

# SECURITIES AND EXCHANGE COMMISSION

## FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

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### FILER

#### FAIRPOINT COMMUNICATIONS INC

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 10-Q**

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934.**

**For the quarterly period ended March 31, 2003.**

**Or**

☐ **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 333-56365**

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**FairPoint Communications, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**

(State or Other Jurisdiction of  
Incorporation or Organization)

**13-3725229**

(I.R.S. Employer Identification No.)

**521 East Morehead Street, Suite 250**

**Charlotte, North Carolina**

(Address of Principal Executive Offices)

**28202**

(Zip Code)

**(704) 344-8150**

(Registrant's telephone number, including area code)

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 ☐ No ☒

Indicate by check mark whether the registrant is an accelerated filer (as defined in R12b-2 of the Exchange Act). Yes ☐ No ☒

As of May 13, 2003, the registrant had outstanding 45,773,784 shares of Class A common stock and 4,269,440 shares of Class C common stock. There is no public market for the registrant's Class A common stock or Class C common stock.

**FAIRPOINT COMMUNICATIONS, INC.**  
**QUARTERLY REPORT FOR THE PERIOD ENDED MARCH 31, 2003**  
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**PART I. FINANCIAL INFORMATION**

**ITEM 1. FINANCIAL STATEMENTS**

**FAIRPOINT COMMUNICATIONS, INC. AND SUBSIDIARIES**

**Condensed Consolidated Balance Sheets**

| March 31,<br>2003<br>(unaudited) | December 31,<br>2002 |
|----------------------------------|----------------------|
|----------------------------------|----------------------|

(Dollars in thousands)

**Assets**

## Current assets:

|   |    |                   |                   |
|---|----|-------------------|-------------------|
| Cash                                      | \$ | 11,665            | 5,572             |
| Accounts receivable                       |    | 24,618            | 25,454            |
| Other                                     |    | 6,752             | 5,554             |
| Assets of discontinued operations         |    | 833               | 806               |
|   |    | <u>          </u> | <u>          </u> |
| Total current assets                      |    | 43,868            | 37,386            |
|   |    | <u>          </u> | <u>          </u> |
| Property, plant, and equipment, net       |    | 268,271           | 276,717           |
|   |    | <u>          </u> | <u>          </u> |
| Other assets:                             |    |                   |                   |
| Investments                               |    | 43,966            | 44,022            |
| Goodwill, net of accumulated amortization |    | 454,306           | 454,306           |
| Deferred charges and other assets         |    | 24,715            | 16,822            |
|   |    | <u>          </u> | <u>          </u> |
| Total other assets                        |    | 522,987           | 515,150           |
|   |    | <u>          </u> | <u>          </u> |
| Total assets                              | \$ | 835,126           | 829,253           |
|   |    | <u>          </u> | <u>          </u> |

**Liabilities and Stockholders' Deficit**

## Current liabilities:

|   |    |                   |                   |
|---|----|-------------------|-------------------|
| Accounts payable  | \$ | 12,679            | 21,011            |
| Current portion of long-term debt and other long-term liabilities |    | 8,805             | 6,240             |
| Demand notes payable  |    | 422               | 427               |
| Accrued interest payable  |    | 21,890            | 10,501            |
| Other accrued liabilities   |    | 21,795            | 21,500            |
| Liabilities of discontinued operations                            |    | 3,923             | 5,065             |
|   |    | <u>          </u> | <u>          </u> |
| Total current liabilities   |    | 69,514            | 64,744            |
|   |    | <u>          </u> | <u>          </u> |

## Long-term liabilities:

|  |  |                   |                   |
|--|--|-------------------|-------------------|
| Long-term debt, net of current portion           |  | 807,731           | 798,486           |
| Liabilities of discontinued operations           |  | 5,433             | 5,265             |
| Deferred credits and other long-term liabilities |  | 12,504            | 13,449            |
|  |  | <u>          </u> | <u>          </u> |
| Total long-term liabilities                      |  | 825,668           | 817,200           |
|  |  | <u>          </u> | <u>          </u> |
| Minority interest                                |  | 17                | 16                |
|  |  | <u>          </u> | <u>          </u> |
| Common stock subject to put options              |  | 2,136             | 3,136             |
|  |  | <u>          </u> | <u>          </u> |
| Redeemable preferred stock                       |  | 83,447            | 90,307            |
|  |  | <u>          </u> | <u>          </u> |

## Stockholders' deficit:

|                                      |  |           |           |
|--------------------------------------|--|-----------|-----------|
| Common stock                         |  | 499       | 499       |
| Additional paid-in capital           |  | 202,252   | 206,942   |
| Accumulated other comprehensive loss |  | (147)     | (1,132)   |
| Accumulated deficit                  |  | (348,260) | (352,459) |

|   |            |           |
|---|------------|-----------|
| Total stockholders' deficit                 | (145,656)  | (146,150) |
| Total liabilities and stockholders' deficit | \$ 835,126 | 829,253   |

See accompanying notes to condensed consolidated financial statements.

## FAIRPOINT COMMUNICATIONS, INC. AND SUBSIDIARIES

### Condensed Consolidated Statements of Operations

(Unaudited)

|  | Three months ended<br>March 31, |          |
|--|---------------------------------|----------|
|  | 2003                            | 2002     |
|  | (Dollars in thousands)          |          |
| Revenues   | \$ 57,112                       | 58,425   |
| Operating expenses:  |                                 |          |
| Operating expenses, excluding depreciation and amortization and stock-based compensation | 26,144                          | 26,523   |
| Depreciation and amortization  | 12,258                          | 11,784   |
| Stock-based compensation   | –                               | (197)    |
| Total operating expenses   | 38,402                          | 38,110   |
| Income from operations   | 18,710                          | 20,315   |
| Other income (expense):  |                                 |          |
| Net gain on sale of investments and other assets   | 5                               | 355      |
| Interest and dividend income   | 459                             | 613      |
| Interest expense   | (20,704)                        | (19,410) |
| Equity in net earnings of investees  | 2,371                           | 1,951    |
| Other nonoperating, net  | 591                             | 1,888    |
| Total other expense  | (17,278)                        | (14,603) |
| Income from continuing operations before income taxes                                    | 1,432                           | 5,712    |
| Income tax expense   | (137)                           | (211)    |
| Minority interest in income of subsidiaries  | (1)                             | –        |
| Income from continuing operations  | 1,294                           | 5,501    |
| Discontinued operations  | –                               | –        |

|   |                   |                   |
|---|-------------------|-------------------|
| Net income  | 1,294             | 5,501             |
| Redeemable preferred stock dividends and accretion  | (4,690)           | –                 |
| Gain on repurchase of redeemable preferred stock    | 2,905             | –                 |
|   | <u>          </u> | <u>          </u> |
| Net income (loss) attributed to common shareholders | \$ (491)          | 5,501             |
|   | <u>          </u> | <u>          </u> |

See accompanying notes to condensed consolidated financial statements.

## FAIRPOINT COMMUNICATIONS, INC. AND SUBSIDIARIES

### Condensed Consolidated Statements of Comprehensive Income

(Unaudited)

|   | Three months ended March 31, |               |
|---|------------------------------|---------------|
|   | 2003                         | 2002          |
|   | (Dollars in thousands)       |               |
| Net income  | \$ 1,294                     | 5,501         |
| Other comprehensive income (loss):                    |                              |               |
| Available-for-sale securities:                        |                              |               |
| Unrealized holding gain (loss) arising during period  | \$ 630                       | (4,387)       |
| Less reclassification for gain included in net income | – 630                        | (315) (4,702) |
| Cash flow hedges:                                     |                              |               |
| Reclassification adjustment                           | 355                          | 372           |
| Other comprehensive income (loss)                     | 985                          | (4,330)       |
| Comprehensive income                                  | \$ 2,279                     | 1,171         |

See accompanying notes to condensed consolidated financial statements.

## FAIRPOINT COMMUNICATIONS, INC. AND SUBSIDIARIES

### Condensed Consolidated Statements of Cash Flows

(Unaudited)

| Three months ended   |           |          |
|--|-----------|----------|
| March 31,  |           |          |
|  | 2003      | 2002     |
| (Dollars in thousands)   |           |          |
| Cash flows from operating activities:  |           |          |
| Net income   | \$ 1,294  | 5,501    |
| Adjustments to reconcile net income to net cash provided by operating activities of continuing operations: |           |          |
| Amortization of debt issue costs   | 946       | 730      |
| Depreciation and amortization  | 12,258    | 11,784   |
| Gain on early retirement of debt   | (3,466)   | –        |
| Write-off of debt issue costs  | 4,967     | –        |
| Other non cash items   | (4,531)   | (4,463)  |
| Changes in assets and liabilities arising from operations:   |           |          |
| Accounts receivable and other current assets   | 266       | 1,745    |
| Accounts payable and accrued expenses  | 5,879     | 9,631    |
| Income taxes   | (184)     | –        |
| Other assets/liabilities   | (395)     | 49       |
| Total adjustments  | 15,740    | 19,476   |
| Net cash provided by operating activities of continuing operations   | 17,034    | 24,977   |
| Cash flows from investing activities of continuing operations:   |           |          |
| Net capital additions  | (3,466)   | (4,014)  |
| Distributions from investments   | 2,435     | 2,862    |
| Other, net   | (356)     | (134)    |
| Net cash used in investing activities of continuing operations   | (1,387)   | (1,286)  |
| Cash flows from financing activities of continuing operations:   |           |          |
| Loan origination costs   | (14,003)  | (42)     |
| Proceeds from issuance of long-term debt   | 274,680   | 11,630   |
| Repayments of long-term debt   | (259,586) | (30,987) |
| Repurchase of preferred and common stock   | (9,645)   | (1,001)  |
| Net cash used in financing activities of continuing operations   | (8,554)   | (20,400) |
| Net cash contributed from continuing operations to discontinued operations                                 | (1,000)   | (57)     |
| Net increase in cash   | 6,093     | 3,234    |
| Cash, beginning of period  | 5,572     | 3,063    |
| Cash, end of period  | \$ 11,665 | 6,297    |
| Supplemental disclosures of noncash financing activities:  |           |          |
| Redeemable preferred stock dividends paid in-kind  | \$ 4,309  | –        |
| Gain on repurchase of redeemable preferred stock   | \$ 2,905  | –        |

|   |    |     |   |
|---|----|-----|---|
| Accretion of redeemable preferred stock   | \$ | 381 | – |
| Long-term debt issued in connection with Carrier Services' Tranche B interest payment | \$ | 431 | – |

See accompanying notes to condensed consolidated financial statements.

## FAIRPOINT COMMUNICATIONS, INC. AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

#### (1) Organization and Basis of Financial Reporting

In the opinion of our management, the accompanying financial statements reflect all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of results of operations, financial position, and cash flows. The results of operations for the interim periods are not necessarily indicative of the results of operations which might be expected for the entire year. The condensed consolidated financial statements should be read in conjunction with the Company's 2002 Annual Report on Form 10-K. Certain amounts from 2002 have been reclassified to conform to the current period presentation.

#### (2) Stock Option Plans

The Company accounts for its stock option plans using the intrinsic value-based method prescribed by Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees* (APB No. 25), and related interpretations. As such, compensation expense is recorded on the date of grant only if the current market price of the underlying stock exceeds the exercise price. SFAS No. 123, *Accounting for Stock-Based Compensation* (SFAS No. 123), permits entities to recognize as expense over the vesting period the fair value of all stock-based awards on the date of grant. SFAS No. 123 allows entities to continue to apply the provisions of APB No. 25 and provide pro forma net income disclosures as if the fair-value method defined in SFAS No. 123 had been applied. The Company has elected to continue to apply the intrinsic value-based method of accounting under APB No. 25 and has adopted the disclosure requirements of SFAS No. 123.

Had the Company determined compensation cost based on the fair value at the grant date for its stock options under SFAS No. 123, the Company's net income would have been:

|   | Three months ended<br>March 31, |       |
|---|---------------------------------|-------|
|   | 2003                            | 2002  |
|   | (Dollars in thousands)          |       |
| Net income, as reported   | \$ 1,294                        | 5,501 |
| Stock-based compensation expense included in reported net income  | –                               | (197) |
| Stock-based compensation determined under fair value based method | (170)                           | (878) |
| Pro forma net income  | \$ 1,124                        | 4,426 |

### (3) Discontinued Operations and Restructure Charges

In November 2001, the Company announced its plan to discontinue the competitive communications business operations of its wholly-owned subsidiary, FairPoint Carrier Services, Inc. (f/k/a FairPoint Communications Solutions Corp. ("Carrier Services")). As a result of the adoption of the plan to discontinue the competitive communications operations, these operating results are presented as discontinued operations.

Assets and liabilities of discontinued competitive communications operations as of March 31, 2003 and December 31, 2002 follow:

|  | <u>March 31,</u><br><u>2003</u><br>(Unaudited) | <u>December 31,</u><br><u>2002</u> |
|--|--|------------------------------------|
| (Dollars in thousands)                           |  |                                    |
| Cash   | \$ 52  | 25                                 |
| Accounts receivable                              | 781  | 781                                |
| Current assets of discontinued operations        | <u>\$ 833</u>                                  | <u>806</u>                         |
| Accounts payable                                 | \$ –   | (35)                               |
| Accrued liabilities                              | (2,018)  | (2,743)                            |
| Restructuring accrual                            | (1,586)  | (1,968)                            |
| Accrued property taxes                           | (319)  | (319)                              |
| Current liabilities of discontinued operations   | <u>\$ (3,923)</u>                              | <u>(5,065)</u>                     |
| Restructuring accrual                            | \$ (5,299)                                     | (5,214)                            |
| Other liabilities                                | (134)  | (51)                               |
| Long-term liabilities of discontinued operations | <u>\$ (5,433)</u>                              | <u>(5,265)</u>                     |

In December 2000 and during the first quarter of 2001, the Company initiated a realignment and restructuring of its competitive communications business, which resulted in recording a restructuring charge which is included in the table above. The remaining restructuring accrual at March 31, 2003 was \$6.9 million, and is primarily associated with remaining equipment and lease obligations. The change in the restructuring accrual from December 31, 2002 to March 31, 2003 was comprised of payments towards these obligations.

