions herein provided, and so long as no Event of Default has occurred and is continuing hereunder, Lender agrees to lend to Borrower from time to time before the Financing Termination Date, an aggregate principal amount not to exceed the amount set forth on Schedule 2.1 hereto as the maximum principal amount (the "Commitment"). If Borrower or NTI should terminate the NTI Purchase Agreement at any time prior to

the Initial Payment Date, then the Commitment shall automatically terminate, subject to Lender's right to make further Advances hereunder, including, but not limited to, Advances under Section 2.3 hereof. All amounts advanced hereunder shall be used solely for the purchase of NTI Equipment and related services (exclusive of sales tax) from NTI, and amounts not exceeding the amount (if any) specified on Schedule 2.1 hereto may be used for legal fees, charges, expenses and closing costs and other expenses incurred by Borrower or incurred by Lender and payable by Borrower under Section 2.10 hereof.

## 2.2 Note and Payment Terms.

(a) Promissory Note. The Loans shall be evidenced by the Note substantially in the form of Exhibit A hereto, with appropriate insertions. The Note shall be executed by Borrower, payable to the order of Lender, and shall evidence the obligation of Borrower to repay all principal amounts advanced under or pursuant to this Agreement, together with interest and all other amounts due thereunder. The Note shall be dated the Closing Date, have a stated maturity that is the Maturity Date, and bear interest on amounts outstanding from time to time at the Interest Rate from the First Borrowing Date until the Note or any amount thereunder is paid in full (whether on the Maturity Date, by acceleration or otherwise). All schedules attached to the Note shall be deemed a part thereof. Any such schedule may be

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amended by Lender from time to time to reflect changes in the amounts of principal and interest due thereunder, but the failure to attach or amend any schedule shall not diminish the obligation of Borrower to repay all amounts due hereunder or on the Note.

(b) Interest Payments. Interest shall continue to accrue on the principal amount outstanding on the Note at the Interest Rate and shall be payable, in arrears, on each Interest Payment Date. Interest only shall be payable during the Interest Only Period, if any, and thereafter all accrued interest shall be payable, in arrears, with the principal payments described below.

(c) Principal Payments. On the Conversion Date, the Note shall automatically convert to a term note, and all principal amounts due with respect to the Note shall be payable in installments in accordance with the Payment Schedule set forth on Schedule 2.2 hereto, commencing on the Initial Payment Date and on each Payment Date thereafter until the Maturity Date. The amount of each such principal installment payment shall be calculated, at the outset, by taking the applicable percentage (as described on Schedule 2.2 hereto) of the amount of all principal amounts

outstanding on the Conversion Date; provided, however, that the principal payment amounts shall be recalculated by Lender (based on applicable percentages) if any Advances are made hereunder after the Conversion Date, based on the aggregate amount of all Advances made at any time. Borrower and Lender understand that this payment schedule is intended to amortize fully the principal amount of the Note and any other principal and interest amounts outstanding will be added to the final payment on the Maturity Date. In any event, the entire outstanding principal amount of the Note and all accrued but unpaid interest and all other outstanding amounts due thereunder shall be paid on the Maturity Date.

(d) Late Payments and Default Rate. Notwithstanding the foregoing, if Borrower shall fail to pay within ten (10) days after the due date any principal amount or interest or other amount payable under this Agreement or under the Note, Borrower shall pay to Lender, to defray the administrative costs of handling such late payments, an amount equal to interest on the amount unpaid, to the extent permitted under applicable law, at the Default Rate (instead of the Interest Rate), from the due date until such overdue principal amount, interest or other unpaid amount is paid in full (both before and after judgment) whether or not any notice of default in the payment thereof has been delivered under Section 9.1 hereof. In addition, but without duplication, upon the occurrence and during the continuance of an Event of Default, all outstanding amounts hereunder shall bear interest at the Default Rate (instead of the Interest Rate) until such amounts are paid in full or such Event of Default is cured by Borrower or waived in writing by Lender.

(e) Excess Interest. Notwithstanding any provision of the Note, this Agreement or any other Loan Document to the contrary, it is the intent of Lender and Borrower that Lender or any subsequent holder of the Note shall never be entitled to receive, collect, reserve or apply, as interest, any amount in excess of the maximum rate of interest permitted to be charged by applicable Law, as amended or enacted from time to time. In the event Lender, or any subsequent holder of the Note, ever receives, collects, reserves or applies, as interest, any such excess, such amount which would be excessive interest shall be deemed a partial prepayment of principal and treated as such, or, if the principal indebtedness and all other amounts due are paid in full, any remaining excess funds shall immediately be applied to any

other outstanding indebtedness of Borrower due to Lender, and if none is outstanding, shall be paid to Borrower. In determining whether or not the interest paid or payable, under any specific contingency, exceeds the highest lawful rate, Borrower and Lender shall, to the maximum extent

permitted under applicable law, (a) exclude voluntary prepayments and the effects thereof as it may relate to any fees charged by Lender, and (b) amortize, prorate, allocate, and spread, in equal parts, the total amount of interest throughout the entire term of the indebtedness; provided that if the indebtedness is paid and performed in full prior to the end of the full contemplated term hereof, and if the interest received for the actual period of existence hereof exceeds the maximum lawful rate, Lender or any subsequent holder of any Note shall refund to Borrower the amount of such excess or credit the amount of such excess against the principal portion of the indebtedness, as of the date it was received, and, in such event, Lender shall not be subject to any penalties provided by any laws for contracting for, charging, reserving or receiving interest in excess of the maximum lawful rate.

## 2.3 Procedures for Borrowing.

(a) Timing of Advances. Advances shall not be made more than once per calendar month, and all Advances in any calendar month shall be made on the same Borrowing Date. Each Advance (other than the last Advance) shall be in an aggregate principal amount of not less than \$100,000. No amounts may be borrowed hereunder on or after the Financing Termination Date. Lender is hereby authorized to retain from each Advance all amounts of Lender's Expenses accrued and unpaid by Borrower, for which invoices have been sent to Borrower at least five (5) Business Days before such Advance. In any event, all outstanding legal fees, charges and expenses not paid by Borrower prior to any Borrowing Date shall be paid before any Advance is made or concurrently with such Advance.

(b) Borrowing Certificates. To request an Advance hereunder, Borrower shall send to Lender, at least ten (10) Business Days prior to the requested Borrowing Date, a completed Borrowing Certificate, along with invoices and such other supporting documentation as Lender may reasonably request. Lender is hereby authorized to add to any Borrowing Certificate all amounts payable by Borrower to Lender in respect of legal fees, charges and expenses arising or incurred by Lender, to the extent such fees, charges and expenses have then been incurred or charged and may be paid from proceeds of the Loan.

(c) Transmission of Advances. Advances shall be made by wire transfer to the account(s) specified in the applicable Borrowing Certificate, except that (i) proceeds of the Loans may be transmitted, at Lender's option, directly to an NTI account for payment of any unpaid NTI invoices, and (ii) Advances shall be made to Borrower only to the extent that Borrower provides Lender with satisfactory evidence that the amount of such Advance has been paid to NTI. No further authorization shall be necessary for any such direct disbursements, and each such Advance shall satisfy pro tanto the obligations of the Lender under this Agreement.

(d) Borrowing Dates. Advances shall be made by Lender on the Borrowing Date specified in the applicable Borrowing Certificate if all conditions for such Advance have been satisfied, or on such later Business Date as all

conditions for such Advance shall have been satisfied, as determined by Lender.

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(e) Advances After Default. At its option, after the occurrence and continuance of a Default, Lender may but shall not be obligated to make advances of portions of the Loan proceeds to any Person (including without limitation NTI, suppliers, sub-contractors and materialmen) to whom Lender in good faith determines payment is due with respect to the Equipment, and any proceeds so disbursed by Lender shall be deemed disbursed as of the date on which the Person to whom payment is made receives the same. No further authorization from Borrower shall be necessary to warrant such direct advances, and the execution of this Loan Agreement by Borrower shall, and hereby does, constitute an irrevocable authorization and power of attorney so to advance proceeds hereunder. All such Advances shall satisfy pro tanto the obligations of Lender hereunder and shall be secured by the Security Documents as fully as if made directly to Borrower.

#### 2.4 Prepayments.

(a) Voluntary Prepayments. On or after the Initial Payment Date, the Borrower may, at its option, at any time and from time to time, prepay the Loans in whole or in part, upon at least thirty (30) Business Days prior written notice to the Lender specifying the date and amount of prepayment, in a minimum amount of \$1,000,000, plus the premium described below (if applicable), or the remaining amounts outstanding under this Agreement or the Note, if less, and all accrued but unpaid interest thereon. Such notice shall be irrevocable and the principal amount specified in such notice shall be due and payable on the date specified together with accrued interest on the amount prepaid. Amounts prepaid may not be reborrowed and shall be applied as provided in Section 2.4(c). In the event any prepayment is made or required to be made during any LIBOR Period (other than on an Interest Payment Date), Borrower shall pay a prepayment premium calculated in accordance with Schedule 2.2 hereto. No voluntary prepayments shall be permitted prior to the Initial Payment Date.

(b) Mandatory Prepayment. Upon Lender's demand, if Borrower leases any Equipment other than pursuant to a Qualifying Lease, or if any Lease ceases to be a Qualifying Lease, Borrower shall prepay the Loans to the extent proceeds thereof were used to purchase such Equipment and related Software. All such prepayments shall include all principal, accrued interest, prepayment premium (if any), and expenses then outstanding and due (the "Mandatory Prepayments")

(c) Application of Prepayments. Any prepayments shall be applied first to interest, then to premium, then to expenses, and then to the installments of principal in reverse chronological order.

2.5 Computation of Interest. Interest shall be calculated daily on the basis of a 360-day year for the actual days elapsed in the period during which it accrues.

2.6 Payments. All payments and prepayments to be made in respect of principal, interest, prepayment premiums or other amounts due from Borrower hereunder or under the Note shall be payable on or before 1:00 p.m., Nashville time, on the day when due, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue. Such payments shall be made to Lender at Lender's office at 220 Athens Way, Nashville, Tennessee 37228-1399, or by wire at the account of Lender at Bankers Trust Company, New York, New York, ABA Routing No. 021001033, Bank Account No. 50-232-803, or such other

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location specified in writing by Lender, in immediately available funds, without setoff, recoupment, counterclaims or any other deduction of any nature.

2.7 Indemnity. Borrower hereby indemnifies Lender against any losses, claims, penalties, expenses, actions, suits, obligations, liabilities and Liens (and all costs and expenses, including reasonable attorneys' fees incurred in connection therewith), that Lender has sustained or incurred or may sustain or incur in connection with any of the Collateral, or the enforcement, performance or administration of the Loan Documents or as a consequence of any default by Borrower in the performance or observance of any covenant or condition contained in this Agreement or the Loan Documents, including without limitation, the breach of any representation or warranty, any failure of Borrower to pay when due (by acceleration or otherwise) any principal, interest, fee or any other amount due hereunder or under the Note, the actions of any Affiliate pursuant to any Lease, or the failure of any Lease to be or remain a Qualifying Lease, and any failure of Borrower to comply with all applicable Requirements of Law (collectively, "Claims") except to the extent of any Claims caused solely by Lender's gross negligence or willful misconduct. Borrower's obligations under this Section 2.7 shall be part of the Obligations and shall be secured by the Collateral. Borrower agrees that upon written notice by Lender of the assertion of any Claims, Borrower shall, at Lender's option, either assume full responsibility for, or reimburse Lender for the reasonable costs and expenses of, the defense thereof. Lender shall have no liability for consequential or incidental damages of any nature. The provisions of this Section 2.7 shall survive the termination of this Agreement and payment of the Obligations.

2.8 Use of Proceeds. The proceeds of the Advances hereunder shall be used by Borrower only for the purposes and in the amounts described in Section 2.1 hereof, and no amounts repaid may be reborrowed.