### (4) Interest Rate Swap Agreements

The Company assesses interest rate cash flow risk by continually identifying and monitoring changes in interest rate exposures that may adversely impact expected future cash flows and by evaluating hedging opportunities. The Company maintains risk management control systems to monitor interest rate cash flow risk attributable to both the Company's outstanding or forecasted debt obligations.

The Company uses variable and fixed-rate debt to finance its operations. The variable-rate debt obligations expose the Company to variability in interest payments due to changes in interest rates. Management believes it is prudent to limit the variability of a portion of its interest payments. To meet this objective, management enters into interest rate swap agreements to manage fluctuations in cash flows resulting

from interest rate risk. As of March 31, 2003, the Company has seven interest rate swap agreements with a combined notional amount of \$225.0 million with expiration dates ranging from May 2003 through May 2004.

The change in the fair value of the interest rate swap agreements is recorded in the statement of operations as other nonoperating income/expense because the Company's interest rate swap agreements are not considered effective accounting hedges. Other nonoperating income increased by approximately \$2.4 million for the three months ended March 31, 2003 and \$1.9 million for the three months ended March 31, 2002 to reflect the change in the fair value of the interest rate swaps. In addition, approximately \$0.4 million has been reclassified as other nonoperating expense from the transition adjustment recorded in accumulated other comprehensive income during the three month periods ended March 31, 2003 and 2002.

## (5) Investments

The Company has a 7.5% ownership in Orange County-Poughkeepsie Limited Partnership which is accounted for under the equity method. Due to significance, the summary financial information for the partnership follows:

|  | December 31,<br>2002      | September 30,<br>2002 |
|--|---------------------------|-----------------------|
|  | (Dollars in thousands)    |                       |
| Current assets                                 | \$ 35,157                 | 31,619                |
| Property, plant and equipment, net             | 29,475                    | 28,916                |
| <b>Total assets</b>                            | <b>\$ 64,632</b>          | <b>60,535</b>         |
| Current liabilities                            | \$ 1,482                  | 746                   |
| Partners' capital                              | 63,150                    | 59,789                |
| <b>Total liabilities and partners' capital</b> | <b>\$ 64,632</b>          | <b>60,535</b>         |
|  | <b>Three months ended</b> |                       |
|  | <b>December 31,</b>       |                       |
|  | <b>2002</b>               | <b>2001</b>           |
|  | (Dollars in thousands)    |                       |
| Revenues                                       | \$ 32,481                 | 23,303                |
| Operating income                               | 27,918                    | 21,307                |
| Net income                                     | 28,361                    | 21,490                |

## (6) Long Term Debt

On March 6, 2003, the Company issued \$225.0 million aggregate principal amount of 11<sup>7</sup>/<sub>8</sub>% Senior Notes due 2010. Interest is payable on the senior notes at the rate of 11<sup>7</sup>/<sub>8</sub>% per annum on each March 1 and September 1, commencing on September 1, 2003. The senior notes mature on March 1, 2010.

In connection with the issuance of the senior notes, the Company entered into an amended and restated credit agreement, dated as of March 6, 2003, among the Company, Bank of America, N.A., as syndication agent, Wachovia Bank, N.A., as documentation agent, Deutsche Bank Trust Company Americas, as administrative agent, and various lending institutions. The amended and restated credit agreement provides

for: (i) a new \$70.0 million revolving credit facility (\$60.0 million of which was committed as of March 6, 2003 and an additional \$10.0 million of which was committed as of April 29, 2003) which matures on March 31, 2007 (loans under the revolving credit facility bear interest per annum at either a base rate plus 3.00% or LIBOR plus 4.00%) and (ii) a new term loan A facility of \$30 million which matures on March 31, 2007 (loans under the term loan A facility bear interest per annum at either a base rate plus 3.00% or LIBOR plus 4.00%). The new term loan A facility was drawn in full on March 6, 2003. In addition, mandatory payments under the term loan C facility were rescheduled to be \$2.0 million, \$20.9 million, \$20.0 million, \$29.6 million and a final \$56.0 million in 2003, 2004, 2005, 2006 and on March 31, 2007, respectively, and the interest rate per annum on loans under the term loan C facility was increased to a base rate plus 3.50% or LIBOR plus 4.50%.

The Company used the proceeds from the offering of the senior notes and the borrowings under the new term loan A facility to: (i) repay all tranche RF and tranche AF revolving loans under its existing credit facility; (ii) repay all tranche B term loans under its existing credit facility; (iii) repurchase, at a 35% discount from the redemption value, \$13.3 million aggregate liquidation preference of its Series A Preferred Stock (together with accrued and unpaid dividends thereon); (iv) repurchase \$9.8 million aggregate principal amount of its outstanding 9<sup>1</sup>/<sub>2</sub>% senior subordinated

notes due 2008 (together with accrued and unpaid interest thereon) for approximately \$7.9 million; (vi) repurchase \$7.0 million aggregate principal amount of its outstanding 12<sup>1</sup>/<sub>2</sub>% senior subordinated notes due 2010 (together with accrued and unpaid interest thereon) for approximately \$6.1 million; and (vii) make a capital contribution of approximately \$1.5 million to Carrier Services, which used these proceeds to retire \$2.2 million of its debt under the Carrier Services credit facility. As a result, the Company recorded \$2.8 million and \$0.7 million non-operating gains on the extinguishment of the senior subordinated notes and the Carrier Services loans, respectively, in the Statement of Operations, which is included in other nonoperating income/expense, and a \$2.9 million gain for the retirement of the Series A Preferred Stock directly to stockholders' deficit in the first quarter of 2003. Additionally, the Company recorded a non-operating loss of \$5.0 million for the write-off of debt issue costs related to this extinguishment of debt in the first quarter of 2003, which is included in other nonoperating income/expense in the accompanying Statement of Operations. In conjunction with this transaction, the dividend rate with respect to a portion of the Series A Preferred Stock was reduced from 17.428% to 15% for a period of two years.

As provided in the credit facility, the Company has the ability to request letters of credit to support obligations of the Company and/or obligations of its subsidiaries incurred in the ordinary course of business in an aggregate principal amount not to exceed \$5,000,000 and subject to limitations on the aggregate amount outstanding under the credit facility. As of May 1, 2003, a \$0.7 million letter of credit had been issued.

The approximate aggregate maturities of long-term debt for each of the five years subsequent to March 31, 2003 are as follows (dollars in thousands):

|            |            |
|------------|------------|
| 2003       | \$ 8,524   |
| 2004       | 24,065     |
| 2005       | 35,679     |
| 2006       | 116,530    |
| 2007       | 17,793     |
| Thereafter | 613,664    |
|            | <hr/>      |
|            | \$ 816,255 |
|            | <hr/>      |

## (7) Subsequent Events

On April 18, 2003, the Company executed a definitive asset purchase agreement to acquire substantially all the assets and operations of Community Service Telephone Co. and CommTel Communications, Inc. for a purchase price of \$31.2 million. The operations serve approximately 12,600 access lines located in central Maine. This acquisition, which is subject to regulatory approval, is expected to close during the fourth quarter of 2003.

On May 9, 2003, MJD Services Corp. ("MJD Services"), a wholly-owned subsidiary of the Company, executed a definitive stock purchase agreement to sell all the shares of capital stock owned by MJD Services of Union Telephone Company of Hartford, Armour Independent Telephone Co., WMW Cable TV Co. and Kadoka Telephone Co. to Golden West Telephone Properties, Inc. for a purchase price of \$24.0 million. These operations serve approximately 4,140 access lines located in South Dakota. This divestiture is expected to close during the third quarter of 2003. The operations of these companies will be shown as discontinued operations beginning in the second quarter of 2003.

## **ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following discussion and analysis provides information that our management believes is relevant to an assessment and understanding of the consolidated results of operations and financial condition of FairPoint Communications, Inc. and its subsidiaries (collectively, the "Company", "FairPoint", "we", "us" or "our"). The discussion should be read in conjunction with the Company's Consolidated Financial Statements for the year ended December 31, 2002 included in the Company's Annual Report on Form 10-K.

Certain statements included in this document are forward-looking, such as statements relating to estimates of operating and capital expenditure requirements, future revenue and operating income, and cash flow and liquidity. Such forward-looking statements are based on the Company's current expectations and are subject to a number of risks and uncertainties that could cause actual results in the future to differ significantly from results expressed or implied in any forward-looking statements made by, or on behalf of, the Company. These risks and uncertainties include, but are not limited to, risks and uncertainties relating to economic conditions and trends, acquisitions and divestitures, growth and expansion, telecommunication regulations, changes in technology, product acceptance, the ability to construct, expand and upgrade its services and facilities and other risks discussed in the reports that the Company files from time to time with the U.S. Securities and Exchange Commission (the "SEC"). These and other risks are detailed below as well as in other documents filed by the Company with the Securities and Exchange Commission.

### **Overview**

We are a leading provider of telecommunications services in rural communities, offering an array of services including local voice, long distance, data and Internet primarily to residential customers. According to an industry source, we believe that we are the 16<sup>th</sup> largest local telephone company in the United States, with approximately 243,000 access lines in service as of March 31, 2003.

We were incorporated in February 1991 for the purpose of acquiring and operating telephone companies in rural markets. Since our inception, we have acquired 29 such businesses, which are located in 18 states. All of our telephone company subsidiaries qualify as rural local exchange carriers, or RLECs, under the Telecommunications Act. RLECs are generally characterized by stable operating results and strong cash flow margins and operate in generally supportive regulatory environments. In particular, pursuant to existing state and federal regulations, we are able to charge rates that enable us to recover our operating costs, plus a reasonable rate of return on our invested capital (as determined by the relevant regulatory authorities). In addition, because RLECs primarily serve sparsely populated rural areas and small towns, competition is typically limited due to the generally unfavorable economics of constructing and operating competitive systems in such areas and difficulties inherent in reselling such services to a predominantly residential customer base.

### **Revenues**

We derive our revenues from:

*Local calling services.* We receive revenues from providing local exchange telephone services, including monthly recurring charges for basic service, usage charges for local calls and service charges for special calling features.

*Universal Service Fund, or USF.* We receive payments from the USF to support the high cost of providing local telephone services in rural locations.

*Interstate access revenue.* These revenues are primarily based on a regulated return on rate base and recovery of allowable expenses associated with the origination and termination of toll calls

both to and from our customers. Interstate access charges to long distance carriers and other customers are based on access rates filed with the Federal Communications Commission, or FCC.

*Intrastate access revenue.* These revenues consist primarily of charges paid by long distance companies and other customers for access to our networks in connection with the origination and/or termination of long distance telephone calls both to and from our customers. Intrastate access charges to long distance carriers and other customers are based on access rates filed with the state regulatory agencies.

*Long distance services.* We receive revenues for long distance services to our retail and wholesale long distance customers.

*Data and Internet services.* We receive revenues from monthly recurring charges for services, including digital subscriber line, special access, private lines, Internet and other services.

*Other services.* We receive revenues from other services, including billing and collection, directory services and sale and maintenance of customer premise equipment.

The following summarizes our percentage of revenues from continuing operations from these sources:

| Revenue Source             | Revenue<br>(in thousands) |           | % of Revenue       |      |
|----------------------------|---------------------------|-----------|--------------------|------|
|                            | Three months ended        |           | Three months ended |      |
|                            | March 31,                 |           | March 31,          |      |
|                            | 2003                      | 2002      | 2003               | 2002 |
| Local calling services     | \$ 13,890                 | \$ 13,469 | 24%                | 23%  |
| USF-high cost loop support | 5,054                     | 4,999     | 9%                 | 9%   |
| Interstate access revenue  | 15,967                    | 15,705    | 28%                | 27%  |
| Intrastate access revenue  | 11,034                    | 11,398    | 19%                | 19%  |
| Long distance services     | 3,890                     | 5,806     | 7%                 | 10%  |
| Data and Internet services | 2,815                     | 2,215     | 5%                 | 4%   |
| Other services             | 4,462                     | 4,833     | 8%                 | 8%   |

## Operating Expenses

Our operating expenses are categorized as operating expenses; depreciation and amortization; and stock-based compensation.

Operating expenses include costs incurred in connection with the operation of our central offices and outside plant facilities and related operations. In addition to the operational costs of owning and operating our own facilities, we also purchase long distance services from the regional bell operating companies, or RBOCs, large independent telephone companies and third party long distance providers. In addition, our operating expenses include expenses relating to sales and marketing, customer service and administration and corporate and personnel administration.

Depreciation and amortization includes depreciation of our communications network and equipment.

Stock-based compensation consists of non-cash compensation charges incurred in connection with the employee stock options of our executive officers, and stockholder appreciation rights agreements granted to two executive officers.

## **Acquisitions and Divestitures**

Our past acquisitions have had a major impact on our operations.

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On April 18, 2003, the Company executed a definitive asset purchase agreement to acquire substantially all the assets and operations of Community Service Telephone Co. and CommTel Communications, Inc. for a purchase price of \$31.2 million. The operations serve approximately 12,600 access lines located in central Maine. This acquisition is expected to close during the fourth quarter of 2003.

During 2002, we made no acquisitions.

On May 9, 2003, MJD Services Corp. ("MJD Services"), a wholly-owned subsidiary of the Company, executed a definitive stock purchase agreement to sell all the shares of capital stock owned by MJD Services of Union Telephone Company of Hartford, Armour Independent Telephone Co., WMW Cable TV Co. and Kadoka Telephone Co. to Golden West Telephone Properties, Inc. for a purchase price of \$24.0 million. These operations serve approximately 4,140 access lines located in South Dakota. This divestiture is expected to close during the third quarter of 2003. The operations of these companies will be shown as discontinued operations beginning in the second quarter of 2003.