2.9 Fees. Borrower shall pay Lender the fees described on Schedule 2.9 hereto in connection with this Agreement.

2.10 Lender's Expenses. Borrower agrees (a) to pay or reimburse Lender for all its reasonable costs, fees, charges and expenses incurred or arising in connection with the negotiation, review, preparation and execution of this Agreement, the Loan Documents, any commitment or proposal letter, or any amendment, supplement, waiver, modification to, or restructuring of this Agreement, the Obligations or the other Loan Documents, including, without limitation, reasonable legal fees and disbursements, expenses, document charges and other charges and expenses of Lender, (b) to pay or reimburse Lender for all its reasonable costs, fees, charges and expenses incurred in connection with the administration of the Loans or the enforcement, protection or preservation of any rights under or in connection with this Agreement or any other Loan Documents, including, without limitation, reasonable legal fees and disbursements, audit fees and charges, and all out-of-pocket expenses, (c) to pay, indemnify, and to hold Lender harmless from, any and all recording and filing fees and taxes and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and other taxes (excluding income and franchise taxes and taxes of similar nature), if any, which may be payable or determined to be payable in connection with the execution and delivery or recordation or filing of, or consummation of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement and the other Loan Documents. All of the amounts described in this Section are referred to collectively as the "Lender's Expenses", shall be payable upon Lender's demand, and shall accrue interest at the Interest Rate in effect when such demand is made from five (5) days after the date of

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demand until paid in full. All Lender's Expenses, and interest thereon, shall be part of the Obligations and shall be secured by the Collateral. The agreements in this Section 2.10 shall survive repayment of the Obligations. All Lender's Expenses that are outstanding on any Borrowing Date shall be paid before or with such advance. If Borrower has not paid to Lender the amount of all Lender's Expenses billed to Borrower at least five (5) Business Days before such Borrowing Date, Lender shall be authorized to retain from any Advance on such Borrowing Date the amount of such Lender's Expenses that remain unpaid. Borrower's obligation to pay Lender's Expenses shall not be limited by any limitation on the amount of the Commitment that may be designated as available for such purposes, and any amounts so designated shall be used to pay Lender's

Expenses accrued at the time of any Advance before any of Borrower's legal fees or similar expenses.

2.11 Guaranty. The Guarantor shall unconditionally guarantee prompt payment and performance of all the Obligations pursuant to the Guaranty, subject only to the limitations expressed therein..

### ARTICLE 3: COLLATERAL AND SECURITY AGREEMENT

3.1 Grant of Security Interest. Borrower (as debtor) hereby assigns to Lender as collateral, and grants to Lender (as secured party) a continuing security interest in and to, all of the Borrower's right, title and interest in and to the following kinds and types of property, whether now owned or hereafter acquired or arising, wherever located (collectively, the "Collateral"):

(a) All the equipment, goods and products of NTI and any and all additions, substitutions, and replacements to or of any of the foregoing, together with all attachments, components, parts, improvements, upgrades, and accessions installed thereon or affixed thereto, in each case to the extent that the purchase thereof by Borrower was financed with the proceeds of Advances made by Lender under this Agreement ("Equipment").

(b) All general intangibles and intangible property constituting part of, or provided by or through NTI in connection with, the Equipment, including without limitation the software and software licenses, other licenses, license rights, rights in intellectual property, computer programming (including source codes, object codes and all other embodiments of computer programming or information), warranties and indemnification rights, in each case to the extent that the purchase thereof by Borrower was financed with the proceeds of Advances made by Lender under this Agreement ("General Intangibles"); and

(c) All proceeds any of the foregoing ("Proceeds").

3.2 Priority of Security Interests. The security interests granted by Borrower to Lender are and shall be continuing and indefeasible first-priority security interests in the Collateral, subject to no Liens except for Liens permitted under Section 8.2 hereof.

3.3 Further Documentation; Pledge of Instruments. At any time and from time to time, upon the written request of the Lender, and at the sole expense of the Borrower, the Borrower shall promptly execute, deliver and record any documents, instruments, agreements and amendments, and take all such further action, as the Lender may reasonably deem desirable in obtaining the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, the filing

of any financing statements or amendments under the UCC. The Borrower also hereby authorizes the Lender to file any such financing statement or amendment thereto, without the signature of the Borrower, or with a copy or telecopy of the Borrower's signature, to the extent permitted by applicable law, or to execute any financing statement or amendment thereof on behalf of the Borrower as Borrower's attorney-in-fact. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any promissory note or other instrument or any certificated securities, such note, instrument or certificate shall be immediately pledged and delivered to the Lender hereunder, duly endorsed in a manner satisfactory to the Lender.

3.4 Further Identification of Collateral. Borrower shall furnish to the Lender from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Lender may reasonably request, all in reasonable detail.

3.5 Remedies. Lender shall have all the rights and remedies of a secured party under the UCC, and shall be entitled to exercise any and all remedies available under Article 9 hereof or otherwise available at law or in equity upon the occurrence of an Event of Default.

3.6 Standard of Care. Except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, Lender shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral. Lender shall be deemed to have exercised reasonable care in the custody and preservation of any of the Collateral in its possession if such Collateral is accorded treatment substantially equal to that which Lender accords its own property, and no failure of Lender to preserve or protect any rights with respect to such Collateral against prior parties, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Collateral.

3.7 Advances to Protect Collateral. All insurance expense and all expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping the Collateral (including, without limitation, all rent payable by Borrower to any landlord of any premises where any of the Collateral may be located), and, any and all taxes incurred in connection with the foregoing shall be borne and paid by Borrower. Lender may (but shall not be obligated to) make advances to preserve, protect or obtain any of the Collateral, including advances to cure defaults under any of the System Agreements or advances to pay taxes, insurance and the like, and all such advances shall become part of the Obligations owing to Lender hereunder and shall be payable to Lender on demand, with interest thereon from the date of such advance until paid at the Default Rate in effect on the date of such advance.

3.8 License to Use. Lender is hereby granted a license or other right to use, without charge, Borrower's and Affiliate's labels, patents, copyrights,

rights of use of any name, trade secrets, tradenames, trademarks and advertising matter, or any tangible or intangible property or rights of a similar nature, solely as it pertains to the Collateral, in advertising for sale and selling any Collateral, and Borrower's and Affiliate's rights under all licenses and franchise agreements with respect to the Collateral shall inure to Lender's benefit to the fullest extent permitted by applicable law.

#### ARTICLE 4: REPRESENTATIONS AND WARRANTIES

Borrower hereby represents and warrants to Lender as follows:

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4.1 Organization and Qualification. The Borrower and each Affiliate to which any Equipment is leased is duly organized, validly existing and in good standing as a corporation under the laws of its state of organization. Borrower each Affiliate to which any Equipment is leased is duly qualified to do business and in good standing in each jurisdiction in which the failure to receive or retain such qualification would have a Material Adverse Effect.

4.2 Authority and Authorization. Borrower has all requisite corporate right, power, authority and legal right to execute and deliver and perform its obligations under this Agreement, to make the borrowings provided for herein, and to execute and deliver and to perform its obligations under the Note. Borrower's execution, delivery and performance of the Basic Agreements have been duly and validly authorized by all necessary corporate proceedings on the part of Borrower. Each Affiliate to which any Equipment is leased has all requisite corporate right, power, authority and legal right to execute and deliver and perform its obligations under the applicable Lease.

4.3 Execution and Binding Effect. This Agreement, the Note and all other Basic Agreements have been or will be duly and validly executed and delivered by the Borrower, and constitute or, when executed and delivered will constitute, the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other laws affecting creditors' rights generally.

4.4 Governmental Authorizations. Except for the consents identified on Schedule 4.4 hereto (the "Required Consents"), no authorization, consent, approval, license, exemption or other action by, and no registration, qualification, designation, declaration or filing with, any Governmental Authority (other than the filing of financing statements and continuation statements) is or will be necessary in connection with execution and delivery of

this Agreement, the Note or any other Loan Documents by Borrower, or the execution or performance of any Lease by any Affiliate, consummation of the transactions herein or therein contemplated, performance of or compliance by Borrower or any Affiliate of Borrower with the terms and conditions hereof or thereof or the legality, validity and enforceability hereof or thereof.

4.5 Regulatory Authorizations. The Guarantor, Borrower and each Affiliate to which any Equipment is leased, holds all authorizations, permits and licenses required by the FCC or the PUC or any Communications Law for the use of the Equipment, and all such Regulatory Authorizations are in full force and effect, are subject to no further administrative or judicial review and are therefore final. Lender will not solely by reason of the execution, delivery and performance (other than the enforcement of remedies) of any of the Loan Documents, be subject to the regulation or control of either the FCC or the PUC.

4.6 Material Agreement; Absence of Conflicts. The execution and delivery of this Agreement, the Note and the other Loan Documents, the consummation of the transactions herein or therein contemplated and the performance of or compliance with the terms and conditions hereof or thereof by Borrower will not (a) materially violate any applicable Law; (b) conflict with or result in a material breach of or a default under the Organizational Documents of the Borrower or any agreement or instrument to which the Guarantor, Borrower or each Affiliate to which any Equipment is leased, is a party or by which it and its properties is bound; or (c) result in the creation or imposition of any Lien upon any property (now owned or hereafter acquired) of Borrower except as otherwise contemplated by this Agreement.

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4.7 No Restrictions. Borrower is not a party or subject to any contract, agreement, or restriction in its Organizational Documents that materially and adversely affects its business or the use or ownership of any of its properties or operation of its business. Neither of the Guarantor nor the Borrower is a party or subject to any contract or agreement which restricts its right or ability to incur Indebtedness, other than the Indenture or as set forth on Schedule 4.7, none of which prohibit the Borrower's execution of or compliance with this Agreement. Borrower has not agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of the Collateral, whether now owned or hereafter acquired, to be subject to a Lien that is not a Permitted Encumbrance.

4.8 Financial Statements. Borrower has furnished to Lender the most recent annual or quarterly financial statements (on a consolidated basis) of GST Telecommunications, the direct parent company of the Guarantor and the indirect parent company of Borrower. Borrower has also furnished Lender with a balance

sheet and income statement of the Borrower as of November 30, 1996, certified by a Responsible Officer of the Borrower, consisting of a balance sheet, attached as Schedule 4.8 hereof. Such financial statements (including, in the case of GST Telecommunications only, the notes thereto) present fairly the financial condition of GST Telecommunications and Borrower, as the case may be, as of the end of such fiscal periods and the results of their respective operations and the changes in their financial position for the fiscal period then ended, all in conformity with GAAP applied on a basis consistent with that of the preceding fiscal period, except that, in the case of the Borrower's financial statements, no notes to financials are contained in such financial statements. Any projections and pro forma financial statements delivered by Borrower to Lender were prepared in good faith, based on reasonable assumptions, including without limitation, the cost of capital. Borrower agrees and Lender acknowledges that such projections will be based on reasonable assumptions at the time of their preparation, but that there can be no assurance that such projections will be realized or that actual events will not result in variations from such projections.

4.9 Financial Accounting Practices. Borrower has made and kept books, records and accounts which, in reasonable detail, accurately and fairly reflect its respective transactions and dispositions of its assets, and Borrower shall maintain a system of internal accounting controls sufficient to provide reasonable assurances that (a) transactions are executed in accordance with management's general or specific authorization, (b) transactions are recorded as necessary (i) to permit preparation of financial statements in conformity with GAAP and (ii) to maintain accountability for assets, (c) access to assets is permitted only in accordance with management's general or specific authorization and (d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

4.10 Accurate and Complete Disclosure. No representation or warranty made by Borrower under this Agreement and no statement made by Borrower or by any Owner or Guarantor in any financial statement, certificate, report, exhibit or document furnished by Borrower or any Owner or Guarantor to Lender pursuant to or in connection with this Agreement (including without limitation any filings with the Securities Exchange Commission, the FCC or the PUC) is or was false or misleading as of the date made in any material respect (including by omission of material information necessary to make such representation, warranty or statement not misleading) in light of the circumstances in which it was made. There are no facts that evidence or create a Material Adverse Effect, or, so far as the Borrower can now foresee, will evidence or create a Material Adverse Effect, which has not been set forth in the financial statements referred to in Section 4.8 hereof or otherwise disclosed herein or in writing to the Lender prior to the First Borrowing Date.

4.11 No Event of Default; Compliance with Material Agreements. No event has occurred and is continuing and no condition exists which constitutes a Default or an Event of Default after giving effect to the Advance to be made on the First Borrowing Date. As of the date hereof, Borrower is not in violation of any term of its material agreements or instruments to which it is a party or by which it or its properties is bound.