## **Discontinued Operations**

In November 2001, we decided to discontinue the competitive local exchange carrier, or CLEC, operations of Carrier Services. This decision was a proactive response to the deterioration in the capital markets, the general slow-down of the economy and the slower-than-expected growth in Carrier Services' CLEC operations.

Carrier Services will continue to provide wholesale long distance services and support to our RLEC subsidiaries and other independent local exchange companies. These services allow such companies to operate their own long distance communication services and sell such services to their respective customers. Our long distance business is included as part of continuing operations in the accompanying financial statements.

## **Results of Operations**

### Three Month Period Ended March 31, 2003 Compared with Three Month Period Ended March 31, 2002

**Revenues from Continuing Operations.** Revenues from continuing operations decreased \$1.3 million to \$57.1 million in 2003 compared to \$58.4 million in 2002. A decrease in revenues of \$2.0 million was attributable to revenues from our wholesale long distance company. This was offset by an increase in revenues of \$0.7 million from our RLECs. We derived our revenues from the following sources.

*Local calling services.* Local calling service revenues of our RLECs increased \$0.4 million from \$13.5 million to \$13.9 million.

*USF high cost loop.* USF high cost loop receipts of our RLECs increased \$0.1 million to \$5.1 million in 2003 from \$5.0 million in 2002. The support from the high cost loop fund is associated with historical expense levels of our companies that exceed the national average cost per loop.

*Interstate access.* Interstate access revenues of our RLECs increased \$0.3 million to \$16.0 million in 2003 from \$15.7 million in 2002. During the last two years, the FCC's Rural Task Force, or RTF, and Multi-Association Group, or MAG, made certain modifications to the USF that removed implicit universal service support from access charges and made it explicit support. Our interstate revenues include \$4.9 million in explicit support received from the USF and have been offset by reductions in interstate access rates, resulting in an overall revenue neutral effect on our operating companies.

*Intrastate access.* Intrastate access revenues of our RLECs decreased \$0.4 million from \$11.4 million in 2002 to \$11.0 million in 2003. The decrease was mainly due to state support reductions, losses from bill and keep toll as customers pick an intrastate service provider for their long distance services, instead of defaulting to the local LEC and intrastate pool under-earnings. We continue to expect downward pressure on our intrastate access revenues. To the extent these pressures reduce our earnings levels below authorized rates of return, our companies are allowed to file and seek approval from the state public utility commissions for recovery of these reductions through increases in local rates and, where they exist, state universal service funds.

*Long distance services.* Long distance services revenues decreased \$1.9 million from \$5.8 million in 2002 to \$3.9 million in 2003. The decrease of \$2.0 million is attributed to a reduction in Carrier Services long distance wholesale operations, which was offset by a \$0.1 million increase in revenues of our RLECs. Wholesale customers were lost in the 2<sup>nd</sup> and 3<sup>rd</sup> quarters of 2002 after one of our underlying wholesale carriers declared bankruptcy.

*Data and internet services.* Data and internet services revenues increased \$0.6 million from \$2.2 million in 2002 to \$2.8 million in 2003 as a result of increased service offerings to our customers of our RLEC businesses.

*Other.* Other revenues decreased by \$0.4 million from \$4.8 million in 2002 to \$4.4 million in 2003. This decrease is mainly associated with reductions in billing and collections revenues, as interexchange carriers, or IXC's, "take back" the billing function for their long distance customers. This trend is expected to continue.

#### ***Operating Expenses of Continuing Operations***

*Operating expenses.* Operating expenses from continuing operations decreased \$0.4 million, or 1.4%, to \$26.1 million in 2003 from \$26.5 million in 2002. Expenses of our wholesale long distance company decreased \$1.7 million as a result of lower minutes of use from our wholesale customers. This decrease was offset by increased RLEC expenses of \$1.3 million, net of \$0.6 million bad debt expense recovered from a carrier who declared bankruptcy in 2002. These expense increases are mainly attributable to higher consulting/contracted services and marketing expenses as we continue to change our culture to a more sales driven organization.

*Depreciation and amortization.* Depreciation and amortization from continuing operations increased \$0.5 million to \$12.3 million in 2003 from \$11.8 million in 2002 and is attributable to the increased investment in our communications network by RLEC companies.

*Stock-based compensation.* For the three months ended March 31, 2002, there was a stock-based compensation credit of \$0.2 million related to the decrease in the estimated value of fully vested stockholder appreciation rights agreements between certain members of our management and our principal stockholders. For the three months ended March 31, 2003, there were no stock-based compensation charges.

*Income from operations.* Income from continuing operations decreased \$1.6 million to \$18.7 million in 2003 from \$20.3 million in 2002. Of this decrease, \$1.2 million was attributable to our RLEC telephone companies and \$0.4 million was attributable to our wholesale long distance company.

*Other income (expense).* Total other expense from continuing operations increased \$2.7 million to \$17.3 million in 2003 from \$14.6 million in 2002. The expense consists primarily of interest expense on long-term debt. Interest expense increased \$1.3 million to \$20.7 million in 2003 from \$19.4 million in 2002. Earnings in equity investments increased \$0.4 million to \$2.4 million in 2003 from \$2.0 million in 2002. Other nonoperating income (expense) includes mark-to-market adjustments for interest rate swaps that do not qualify as accounting hedges under SFAS No. 133, gain on the extinguishment of

debt and write off of loan origination costs. In 2003, mark-to-market gains of \$2.1 million were accrued to record the Company's estimated liability value for the swaps as compared to mark-to-market gains of \$1.9 million in 2002. These noncash adjustments to the fair value of the swaps resulted in an increase in nonoperating income (expense) of \$0.2 million in 2003 as compared to 2002. As a result of the issuance of \$225.0 million in Senior notes during the first quarter of 2003, we recorded \$2.8 million and \$0.7 million non-operating gains on the extinguishment of the senior subordinated notes and the Carrier Services loans, respectively. Additionally, we recorded a non-operating loss of \$5.0 million for the write-off of debt issue costs related to this extinguishment of debt in 2003.

*Income tax expense.* Income tax expense from continuing operations decreased \$0.1 million to \$0.1 million in 2003 from \$0.2 million in 2002. The income tax expense relates primarily to income taxes owed in certain states.

*Discontinued operations.* There was no income or expense from discontinued operations for the three months ending March 31, 2003 and 2002.

*Net income (loss) attributed to common shareholders.* Our 2003 net loss attributable to common shareholders was \$0.5 million after giving effect to \$4.8 million in dividends and accretion related to the Series A Preferred Stock and the repurchase of Series A Preferred Stock at a discount of \$2.9 million. Our net income was \$5.5 million for 2002. The differences between 2003 and 2002 are a result of the factors discussed above.

## **Liquidity and Capital Resources**

We intend to fund our operations, capital expenditures, interest expense and working capital requirements from internal cash from operations. To fund future acquisitions, we intend to use borrowings under our revolving credit facility, or we will need to secure additional funding through the sale of public or private debt and/or equity securities or enter into another bank credit facility. Our ability to make principal payments on our indebtedness will depend on our ability to generate cash in the future. We will need to refinance all or a portion of our indebtedness on or before maturity. We may not be able to refinance our indebtedness on commercially reasonable terms or at all. For the three months ended March 31, 2003 and 2002, cash provided by operating activities of continuing operations was \$17.0 million and \$25.0 million, respectively.

Net cash used in investing activities from continuing operations was \$1.4 million and \$1.3 million for the three months ended March 31, 2003 and 2002, respectively. These cash flows primarily reflect net capital expenditures of \$3.5 million and \$4.0 million for the three months ended March 31, 2003 and 2002, respectively. Offsetting capital expenditures were distributions from investments of \$2.4 million and \$2.9 million for the three months ended March 31, 2003 and 2002, respectively.

Net cash used in financing activities from continuing operations was \$8.6 million and \$20.4 million for the three months ended March 31, 2003 and 2002, respectively. For the three months ended March 31, 2003, net cash used in financing activities primarily represents net cash used for the repurchase of preferred and common stock. The proceeds from the March 6, 2003 refinancing were used primarily to pay long term debt and loan issuance costs. For the three months ended March 31, 2002, the cash used in financing activities was primarily for the net reduction of long term debt of \$19.4 million.

Our annual capital expenditures for our rural telephone operations have historically been significant. Because existing regulations allow us to recover our operating and capital costs, plus a reasonable return on our invested capital in regulated telephone assets, capital expenditures constitute an attractive use of our cash flow. Net capital expenditures were approximately \$3.5 million for the three months ended March 31, 2003 and are expected to be approximately \$30.0 million for the period from April 1, 2003 through March 31, 2004.

Our credit facility was amended and restated on March 6, 2003. Our amended and restated credit facility consists of a \$70.0 million (\$60.0 million of which was committed as of March 6, 2003 and an additional \$10.0 million of which was committed as of April 29, 2003) revolving facility and two term facilities, a tranche A term loan facility of \$30.0 million that matures on March 31, 2007, and a tranche C term loan facility with \$128.0 million principal amount outstanding as of March 31, 2003 that has a final maturity on March 31, 2007. All \$30.0 million was drawn under the tranche A term loan facility on March 6, 2003. See "–Description of Certain Indebtedness."

In 1998, the Company issued \$125.0 million aggregate principal amount of 9<sup>1</sup>/<sub>2</sub>% senior subordinated notes and \$75.0 million aggregate principal amount of floating rate notes. Both series of these notes mature on May 1, 2008. These notes are general unsecured obligations of the Company, subordinated in right of payment to all of the Company's senior debt. On March 6, 2003, the Company extinguished \$9.8 million of the senior subordinated notes. In 2000, the Company issued \$200.0 million aggregate principal amount of 12<sup>1</sup>/<sub>2</sub>% senior subordinated notes. These notes mature on May 10, 2010. These notes are general unsecured obligations of the Company, subordinated in right of payment to all of the Company's senior debt. On March 6, 2003, the Company extinguished \$7.0 million of these notes. On March 6, 2003, the Company issued \$225.0 million aggregate principal amount of 11<sup>7</sup>/<sub>8</sub>% senior notes. These notes mature on March 1, 2010. These notes are general unsecured obligations of the Company, ranking *pari passu* in right of payment with all existing and future senior debt of the Company, including all obligations under our credit facility, and senior in right of payment to all existing and future subordinated indebtedness of the Company. See "–Description of Certain Indebtedness."

Carrier Services has completed the cessation of its competitive communications business operations. Carrier Services' cash flow requirements include general corporate expenditures, expenses related to discontinued operations and debt service. We expect Carrier Services' cash flow requirements, other than debt amortization, will be funded primarily from cash flows from operations. Our amended and restated credit facility and the indentures governing our senior subordinated notes and senior notes contain certain restrictions on our ability to make investments in Carrier Services. In the event Carrier Services is unable to make a scheduled amortization payment or to pay any amount due at maturity under the Carrier Services credit facility, the lenders' sole remedy will be to convert their debt under the Carrier Services credit facility into shares of our Series A Preferred Stock.

The Company is also obligated under certain leases of Carrier Services and would therefore be obligated to make certain lease and other payments if Carrier Services and/or certain sublessees default on their obligations. See "–Summary of Contractual Obligations."

Under a tax sharing agreement, the Company has been and continues to be obligated to reimburse Carrier Services for any tax benefits the Company and its affiliates receive from net operating losses attributable to Carrier Services, including net operating losses attributable to Carrier Services carried forward from prior taxable years. As of March 31, 2003, approximately \$210 million of the \$258 million of combined net operating losses of the Company and its affiliates were attributable to Carrier Services. As of March 31, 2003, the amount payable to Carrier Services under the tax sharing agreement was approximately \$3.3 million. The Company does not anticipate making substantial payments under the tax sharing agreement for taxable income with respect to taxable years 2003 to 2007.

The Company anticipates using available funds under its \$70.0 million revolving facility and proceeds from the divestiture of the South Dakota operations to fund its acquisition of certain assets of Community Service Telephone Co. and Commtel Communications, Inc.

## Description of Certain Indebtedness

We have utilized a variety of debt instruments to fund our business and we have a significant amount of debt outstanding. Our high level of debt could significantly affect our business by: making it

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more difficult for us to satisfy our obligations, including making scheduled interest payments under our debt obligations; limiting our ability to obtain additional financing; increasing our vulnerability to generally adverse economic and communications industry conditions, including changes in interest rates; requiring us to dedicate a substantial portion of our cash flow from operations to payments on our debt, thereby reducing the availability of our cash flow for other purposes; limiting our flexibility in planning for, or reacting to, changes in our business and the communications industry; and placing us at a competitive disadvantage compared to those of our competitors that have less debt.

In addition, our amended and restated credit facility, the Carrier Services credit facility and the indentures governing our senior subordinated notes and our senior notes contain covenants that limit our operating flexibility and restrict our ability to take specific actions, even if we believe such actions are in our best interest. These include restrictions on our ability to: incur additional debt; pay dividends or distributions on, or redeem or repurchase, capital stock; create liens or negative pledges with respect to our assets; make investments, loans or advances, including to Carrier Services; make capital expenditures; issue, sell or allow distributions on capital stock of specified subsidiaries; enter into sale and leaseback transactions; prepay or defease specified indebtedness; enter into transactions with affiliates; enter into specified hedging arrangements; merge, consolidate or sell our assets; or engage in any business other than telecommunications. We also are required to maintain specified financial ratios and/or meet financial tests prescribed by our amended and restated credit facility. We may not be able to meet these requirements or satisfy these covenants in the future. If we fail to do so, our debts could become immediately payable at a time when we are unable to pay them, which could have an adverse effect on our business.