4.12 Litigation. Except as set forth in Schedule 4.12, there is no pending action, suit or threatened proceeding by or before any Governmental Authority against or affecting Borrower or any of its properties, rights or licenses which if adversely decided would have a Material Adverse Effect.

4.13 Rights to Property; Intellectual Property. Borrower has good and marketable title, subject only to the Permitted Encumbrances, to the Collateral and to all personal and real property purported to be owned by it as reflected in the most recent balance sheet referred to in Section 4.8 hereof (except as sold or otherwise disposed of in the ordinary course of business as no longer used or useful in the conduct of the business). Borrower owns or possesses the right to use all patents, trademarks, service marks, trade names, copyrights, know-how, franchises, software and software licenses necessary for the operation of its business, free from burdensome restrictions.

4.14 Financial Condition. The Borrower's financial condition is accurately described in the Certificate of Financial Condition executed by Borrower pursuant hereto.

4.15 Taxes. Borrower's federal tax identification number is set forth on Schedule 1 hereto. All tax returns required to be filed by Borrower have been properly prepared, executed and filed, and all taxes, assessments, fees and other governmental charges upon Borrower or upon any of its respective properties, incomes, sales or franchises which are shown to be due and payable thereon have been paid, other than taxes or assessments the validity or amount of which Borrower is contesting in good faith. Any reserves and provisions for taxes on the books of Borrower are adequate for all open years and for its current fiscal period.

4.16 No Material Adverse Change. Since the date of the financial statements referenced in Section 4.8, there has been no Material Adverse Change.

4.17 No Regulatory Event. No Regulatory Event has occurred and is continuing.

4.18 Trade Relations. There exists no actual or threatened termination, cancellation or limitation of, or any modification or change in, the business relationship between Borrower or any Affiliate to which any Equipment is leased, and any Carrier, any labor organizations, any customer or any group thereof, which individually or in the aggregate, if terminated, cancelled, or so limited

or modified and would have a Material Adverse Effect on the business of Borrower or the Guarantor, or with any material Supplier, and there exists no present condition or state of facts or circumstances which would have a Material Adverse Effect on or prevent Borrower from conducting its business after the consummation of the transaction contemplated by this Agreement.

4.19 No Brokerage Fees. No brokerage or other fee, commission or compensation is to be paid by Borrower to any Person in connection with the loans to be made hereunder. Borrower hereby indemnifies Lender against any claims brought against Lender for brokerage fees or commissions of any Person based on an agreement with Borrower and agrees to pay all expenses incurred by Lender

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in connection with the defense of any action or proceeding brought to collect any such brokerage fees or commissions.

4.20 Margin Stock; Regulation U. Borrower is not engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock. The making of the Advances and the use of the proceeds thereof will not violate Regulations G, U or X of the Board of Governors of the Federal Reserve System.

4.21 Investment Company; Public Utility Holding Company. Borrower is not an "investment company" or a "company controlled by an investment company" within the meaning of the Investment Company Act of 1940, as amended, or a "holding company," or a "subsidiary company" of a "holding company," or an "affiliate" of a "holding company" or of a "subsidiary company" of a "holding company," within the meaning of the Public Utility Holding Company Act of 1935, as amended.

4.22 Personal Holding Company; Subchapter S. Borrower is not a "personal holding company" as defined in Section 542 of the Code, and Borrower is not a "Subchapter S" corporation within the meaning of the Code.

4.23 ERISA. (i) With respect to any Plan, to the Borrower's knowledge, there is no Reportable Event currently under consideration by the PBGC which may reasonably result in any material liability to the PBGC with respect to any Plan, (ii) no Plan has been terminated, (iii) no trustee has been appointed by any United States District Court to administer any Plan, (iv) the PBGC has not instituted proceedings to terminate any Plan or to appoint a trustee to administer any such Plan, (v) neither the Borrower nor any Affiliate to which Equipment is being leased has withdrawn, completely or partially, from any Plan and (vi) neither the Borrower nor any Affiliate to which Equipment is being leased has incurred secondary liability for withdrawal liability payments under any Plan.

4.24 Environmental Warranties. Borrower is in compliance with all Environmental Laws applicable to Borrower or its business or to the real or personal property owned, leased or operated by Borrower. Borrower has not received notice of, and is not aware of, any violations or alleged violations, or any liability or asserted liability, under any such Environmental Laws, with respect to Borrower or its business or its properties.

4.25 Security Interests. The provisions of Article 3 hereof are effective to create in favor of Lender a legal, valid and enforceable Lien on or security interest in all of the Collateral, and, when the recordings and filings described on Schedule 4.25 hereto have been effected in the public offices listed on said Schedule 4.25 (in each case, as such Schedule may be amended from time to time), this Agreement will create a perfected first-priority security interest in all right, title, estate and interest of Borrower in the Collateral, and subject to no other Liens except for Permitted Encumbrances. All action necessary or desirable to protect and perfect such security interest in each item of the Collateral will have been duly taken prior to the First Borrowing Date. The recordings and filings shown on said Schedule 4.25 (as such Schedule may be amended from time to time) are all the actions necessary or advisable in order to establish, protect and perfect the security interest of Lender in the Collateral granted hereunder.

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4.26 Place of Business. The chief executive offices of Borrower and each Affiliate to which Equipment will be leased are identified on Schedule 4.26 hereto (as such Schedule may be amended from time to time). The Borrower's principal place of business in the state(s) where the Equipment is to be located is identified on Schedule 4.26 hereto. The Borrower's records concerning the Collateral are kept at its principal place of business.

4.27 Location of Collateral. The Collateral is and will be kept at the locations identified on Schedule 4.26 hereto (as such Schedule may be amended from time to time) or such other locations as may be permitted under Section 8.12.

4.28 Clear Title To Collateral. The Borrower is the sole owner of each item of the Collateral, having good and marketable title thereto, free and clear of any and all Liens, claims, or rights of others, except for the security interest granted herein to the Lender and the other Permitted Encumbrances.

4.29 Assumed Names. Except as set forth on Schedule 4.29 hereto, neither Borrower nor any Affiliate to which any Equipment is leased conducts business under any assumed names or trade names, and has not conducted business under any

other names, or any assumed names or trade names, at any time prior to the date hereof.

4.30 Transactions with Affiliates. No Affiliate and no officer, director or Owner of Borrower or any individual related by blood, marriage, adoption or otherwise to any such officer, director or Owner, or any Person in which any such officer, director, Owner or individual related thereto owns any beneficial interest, is a party to any agreement, contract, commitment or transaction with the Borrower or has any material interest in any material property used by the Borrower, except for Qualifying Leases or as set forth on Schedule 4.30 hereto.

4.31 NTI Purchase Agreement. The NTI Purchase Agreement has been duly executed and delivered by the Borrower and NTI, is in full force and effect, and a true, correct and complete copy thereof (including all annexes, attachments and amendments thereto) has been delivered to Lender, and there are no other side letters, waivers or other agreements affecting the terms thereof.

#### ARTICLE 5: CONDITIONS OF CLOSING

On or before the Closing Date, the following conditions shall have been satisfied:

5.1 Closing Certificates. A certificate of Borrower signed by a duly authorized Responsible Officer, certifying as to (i) true copies of Organizational Documents of Borrower in effect on such date; (ii) true copies of all corporate action taken by Borrower relative to this Agreement, the Note and the other Loan Documents; and (iii) the names, true signatures and incumbency of the Responsible Officers of Borrower authorized to execute and deliver this Agreement, the Note and the other Loan Documents.

5.2 Opinion of Counsel. Lender shall have received a written opinion of counsel for Borrower and the Guarantor, substantially in the form of Exhibit C hereto, dated as of the Closing Date.

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5.3 Closing Documents. Lender shall have received the following documents, all in form and substance satisfactory to Lender:

- (a) Agreement. This Agreement, duly executed by Borrower;
- (b) Note. The Note, duly executed by Borrower;
- (c) Financing Statements. All UCC-1 financing statements necessary to

perfect the Liens granted hereby will be duly executed by Borrower and duly recorded in all the offices identified on Schedule 4.25 hereto in accordance with Section 6.2(k) hereof;

(d) NTI Purchase Agreement. A copy of the executed NTI Purchase Agreement;

(e) Insurance. Policies and certificates of insurance required by Section 7.7, accompanied by evidence of the payment of the premiums therefor;

(f) Financial Statements. The financial statements described in Section 4.8 hereof;

(g) Balance Sheet. A balance sheet of the Borrower, dated as of the end of the month preceding the Closing Date, certified by a Responsible Officer as fairly presenting the financial condition of the Borrower.

(h) Certificate of Financial Condition. A Certificate of Financial Condition, duly executed by a Responsible Officer of the Borrower.

(i) Pre-Closing Lien Searches. Lien searches from all jurisdictions reasonably determined by Lender to be appropriate, effective as of a date reasonably close to the Closing Date, reflecting no other Liens (other than Permitted Encumbrances) on any of the Collateral.

(j) Guaranty. The Guaranty, duly executed by Guarantor, substantially in the form of Exhibit F.

(k) Leases. Copies of all executed Leases, each of which must be a Qualifying Lease in substantially the form of Exhibit E hereto.

(l) Lease Schedule. An updated Schedule 4.30, which contains an accurate list of all executed and proposed Leases and their status.

## ARTICLE 6: CONDITIONS OF LENDING

6.1 Conditions for Initial Advance. On or before the First Borrowing Date, the following conditions shall have been met:

(a) Post-Closing Lien Searches. Lender shall have received satisfactory results of Lien searches in all jurisdictions reasonably determined by Lender to be appropriate, reflecting the filing of financing statements in favor of Lender pursuant hereto and no other Liens other than Permitted Encumbrances in accordance with Section 6.2(k) hereof.

(b) Required Consents. Lender shall have received satisfactory evidence of the Borrower's obtaining the Required Consents.

(c) Fees. Lender shall have received the fee(s) described in Section 2.9 hereof.

(d) Lease Schedule. An updated Schedule 4.30, which contains an accurate list of all executed and proposed Leases and their status.

6.2 Conditions for All Advances. The obligation of Lender to make any Advance hereunder is subject to the Borrower's performance of its obligations hereunder on or before the date of such Advance, and to the satisfaction of the following further conditions on or before the Borrowing Date for any Advance, including the first Advance:

(a) Filings, Registrations and Recordings. Any financing statements or other recordings required hereunder shall have been properly filed, registered or recorded in each office in each jurisdiction required in order to create in favor of the Lender a perfected first- priority Lien on the Collateral, subject to no other Lien; the Lender shall have received acknowledgment copies of all such filings, registrations and recordations stamped by the appropriate filing officer; and Lender shall have received results of searches of such filing offices, and satisfactory evidence that any other Liens (other than Permitted Encumbrances) on the Collateral have been duly released, that all necessary filing fees, recording fees, taxes and other expenses related to such filings, registrations and recordings have been paid in full.

(b) Borrowing Certificate. Lender shall have received a duly executed Borrowing Certificate in the form of Exhibit B, including a detailed itemization of all costs of goods and services to be paid with the proceeds of the Advance and accompanied by supporting documentation reasonably satisfactory to Lender.

(c) Reporting Requirements. Borrower shall have provided Lender with all relevant reports and information required under Article 7 hereof.

(d) No Regulatory Event. No Regulatory Event (in either Borrower's or Lender's reasonable determination) shall have occurred and be continuing or would exist upon the consummation of transactions to occur on such Borrowing Date.

(e) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing or would exist upon the consummation of transactions to occur on such Borrowing Date.

(f) No Material Adverse Change. No Material Adverse Change shall have

occurred, or would occur after giving effect to such Advance, since the date of the last financial statements delivered to Lender pursuant to Section 4.8 or 7.1 hereof.

(g) Representations and Warranties. The representations and warranties contained in Article 4 hereof shall be true in all material respects on and as of the date of each such Advance hereunder.

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(h) Lender's Expenses. All closing costs, and other Lender's Expenses shall have been paid in full, (or shall be paid first from such Advance as provided in Section 2.3 hereof).

(i) Details, Proceedings and Documents. All legal details and proceedings in connection with the transactions contemplated by this Agreement shall be reasonably satisfactory to Lender and Lender shall have received all such counterpart originals or certified or other copies of such documents and proceedings in connection with such transactions, in form and substance reasonably satisfactory to Lender, as Lender may from time to time request.