**Our Credit Facility.** We are a party to a credit facility with various lenders, Wachovia Bank, National Association, as documentation agent, Deutsche Bank Trust Company Americas, as administrative agent, and Bank of America, N.A., as syndication agent. The credit facility was amended and restated as part of a refinancing completed on March 6, 2003. Our amended and restated credit facility provides for, among other things, rescheduled amortization and an excess cash flow sweep with respect to the tranche C term facility. Our credit facility consists of term loan facilities (consisting of tranche A loans and tranche C loans) in an aggregate principal amount of \$158.0 million and a revolving credit facility in an aggregate principal amount of \$70.0 million (\$60.0 million of which was committed as of March 6, 2003 and an additional \$10.0 million of which was committed as of April 29, 2003). All of our obligations under our credit facility are unconditionally and irrevocably guaranteed jointly and severally by four of our mid-tier subsidiaries. Outstanding debt under our credit facility is secured by a first priority perfected security interest in all of the capital stock of certain of our subsidiaries.

Our amended and restated credit agreement is comprised of the following facilities:

*Revolving loan facility.* A revolving loan facility of \$70 million. These loans mature on March 31, 2007 and bear interest per annum at either a base rate plus 3.00% or LIBOR plus 4.00%.

*Tranche A term loan facility.* A tranche A term loan facility of \$30 million. As of March 31, 2003, \$30.0 million of tranche A term loans were outstanding. These loans mature on March 31, 2007 and bear interest per annum at either a base rate plus 3.00% or LIBOR plus 4.00%.

*Tranche C term loan facility.* As of March 31, 2003, approximately \$128.0 million of tranche C term loans remained outstanding. These loans mature on March 31, 2007. Mandatory repayments under the tranche C term loan facility are scheduled to be \$1.5 million, \$20.9 million, \$20.0 million \$29.6 million and a final \$56.0 million in 2003, 2004, 2005, 2006 and on March 31, 2007, respectively. Tranche C term loans bear interest per annum at either a base rate plus 3.50% or LIBOR plus 4.50%.

### *Covenants and Events of Default*

Our amended and restated credit facility contains certain customary covenants and other credit requirements of the Company and its subsidiaries and certain customary events of default. Our amended and restated credit facility limits our ability to downstream money to Carrier Services and its subsidiaries.

### *Prepayments*

Net cash proceeds from asset sales are required to be applied as mandatory prepayments of principal on outstanding loans unless such proceeds are used by us to finance acquisitions permitted under our amended and restated credit facility within 180 days (270 days with respect to a Special Asset Sale, as defined in the credit facility) of our receipt of such proceeds. Change of control transactions trigger a mandatory prepayment obligation. Voluntary prepayments of loans, including interim prepayments of revolving loans with proceeds of asset sales that are not used to prepay term loans in anticipation of being subsequently applied to fund a permitted acquisition or acquisitions within 180 days (270 days in the event described above) of the asset sale, may be made at any time without premium or penalty, provided that voluntary prepayments of Eurodollar loans made on a date other than the last day of an interest period applicable thereto shall be subject to customary breakage costs.

In addition, our amended and restated credit facility provides that on the date occurring ninety days after the last day of each of our fiscal years, commencing December 31, 2003, 50% of excess cash flow (as defined in our credit facility) for the immediately preceding fiscal year shall be applied as a mandatory repayment of the then outstanding tranche C term loan facility; provided, however, that such requirement shall terminate at such time as (i) we first meet a senior secured leverage ratio (as defined in our credit facility) of less than or equal to 1.00 to 1.00 and (ii) no default or event of default exists under our amended and restated credit facility.

***Senior Subordinated Notes and Floating Rate Notes issued in 1998.*** The Company issued \$125.0 million of senior subordinated notes and \$75.0 million of floating rate notes in 1998. The senior subordinated notes bear interest at the rate of 9<sup>1</sup>/<sub>2</sub>% per annum and the floating rate notes bear interest at a rate per annum equal to LIBOR plus 418.75 basis points, in each case payable semi-annually in arrears. The LIBOR rate on the floating rate notes is determined semi-annually. On March 6, 2003, the Company extinguished \$9.8 million of the senior subordinated notes.

The senior subordinated notes and floating rate notes mature on May 1, 2008. The Company may redeem the senior subordinated notes on or after May 1, 2003 and the floating rate notes at any time, in each case, at the redemption prices stated in the indenture under which those notes were issued, together with accrued and unpaid interest, if any, to the redemption date. In the event of a change of control, the Company must offer to repurchase the outstanding senior subordinated notes and floating rate notes for cash at a purchase price of 101% of the principal amount of such notes, together with all accrued and unpaid interest, if any, to the date of repurchase.

The subordinated notes and floating rate notes are general unsecured obligations of the Company, subordinated in right of payment to all existing and future senior indebtedness of the Company, including all obligations under our amended and restated credit facility.

The indenture governing the Company's senior subordinated notes and floating rate notes contains certain customary covenants and events of default. In particular, since Carrier Services and its subsidiaries are treated as unrestricted subsidiaries under such indenture, our ability to downstream funds to Carrier Services and its subsidiaries is limited by the restrictive payments covenant in such indenture.

**Senior Subordinated Notes issued in 2000.** The Company issued \$200.0 million of senior subordinated notes in 2000. The senior subordinated notes bear interest at the rate of 12<sup>1</sup>/<sub>2</sub>% per annum payable semi-annually in arrears. On March 6, 2003, the Company extinguished \$7.0 million of these notes.

The senior subordinated notes mature on May 1, 2010. The Company may redeem the senior subordinated notes on or after May 1, 2005 at the redemption price stated in the indenture under which the senior subordinated notes were issued, together with accrued and unpaid interest, if any, to the redemption date. In the event of a change of control, the Company must offer to repurchase the outstanding senior subordinated notes for cash at a purchase price of 101% of the principal amount of such notes, together with all accrued and unpaid interest, if any, to the date of repurchase.

The senior subordinated notes are general unsecured obligations of the Company, subordinated in right of payment to all existing and future senior indebtedness of the Company, including all obligations under our amended and restated credit facility.

The indenture governing the senior subordinated notes contains certain customary covenants and events of default. In particular, since Carrier Services and its subsidiaries are treated as unrestricted subsidiaries under such indenture, our ability to downstream funds to Carrier Services and its subsidiaries is limited by the restrictive payments covenant in such indenture.

**Senior Notes issued in 2003.** The Company issued \$225.0 million of senior notes in March 2003. The senior notes bear interest at the rate of 11<sup>7</sup>/<sub>8</sub>% per annum payable semi-annually in arrears.

The senior notes mature on March 1, 2010. The Company may redeem the senior notes on or after March 1, 2007 at the redemption price stated in the indenture under which the senior notes were issued, together with accrued and unpaid interest, if any, to the redemption date. In the event of a change of control, the Company must offer to repurchase the outstanding senior notes for cash at a purchase price of 101% of the principal amount of such notes, together with all accrued and unpaid interest, if any, to the date of repurchase.

The senior notes are general unsecured obligations of the Company, ranking *pari passu* in right of payment with all existing and future senior debt of the Company, including all obligations under our credit facility, and senior in right of payment to all existing and future subordinated indebtedness of the Company.

The indenture governing the senior notes contains certain customary covenants and events of default. In particular, since Carrier Services and its subsidiaries are treated as unrestricted subsidiaries under such indenture, our ability to downstream funds to Carrier Services and its subsidiaries is limited by the restrictive payments covenant in such indenture.

**Carrier Services Credit Facility.** On May 10, 2002, Carrier Services entered into an amended and restated credit agreement with its lenders to restructure the obligations of Carrier Services and its subsidiaries under the Carrier Services credit facility. In connection with such restructuring, (i) Carrier Services paid certain of its lenders \$5.0 million to satisfy \$7.0 million of the obligations under the Carrier Services credit facility, (ii) the lenders converted \$93.9 million of the loans and obligations under the Carrier Services credit facility into shares of the Company's Series A Preferred Stock having a liquidation preference equal to the amount of the loans and obligations under the Carrier Services credit facility, and (iii) the remaining loans under the Carrier Services credit facility and Carrier Services' obligations under its swap arrangements were converted into \$27.9 million aggregate principal amount of new term loans.

The converted loans under the new Carrier Services amended and restated credit agreement consist of two term loan facilities: (i) tranche A loans in the aggregate principal amount of approximately \$8.7 million and (ii) tranche B loans in the aggregate principal amount of approximately

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\$19.2 million, each of which matures in May 2007. Interest on the new loans is payable monthly and accrues at a rate of 8% per annum; provided, however, that upon an event of default the interest rate shall increase to 10% per annum. Interest on the tranche A loans must be paid in cash and interest on tranche B loans may be paid, at the option of Carrier Services, either in cash or in kind. For the period ended

March 31, 2003, \$0.4 million in additional debt was issued to satisfy the accrued in kind interest on the tranche B loans. The principal of the tranche A loans is due at maturity and the principal of the tranche B loans is payable as follows: (a) \$2,062,000 is due on September 30, 2004; (b) \$4,057,000 is due on September 30, 2005; (c) \$5,372,000 is due on September 30, 2006; and (d) the remaining principal balance is due at maturity. On May 6, 2003, Carrier Services extinguished \$2.2 million of the tranche A and tranche B loans.

The loans under the Carrier Services amended and restated credit agreement are guaranteed by certain of Carrier Services' subsidiaries and are secured by substantially all of the assets of Carrier Services and its subsidiaries. The Company has not guaranteed the debt owed to the lenders under the Carrier Services amended and restated credit agreement nor does the Company have any obligation to invest any additional funds in Carrier Services. Further, our amended and restated credit facility and the indentures governing the Company's senior subordinated notes and senior notes contain certain restrictions on the Company's ability to make investments in Carrier Services.

Voluntary prepayments of loans may be made under the Carrier Services amended and restated credit agreement at any time without premium or penalty. Carrier Services is also required to make mandatory prepayments of principal from certain sources including the net proceeds from asset sales and from excess cash flow generated by the long distance business. Under a tax sharing agreement, the Company has been and continues to be obligated to reimburse Carrier Services for any tax benefits the Company and its affiliates receive from net operating losses attributable to Carrier Services, including net operating losses attributable to Carrier Services carried forward from prior taxable years. As of March 31, 2003, approximately \$210 million of the \$258 million of combined net operating losses of the Company and its affiliates were attributable to Carrier Services. As of March 31, 2003, the amount payable to Carrier Services under the tax sharing agreement was approximately \$3.3 million. The Company does not anticipate making substantial payments under the tax sharing agreement for taxable income with respect to taxable years 2003 to 2007.

Upon a payment default under the Carrier Services amended and restated credit agreement, or in the event of a bankruptcy of Carrier Services or the Company, at the option of any lender, such lender's loans under the Carrier Services amended and restated credit agreement may be converted into shares of the Company's Series A Preferred Stock pursuant to the terms of the Amended and Restated Preferred Stock Issuance and Capital Contribution Agreement dated as of May 10, 2002 by and among the Company, the Administrative Agent and the lenders.

The Series A Preferred Stock is non-voting, except as required by applicable law, and is not convertible into common stock of the Company. The Series A Preferred Stock provides for the payment of dividends at a rate equal to 17.428% per annum. Dividends on the Series A Preferred Stock are payable, at the option of the Company, either in cash or in additional shares of Series A Preferred Stock. The Company has the option to redeem any outstanding Series A Preferred Stock at any time. The redemption price for such shares is payable in cash in an amount equal to \$1,000 per share plus any accrued but unpaid dividends thereon (the "Preference Amount"). Under certain circumstances, the Company would be required to pay a premium of up to 6% of the Preference Amount in connection with the redemption of the Series A Preferred Stock. In addition, upon the occurrence of certain events, such as (i) a merger, consolidation, sale, transfer or disposition of at least 50% of the assets or business of the Company and its subsidiaries, (ii) a public offering of the Company's common stock which yields in the aggregate at least \$175.0 million, or (iii) the first anniversary of the maturity of the Company's senior subordinated notes issued in 2000 (which first anniversary will occur in May 2011), unless prohibited by its credit facility or by the indentures

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governing its senior subordinated notes, the Company would be required to redeem all outstanding shares of the Series A Preferred Stock at a price per share equal to the Preference Amount. Certain holders of the Series A Preferred Stock have agreed with the Company to reduce the dividend rate from 17.428% to 15% on the shares they hold for a period of two years.

On March 6, 2003, Carrier Services entered into the First Amendment to the amended and restated credit facility, pursuant to which, among other things, THL Fund IV Bridge Corp. purchased the outstanding loans held by certain lenders and Carrier Services repaid, in full, the outstanding loans of \$2.2 million of Wachovia Bank, National Association.

### ***Summary of Contractual Obligations***

The tables set forth below contain information with regard to disclosures about contractual obligations and commercial commitments.