(j) Lease Schedule. An updated Schedule 4.30, which contains an accurate list of all executed and proposed Leases and their status.

(k) Post-Closing Items. The post-closing items described on Schedule 6.2 hereto, if any, shall have been completed in the time permitted, and Borrower shall have provided Lender with satisfactory evidence thereof.

6.3 Affirmation of Representations and Warranties. Any Borrowing Certificate or other request for any Advance hereunder shall constitute a representation and warranty that (a) the representations and warranties contained in Article 4 hereof are true and correct in all material respects on and as of the date of such request with the same effect as though made on and as of the date of such request and (b) on the date of such request no Default or Event of Default has occurred and is continuing or exists or will occur or exist after giving effect to such Advance (for this purpose such Advance being deemed to have been made on the date of such request). Failure of Lender to receive notice from Borrower to the contrary before such Advance is made shall constitute a further representation and warranty by Borrower that (x) the representations and warranties of Borrower contained in the first sentence of this Section 6.3 are true and correct on and as of the date of such Advance with the same effect as though made on and as of the date of such Advance and (y) on the date of the Advance no Default or Event of Default has occurred and is continuing or exists or will occur or exist after giving effect to such Advance.

6.4 Deadline for Funding Conditions. Lender shall have no obligation to make any Advances hereunder if all of the conditions set forth in Article 5 and in Sections 6.1 and 6.2 hereof have not been fully satisfied or waived by Lender.

#### ARTICLE 7: AFFIRMATIVE COVENANTS

Borrower hereby agrees that as long as the commitment hereunder remains in effect, the Note remains outstanding or unpaid or any other amount is owing to Lender hereunder or under any of the Loan Documents, Borrower shall keep and perform fully each and all of the following covenants:

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##### 7.1 Reporting and Information Requirements.

(a) Annual and Other Reports. Promptly after GST Telecommunications files its Form 10-K, Form 10-Q or any other report or registration statement containing financial information with the Securities and Exchange Commission, Borrower shall furnish or cause to be furnished to Lender such report or registration statement. Each Form 10-K of GST Telecommunications delivered to Lender shall contain the requisite consolidated financial statements of GST Telecommunications and contain a report of an independent public accounting firm of recognized national standing selected by GST Telecommunications and reasonably satisfactory to Lender, which report shall be without qualification that causes or would reasonably be expected to cause a Material Adverse Effect. At such time as Borrower is required to deliver to Lender any Form 10-K filed by GST Telecommunications with the Securities and Exchange Commission, Borrower shall also provide Lender with separate unaudited annual financial statements of Borrower as of the close of the same annual period. At such time as Borrower is required to deliver to Lender any Form 10-Q filed by GST Telecommunications with the Securities and Exchange Commission, Borrower shall also provide Lender with separate unaudited quarterly financial statements of Borrower consisting of balance sheet and related statement of income, retained earnings and changes in financial position as of the close of the same quarterly period.

(b) Compliance Certificates. Within sixty (60) days after the end of each Calendar Quarter (other than fiscal year end), Borrower shall deliver to Lender a certificate dated as of the end of such Calendar Quarter, signed on behalf of Borrower by a Responsible Officer of Borrower (i) stating that as of the date thereof no Event of Default has occurred and is continuing or exists, or if an Event of Default has occurred and is

continuing or exists, specifying in detail the nature and period of existence thereof and any action with respect thereto taken or contemplated to be taken by Borrower; and (ii) stating that the signer has personally reviewed this Agreement and that such certificate is based on an examination made by or under the supervision of the signer sufficient to assure that such certificate is accurate.

(c) Projections. If requested by Lender, Borrower shall deliver to Lender within thirty (30) days prior to the beginning of each calendar year projections of its anticipated income, expenses, cash flow, assets and liabilities for each month of such calendar year, prepared in good faith and in a manner and format consistent with other financial statements provided by Borrower to Lender. Such projections shall present fairly the anticipated financial condition of the Borrower and shall be certified by a Responsible Officer of the Borrower. Borrower agrees and Lender acknowledges that such projections will be based on reasonable assumptions at the time of their preparation but that there can be no assurance that such projections will be realized or that actual events will not result in variations from such projections. Upon Lender's request, or following any material change in the Borrower's financial condition or business, such reports shall be provided to Lender quarterly, within thirty (30) days prior to the beginning of each Calendar Quarter.

(d) Other Reports and Information. Promptly upon their becoming available to Borrower, Borrower shall deliver to Lender copies of (i) all regular or special reports or effective registration statements which Borrower shall file with Governmental Authorities, the FCC or the PUC (or any successor thereto) or any securities exchange, (ii) financial statements, material reports, and other information distributed by Borrower to its creditors or

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the financial community in general, and (iii) all press releases issued by or concerning Borrower or the System.

(e) Further Information. Borrower will promptly furnish to Lender such other information (including any report by independent auditors) in such form as Lender may reasonably request.

7.2 Other Notices. Promptly upon a Responsible Officer of Borrower becoming aware of any of the following, Borrower shall give Lender notice thereof, together with a written statement of a Responsible Officer of Borrower setting forth the details thereof and any action with respect thereto taken or contemplated to be taken by Borrower:

(a) a Default or Event of Default;

(b) any Material Adverse Change;

(c) a material default or breach by Borrower or any Affiliate which is leasing any Equipment under any other obligation the default under which would cause a Material Adverse Effect, to which it is a party or by which it or its properties is bound;

(d) any event that the Borrower reasonably determines would constitute a Regulatory Event with respect to the Borrower or any Affiliate which has leased any Equipment;

(e) the commencement, existence or threat of any proceeding by or before any Governmental Authority against Borrower which, if adversely decided, would have a Material Adverse Effect;

(f) Borrower's receipt of any notice of violation of, or liability under, any Environmental Laws affecting Borrower or any Affiliate which has leased any Equipment or any of its properties;

(g) the failure of any Lease to be or remain a Qualifying Lease;

(h) any Change in Control or any material change in the management of Borrower or the Guarantor;

(i) Borrower's entering into any transaction with any Affiliate of Borrower other than (a) the Management Services Agreement or (b) any Qualifying Lease; or

(j) any change in Borrower's Certificate of Incorporation or By-Laws.

7.3 Notice of Pension-Related Events. The Borrower shall promptly furnish Lender with written notice upon the receipt by the Borrower or the administrator of any Plan of any notice, correspondence or other communication from the PBGC, the IRS, the Secretary of Treasury, the Department of Labor, or any other Person, as the case may be, relating to (i) any Reportable Event, (ii) any funding deficiency with respect to any Plan, (iii) any liability, either primary or secondary, with respect to complete or partial withdrawal from any Plan, (iv) proceedings to terminate any Plan

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or (v) the appointment of a trustee for any Plan. Such notice shall be accompanied by any pertinent documents including, but not limited to, the relevant notice, correspondence or other communication and a statement of a

Responsible Officer of the Borrower describing the event or the action taken and the reasons therefor.

7.4 Inspection Rights. Borrower shall upon reasonable notice permit such persons as Lender may designate to visit and inspect the Collateral or any other properties of Borrower, to examine its books and records and take copies and extracts therefrom and discuss its respective affairs with its officers, employees and independent engineers at such times and as often as Lender may reasonably request. Borrower hereby authorizes such officers, employees, and independent engineers to discuss with Lender the affairs of Borrower.

7.5 Preservation of Corporate Existence and Qualification. Borrower and each Affiliate which leases any Equipment shall maintain its existence, good standing and rights in full force and effect in its jurisdiction of organization. Borrower shall qualify to do business and remain qualified and in good standing and shall obtain all necessary authorizations to do business in each jurisdiction in which failure to receive or retain such would have a Material Adverse Effect.

7.6 Continuation of Business. Borrower and any Affiliate which leases any Equipment shall continue to engage solely in the business described on Schedule 1 hereto, and shall acquire and maintain in full force and effect all rights, privileges, franchises and licenses necessary for the operation and maintenance of the System (including, without limitation any license or authorization required by the FCC or any PUC).

#### 7.7 Insurance.

(a) Borrower shall provide and maintain or cause to be maintained at all times insurance in such forms and covering such risks and hazards and in such amounts and with an insurance corporation with a Best rating of "A" or above, licensed to do business in the states where the System and the Borrower are located, including coverage of all leased Equipment, as shown on Schedule 7.7 hereto, and otherwise as may be required by the Security Documents.

(b) Borrower shall cause (i) all physical damage insurance policies to contain a lender's or mortgagee's loss payable provision acceptable to Lender with respect to the Collateral, and (ii) all such insurance policies to provide that no assignment, cancellation, modification, reduction in amount or adverse change in coverage thereof shall be effective until at least thirty (30) days after receipt by Lender of written notice thereof, (iii) all such insurance policies to insure the interests of Lender with respect to the Collateral regardless of any breach of or violation by Borrower of any warranties, declarations or conditions contained therein and (iv) all such insurance policies to provide that Lender shall have no obligation or liability for premiums, commissions, assessments or calls in connection with such insurance. Lender shall be under no obligation to verify the adequacy or existence of any insurance coverage. Borrower shall furnish Lender copies of, or acceptable certificates with respect to, all such policies prior to the Closing Date, and shall provide to Lender, at

least thirty days prior to each policy expiration date, evidence of the insurance being maintained by Borrower in compliance with this Section 7.7(b).

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(c) If the Collateral is partially or totally damaged or destroyed, Borrower shall give prompt notice to Lender, and all insurance proceeds, less the costs of collection thereof, shall be paid to or retained by Lender. Settlements, adjustments or compromises of any claims for loss, damage or destruction to the Collateral shall be made by Borrower and Lender as long as no Event of Default has occurred and is continuing, and otherwise shall be made solely by Lender. Borrower hereby authorizes and directs any affected insurance company to pay such proceeds directly to Lender, and to rely on Lender's statement as to whether an Event of Default has occurred. Borrower shall pay all costs of collection of insurance proceeds payable on account of such damage or destruction. If no Default or Event of Default has occurred and is continuing on the date the Collateral is partially or totally damaged or destroyed, Lender shall make available to Borrower the proceeds of any physical damage insurance actually paid to Lender in respect of such damage or destruction of the Collateral (after deducting therefrom any sums retained by Lender in reimbursement for Lender's costs of collection) to pay the cost of restoration, and Borrower shall proceed promptly with the work of restoration of the Collateral and shall pursue the work of restoration diligently to completion. Any insurance proceeds remaining after completion of work or restoration shall be paid over to Borrower. Upon completion of any restoration, Borrower shall deliver to Lender a certificate stating that the restoration has been duly completed and accounting for the use of any insurance proceeds in such restoration. If any Default or Event of Default has occurred and is continuing either on the date of such damage or destruction or on the date such insurance proceeds are paid, or if any Default or Event of Default shall occur prior to completion of such work of restoration, then Lender, at its option, may apply such insurance proceeds in payment of any of the Obligations, in such order as Lender may elect in its sole discretion.

7.8 Payment of Taxes, Charges, Claims and Current Liabilities. Borrower shall pay or discharge:

(a) on or prior to the date on which penalties thereto accrue, all taxes, assessments and other government charges or levies imposed upon it or any of its properties or income or any Equipment, Software or other Collateral (including such as may arise under Section 4062, Section 4063 or Section 4064 of ERISA, or any similar provision of law);

(b) on or prior to the date when due, all lawful claims of materialmen, mechanics, carriers, warehousemen, and other like persons which could result in creation of a Lien upon any such property;

(c) on or prior to the date when due, all other lawful claims which, if unpaid, might result in the creation of a Lien upon any such property (other than Permitted Encumbrances) or which, if unpaid, might give rise to a claim entitled to priority over general creditors of Borrower in a case under Title 11 (Bankruptcy) of the United States Code, as amended, or in any insolvency proceeding or dissolution or winding-up involving Borrower or any Affiliate which leases any Equipment; and

(d) all other material current liabilities of Borrower so that none is overdue more than sixty (60) days.