The following table discloses aggregate information about our contractual obligations as of March 31, 2003 and the periods in which payments are due:

|  | <u>Total</u>      | <u>Less than<br/>1 year</u> | <u>2-3 years</u>  | <u>4-5 years</u>  | <u>After 5<br/>years</u> |
|--|-------------------|-----------------------------|-------------------|-------------------|--------------------------|
| <b>Payments due by period</b><br><b>(Dollars in thousands)</b> |                   |                             |                   |                   |                          |
| <b>Contractual obligations:</b>                                |                   |                             |                   |                   |                          |
| Debt maturing within one year                                  | \$ 8,524          | \$ 8,524                    | \$ –              | \$ –              | \$ –                     |
| Long-term debt   | 807,731           | –                           | 59,744            | 134,323           | 613,664                  |
| Redeemable preferred stock(1)                                  | 83,447            | –                           | –                 | –                 | 83,447                   |
| Operating leases(2)  | 13,001            | 2,958                       | 4,344             | 3,237             | 2,462                    |
| Deferred transaction fee(3)                                    | 8,445             | –                           | –                 | –                 | 8,445                    |
| Common stock subject to put options                            | 2,136             | 1,000                       | 1,136             | –                 | –                        |
| Non-compete agreements   | 624               | 520                         | 104               | –                 | –                        |
| Minimum purchase contract(4)                                   | 3,000             | 1,750                       | 1,250             | –                 | –                        |
|  | <u>          </u> | <u>          </u>           | <u>          </u> | <u>          </u> | <u>          </u>        |
| Total contractual cash obligations                             | \$ 926,908        | \$ 14,752                   | \$ 66,578         | \$ 137,560        | \$ 708,018               |
|  | <u>          </u> | <u>          </u>           | <u>          </u> | <u>          </u> | <u>          </u>        |

- (1) The Company has the option to redeem any portion of the outstanding Series A Preferred Stock at any time. Under certain circumstances, the Company would be required to pay a premium of up to 6% in connection with the redemption. The Company is required to redeem the Series A Preferred Stock upon the occurrence of one of the following events: (i) a merger, consolidation, sale, transfer or disposition of at least 50% of the assets or business of the Company and its subsidiaries, (ii) a public offering of the Company's common stock which yields in the aggregate at least \$175.0 million, or (iii) the first anniversary of the maturity of the Company's senior subordinated notes (which first anniversary will occur in May 2011), unless prohibited by its credit facility or the indentures governing its senior subordinated notes.
- (2) Operating lease obligations represent \$11.0 million associated with the discontinued operations discussed in note (2) to our condensed consolidated financial statements and are stated in this table at total contractual amounts. However, the Company intends to negotiate lease terminations or subleases on these properties to reduce the total obligation. Operating leases from continuing operations of \$2.0 million are also included.
- (3) Payable to affiliates of Kelso & Company upon the occurrence of certain events.
- (4) Carrier Services has obligations to purchase a minimum amount of wholesale toll minutes from an interexchange carrier. To date, purchases have exceeded the minimum requirements.

The following table discloses aggregate information about our commercial commitments as of March 31, 2003. Commercial commitments are items that we could be obligated to pay in the future. They are not included in our condensed consolidated balance sheets.

| <u>Total Amounts<br/>Committed</u> | <u>Less Than<br/>1 year</u> | <u>2-3 Years</u> | <u>4-5 Years</u> | <u>After<br/>5 Years</u> |
|------------------------------------|-----------------------------|------------------|------------------|--------------------------|
|------------------------------------|-----------------------------|------------------|------------------|--------------------------|

**Amount of Commitment Expiration Per Period**

**(Dollars in thousands)**

**Other commercial commitments:**

|                     |    |       |    |     |    |       |    |    |    |   |
|---------------------|----|-------|----|-----|----|-------|----|----|----|---|
| Financial guarantee | \$ | 1,950 | \$ | 589 | \$ | 1,295 | \$ | 66 | \$ | – |
|---------------------|----|-------|----|-----|----|-------|----|----|----|---|

The following table discloses aggregate information about our derivative financial instruments as of March 31, 2003, the source of fair value of these instruments and their maturities.

|                                     | <u>Total Fair Value</u>               | <u>Less Than 1 Year</u> | <u>1-3 Years</u> | <u>4-5 Years</u> | <u>After 5 Years</u> |
|-------------------------------------|---------------------------------------|-------------------------|------------------|------------------|----------------------|
|                                     | Fair Value of Contracts at Period-End |                         |                  |                  |                      |
|                                     | (Dollars in thousands)                |                         |                  |                  |                      |
| Source of fair value:               |                                       |                         |                  |                  |                      |
| Derivative financial instruments(1) | \$ 6,120                              | \$ 5,509                | \$ 611           | \$ –             | \$ –                 |

- (1) Fair value of interest rate swaps at March 31, 2003 was provided by the counterparties to the underlying contracts using consistent methodologies.

**New Accounting Standards**

The Financial Accounting Standards Board (FASB) issued SFAS No. 143, *Accounting for Asset Retirement Obligations*, which was effective January 1, 2003. This statement requires, among other things, the accounting and reporting of legal obligations associated with the retirement of long-lived assets that result from the acquisition, construction, development or normal operation of a long-lived asset. The Federal Communications Commission has ordered that companies subject to regulatory accounting rules not adopt SFAS No. 143 and accordingly, the Company will not adopt this standard for its regulated operations. The adoption of this pronouncement did not have a material effect on the financial statements of our non-regulated entities.

In July 2002, the FASB issued SFAS No. 146, *Accounting for Costs Associated with Exit or Disposal Activities* (SFAS 146). SFAS 146 will apply to exit ("restructuring") plans initiated after December 31, 2002. Under SFAS 146, restructuring costs associated with a plan to exit an activity are required to be recognized when incurred. The Company's previously recorded restructuring liabilities were recognized when the Company committed to an exit plan, consistent with the guidance in EITF 94-3, *Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)*. In the event the Company initiates new exit plans after December 31, 2002, the liability recognition of SFAS No. 146 will apply.

In November 2002, the FASB issued Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, an interpretation of SFAS No. 5, 57 and 107 and rescission of FASB Interpretation No. 34. This interpretation requires additional disclosures to be made by a guarantor in its interim and annual financial statements about its obligations under certain guarantees that it has issued. It also specifies the requirements for liability recognition (at fair value) for obligations undertaken in issuing the guarantee. The disclosure requirements were effective in 2002. The initial recognition and measurement provisions are effective for all guarantees within the scope of Interpretation 45 issued or modified after December 31, 2002. The adoption of this pronouncement did not have a material effect on our financial statements.

In December 2002, the FASB issued SFAS No. 148, *Accounting for Stock Based Compensation—Transition and Disclosure, an amendment of FASB Statement 123*. This Statement amends FASB Statement No. 123, *Accounting for Stock-Based Compensation*, to provide

alternative methods of transition for a voluntary change to the fair value method of accounting for stock-based employee compensation. In addition, this Statement amends the disclosure requirements of Statement No. 123 to require prominent disclosures in both annual and interim financial statements. Certain of the disclosure modifications were required for fiscal years ending after December 15, 2002 and were included in the notes to the Company's 2002 consolidated financial statements. The required interim disclosure requirements are also included in our interim financial statements.

In January 2003, the FASB issued Interpretation No. 46, *Consolidation of Variable Interest Entities, an interpretation of ARB No. 51*. This Interpretation addresses the consolidation by business enterprises of variable interest entities as defined in the Interpretation. The Interpretation applies immediately to variable interest in variable interest entities created after January 31, 2003, and to variable interests in variable interest entities obtained after January 31, 2003. The Interpretation requires certain disclosures in financial statements issued after January 31, 2003, if it is reasonably possible that the Company will consolidate or disclose information about variable interest entities when the Interpretation becomes effective. The application of this Interpretation did not have a material effect on the Company's financial statements.

## **Inflation**

We do not believe inflation has a significant effect on our operations.

## **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

At March 31, 2003, we recorded our marketable available-for-sale equity securities at a fair value of \$1.2 million. These securities have exposure to price risk. A hypothetical ten percent adverse change in quoted market prices would decrease the recorded value by approximately \$0.1 million.

We have limited our exposure to material future earnings or cash flow exposures from changes in interest rates on long-term debt, since approximately 99% of our debt bears interest at fixed rates or effectively at fixed rates through the use of interest rate swaps. However, our earnings are affected by changes in interest rates as our long-term debt under our credit facilities have variable interest based on either the prime rate or LIBOR. If interest rates on our variable rate debt averaged 10% more, our interest expense would have increased, and our loss from continuing operations before taxes would have increased by approximately \$0.3 million for the three months ended March 31, 2003.

We have entered into interest rate swaps to manage our exposure to fluctuations in interest rates on our variable rate debt. Our liability for the fair value of these swaps was approximately \$6.1 million at March 31, 2003. The fair value indicates an estimated amount we would have to pay to cancel the contracts or transfer them to other parties. In connection with our credit facility, we used six interest rate swap agreements, with notional amounts of \$25.0 million each, to effectively convert a portion of our variable interest rate exposure to fixed rates ranging from 8.07% to 10.34%. The swap agreements expire from November 2003 to May 2004. In connection with our floating rate notes, we used an interest rate swap agreement, with a notional amount of \$75.0 million to effectively convert our variable interest rate exposure to a fixed rate of 10.78%. This swap agreement expires in May 2003.

## **ITEM 4. CONTROLS AND PROCEDURES**

### **(a) Evaluation of disclosure controls and procedures.**

Within 90 days prior to the filing date of this report, the Company carried out an evaluation, under the supervision and with the participation of the Company's management, including the

Based upon that evaluation, the Company's Chief Executive Officer and Chief Financial Officer have concluded that the Company's disclosure controls and procedures (a) are effective to ensure that information required to be disclosed by the Company in this report has been timely recorded, processed, summarized and reported and (b) include, without limitation, controls and procedures designed to ensure that information required to be disclosed by the Company in this report has been accumulated and communicated to the Company's management, including its Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

**(b) Changes in internal controls.**

There have been no significant changes in the Company's internal controls or in other factors that could significantly affect these controls subsequent to the date of the Company's evaluation.

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**PART II. OTHER INFORMATION**

**ITEM 1. LEGAL PROCEEDINGS**

None.

**ITEM 2. CHANGES IN SECURITIES AND USE OF PROCEEDS**

None.

**ITEM 3. DEFAULT ON SENIOR SECURITIES**

None.

**ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

None.

**ITEM 5. OTHER INFORMATION**

None.

**ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K**

**(a) Exhibits**

| <b>Exhibit No.</b> | <b>Description</b>  |
|--------------------|---|
| 2.1                | Stock Purchase Agreement dated as of January 4, 2000 by and among FairPoint, Thomas H. Lee Equity IV, L.P., Kelso Investment Associates V, L.P., Kelso Equity Partners V, L.P., Carousel Capital Partners, L.P. and certain other signatories thereto.(1) |

- 2.2 Network Transition Agreement, dated November 7, 2001, by and among FairPoint Solutions, Choice One Communications Inc. and selected subsidiaries of Choice One Communications Inc.(6)
- 2.3 Asset Purchase Agreement dated as of April 18, 2003 by and among FairPoint, Community Service Communications, Inc., Community Service Telephone Co. and CommTel Communications, Inc.\*
- 2.4 Stock Purchase Agreement dated as of May 9, 2003 by and among Golden West Telephone Properties, Inc., MJD Services Corp., Union Telephone Company of Hartford, Armour Independent Telephone Co., WMW Cable TV Co. and Kadoka Telephone Co.\*
- 3.1 Seventh Amended and Restated Certificate of Incorporation of FairPoint.(8)
- 3.2 By-Laws of FairPoint.(3)
- 3.3 Certificate of Designation of Series A Preferred Stock of FairPoint.(8)
- 4.1 Indenture, dated as of May 5, 1998, between FairPoint and United States Trust Company of New York, relating to FairPoint's \$125,000,000 9<sup>1</sup>/<sub>2</sub>% Senior Subordinated Notes due 2008 and \$75,000,000 Floating Rate Callable Securities due 2008.(2)
- 4.2 Indenture, dated as of May 24, 2000, between FairPoint and United States Trust Company of New York, relating to FairPoint's \$200,000,000 12<sup>1</sup>/<sub>2</sub>% Senior Subordinated Notes due 2010.(3)

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- 4.3 Indenture, dated as of March 6, 2003, between FairPoint and The Bank of New York, relating to Fairpoint's \$225,000,000 11<sup>7</sup>/<sub>8</sub>% Senior Notes due 2010.(9)
  - 4.4 Form of Initial Fixed Rate Security.(2)
  - 4.5 Form of Initial Floating Rate Security.(2)
  - 4.6 Form of Exchange Fixed Rate Security.(2)
  - 4.7 Form of Exchange Floating Rate Security.(2)
  - 4.8 Form of 144A Senior Subordinated Note due 2010.(3)
  - 4.9 Form of Regulation S Senior Subordinated Note due 2010.(3)
  - 4.10 Form of Initial Senior Note due 2010.(9)
  - 4.11 Form of Exchange Senior Note due 2010.(9)
  - 4.12 Registration Rights Agreement dated as of March 3, 2003 between FairPoint and the Initial Purchasers named therein.(9)
  - 4.13 Form of Series A Preferred Stock Certificate of FairPoint.(8)

- 10.1 Amended and Restated Credit Agreement dated as of March 30, 1998 and amended and restated as of March 6, 2003, among FairPoint, various lending institutions, Bank of America, N.A., Wachovia Bank, N.A. and Deutsche Bank Trust Company Americas.(9)
- 10.2 Amended and Restated Subsidiary Guaranty dated as of March 6, 2003 by FairPoint Broadband, Inc., MJD Ventures, Inc., MJD Services Corp. and ST Enterprises Ltd.(9)
- 10.3 Amended and Restated Pledge Agreement dated as of March 6, 2003 by Carrier Services, ST Enterprises, Ltd., FairPoint Broadband, Inc., MJD Services Corp., MJD Ventures, Inc., C-R Communications, Inc., Ravenswood Communications, Inc. and Utilities Inc.(9)
- 10.4 Amended and Restated Credit Agreement dated as of May 10, 2002 among Carrier Services, various lending institutions, Bank of America, N.A., Deutsche Bank Trust Company Americas and Wachovia Bank.(8)
- 10.5 First Amendment to Credit Agreement dated as of March 6, 2003 among Carrier Services, the credit parties named therein, Wachovia Bank, National Association and Deutsche Bank Trust Company Americas.(9)
- 10.6 Amended and Restated Preferred Stock Issuance and Capital Contribution Agreement dated as of May 10, 2002 among FairPoint, Wachovia Bank, National Association and various lending institutions.(8)
- 10.7 Amendment to Security Documents dated as of May 10, 2002 by and among Carrier Services, each of the Assignors party to the Security Agreement, each of the Pledgors party to the Pledge Agreement and Wachovia Bank, National Association.(8)
- 10.8 Amended and Restated Subsidiary Guaranty dated as of November 9, 2000 made by FairPoint Communications Solutions Corp. New York, FairPoint Communications Solutions Corp. Virginia and FairPoint Solutions Capital, LLC.(4)
- 10.9 Amended and Restated Pledge Agreement dated as of November 9, 2000 by and among Carrier Services, the Guarantors, the Pledgors and First Union National Bank.(4)
- 10.10 Amended and Restated Tax Sharing Agreement dated November 9, 2000 by and among FairPoint and its Subsidiaries.(4)

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- 10.11 Amended and Restated Security Agreement dated as of November 9, 2000 by and among Carrier Services and First Union National Bank.(4)
- 10.12 Form of Carrier Services Tranche A Term Note.(8)
- 10.13 Form of Carrier Services Tranche B Term Note.(8)
- 10.14 Form of A Term Note.(9)
- 10.15 Form of C Term Note Floating Rate.(9)
- 10.16 Form of C Term Note Fixed Rate.(9)
- 10.17 Form of RF Note.(9)

- 10.18 Stockholders' Agreement dated as of January 20, 2000 of FairPoint.(1)
- 10.19 Registration Rights Agreement dated as of January 20, 2000 of FairPoint.(1)
- 10.20 Management Services Agreement dated as of January 20, 2000 by and between FairPoint and THL Equity Advisors IV, LLC.(1)
- 10.21 Amended and Restated Financial Advisory Agreement dated as of January 20, 2000 by and between FairPoint and Kelso & Company, L.P.(1)
- 10.22 Non-Competition, Non-Solicitation and Non-Disclosure Agreement dated as of January 20, 2000 by and between FairPoint and JED Communications Associates, Inc.(1)
- 10.23 Non-Competition, Non-Solicitation and Non-Disclosure Agreement dated as of January 20, 2000 by and between FairPoint and Daniel G. Bergstein.(1)
- 10.24 Non-Competition, Non-Solicitation and Non-Disclosure Agreement dated as of January 20, 2000 by and between FairPoint and Meyer Haberman.(1)
- 10.25 Subscription Agreement dated as of January 31, 2000 by and between FairPoint and each of the Subscribers party thereto.(1)
- 10.26 Employment Agreement dated as of January 20, 2000 by and between FairPoint and John P. Duda.(1)
- 10.27 Letter agreement dated as of November 21, 2002 by and between FairPoint and John P. Duda, supplementing Employment Agreement dated as of January 20, 2000.(9)
- 10.28 Employment Agreement dated as of January 20, 2000 by and between FairPoint and Walter E. Leach, Jr.(1)
- 10.29 Letter agreement dated as of November 11, 2002 by and between FairPoint and Peter G. Nixon.(9)
- 10.30 Letter agreement dated as of November 13, 2002 by and between FairPoint and Shirley J. Linn.(9)
- 10.31 Institutional Stock Purchase Agreement dated as of January 20, 2000 by and among FairPoint and the other parties thereto.(1)
- 10.32 Institutional Stockholders Agreement dated as of January 20, 2000 by and among FairPoint and the other parties thereto.(1)
- 10.33 FairPoint 1995 Stock Option Plan.(3)
- 10.34 FairPoint Amended and Restated 1998 Stock Incentive Plan.(3)

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- 10.35 FairPoint 2000 Employee Stock Option Plan.(3)
  - 10.36 Employment Agreement dated as of December 31, 2002 by and between FairPoint and Eugene B. Johnson.(9)
  - 10.37 Succession Agreement dated as of December 31, 2001 by and between FairPoint and Jack H. Thomas.(7)

21 Subsidiaries of FairPoint.(9)

99.1 Certification required by 18 United States Code Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.\*†

99.2 Certification required by 18 United States Code Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.\*†

\* Filed herewith.

† Pursuant to Securities and Exchange Commission Release No. 33-8212, this certification will be treated as "accompanying" this Quarterly Report on Form 10-Q and not "filed" as part of such report for purposes of Section 18 of the Securities Exchange Act of 1934, or otherwise subject to the liability of Section 18 of the Securities Exchange Act of 1934 and this certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933 or the Securities Exchange Act 1934, except to the extent that the registrant specifically incorporates it by reference.

- (1) Incorporated by reference to the annual report of FairPoint for the year ended 1999, filed on Form 10-K.
- (2) Incorporated by reference to the registration statement on Form S-4 of FairPoint, declared effective as of October 1, 1998.
- (3) Incorporated by reference to the registration statement on Form S-4 of FairPoint, declared effective as of August 9, 2000.
- (4) Incorporated by reference to the quarterly report of FairPoint for the period ended September 30, 2000, filed on Form 10-Q.
- (5) Incorporated by reference to the quarterly report of FairPoint for the period ended June 30, 2001, filed on Form 10-Q.
- (6) Incorporated by reference to the current report on Form 8-K, filed on November 18, 2001.
- (7) Incorporated by reference to the annual report of FairPoint for the year ended 2001, filed on Form 10-K.
- (8) Incorporated by reference to the quarterly report of FairPoint for the period ended March 31, 2002, filed on Form 10-Q.
- (9) Incorporated by reference to the annual report of FairPoint for the year ended 2002, filed on Form 10-K.

**(b) Reports on Form 8-K**

On January 21, 2003, the Company filed a Current Report on Form 8-K reporting that Walter E. Leach and Timothy W. Henry, executive officers of the Company, had participated in a high yield/leveraged finance conference sponsored by Salomon Smith Barney.

On January 28, 2003, the Company filed a Current Report on Form 8-K reporting that Walter E. Leach, an executive officer of the Company, had participated in a high yield conference sponsored by JPMorgan.

On February 19, 2003, the Company filed a Current Report on Form 8-K reporting that it intended to issue \$225.0 million of principal amount of senior notes in a private placement.

On February 19, 2003, the Company filed a Current Report on Form 8-K disclosing certain information disclosed to potential investors in connection with the Company's private placement of senior notes. The disclosure included Summary Historical and Pro Forma Financial Data.

On March 4, 2003, the Company filed a Current Report on Form 8-K announcing that it had priced at par an offering of \$225.0 million principal amount of 11<sup>7</sup>/<sub>8</sub>% Senior Notes due 2010.

On March 4, 2003, the Company filed a Current Report on Form 8-K disclosing certain information disclosed to investors in connection with the Company's private placement of senior notes. The disclosure included Summary Historical and Pro Forma Financial Data, Consolidated Balance Sheets as of December 31, 2001 and 2002, Consolidated Statements of Operations for the Years Ended December 31, 2000, 2001, and 2002, Consolidated Statements of Stockholders' Equity (Deficit) for the Years Ended December 31, 2000, 2001, and 2002, Consolidated Statements of Comprehensive Income (Loss) for the Years Ended December 31, 2000, 2001, and 2002, Consolidated Statements of Cash Flows for the Years Ended December 31, 2000, 2001, and 2002, and Notes to Consolidated Financial Statements for the Years Ended December 31, 2000, 2001, and 2002.

On March 26, 2003, the Company filed a Current Report on form 8-K announcing its financial results for the 2002 fiscal year and the fourth quarter of the 2002 fiscal year.

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## SIGNATURES

Pursuant to the requirement of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

FAIRPOINT COMMUNICATIONS, INC.

/s/ WALTER E. LEACH, JR.

Date: May 13, 2003

By:

\_\_\_\_\_  
Name: Walter E. Leach, Jr.  
Title: *Senior Vice President and  
Chief Financial Officer*

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## CERTIFICATION

I, Eugene B. Johnson, certify that:

1. I have reviewed this quarterly report on Form 10-Q of FairPoint Communications, Inc. (the "Company");

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this quarterly report;
4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in rule 13a -14 and 15d-14 under the Securities Exchange Act of 1934, as amended) for the Company and we have:
  - (i) designed such disclosure controls and procedures to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report was being prepared;
  - (ii) evaluated the effectiveness of the Company's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
  - (iii) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation, to the Company's auditors and the audit committee of Company's board of directors (or persons performing the equivalent function):
  - (i) all significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and report financial data and have identified for the Company's auditors any material weaknesses in internal controls; and
  - (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls; and
6. The Company's other certifying officer and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the Evaluation Date, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: May 13, 2003

/s/ EUGENE B. JOHNSON

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Eugene B. Johnson  
*Chief Executive Officer*

## CERTIFICATION

I, Walter E. Leach, Jr., certify that:

1. I have reviewed this quarterly report on Form 10-Q of FairPoint Communications, Inc. (the "Company");
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this quarterly report;
4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in rule 13a-14 and 15d-14 under the Securities Exchange Act of 1934, as amended) for the Company and we have:
  - (i) designed such disclosure controls and procedures to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report was being prepared;
  - (ii) evaluated the effectiveness of the Company's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
  - (iii) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation, to the Company's auditors and the audit committee of Company's board of directors (or persons performing the equivalent function):
  - (i) all significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and report financial data and have identified for the Company's auditors any material weaknesses in internal controls; and
  - (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls; and

6. The Company's other certifying officer and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the Evaluation Date, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: May 13, 2003

/s/ WALTER E. LEACH, JR.

Walter E. Leach, Jr.  
*Chief Financial Officer*

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is entered into as of April 18, 2003, by and among FAIRPOINT COMMUNICATIONS, INC., a corporation organized under the laws of the State of Delaware (or any subsidiary or affiliate, as permitted under Section 7.8 hereof, the "Buyer"), COMMUNITY SERVICE COMMUNICATIONS, INC., a corporation organized under the laws of the State of Maine ("CSC"), COMMUNITY SERVICE TELEPHONE CO., a corporation organized under the laws of the State of Maine ("CST") and COMMTEL COMMUNICATIONS, INC., a corporation organized under the laws of the State of Maine ("CCI" and, together with CST, the "Sellers").

### WITNESSETH:

WHEREAS, Sellers are engaged in the business of telecommunications and related services in the geographical territory west of Augusta, Maine (the "Business"); and

WHEREAS, Sellers wish to sell all of the Purchased Assets (as defined herein) of the Business to Buyer, and Buyer wishes to purchase the Purchased Assets from Sellers; and

WHEREAS, the respective Boards of Directors of CSC, CST and CCI have, subject to the terms and conditions of this Agreement, determined that the sale of the Purchased Assets contemplated by this Agreement is in the best interests of their respective shareholders and have approved this Agreement and the transactions contemplated hereby pursuant to and in accordance with the provisions of 13-A M.R.S.A. § 1003(2); and

WHEREAS, in order to induce the Buyer to enter into this Agreement, and in order to receive the benefits that will accrue to Sellers and CSC if the Buyer purchases the Purchased Assets, the Sellers and CSC have agreed to make certain representations, warranties and covenants as set forth herein.

NOW, THEREFORE, in order to consummate said purchase and sale and in consideration of the mutual agreements set forth herein and other valuable consideration, the receipt and legal adequacy whereof are hereby acknowledged, the parties hereto agree as follows:

## ARTICLE I

### PURCHASE OF ASSETS; ASSUMPTION OF LIABILITIES; CLOSING

1.1 *Purchased Assets.* Except for the Excluded Assets, at the Closing, Sellers and CSC shall sell to the Buyer, and the Buyer shall purchase from Sellers and CSC, all of the assets of Sellers and CSC relating to the Business as of the Closing Date (collectively, the "Purchased Assets"), including, but not limited to, the following (to the extent relating to the Business), free and clear of all Liens except Permitted Liens:

(a) all cash and accounts receivable;

(b) all inventory (including telephones and related accessories);

(c) to the extent assignable, any and all permits, consents and licenses relating to the Business, including licenses issued by the Federal Communications Commission ("FCC") or the Maine Public Utilities Commission ("MPUC") which are necessary to engage in the Business;

(d) all furniture, fixtures, machinery, vehicles, plant, systems, structures, construction, telephone line facilities, tools, implements, conduits, stations, substations and equipment of any kind, character or nature;

(e) the Assumed Contracts;

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(f) all real estate interests of Sellers, including without limitation all leases, licenses, easements and the like, and all real property owned by Sellers, including that which is identified on *Schedule 1.1(f)* attached hereto, together with all easements, rights and privileges appurtenant thereto;

(g) all of the Sellers' interests in all real property improvements;

(h) all Intellectual Property Rights, including all rights to the corporate and tradenames of the Sellers and those trademarks and tradenames listed on *Schedule 1.1(h)*;

(i) all prepaid expenses, including amounts paid in advance on account of rent, property taxes, utility charges, fees and deposits;

(j) originals (if available) or copies (at the option of Buyer) of (i) all books, records, manuals, files, customer lists and records, accounts and billing records, plans, blueprints, specifications, drawings, surveys, engineering reports, personnel and employee benefit plan records and operating data whether in electronic format or otherwise, and (ii) the Assumed Contracts;

(k) all rights of the Sellers in and to all databases, software, software programs, object codes, source codes, systems documentation and user manuals used in connection with the Business;

(l) except as set forth in *Schedule 1.1(l)*, all claims, causes of action and rights of recovery relating to the Business, whether asserted or commenced on or before the Closing Date;

(m) the right to receive and retain mail, accounts receivable payments and other communications relating to the Business;

(n) the right to bill and receive payments for products shipped or delivered and services performed but unbilled or unpaid as of the Closing related to the Business;

(o) to the extent transferable, all telephone numbers (e.g., toll free numbers), facsimile numbers, Internet addresses, websites and similar numbers or addresses assigned to or used by Sellers or their respective customers; and

(p) all other business, property, assets and rights or benefits of Sellers on the Closing Date not described above, relating to the Business.