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Notwithstanding the foregoing, Borrower shall be entitled to contest or appeal the requirements of any Law or Governmental Authority or the payment of any tax, assessment, charge, levy or claim, or any judgment entered against the Borrower (collectively, in this Section 7.8, the "requirements"), and such occurrence shall not constitute a Default or an Event of Default as long as (i) such requirements are being contested in good faith by appropriate proceedings diligently conducted; (ii) Borrower has given Lender written notice of such requirements and its intent to contest them, with supporting reasons for such contest, before the addition of any interest or penalties that may accrue on such requirements; (iii) Borrower maintains adequate cash reserves and makes other appropriate provisions as may be required by GAAP to provide for any liability arising from such requirements; (iv) the contesting of, or failure to comply with, such requirements does not in any way jeopardize the Borrower's ability or authority to operate all or any part of the Collateral or the continuing priority of Lender's security interests in the Collateral; (v) the contesting of, or failure to comply with, such requirements does not have a Material Adverse Effect; and (vii) any foreclosure, attachment, execution, sale or similar proceeding against the Borrower or any of its properties in connection with any such requirements is duly stayed by posting of a bond or security deposit or by other action sufficient under applicable law to stay such foreclosure, attachment, execution, sale or other proceedings.

7.9 Financial Accounting Practices. Borrower shall make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect its transactions and dispositions of its assets and maintain a system of internal accounting controls sufficient to provide reasonable assurances that (a) transactions are executed in accordance with management's general or specific authorization, (b) transactions are recorded as necessary (i) to permit

preparation of financial statements in conformity with GAAP and (ii) to maintain accountability for assets, (c) access to assets is permitted only in accordance with management's general or specific authorization and (d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

7.10 Compliance with Laws. Borrower shall comply and shall cause any Affiliate which leases any Equipment to comply in all respects with all Laws applicable to Borrower or such Affiliate, provided that Borrower shall not be deemed to be in violation of this Section 7.10 as a result of any failure to comply which would not result in any liability or exposure to Lender or any fines, penalties, injunctive relief or other civil or criminal liabilities which, in the aggregate, would have a Material Adverse Affect on the business, operations or financial condition of Borrower or such Affiliate or the ability of Borrower or such Affiliate to perform its obligations under this Agreement, or any Lease, or the Note.

7.11 Use of Proceeds. Borrower shall use the proceeds of Advances hereunder only as set forth in Section 2.1 hereof.

7.12 Government Authorizations; Regulatory Authorizations, Etc. Borrower and each Affiliate which is leasing any Equipment shall at all times obtain and maintain in force all Regulatory Authorizations and all other authorizations, permits, consents, approvals, licenses, exemptions and other actions by, and all registrations, qualifications, designations, declarations and other filings with, any Governmental Authority necessary in connection with execution and delivery of this Agreement, or any Lease, or the Note, consummation of the transactions herein or therein contemplated, performance of or compliance with the terms and conditions hereof or thereof or to ensure the legality, validity and enforceability hereof or thereof.

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7.13 Contracts and Franchises. Borrower shall comply with all agreements or instruments to which it is a party or by which it or any of its properties (now owned or hereafter acquired) may be subject or bound and shall maintain any and all franchises it may have or hereafter acquire, provided that Borrower shall not be deemed to be in violation of this Section 7.13 as a result of any failure to comply with any agreement if such failure would not have Material Adverse Effect.

7.14 Consents. Borrower shall obtain Landlord's Consents for each location identified under Schedule 4.26 within 30 days following the Closing Date and will use its best efforts to obtain such other third party consents (which efforts shall not require the payment of any amounts to such third party) as

Lender shall reasonably request to protect its Liens and its access to the Collateral. Borrower's failure to obtain a Landlord's Consent from a particular owner/landlord, sublessor and/or licensor of any real property where any of the Collateral is to be located shall not constitute a Default or an Event of Default if Guarantor agrees in writing to indemnify Lender against all costs and expenses (including reasonable attorney's fees and expenses) incurred by Lender in any action by Lender against such owner/landlord, sublessor and/or licensor to enforce or protect Lender's rights in the Collateral.

7.15 Construction and Storage. The Collateral shall be installed and equipped in full compliance with the Requirements of Law affecting the Collateral except to the extent a failure to so comply would not have a Material Adverse Effect on the construction or operation of the Collateral. All Equipment financed with the proceeds of the Loan shall be safeguarded and stored until installed in appropriate storage facilities owned or leased by Borrower. In the event of any cessation of construction for more than fifteen (15) successive calendar days, Borrower shall make adequate provision, reasonably acceptable to Lender, for the protection of all Collateral stored on site against deterioration, loss or damage.

7.16 Upgrade NTI Equipment. Borrower shall update or cause to be updated the software used with any Equipment with software customarily used in equipment of the same type as such Equipment within two releases of the most current batch change supplement release. Borrower shall maintain the Equipment in good working order and shall upgrade its functionality to include batch change supplements releases generally available to NTI customers and batch change supplements upgrades included in the original purchase price of the NTI Purchase Agreement in the form in effect on the Closing Date.

#### ARTICLE 8: NEGATIVE COVENANTS

Borrower hereby agrees that so long as the Commitment hereunder remains in effect or the Note remains outstanding and unpaid or any other amount is owing to Lender hereunder or under any of the Loan Documents, Borrower shall not directly or indirectly without prior written consent of Lender, do or permit to exist any of the following:

8.1 Additional Indebtedness. Create, incur, assume or suffer to exist at any one time any Indebtedness other than any Indebtedness (i) owed by any Affiliate of the Borrower and (ii) described in Schedule 8.1 hereto.

8.2 Restrictions on Liens and Sale of Collateral. Create or suffer to exist any Lien on the Collateral, or any part thereof, whether superior or subordinate to the Lien of the Security Documents,

or assign, convey, sell or otherwise dispose of or encumber its interest in the Collateral, or any part thereof (including, without limitation, execution of any lease), nor permit any such action to be taken, except for the following permitted dispositions and encumbrances (the "Permitted Encumbrances"): (i) the Lien created hereby and any purchase money Liens in favor of NTI created by the NTI Purchase Agreement; (ii) Liens for taxes not yet due, or which are being contested in good faith and by appropriate proceedings in accordance with Section 7.8 hereof; (iii) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are overdue for a period not longer than sixty (60) days or which are being contested in good faith and by appropriate proceedings in accordance with Section 7.8 hereof; (iv) pledges or liens in connection with workers' compensation, unemployment insurance and other social security legislation; (v) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business; (vi) easements, rights-of-way, restrictions and other similar encumbrances that are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of Borrower; (vii) judgment liens with respect to which execution has been stayed within ten (10) days by appropriate judicial proceedings and the posting of adequate security which may not be any of the Collateral; (viii) Qualifying Leases; and (ix) specific liens, if any, identified on Schedule 8.2 hereto.

8.3 Limitation on Contingent Obligations. Agree to, or assume, guarantee, endorse or otherwise in any way be or become responsible or liable for, directly or indirectly, any Contingent Obligation except for (i) those created or contemplated by the Loan Documents, and (ii) Contingent Obligations in respect of any Affiliate of the Borrower.

8.4 Fees and Commissions. Without Lender's prior written consent, which will not be unreasonably withheld, obligate itself to pay fees, expenses and/or commissions (other than management fees paid in the ordinary course of business) in connection with any sale of equity interests, placement of debt or other financial transaction with any entity other than the Lender or an Affiliate of the Lender.

8.5 Prohibition of Mergers, Acquisitions, Name, Office or Business Changes, Etc.

(a) Enter into or become the subject of, any transaction of merger, acquisition or consolidation or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or convey, sell, lease, transfer or otherwise dispose of, in one transaction or a series of transactions, any of the Collateral.

(b) Change its name or corporate structure without giving Lender at

least thirty (30) days advance written notice of such change, and ensuring that any steps that Lender may deem necessary to continue the perfection and priority of Lender's security interests in the Collateral shall have been taken.

(c) Change the fiscal year end of Borrower from September 30, except with the prior written consent of Lender, which consent shall not be unreasonably withheld.

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(d) Amend, restate or otherwise modify, or violate any terms of, its Organizational Documents without the prior written consent of Lender, which consent will not be unreasonably withheld.

(e) Conduct any business other than that expressly permitted by the Borrower's Articles of Incorporation.

8.6 Prohibition Against Changes to Leases. Permit or acquiesce in any change, waiver or other alteration with respect to any Lease that would have a Material Adverse Effect., provided, however, that the Leases may be amended without Lender's consent to the extent permitted by the terms of the Form of Lease set forth in Exhibit E hereof.

8.7 Limitation on Investments, Advances and Loans. (i) Organize, create, acquire, capitalize or own any Subsidiaries without Lender's prior written consent or (ii) make or commit to make any advance, loan, guarantee of any Indebtedness, extension of credit or capital contribution to, or hold or invest in or purchase or otherwise acquire any stock, bonds, notes, debentures or other securities of, or make any other investment in, any Person (other than any Affiliate of Borrower).

8.8 Capital Expenditures. Directly or indirectly make or commit to make any expenditure in respect of the purchase or other acquisition (including installment purchases or capital leases) of fixed or capital assets, except for (i) expenditures in accordance with any projections furnished pursuant to Section 7.1(c), (ii) normal replacements and maintenance which are properly charged to current operations and (iii) purchases by Borrower under the NTI Purchase Agreement.

8.9 Limitation on Leases. Enter into any agreement, or be or become liable under any agreement, not in existence as of the date hereof and reflected on Borrower's financial statements, for the lease, hire or use of any real or personal, including, without limitation, capital or operating leases, except for Qualifying Leases; provided that Borrower may, in the ordinary course of

business and on terms consistent with standard in the industry, enter into leases or agreements office space, office equipment, vehicles or tools.

8.10 Termination of NTI Purchase Agreement. Fail to satisfy its minimum purchase obligations under the NTI Purchase Agreement.

8.11 Removal of Collateral. Remove or permit the removal of any material part of the Collateral (except for sales or leases of Inventory in the ordinary course of business) from the locations identified on Schedule 4.25, without giving Lender thirty (30) days prior written notice of such move and ensuring that any steps the Lender may deem necessary to continue the perfection and priority of Lender's security interest in the Collateral shall have been taken.

8.12 Assumed Names. Transact or engage in business under any assumed name, fictitious name, tradestyle or "d/b/a."

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#### ARTICLE 9: EVENTS OF DEFAULT AND REMEDIES

9.1 Events of Default. An Event of Default shall mean the occurrence or existence of one or more of the following events or conditions (whatever the reason for such Event of Default and whether voluntary, involuntary or effected by operation of Law):

(a) Payment Default. If Borrower fails to pay any sum, whether of principal or interest on the Note or any prepayment premiums, or any other amount due hereunder or under the Note within ten (10) calendar days after such amount becomes due; or

(b) False Statement. If any statement, representation or warranty made by Borrower or by any Owner, Guarantor or Affiliate in any Loan Document or made in any financial statement, certificate, report, exhibit or document furnished to Lender pursuant to any Loan Document, proves to have been untrue, incomplete, false or misleading in any material respect as of the time when made (including by omission of material information necessary to make such representation, warranty or statement not misleading) and such untruth, falsity, misleading statement or omission shall not have been corrected or remedied to the satisfaction of Lender within twenty (20) calendar days after the earlier of Borrower's (or the Owner's, Guarantor's or Affiliate's) knowledge thereof or receipt of written notice thereof from Lender; or

(c) Covenant Defaults. If Borrower defaults in the performance or

observance of any covenant or agreement in this Agreement, and such default continues for a period of twenty (20) calendar days after the Borrower's receipt of written notice from Lender thereof, except for violations of Section 7.8(d), which shall become an Event of Default at the end of the sixty (60) day period stated therein and except for specific Defaults listed elsewhere in this Section 9.1, as to which no notice or cure period shall apply unless specified; or

(d) Undischarged Judgments. If one or more judgments for the payment of money has been entered against Borrower, or if a writ or warrant of attachment, garnishment, execution, distraint or similar process has been issued against Borrower or any of its properties having an aggregate value in an amount in excess of \$250,000, and any such judgment, writ or other process has remained undischarged and unstayed for a period of thirty (30) calendar days, unless the validity thereof is contested in compliance with Section 7.8 hereof; or

(e) Default Under Third Party Agreements. If a default, or event or condition which with notice or lapse of time or both would become a default, occurs in any Lease and is not cured in the time permitted in the Lease, or if any Lease ceases to be a Qualifying Lease and Lender has not waived such event in writing; or that gives the creditor the right to accelerate payment in respect of any other obligation of Borrower for borrowed money (including lease obligations) in the amount of \$250,000 in the aggregate, or under any two or more such other obligations of any amount; or