**1.2 Excluded Assets.** Notwithstanding anything to the contrary contained herein or otherwise, the Purchased Assets do not include the following assets of Sellers (collectively, the "Excluded Assets"):

(a) all federal, state and local income tax, franchise tax or other tax credits and tax refund claims arising out of the operations of the Business prior to Closing;

(b) the minute books, equity record books and tax returns of Sellers;

(c) except as provided in Section 1.5, any insurance policies (other than insurance policies constituting Assumed Contracts), insurance proceeds, insurance refunds and prepaid expenses relating to the period prior to the Closing (other than proceeds, refunds or prepaid expenses relating to Assumed Contracts);

(d) all contracts other than the Assumed Contracts and any claims related to Excluded Assets or Excluded Liabilities, and any counterclaims that Sellers may have in respect to claims, causes of action or litigation brought against them and relating to the operation of the Business prior to the Closing Date;

(e) any and all capital stock in the Sellers, and any and all of the capital stock of CSF;

(f) any membership interests in 39 LLC or NEP, LLC, and any stock (or similar interest) in CoBank;

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(g) the real property located at Winada Drive and the lease agreement with respect to such property; and

(h) those assets described on *Schedule 1.2*.

**1.3 Limited Assumption of Liabilities.** Except as set forth on *Schedule 1.3*, subject to the terms and conditions of this Agreement, Buyer hereby agrees to assume, as of the Closing Date, and agrees to pay, perform and discharge when due, only the following liabilities, responsibilities and obligations of either Seller or CSC relating to the Business and the Purchased Assets, thereafter arising (collectively, the "Assumed Liabilities"):

(a) *Assumed Contracts.* All liabilities, responsibilities and obligations of the Sellers arising out of or relating to the Assumed Contracts, but only to the extent same arise, accrue or become performable after the Closing Date;

(b) *Customer Deposits.* All liabilities, responsibilities and obligations relating to security or other deposits made by customers of the Sellers relating to the Business to the extent listed on *Schedule 1.3*;

(c) *Regulatory Obligations.* All liabilities, responsibilities and obligations relating to any rule, regulation, law, mandate, decision or order of the FCC or the MPUC, whether enacted or promulgated before, on or after the Closing Date, including such responsibilities and obligations requiring any capital expenditure;

(d) *Obligations and Liabilities Included in Working Capital.* All liabilities and obligations of Sellers or CSC which are included in "Current Liabilities", as defined in Section 1.10 hereof and set forth on a written list delivered by Sellers to Buyer on or prior to the Closing Date and accepted in writing by Buyer; and

(e) *Other Liabilities and Obligations.* Except as set forth in Section 1.4 hereof, all other liabilities and obligations relating to the ownership of the Purchased Assets or the operation of the Business by Buyer following the Closing.

Notwithstanding anything in this Section 1.3 to the contrary, "Assumed Liabilities" shall not include any liabilities, responsibilities or obligations expressly identified as an Excluded Liability pursuant to Section 1.4.

**1.4 Excluded Liabilities.** Except as set forth in Section 1.3, the Buyer shall not assume or be responsible for any of the liabilities or obligations of the Sellers or CSC (collectively, the "Excluded Liabilities"), including without limitation:

(a) any and all liabilities or obligations associated with or relating to any Excluded Assets and any debt of the Sellers or CSC for borrowed money (including any intercompany debt of the Sellers owed to any one or more of their Affiliates);

(b) any liability or obligation of any kind, character or nature arising out of (i) the conduct of the Sellers or CSC in connection with the operations of the Business prior to the Closing Date, including, without limitation, those described on *Schedules 2.10, 2.13 and 2.18* hereof (except as expressly provided for in Section 1.3), or (ii) the employment by the Sellers or CSC of any employees or the provision of any employee benefit pursuant to any plan, program or arrangement (whether or not subject to ERISA and whether

or not written), whether before or after the Closing Date and whether or not such employees become Buyer's employees, other than as expressly provided for herein;

(c) any liability or obligation of the Sellers or CSC owing to any stockholder, subsidiary or Affiliate thereof including, without limitation, any obligations arising out of or related to the transactions contemplated hereby;

(d) any liabilities related to (i) income taxes of the Sellers or CSC, (ii) all other taxes attributable to the Sellers or CSC or to Sellers' or CSC's operation of the Business for periods ending on or prior to the Closing Date including, but not limited to, sales and use taxes, and (iii) taxes of any other person or third party (except Buyer) pursuant to an agreement or otherwise;

(e) any liabilities existing or arising under Environmental Laws attributable to or incurred as a result of any acts, omissions or conditions first occurring or in existence as of or prior to the Closing Date, including, but not limited to, liabilities for the release, threatened release, handling, discharge, treatment, storage, disposal, transport, presence, or migration of Hazardous Substances;

(f) any obligation or requirement imposed by any Governmental Entity, including any Environmental Authority (as hereinafter defined) arising and required to be performed prior to the Closing Date; and

(g) any obligations or liabilities of CSC or the Sellers not directly related to the Business.

**1.5 Insurance Proceeds.** If prior to the Closing, any Purchased Assets shall have suffered, sustained or incurred any material loss, damage or destruction and the Sellers shall not have completed the repair or replacement of such Purchased Asset as of the Closing Date to the reasonable satisfaction of Buyer, then at Buyer's option, the Sellers shall, at the Closing, assign and transfer to Buyer, and Buyer shall be entitled to receive from the Sellers, all insurance proceeds collected by reason of such loss, damage or destruction which have not been expended on such repair or replacement, together with any rights to receive any uncollected insurance proceeds relating to such loss, damage or destruction which is payable to the Sellers. This Section shall not limit Buyer's other rights hereunder.

**1.6 Purchase Price; Tax Allocation.** The purchase price for the Purchased Assets shall be an aggregate amount of Thirty-One Million One Hundred and Fifty Thousand Dollars (\$31,150,000) (the "Purchase Price"). The Purchase Price shall be subject to adjustment in accordance with Section 1.10. The Purchase Price shall be allocated for tax purposes among the Purchased Assets and the Assumed Liabilities in accordance with *Schedule 1.6* attached hereto. Each of Buyer, Sellers and CSC shall file its respective federal income tax returns consistent with such allocation for the tax year in which this Agreement is executed, and each of Sellers, CSC and Buyer shall report all tax consequences of the transactions contemplated by this Agreement, in a manner consistent with such allocation, and not take any position inconsistent therewith upon examination of any tax return, in any refund claim, in any litigation or investigation or otherwise.

**1.7 Closing; Deposit.**

(a) The closing of the purchase of the Purchased Assets under this Agreement shall take place at the offices of Pierce Atwood, One Monument Square, Portland, Maine, at 10:00 a.m. local time, on the closing date (the "Closing" or the "Closing Date"), which shall be the first business day of the calendar month which is at least ten (10) days after the fulfillment or waiver of each of the conditions set forth in Article V hereof or at such other place, or on such earlier or later date and time as may be mutually agreed in writing by Buyer and Sellers, with the parties executing documents and exchanging signed documents. All proceedings to be taken and all documents to be executed and delivered by all parties at the Closing shall be deemed to have been taken and executed simultaneously, and no proceedings shall be deemed to have been taken nor any documents executed or delivered until all have been taken, executed and delivered. At Closing, (i) the Sellers and CSC shall deliver to Buyer all executed documents contemplated hereby including, without limitation, bills of sale and quitclaim deeds with covenant, necessary to transfer all of Sellers' and CSC's right, title and interest in and to the Purchased Assets, subject only to Permitted Liens, to Buyer as provided herein, (ii) the Buyer shall deliver to the Sellers all executed documents contemplated hereby, including without limitation instruments of assumption with

respect to the Assumed Liabilities, and (iii) Buyer shall arrange for the delivery or wire transfer of the Purchase Price to or at the written direction of the Sellers on the terms set forth herein.

(b) Concurrently with the execution and delivery of this Agreement by all parties hereto, Buyer is delivering the sum of \$1,000,000 (the "Deposit"), to be retained by a third party escrow agent in an interest-bearing account pursuant to an agreed upon escrow agreement (the "Escrow Agreement"). The Deposit (and all accrued interest thereon) shall be applied to the Purchase Price at the Closing. In the event this Agreement is terminated pursuant to Section 6.4(i) or (ii) hereof, the Sellers shall be entitled to retain the Deposit (together with interest accrued thereon) as liquidated damages (and not a penalty), it being agreed and acknowledged that Sellers' damages in the event of such a termination would be extremely difficult to calculate with precision, and the receipt and retention thereof shall be Sellers' sole and exclusive remedy (whether at law or equity) in the event of such a termination. If this Agreement is terminated other than pursuant to Section 6.4 (i) or (ii) hereof, the Deposit (together with any interest accrued thereon) shall be promptly returned to Buyer within four (4) business days of such termination.

1.8 *Further Assurances.* Each of the Sellers and CSC shall from time to time after the Closing, at the reasonable request of the Buyer and without further consideration, execute and deliver further documents, instruments of transfer, conveyance, endorsement, direction, authorization or assignment and take such other action as the Buyer may reasonably require to more effectively transfer and assign to, and vest in, the Buyer the Purchased Assets and all of Sellers' rights thereto (as provided herein), and to fully implement the provisions of this Agreement.

1.9 *Transfer Taxes.* All sales, income, recording, stamp, conveyance, value added, use, or similar asset transfer taxes, fees and duties or charges under applicable law incurred in connection with the sale and transfer of the Purchased Assets under this Agreement will be borne and paid by the Sellers, and the Sellers shall promptly reimburse the Buyer for any such tax, fee, duty or charge which it is required to pay under applicable law.

#### 1.10 *Purchase Price Adjustment.*

(a) As used herein, for purposes of this section, (i) "Net Working Capital" shall mean Current Assets minus Current Liabilities; (ii) "Current Assets" shall mean the following current assets of Sellers, combined, calculated in accordance with generally accepted accounting principles consistently applied ("GAAP") to the extent included as Purchased Assets: (a) cash and accounts receivable (net of reserves for doubtful accounts), (b) inventory, (c) prepaid expenses, and (d) any other Purchased Asset that would be classified as a current asset in accordance with GAAP; and (iii) "Current Liabilities" shall mean the following current liabilities of Sellers, combined, calculated in accordance with GAAP: (a) accounts payable and accrued expenses related to the Purchased Assets, (b) taxes, to the extent payable by the Buyer, (c) unearned revenue, and (d) any other Assumed Liabilities that would be classified as a current liability in accordance with GAAP. In addition, "Purchase Price Adjustment" shall include each of (x) the Net Working Capital Adjustment, and (y) the Capital Expenditure Adjustment. For illustration purposes only, the Purchase Price Adjustment shall be determined as described on *Schedule 1.10*, annexed hereto.

(b) The "Net Working Capital Adjustment" is an adjustment to the Purchase Price representing the obligation of the Sellers to have not less than \$20,000 in Net Working Capital at the close of business on the day before the Closing Date. If, as of the close of business as of the day before the Closing Date, Net Working Capital (as estimated in good faith by the Seller in consultation with the Buyer) exceeds \$20,000, then the Net Working Capital Adjustment shall credit Sellers (and increase the Purchase Price at Closing) for the amount by which Net Working Capital exceeds \$20,000. If as of the close of business as of the day before the Closing Date, Net Working Capital (as estimated in good faith by the Seller in consultation with the Buyer) is less

than \$20,000, then at Closing, the Purchase Price payable by Buyer on the Closing Date shall be reduced by the amount by which Net Working Capital is less than \$20,000.

(c) The "Capital Expenditure Adjustment" is an adjustment to the Purchase Price representing the obligation of Sellers to make, prior to the Closing Date, the capital expenditures contemplated to be made on or prior to the Closing Date as provided in *Schedule 4.2* (the "Required Expenditures"). If as of the close of the business day before the Closing Date, the Sellers have made actual capital improvements set forth on *Schedule 4.2* the original budgeted cost of which (as set forth on *Schedule 4.2*) is (if and to the extent Buyer has consented in writing to any additional or different expenditures, which consent shall not be unreasonably withheld, delayed or conditioned) greater than the originally budgeted cost of the Required Expenditures required to be made as of such date (as reflected on *Schedule 4.2*), then the Purchase Price shall be increased by the amount by which the originally budgeted cost of such actual capital improvements made (as reflected on *Schedule 4.2*) is greater than the amount originally budgeted (as reflected on *Schedule 4.2*) for such Required Expenditures. If, as of the close of the business day before the Closing Date, the Sellers have made actual capital improvements set forth on *Schedule 4.2* the original budgeted cost of which (as set forth on *Schedule 4.2*) is less than the originally budgeted cost of the Required Expenditures required to be made as of such date (as reflected on *Schedule 4.2*), then the Purchase Price shall be reduced by the amount by which the originally budgeted cost of such actual capital improvements made (as reflected on *Schedule 4.2*) is less than the amount originally budgeted (as reflected on *Schedule 4.2*) for such Required Expenditures. For purposes of calculating the Capital Expenditure Adjustment, a prorated portion (based on percentage of actual completion, in the case of actual capital expenditures, and on scheduled percentage of completion, in the case of Required Expenditures, in each case as of the close of the business day before the Closing Date) of the original budgeted cost (as reflected on *Schedule 4.2*) of any actual capital improvements which are partially completed as of the close of the business day before the Closing Date and any Required Expenditures scheduled (as reflected on *Schedule 4.2*) to be commenced prior to the Closing Date and completed after the Closing Date shall be included. The capital expenditure budget set forth in *Schedule 4.2* extends only through December 31, 2003. In the event that the Closing has not occurred on or before December 31, 2003, the parties agree that the Sellers would be expected to make new and additional capital expenditures in 2004 at approximately the same cost per month as was budgeted for in the first quarter of 2003. Accordingly, on or before December 15, 2003, the Sellers shall prepare and submit to the Buyer for approval (which approval shall not be unreasonably withheld, delayed or conditioned) a new capital expenditure budget for the first three months of 2004 reflecting expenditures in approximately the same amounts per month, on the average, as are budgeted for the first quarter of 2003. If the Closing occurs after January 1, 2004, the parties shall calculate and provide for an additional component of the Capital Expenditure Adjustment to reflect as a reduction in the Purchase Price any failure of the Sellers to make in the relevant period in 2004 capital expenditures as budgeted for that period in 2004 and as an increase in the Purchase Price any capital expenditures made by the Sellers in the relevant period in 2004 in excess of the amount budgeted for that period in 2004. If the Closing occurs in 2004, capital expenditures that remain incomplete shall be accounted for on a prorata basis in calculating the Capital Expenditure Adjustment in the same manner as is provided for above with respect to incomplete improvements if the Closing had occurred in 2003.