(f) Dissolution; Discontinuance of Business, Etc. If Borrower, the Guarantor or any Affiliate which is leasing any Equipment discontinues its usual business, dissolves, has its Organizational Document revoked and not reinstated, winds up or liquidates itself or its business; or

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(g) Involuntary Bankruptcy or Receivership Proceedings. If a receiver, custodian, liquidator, or trustee of Borrower, any Owner, the Guarantor, or any Affiliate which is leasing any Equipment, or of any of its property is appointed by the order or decree of any court or agency or supervisory authority having jurisdiction; or an order is entered adjudicating Borrower, any Owner, the Guarantor, or any Affiliate which is leasing any Equipment as bankrupt or insolvent and such order is not vacated within thirty (30) days; or any of the property of Borrower, any Owner, the Guarantor, or any Affiliate which is leasing any Equipment is placed under the control of a receiver or other third party by court order; or a petition is filed against Borrower, any Owner, the Guarantor, or any

Affiliate who is leasing any Equipment under any state or federal bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, liquidation, or receivership law of any jurisdiction, whether now or hereafter in effect; or

(h) Voluntary Bankruptcy. If Borrower, any Owner, the Guarantor, or any Affiliate which has leased any Equipment takes affirmative steps to prepare to file, or files, a petition in voluntary bankruptcy or to seek relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(i) Assignments for Benefit of Creditors, Etc. If Borrower, any Owner, the Guarantor, or any Affiliate which is leasing any Equipment makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee, or liquidator of itself or of all or any part of its properties; or

(j) Non-compliance with Governmental Requirements. If Borrower fails to comply with any requirement of any Governmental Authority within twenty (20) calendar days after notice in writing of such requirement shall have been given to Borrower by such Governmental Authority, or such longer period of time permitted Borrower by such Governmental Authority and such noncompliance causes or unreasonably can be expected to cause a Material Adverse Effect; or

(k) Regulatory Authorizations. If any Regulatory Authorization in connection with this Agreement or any other Loan Document or Lease, or any such Regulatory Authorization now or hereafter necessary to make this Agreement or the other Loan Documents or Leases legal, valid, enforceable and admissible in evidence or to permit Borrower or any Affiliate which has leased any Equipment to conduct its business is not obtained or has ceased to be in full force and effect or has been modified or amended or has been held to be illegal or invalid or is revoked or terminated, and is not being contested by Borrower in compliance with Section 7.8 hereof and Lender has reasonably determined in good faith (which determination shall be conclusive) that such event or occurrence may have a Material Adverse Effect; or

(l) Damage or Destruction. If the proceeds of any physical damage insurance actually paid in respect of the partial or total damage or destruction of the Collateral, together with other authorized funds of Borrower or funds contributed by third parties, are insufficient to cover the cost of the restoration thereof or if Lender determines that such damage or

destruction is so extensive that repair or restoration cannot be expected within a time period short enough to prevent a Material Adverse Effect;

(m) Change in Control. If any Change in Control should occur without Lender's prior written consent, which may be withheld in Lender's sole and absolute discretion; or

(n) ERISA Defaults. If, with respect to any Plan, (i) there has occurred a Reportable Event being considered by the PBGC which may reasonably result in any material liability to the PBGC with respect to any Plan, (ii) a Plan has been terminated, (iii) a trustee has been appointed by a United States District Court to administer a Plan, (iv) a PBGC or any other person has instituted proceedings to terminate a Plan or to appoint a trustee to administer any such Plan, (v) either the Borrower or any Affiliate has withdrawn, completely or partially, from any Plan (vi) either the Borrower or any Affiliate has incurred secondary liability for withdrawal liability payments under any Plan or (vii) a Plan has failed to meet the minimum funding standards established under the Code or ERISA; or

(o) Defaults Under Other Loan Documents. If any default, misrepresentation or breach should occur under any Security Document or other Loan Document and is not cured or waived within the time permitted therein, or any such Loan Documents should cease to be in full force and effect, or any party thereto (other than Lender) should assert any unenforceability of, or deny liability on, or admit inability to perform under, any such Loan Document.

9.2 Consequences of an Event of Default. If any Event of Default shall occur and be continuing or shall exist, Lender may, by notice to the Borrower (i) declare its obligation to make Advances hereunder and any remaining commitment hereunder to be terminated, where upon the same shall immediately terminate, and (ii) Lender may, by notice to Borrower, declare the unpaid principal amount of the Note, interest accrued thereon and all other amounts owing by Borrower hereunder or under the Note to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue. Such consequences shall occur automatically upon the occurrence of an Event of Default under Section 9.1 (g) or (h), without any notice or demand. Upon the occurrence of an Event of Default, Lender may, in its sole discretion, exercise any and all remedies available to it under this Article 9 or under any of the Loan Documents or under applicable law without further notice or period of grace or opportunity to cure.

9.3 Exercise of Rights. Subject to any requirements for FCC or other governmental approval upon the occurrence of any Event of Default, the rights, powers and privileges provided in this Section and all other remedies available to Lender under this Agreement or by statute or by rule of law may be exercised by Lender at any time from time to time whether or not the Obligations shall be

due and payable, and whether or not Lender shall have instituted any foreclosure or other action for the enforcement of this Agreement or the Note. No failure to exercise nor any delay in exercising on the part of Lender, any right, remedy, power or privilege hereunder or under any of the other Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or future exercise thereof or the exercise of any other right, remedy, power or privilege.

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9.4 Rights of Secured Party; Possession or Sale of Collateral. Without limiting the generality of the foregoing, Lender shall have all the rights and remedies of a secured party under the UCC, and Lender may, to the fullest extent permitted by applicable law, without demand and without advertisement or notice, all of which Borrower waives, at any time or times, sell and deliver any or all Collateral held by or for it at public or private sale, for cash, upon credit or otherwise, at such prices and upon such terms as Lender deems advisable, in its sole discretion, and/or collect, or enforce the collection of, the Collateral. Lender may be the purchaser at any such sale. Upon the occurrence of an Event of Default and upon Lender's request, Borrower shall assemble, at its own expense, any or all Equipment and other Collateral at a convenient place acceptable to Lender and shall pay to Lender or reimburse Lender for, on demand, all costs of collection of all amounts due, and enforcement of all rights hereunder, including reasonable attorneys' fees and legal expenses, and expenses of any repairs to any realty or other property to which any of such Collateral may be affixed. Upon an Event of Default Lender may, to the fullest extent permitted by applicable law, without notice, advertisement, hearing or process of law of any kind, enter upon any premises where any of the Collateral may be located and take possession of and remove such Collateral.

9.5 Notices, Etc. Waived. Except as expressly provided in this Article 9, Borrower hereby expressly waives, to the fullest extent permitted by applicable law, presentment, demand, protest, any and all notices of any kind, advertisements, hearing or process of law in connection with the exercise by Lender of any of its rights and remedies upon the occurrence of an Event of Default. If any notification of intended disposition of any of the Collateral is required by law, such notification shall be deemed reasonably and properly given if given in accordance with Section 10.6 hereto at least ten (10) days before such disposition.

9.6 Additional Remedies. Lender's remedies upon the occurrence and during the continuance of an Event of Default shall include, in addition to, and not in lieu of, such remedies as are available at law or in equity or provided for in any of the Loan Documents, the following to the fullest extent permitted by applicable law:

(a) Foreclosure; Receivership. Lender shall be entitled to file one or more suits at law or in equity to collect the Obligations and/or to foreclose on Lender's Liens on and security interests created by this Agreement or the Security Documents. Lender may apply or require Borrower to apply for any necessary transfers, assignments, orders, consents or licenses in connection with the operation or abandonment of the Collateral or any part thereof, and the Lender shall also be entitled as a matter of right and without notice and without requiring bond (notice and bond being hereby waived), without regard to the solvency or insolvency of the Borrower at the time of application and without regard to the value of the Collateral at that time, to have a receiver appointed by a court of competent jurisdiction in order to manage, protect, and preserve the Collateral and to continue the operation of the business of Borrower, and to collect all revenues and profits thereof and apply the same to the payment of all expenses and other charges of such receivership until the sale or other final disposition of the Collateral. Borrower hereby consents to the appointment of such receiver.

(b) Right to Cure. If Borrower fails in any material respect to perform or comply with any of its agreements contained herein or in any of the other Loan Documents or Leases, Lender may take whatever actions it may deem appropriate to perform or comply or otherwise cause performance or compliance with such agreement, all at the risk, cost and expense of Borrower.

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(c) Setoff. If the unpaid principal amount of the Note, interest accrued thereon or any other amount owing by Borrower hereunder or under the Note shall have become due and payable (by acceleration or otherwise), Lender shall have the right, in addition to all other rights and remedies available to it, without notice to Borrower, to setoff against and to appropriate and apply to such due and payable amounts any debt owing to, and any other funds held in any manner for the account of, Borrower by Lender. Such right shall exist whether or not Lender shall have given notice or made any demand hereunder or under the Note, whether or not such debt owing to or funds held for the account of Borrower is or are matured or unmatured, and regardless of the existence or adequacy of any collateral, guaranty or any other security, right or remedy available to Lender. Borrower hereby consents to and confirms the foregoing arrangements and confirms Lender's rights of setoff.

9.7 Application of Proceeds. Any proceeds of any of the Collateral, received by Lender through sale or disposition of the Collateral or otherwise,

may be applied by Lender toward the payment of the Obligations, including expenses in connection with the Collateral (including reasonable fees and legal expenses) in such order of application as Lender may from time to time elect.

9.8 Discontinuance of Proceedings. If Lender should proceed to enforce any right or remedy under this Agreement or any other Loan Document, and then discontinue or abandon such proceeding for any reason, all rights, powers and remedies of Lender hereunder shall continue as if no such proceeding had been taken.

9.9 Power of Attorney. For the purpose of carrying out the provisions and exercising the rights, powers and privileges granted by the Loan Documents, including, without limitation, this Article 9, Borrower hereby irrevocably constitutes and appoints Lender its true and lawful attorney-in-fact to execute, acknowledge and deliver any instruments and do and perform any acts such as are referred to in the Loan Documents or in any Lease, including, without limitation, this Article 9, in the name and on behalf of Borrower, from time to time in Lender's reasonable discretion after the occurrence and during the continuance of an Event of Default, in accordance with the Loan Documents or Lease and any statute or rule of law. This power of attorney is a power coupled with an interest and cannot be revoked. Borrower hereby ratifies all that said attorney-in-fact shall lawfully do or cause to be done by virtue and in accordance with the terms hereof.

Without limiting the generality of the foregoing, Lender may after the occurrence and during the continuance of an Event of Default do the following without notice to or assent by Borrower to accomplish the purposes of this Agreement:

(a) upon failure of Borrower to timely pay or discharge taxes or Liens levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Loan Agreement or any other Loan Document, and pay all or any part of the premiums therefor and the costs thereof;

(b) (i) direct any party liable for any payment on any Collateral to make payment of any and all monies due and to become due thereunder directly to Lender or as Lender shall direct; (ii) in the name of Borrower or its own name or otherwise, take possession of and endorse and collect any checks, drafts, notes, acceptances, or other instruments for the payment of monies due under, or otherwise receive payment of and receipt for any and all monies, claims and other amounts due and to become due at any time in respect of or arising out of any

Collateral; (iii) sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications and notices in connection with the Collateral; (iv) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect all or any of the Collateral and to enforce any other right in respect of any Collateral; (v) defend any suit, action or proceeding brought against Borrower with respect to any Collateral; (vi) settle, compromise or adjust any suit, action or proceeding described above upon commercially reasonable terms under the circumstances and, in connection therewith, give such discharges or releases as Lender may reasonably deem appropriate; and (vii) generally sell, use, operate, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though Lender were the absolute owner thereof for all purposes, subject only to the terms of the Indenture that would cause such action to be a default thereunder; and

(c) at Lender's option and Borrower's expense, at any time or from time to time after the occurrence and during the continuance of an Event of Default, do all other acts and things that Lender reasonably deems necessary to protect, preserve or realize upon the Collateral and Lender's security interest therein, in order to effect the intent of this Agreement and the other Loan Documents all as fully and effectively as Borrower might do.

9.10 Regulatory Matters. Notwithstanding any provision to the contrary contained herein, Lender will not exercise any right or remedy under this Agreement that requires prior FCC or PUC approval without first obtaining such approval. If counsel to Lender reasonably determines that the consent of the FCC or PUC is required in connection with any of the actions that may be taken by Lender in the exercise of its rights hereunder or under any of the other Loan Documents, then Borrower, at its sole cost and expense, agrees to use its best efforts to secure such consent and to cooperate with Lender in any action commenced by Lender to secure such consent. Upon the occurrence and during the continuation of an Event of Default Borrower shall promptly execute and/or cause the execution of all applications, certificates, instruments and other documents and papers that may be required in order to obtain any necessary governmental consent, approval or authorization, and if Borrower fails or refuses to execute such documents, the clerk of the court with jurisdiction may execute such documents on behalf of Borrower.

## ARTICLE 10: GENERAL CONDITIONS/MISCELLANEOUS

The following conditions shall be applicable throughout the term of this Agreement:

10.1 Modifications and Waivers. This Agreement, the other Loan Documents, or any provision thereof may not be changed, waived or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver or termination is sought. No action or course of dealing on

the part of Lender, its officers, employees, consultants, or agents, nor any failure or delay by Lender with respect to exercising any right, power, or privilege of Lender under the Note, this Agreement, or any other Loan Document shall operate as a waiver thereof, except as otherwise provided in this Agreement. Any waiver shall be effective only to the extent and for the instance specifically identified in such writing, and shall not be deemed to imply any future waivers or other waivers. No amendment to the Loan Documents shall be effective without written agreement signed by both Borrower and Lender.

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10.2 Advances Not Implied Waivers. No waiver of the requirements contained in any Loan Document shall be effective unless in writing duly signed by Lender. No Advance hereunder shall constitute a waiver of any of the conditions of Lender's obligation to make further Advances nor, in the event Borrower is unable to satisfy any such condition, shall any waiver of such condition have the effect of precluding Lender from thereafter declaring such inability to be an Event of Default as herein provided. Any Advance made by Lender and any sums expended by Lender pursuant to the Loan Documents shall be deemed to have been made pursuant to this Agreement, notwithstanding the existence of an uncured Default or Event of Default. No Advance at a time when an Event of Default exists shall constitute a waiver of any right or remedy of Lender existing by reason of such Event of Default, including, without limitation, the right to accelerate the maturity of the Indebtedness evidenced by the Note or to foreclose the Lien on the Collateral or to refuse to make further advances hereunder.

10.3 Deviation from Covenants. The procedure to be followed by Borrower to obtain the consent of Lender to any deviation from the covenants contained in this Agreement or any other Loan Document shall be as follows:

(a) Borrower shall send a written notice to Lender setting forth (i) the covenant(s) relevant to the matter, (ii) the requested deviation from the covenant(s) involved, and (iii) the reason for the requested deviation from the covenant(s); and

(b) Lender, within a reasonable time, will send a written notice to Borrower, permitting or refusing the request, but in no event will any deviation from the covenants of this Agreement or any other Loan Document be effective without the express prior written consent of Lender. Lender's failure to provide such written notice shall be deemed a refusal of such request.

10.4 Holidays. Except as otherwise provided herein, whenever any payment or action to be made or taken hereunder or under the Note shall be stated to be due

on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day and such extension of time shall be included in computing interest or fees, if any, in connection with such payment or action.

10.5 Records. From time to time Lender may send Borrower statements of the unpaid principal amount of the Note, the unpaid interest accrued thereon, the Interest Rate or rates applicable to such unpaid principal amount, the duration of such applicability, and the amount remaining available on any Loan, and each statement shall be deemed correct and conclusively binding on Borrower (absent manifest error).

10.6 Notices. All notices, requests, demands, directions and other communications (collectively, "notices") required under the provisions of this Agreement or any other Loan Document shall be in writing (including communication by facsimile transmission) unless otherwise expressly permitted hereunder and shall be sent by hand, by registered or certified mail return receipt requested, by overnight courier service maintaining records of receipt, or by facsimile transmission with confirmation in writing mailed first-class, in all cases with charges prepaid, and any such properly given notice shall be effective upon the earlier of receipt or (i) when delivered by hand, or (ii) the third Business Day after being mailed, or (iii) the following Business Day if sent by overnight courier

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service, or (iv) when sent by facsimile, answer back received. All notices shall be addressed as follows:

If to Borrower, to the Notice Address set forth on Schedule 1, with copies, if any, as set forth on Schedule 1.

If to Lender: NTFC Capital Corporation  
220 Athens Way  
Nashville, Tennessee 37228  
Attention: Legal Department  
Telecopy: (615) 734-5283

With a copy to: NTFC Capital Corporation  
220 Athens Way  
Nashville, Tennessee 37228  
Attention: Manager, Credit  
Telecopy: (615) 734-5283

All notices shall be sent to the applicable party at the address stated above or in accordance with the last unrevoked written direction from such party

to the other party hereto, given in accordance with the terms hereof.

10.7 FCC and PUC Approval. The exercise of any rights or remedies hereunder or under any other Loan Document by Lender that may require FCC or PUC approval shall be subject to obtaining such approval. Pending the receipt of any PUC or FCC approval, Borrower shall not do anything to delay, hinder, interfere with or obstruct the exercise of Lender's rights or remedies hereunder or the obtaining of such approvals.

10.8 Lender Sole Beneficiary. All conditions of the obligation of Lender to make any Advances hereunder are imposed solely and exclusively for the benefit of Lender and its assigns and no other Person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make any Advances in the absence of strict compliance with any or all such conditions, and no Person shall under any circumstances be deemed to be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender at any time if in its sole discretion it deems it advisable to do so. Inspections and approvals of the System, and the workmanship and materials used therein impose no responsibility or liability of any nature whatsoever on Lender, and no Person shall, under any circumstances, be entitled to rely upon such inspections and approvals by Lender for any reason. Lender's sole obligation hereunder is to make the Advances if and to the extent required by this Agreement or the Notes.

10.9 Lender's Review of Information. Borrower acknowledges and agrees that any review or analysis by Lender of financial information, operating information, marketing data or other information provided to Lender by or on behalf of Borrower at any time is and shall be conducted solely for Lender's benefit and internal use and that Lender is under no duty or obligation to make the results of such review or analysis available to Borrower. Borrower is not relying, and will not rely, on Lender for financial or business advice.

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10.10 No Joint Venture. Nothing in any of the Loan Documents or in this Agreement shall be deemed to constitute any kind of partnership, joint venture or fiduciary relationship between the Lender and the Borrower or between the Lender and any Owners.

10.11 Severability. The provisions of this Agreement are intended to be severable. If any provision of this Agreement or the other Loan Documents shall be held invalid or unenforceable in whole or in part in any jurisdiction such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions

hereof or thereof in any jurisdiction.

10.12 Rights Cumulative. All rights, powers and remedies herein given to Lender are cumulative and not alternative, and are in addition to all statutes or rules of law.

10.13 Duration; Survival. All representations and warranties of Borrower contained herein or made in connection herewith shall survive the making of and shall not be waived by the execution and delivery of this Agreement and the other Loan Documents, any investigation by Lender, or the making of any Advances hereunder. All covenants and agreements of Borrower contained herein shall continue in full force and effect from and after the date hereof so long as it may borrow hereunder and until payment in full of the Notes, interest thereon, all fees and all other Obligations of Borrower. Without limitation, it is understood that all obligations of Borrower to make payments to or indemnify Lender shall survive the payment in full of the Notes and of all other Obligations.

10.14 Governing Law. This Agreement and the Notes and each of the other Loan Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, except to the extent that the laws of jurisdictions where the Collateral is located may be required to apply to the Collateral.

10.15 Counterparts. This Agreement may be executed in any number of counterparts (by facsimile transmission or otherwise) and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

10.16 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Lender and Borrower and their respective successors and assigns; provided, however, that Borrower may not assign or transfer any of its rights or obligations hereunder or under the other Loan Documents (in whole or in part) without the prior written consent of Lender. Notwithstanding the foregoing, Lender may not assign its rights or obligations hereunder to any Person, or to any Affiliate of any Person, that is a provider of telecommunications services or equipment in competition with Borrower or its Affiliates (other than NTI). Lender may assign, transfer or pledge any of its respective rights or obligations hereunder or under the other Loan Documents without the prior written consent of Borrower. Upon receipt of written notice from Lender of such assignment by Lender permitted under this Section, Borrower shall promptly acknowledge receipt thereof in writing. If Borrower is given written notice of any assignment by Lender permitted under this Section, it shall perform its obligations with respect to this Agreement for the ratable benefit of the applicable assignee(s), and, if so directed, shall pay all amounts due or to become due hereunder directly to the applicable assignee(s) or to any other party designated by such assignee(s). Borrower shall not assert against any such assignee any set-off, defense or counterclaim that Borrower may have against Lender

or any person other than such assignee. Borrower shall also execute and deliver to Lender such documentation as any such assignee may reasonably require to evidence such assignment, including but not limited to amended promissory notes and acknowledgment of or consent to the assignment which may require Borrower to make certain representations or reaffirmations as to some of the basic terms and covenants contained herein. Lender shall not be relieved of its obligations hereunder as a result of any such sale, assignment, transfer, grant or pledge, unless such assignee specifically assumes all or part of Lender's future obligations hereunder in a writing, a copy of which shall be delivered to Borrower, in which event after the date of such assignment, Borrower's obligations to any such assignee shall be proportionately as set forth in the assignment with respect to Lender, and Borrower shall not look to Lender to perform any of such assignee's obligations hereunder which arise after the date thereof. Any permitted assignee of Lender shall be entitled to rely on Borrower's agreements as stated herein, as applicable, and shall be considered a third party beneficiary thereof. Except to the extent otherwise required by the context of this Agreement, the word "Lender" where used in this Agreement shall mean and include any permitted assignee of any Note originally issued to Lender hereunder, and any such permitted assignee of any Note shall be bound by and have the benefits of this Agreement the same as if such holder had been a signatory hereto.

10.17 Participation. Lender shall have the right to enter into one or more participation agreements, syndication agreements or similar agreements with one or more participating lenders or other parties approved by Lender on such terms and conditions as Lender shall deem advisable. Borrower shall furnish a sufficient number of copies of reports and certificates to Lender so that Lender and each participating lender shall receive a copy of each such document. Lender shall provide Borrower with notice of any such agreement. Notwithstanding the foregoing, Lender may not enter into any such agreement with any Person, or to any Affiliate of any Person, that is a provider of telecommunications services or equipment.

10.18 Time of Essence. Time is of the essence of this Agreement and the Note and the other Loan Documents.

10.19 Disclosures and Confidentiality.

(a) Borrower agrees that it will obtain Lender's written consent before using or generating any press release, advertisement, publicity materials or other publication in which the name or logo of Lender or any of its Affiliates is used or may be reasonably inferred, and will not distribute any such materials in the absence of such prior written approval.

(b) Each of Borrower and Lender agrees that it will not, directly or indirectly, disclose to any third party the terms of this Agreement or the other Loan Documents or prior or future correspondence relating thereto, or the transactions contemplated hereby. The term "third party" shall exclude only Borrower, Lender, their respective Affiliates and their respective attorney(s), financial advisors subject to confidentiality restrictions, and certified public accountant(s). Section 10.19 shall not restrict the disclosure of information to the extent that Borrower or Lender, as the case may be, deems such disclosure to be required by applicable law, by order of any court or by the order, rule or regulation of any administrative agency, including without limitation any requirements of the FCC, any PUC, or any state or federal securities commissions (the "Commissions"); provided, however, that, except for disclosures that Borrower or Lender deems to be required by the FCC, PUC or Commissions, each party shall provide the other with advance notice of any such required disclosure of

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information so that the informed party may seek an appropriate protective order and/or waive compliance with this Section. A party shall not oppose any action taken by the other to obtain an appropriate protective order or other reliable assurance that the information will be accorded confidential treatment. The obligations set forth in this Section 10.19(b) shall survive the termination of this Agreement.

(c) The disclosure of information by either Lender or Borrower will not be restricted under this Agreement if such information (i) has been or becomes published or is now, or in the future, in the public domain through (A) no fault of the parties, (B) disclosure other than unauthorized disclosure by the party to whom the information is disclosed, or (C) disclosure to third parties by the disclosing party without similar restriction; (ii) is property (other than proposal letters, commitment letters or other correspondence between Lender and Borrower) within the legitimate possession of the receiving party prior to disclosure hereunder; (iii) subsequent to disclosure hereunder, is lawfully received from a third party having rights therein without restriction of the third party's or receiving party's rights to disseminate the information and without notice of any restriction against its further disclosure; (iv) is disclosed with the written approval of the other party; (v) is or becomes publicly available free of any obligation to keep it confidential.

(d) Every reference in this Agreement to disclosures of Borrower to Lender (except the financial statements), to the extent that such references refer or are intended to refer to disclosures at or prior to the

execution of this Agreement, shall be deemed strictly to refer only to written disclosures delivered to Lender in connection with the execution of this Agreement.

10.20 Jurisdiction and Venue. BORROWER HEREBY IRREVOCABLY CONSENTS TO THE JURISDICTION OF THE FEDERAL COURTS SITTING IN THE MIDDLE DISTRICT OF TENNESSEE, AND IF NO FEDERAL JURISDICTION EXISTS, TO THE JURISDICTION AND VENUE OF THE STATE COURTS OF TENNESSEE FOR ANY SUIT BROUGHT OR ACTION COMMENCED IN CONNECTION WITH THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, OR THE OBLIGATIONS, AND AGREES NOT TO CONTEST VENUE OR JURISDICTION IN ANY SUCH COURTS. In any such litigation, Borrower waives personal service of any summons, complaint or other process, and agrees that the service thereof may be made by certified or registered mail direct to Borrower at its address set forth in Section 10.6 hereof. In the alternative, in its sole discretion, Lender may effect service upon Borrower in any other form or manner permitted by law. The choice of forum set forth herein shall not be deemed to preclude the enforcement of any judgment obtained in such forum or the taking of any action under this Agreement to enforce the same in any appropriate jurisdiction.

10.21 Jury Waiver. BORROWER AND LENDER HEREBY KNOWINGLY AND WILLINGLY WAIVE THEIR RIGHTS TO DEMAND A JURY TRIAL IN ANY ACTION OR PROCEEDING INVOLVING THIS AGREEMENT, ANY OTHER LOAN DOCUMENT, THE OBLIGATIONS, OR ANY RELATIONSHIP BETWEEN THE LENDER AND BORROWER. THE BORROWER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THE FOREGOING WAIVERS WITH ITS LEGAL COUNSEL AND HAS KNOWINGLY AND VOLUNTARILY WAIVED ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

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10.22 Limitation on Liability. LENDER SHALL HAVE NO LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS FOR SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY SORT IN ANY SUIT BROUGHT OR ACTION COMMENCED IN CONNECTION WITH THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, OR THE OBLIGATIONS, AND, EXCEPT TO THE EXTENT PROHIBITED BY LAW, EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY SUCH ACTION ANY SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY SORT OTHER THAN ACTUAL DAMAGES.

10.23 Borrower Waivers. To the fullest extent permitted by applicable law, the Borrower hereby waives (i) presentment, demand and protest and notice of presentment, protest, default, non payment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by Lender on which the Borrower may in any way be liable and hereby

ratifies and confirms whatever Lender may do in this regard; (ii) notice prior to taking possession or control of the Collateral or any bond or security which might be required by any court prior to allowing Lender to exercise any of Lender's remedies, including the issuance of an immediate writ of possession, except as expressly required in any of the Loan Documents; (iii) any marshalling of assets, or any right to compel Lender to resort first to any Collateral or other Persons before pursuing the Borrower for payment of the Obligations and any defenses based on suretyship or impairment of Collateral; (iv) the benefit of all valuation, appraisal and exemption laws; (v) any right to require Lender to terminate its security interest in the Collateral or in any other property of the Borrower until termination of this Agreement and the execution by the Borrower and by any person whose loans to the Borrower are used in whole or in part to satisfy the Obligations, of an agreement indemnifying Lender from any loss or damage Lender may incur as the result of dishonored or unsatisfied items of any account debtor applied to the Obligations; and (vi) notice of acceptance hereof. The Borrower acknowledges that the foregoing waivers are a material inducement to Lender's entering into this Agreement and that Lender is relying upon the foregoing waivers in its future dealings with the Borrower.

10.24 Schedules. The Schedules and Exhibits attached to this Agreement are an integral part hereof, and are hereby made a part of this Agreement.

10.25 Agreement to Govern. In case of any conflict between the terms of this Agreement and any of the other Loan Documents, the terms of this Agreement shall govern.

10.26 Entire Agreement. This Agreement, the other Loan Documents and other documents, agreements and certificates executed by the parties contemporaneously herewith or subsequent hereto constitute the entire agreement of the parties and supersede all prior understandings and agreements, written or oral, between the parties hereto relating to the subject matter hereof. Borrower is not entering into this Agreement in reliance on statements or representations made by any Person other than as set forth herein.

[END OF GENERAL TERMS AND CONDITIONS. NEXT PAGE IS SCHEDULE 1.]

[SIGNATURES ARE ON COVER PAGE. ]

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SCHEDULE 1 TO  
LOAN AND SECURITY AGREEMENT

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"Closing Date": December 19, 1996

"Borrower": GST Equipco, Inc., a Washington corporation

Borrower's federal employer/  
tax identification number: 91-1740514

Borrower's chief executive offices (including county):  
4317 North East Thurston Way  
Vancouver, Washington 98662

Borrower's Notice Address:  
4317 North East Thurston Way  
Vancouver, Washington 98662  
ATTN: Clifford V. Sander  
Vice President & Treasurer

with copies to:  
Olshan Grundman Frome & Rosenzweig, L.L.P.  
505 Park Avenue  
New York, NY 1002  
ATTN: Stephen Irwin, Esq.  
and Daniel J. Gallagher, Esq.

"Guarantor": GST USA, Inc., a Delaware corporation, a wholly-owned subsidiary of GST Telecommunications, Inc., the parent corporation of Borrower

"Regulatory Authorizations": The term "Regulatory Authorizations" shall include, without limitation, the following:

"System": The term "System" shall mean a digital interconnected telecommunications network owned and operated by Affiliates of the Borrower providing a range of enhanced telecommunication services that includes long distance, internet access, frame relay and a synchronous transfer mode services. The System is also expected to provide switched access and local dial tone services. The System currently operates, or is expected to operate, in Arizona, California, Hawaii, New Mexico, Oregon, Texas and Washington.

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MAXIMUM LOAN AMOUNTS  
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Maximum principal amount  
of all Loans:

Fifty Million Dollars (\$50,000,000),  
including up to \$5,000,000 for interest  
during the first twelve (12) months  
following the Closing Date.

Maximum amount to be used for  
closing costs and legal fees:

One Hundred Thousand Dollars (\$100,000.00)

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SCHEDULE 2.2 TO  
LOAN AND SECURITY AGREEMENT  
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PAYMENT TERMS AND GOVERNING LAW  
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1. Payment Terms. The following payment terms shall apply to all Loans under the Agreement.

"Conversion Date": the first day following expiration of the Interest Only Period.

"Financing Termination Date": December 31, 1998.

"Initial Payment Date": the first Business Day of the first (1st) month to commence after the First Borrowing Date.

"Interest Only Period": the period commencing on the Closing Date and ending on December 31, 1998.

"Interest Payment Date": the Initial Payment Date and the first Business Day of each calendar month thereafter.

"Interest Rate": a floating interest rate equal to the ninety day London Interbank Offered Rates "LIBOR" as quoted from time to time in The Wall Street Journal plus 350 basis points. The Interest Rate shall be adjusted automatically with respect to any loans outstanding on the second business day of each calendar quarter based upon the most recent rate quoted in The Wall Street

Journal immediately prior to the second business day of each calendar quarter, and shall be expressed as an annual rate of interest, compounded monthly, and calculated on the basis of a 360-day year.

"Maturity Date": the earlier of (i) December 31, 2003, and (ii) the first Business Day of the eighty-fourth (84th) Month after the Closing Date, on which date all then-outstanding principal, interest, premium, expenses, fees, penalties and other amounts due under the Note shall be finally due and payable.

"Payment Date": the Initial Payment Date and the first Business Day of each month.

"Payment Schedule": upon expiration of the Interest Only Period the outstanding principal balance shall be converted to a term loan to be amortized and repaid quarterly in arrears in twenty (20) consecutive quarterly installments, calculated as follows. The applicable percentages to be used for the calculation of such payment amounts are as follows: (i) the first eight (8) payments shall each be equal to 3.75% of the aggregate amount of all Advances made hereunder; (ii) the next four (4) payments shall each be equal to 5.00% of the aggregate amount of all Advances made hereunder; (iii) the next seven (7) payments shall each be equal to 6.25% of the aggregate amount of all Advances made hereunder; the final payment shall be in an amount equal to all outstanding principal hereunder, plus all accrued and unpaid interest and all other unpaid charges hereunder.

"Prepayment Premium": the prepayment premium referred to in Section 2.2 of the Agreement shall be the amount required to compensate Lender for any losses, costs or expenses (excluding loss of profit) which it may incur as the result of the prepayment (or any failure to make any such

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prepayment on the date irrevocably scheduled therefor) of any portion of the Loan on a date other than a Payment Date, including, without limitation, losses, costs or expenses incurred in connection with unwinding or liquidating any deposits or funding or financing arrangement with its funding sources, as determined by Lender (which determination shall be conclusive absent manifest error). Without limiting the effect of the preceding sentence, such compensation shall include an amount equal to the excess, if any, of (i) the amount of interest which otherwise would have accrued on the principal amount so prepaid to the next succeeding Payment Date (the "Break Period") at Lender's then current Eurodollar cost of funds over (ii) the interest component of the amount Lender would have bid in the Eurodollar market for Dollar Deposits of leading banks in amounts comparable to such principal amount and with maturities comparable to the Break Period (as reasonably determined by Lender).

2. Choice of Law. Pursuant to Section 10.14 of the Agreement, this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York.

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GST TELECOMMUNICATIONS, INC.

Significant Subsidiaries As Of 9/30/96

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GST USA, Inc., a Delaware corporation

GST Telecom Inc., a Delaware corporation

GST Telecom California, Inc., a Delaware corporation

GST Net, Inc., a Delaware corporation

NACT Telecommunications, Inc., a Utah corporation

International Telemanagement Group, Inc., an Ohio corporation

Independent Auditors' Consent

The Board of Directors  
GST Telecommunications, Inc.:

We consent to incorporation by reference in the Registration Statements (No. 33-94072, 333-07237) on Forms S-8 (Nos. 33-95324, 33-97096 and 333-1538) on Forms F-3 and (Nos. 333-15699 and 333-16141) on Forms S-3 of GST Telecommunications, Inc. of our report dated November 22, 1996 relating to the consolidated balance sheets of GST Telecommunications, Inc. as of September 30, 1996 and 1995, and the related consolidated statements of operations, shareholders' equity, and cash flows for the years ended September 30, 1996 and 1995, which report appears in the September 30, 1996 annual report of Form 10K of GST Telecommunications, Inc.

/s/ KPMG Peat Marwick

KPMG Peat Marwick

Portland, Oregon  
December 27, 1996

ACCOUNTANTS' CONSENT

To the Board of Directors of  
GST Telecommunications, Inc.:

We consent to the incorporation by reference in the registration statements on Forms F-3, S-3 and S-8 (#33-95324, #33-97096, #333-1538, #33-94072, #333-15699, #333-16141 and #333-07237) of GST Telecommunications, Inc. of our audit report dated December 8, 1994 on the consolidated statements of operations, shareholders' equity, and cash flows for the thirteen months ended September 30, 1994, which report appears in the September 30, 1996 annual report on Form 10-K of GST Telecommunications, Inc.

Chartered Accountants

Vancouver, Canada

December 30, 1996

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5

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THE SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE COMPANY'S FINANCIAL STATEMENTS CONTAINED IN THE COMPANY'S 10-K FOR THE PERIOD ENDED SEPTEMBER 30, 1996 AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

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