(d) The Sellers shall prepare and submit to the Buyer, not later than five (5) business days prior to the expected or agreed upon Closing Date, a written good faith estimate of the amount of the total Purchase Price Adjustment as of the Closing (the "Purchase Price Adjustment Estimate"), which amount shall be used to adjust the Purchase Price at Closing.

(e) Immediately following the Closing Date, the Sellers and CSC will prepare and submit to the Buyer financial statements (balance sheets and income and cash flow statements) for the period from the execution of this Agreement through the Closing Date (the "Closing Financials"). Within thirty (30) days after receiving the Closing Financials (but in no event earlier than thirty (30) days following the Closing), Buyer shall prepare and deliver to Sellers and CSC for review and comment a closing statement (the "Closing Statement") reasonably detailing as of the business day prior to the Closing the Buyer's determination of (i) the amount of Net Working Capital of Sellers as of the business day prior to the Closing Date, and (ii) the amount of the Required Expenditures through the business day prior to the Closing Date. If Sellers and CSC object to any amounts reflected on the Closing Statement, then Sellers and CSC must, within fifteen (15) business days after their receipt of the Closing Statement, give written notice (the

"Notice") to Buyer specifying in reasonable detail any objections, or Buyer's determination of the Purchase Price Adjustment shall be final, binding and conclusive on the parties on such fifteenth (15<sup>th</sup>) business day. With respect to any disputed amounts, the parties shall meet in person and negotiate in good faith during the fifteen (15) business day period (the "Resolution Period") after the date of Buyer's receipt of the Notice to resolve any such disputes. If the parties are unable to resolve all such disputes within the Resolution Period, then within five (5) business days after the expiration of the Resolution Period, all disputes shall be submitted to arbitration in accordance with the provisions of Section 7.13 hereof. The determination of the total Purchase Price Adjustment by arbitration shall be final, binding and conclusive on the parties hereto. From and after the Closing Date, each of the parties shall provide the other access to their books, records and personnel as such requesting party reasonably determines is necessary to prepare, review or dispute the Closing Statement.

(f) If the final total Purchase Price Adjustment (as finally determined in accordance with the provisions set forth above) differs from the Purchase Price Adjustment Estimate, then, within five (5) business days after such final determination, Buyer will pay the Sellers, or the Sellers will pay Buyer, in immediately available funds, in accordance with the provisions above or as otherwise directed by such arbitration decision.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF THE SELLERS AND CSC

The Sellers and CSC hereby represent and warrant, jointly and severally, to the Buyer that:

2.1 *Corporate Organization and Existence.* Each of CSC, CST and CCI is a corporation duly organized, validly existing and in good standing under the laws of the State of Maine, and is qualified to do business as a foreign corporation in each jurisdiction in which such qualification is required. Each of CST and CCI has all requisite corporate power and authority to own its properties and to carry on its business as it is now being conducted except where failure to have such power and authority would not have a Seller Material Adverse Effect (as hereinafter defined). The Sellers have heretofore made available to Buyer complete and correct copies of the Articles of Incorporation and By-Laws of CST and CCI. The copies of the Articles of Incorporation and By-Laws of each Seller, as amended to date, which have been furnished to counsel for Buyer, are true, correct and complete as of the date hereof. Neither Seller is in violation of any term of its respective Articles of Incorporation or By-Laws, or any judgment, decree, order, law, statute, ordinance, rule or government regulation applicable to it.

2.2 *Capitalization.* The authorized capital stock of CST consists solely of 250,000 shares of common stock, of which 100 shares are issued and outstanding. The authorized capital stock of CCI consists solely of 100,000 shares of common stock, of which 1 share is issued and outstanding. All of the outstanding shares of capital stock of each Seller have been duly authorized and validly issued and are fully paid and nonassessable. Except as set forth on *Schedule 2.2*, all outstanding shares of capital

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stock of each Seller are owned by CSC, free and clear of all liens, charges, encumbrances, claims and options of any nature. There are not as of the date hereof any outstanding or authorized options, warrants, calls, rights (including preemptive rights), commitments or any other agreements of any character which CSC, CST or CCI is a party to, or may be bound by, requiring it to issue, transfer, sell, purchase, redeem or acquire any shares of capital stock or any securities or rights convertible into, exchangeable for, or evidencing the right to subscribe for, any shares of capital stock of either of the Sellers.

#### 2.3 *Subsidiaries and Investments; Contracts and Commitments.*

(a) Neither Seller has any equity in any other entity, with the sole exception of (i) Community Service Financial, Inc. ("CSF"), a wholly owned subsidiary of CST, the stock of which will be distributed or transferred to CSC prior to the Closing, and (ii) shares of capital stock of CoBank held by CST, which stock will be distributed or transferred to CSC prior to the Closing. CSF does not own, lease, license, or have any rights in or to any of the assets or properties used in the Business.

(b) Except as set forth in *Schedule 2.3 and the Prior Agreement (as hereinafter defined)*, neither Seller (i) is a party to any contract, obligation, understanding or commitment (whether written or oral) which involves a potential or actual commitment or aggregate payments to or from either of the Sellers to or from any third party in excess of \$25,000, or which is otherwise material and not entered into in the ordinary course of business, or (ii) has any material asset purchase contracts, employment contracts, financing, credit or loan agreements, collective bargaining agreements, mortgage, pledge or security agreements, consulting agreements, guaranty, independent contractor agreements, noncompetition agreements or agreements with any current or former officers, directors, employees, consultants or other independent contractors, or shareholders of either Seller or CSC or persons or organizations related to or affiliated with any such persons. Neither Seller nor CSC (and to the Sellers' knowledge, no other party thereto) is in material default under any contract, obligation, understanding or commitment relating to the Business or the Purchased Assets to which either Seller or CSC is a party and, to the knowledge of Sellers and CSC, no state of facts exists that upon notice or lapse of time or both would constitute such a default, the consequences of which default if asserted by the other contracting party in the case of a default by the Sellers, would have a Seller Material Adverse Effect.

#### 2.4 *Authority Relative to this Agreement.*

(a) Each Seller and CSC has the requisite corporate power and authority to execute and deliver this Agreement and, subject to the shareholder approval described below, to consummate the transactions contemplated hereby. This Agreement and the consummation by each Seller and CSC of the transactions contemplated hereby have been duly and validly authorized by the Boards of Directors of each Seller and CSC and by CSC, in its capacity as the sole stockholder of Sellers, and no other corporate proceedings on the part of the Sellers or CSC are necessary to authorize this Agreement or to consummate the transactions contemplated hereby (other than the approval of this Agreement by the holders of a majority of the outstanding shares of CSC's common stock, in accordance with 13-A M.R.S.A. § 1003(2) (the "CSC Shareholder Approval")). This Agreement has been duly and validly executed and delivered by each Seller and CSC and, assuming this Agreement constitutes the valid and binding agreement of Buyer, constitutes the valid and binding agreement of each, enforceable against each Seller and CSC in accordance with its terms, except that such enforceability may be limited by (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally, and (ii) general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

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(b) The Board of Directors of each Seller and CSC has duly and validly approved and, in the case of the Board of Directors of CSC, upon the calling of a meeting of shareholders of CSC pursuant to 13-A M.R.S.A. § 1003(2), each such Board of Directors will have taken all corporate action required to be taken by it for the consummation of the transactions contemplated herein.

#### 2.5 *Consents and Approvals; No Violation.*

(a) Neither the execution and delivery of this Agreement nor the consummation by either Seller or CSC of the transactions contemplated hereby will:

(i) conflict with or result in any breach of any provision of the respective Articles of Incorporation or By-Laws of the Sellers or CSC;

(ii) except as set forth on *Schedule 2.5(a)(ii)*, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Entity or other third party;

(iii) except as set forth in *Schedule 2.5(a)(iii)*, violate or result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation or acceleration or lien or other charge or encumbrance) under any of the terms, conditions or provisions of any contract, indenture, obligation, commitment, note, license, agreement or other instrument or obligation to which the Sellers or CSC are parties, or by which any of their respective assets may be bound, except for such violations, breaches and defaults (or rights of

termination, cancellation or acceleration or lien or other charge or encumbrance) as to which requisite waivers or consents have been obtained;

(iv) assuming the consents, approvals, authorizations or permits and filings or notifications referred to in this Section 2.5 (including *Schedules 2.5(a)(ii)* and *(iii)*) are duly and timely obtained or made and the CSC Shareholder Approval has been obtained, violate or constitute a default under any judgment, order, restriction, writ, injunction, decree, law, statute, ordinance, rule or regulation applicable to the Sellers or CSC, or to any of their respective assets; or

(v) create (directly or indirectly with or without notice of or lapse of time or both) any Lien on any of the Purchased Assets except pursuant to this Agreement and the agreements contemplated hereby.

(b) The CSC Shareholder Approval is the only vote of the holders of any class or series of the Sellers' or CSC's securities necessary to approve this Agreement and the transactions contemplated hereby that has not already been obtained.

## 2.6 *Financial Statements.*

Attached as *Schedule 2.6* are the consolidated balance sheets and the related consolidated statements of income and cash flows (including the related notes thereto, if any) of CST as of and for the years ended December 31, 2002 (audited), December 31, 2001 (audited) and December 31, 2000 (audited) and the unaudited balance sheets and related statements of income and cash flows of CCI as of and for the years ended December 31, 2002 and December 31, 2001 (the "Financial Statements"), all of which Financial Statements as of their respective dates, were prepared in accordance with (i) to the extent required, the rules and regulations of the MPUC and FCC, and (ii) GAAP applied on a basis consistent with prior periods (except as otherwise noted therein), are true and correct, and present fairly, in all material respects, the consolidated financial position and results of operation and cash flows of CST on a consolidated and consolidating basis as of and for the years ended December 31, 2002 (the "Balance Sheet Date"), December 31, 2001 and December 31, 2000 and of CCI as of and for the years ended December 31, 2002 and December 31, 2001 (subject, in the case of the unaudited financial statements, to normal year-end audit adjustments and the absence of footnote

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disclosures). Except as set forth in the December 31, 2002 balance sheets that are part of the Financial Statements (the "Latest Balance Sheet") or in *Schedule 2.9*, and except for Excluded Liabilities, neither Seller has any material obligations, liabilities or material forward or long term commitments (including contingent liabilities). Nothing has come to CSC's or Sellers' attention that would indicate that the Financial Statements were not true and correct in all material respects as of their respective dates or for the periods covered thereby.

## 2.7 *Operations Since Balance Sheet Date.*

(a) Since the Balance Sheet Date, except as set forth in *Schedule 2.7(a)*, there has been no damage, destruction or loss, whether or not covered by insurance, or condemnation or other taking adversely affecting in any material respect any of the Purchased Assets or the Business.

(b) Except as set forth in *Schedule 2.7(b)* and except with respect to the actions of the Sellers resulting in this Agreement, since the Balance Sheet Date, each Seller and CSC has conducted the Business only in the ordinary course and in conformity with past practice. Without limiting the generality of the foregoing, since the Balance Sheet Date, except as set forth in such Schedule, neither Seller nor (with respect to subparagraphs (vii), (viii) and (ix) only) CSC has:

(i) except in the ordinary course of business consistent with past practice, made or permitted any amendment, cancellation or termination of any of the Assumed Contracts;

(ii) cancelled or waived any debts owed to or claims held by either Seller (including the settlement of any claims or litigation) other than in the ordinary course of its business consistent with past practice and other than debts owed to CST by CSC;

(iii) created, incurred or assumed, guaranteed or agreed to create, incur, assume or guarantee, any indebtedness for borrowed money resulting in the imposition of a Lien on any of the Purchased Assets (other than a Permitted Lien or a Lien which Sellers are obligated to discharge at or prior to the Closing) or entered into, as lessee, any capitalized lease obligations (as defined in Statement of Financial Accounting Standards No. 13);

(iv) revalued any assets or properties, or accelerated or delayed collection of or (except as contemplated by subparagraph (ii) above) written off notes or accounts receivable in advance of or beyond their regular due dates or the dates when the same would have been collected in the ordinary course of its business consistent with past practice, or increased or changed any assumptions underlying bad debt calculations or contingency or other reserves;

(v) except under the Prior Agreement, suffered, made (or committed to make) any sale, transfer, lease, license, encumbrance, loss, disposition, destruction or damage of any asset or property that, if it were held by a Seller on the Closing Date, would be part of the Purchased Assets (except as permitted under Section 4.2 hereof);

(vi) except under the Prior Agreement, acquired or disposed of assets (or entered into any agreement to do so) or entered into or become committed to enter into any other material transaction except in the ordinary course of business (except as permitted under Section 4.2 hereof);

(vii) instituted any increase or decrease in any compensation payable to any employee of Sellers or CSC except in the ordinary course of business consistent with past practice or adopted or made any change or amendment in any profit-sharing, bonus, incentive, deferred compensation, retention, severance, golden parachute, insurance, pension, retirement, medical, hospital, disability, welfare or other benefits made available to employees of Sellers or CSC, except in each case as required by any Company Plan (as herein defined) (except as permitted under Section 4.2 hereof);

(viii) made any change in the accounting methods, principles and practices used by Sellers or CSC from those applied in the preparation of the Latest Balance Sheet and the related statements of income, stockholders' equity and cash flow as of and for the twelve months ended December 31, 2002; or

(ix) experienced any strike, work stoppage, slow down, union organizing or recognition efforts, claims of unfair labor practices or similar claims or any significant labor difficulty of any kind, character or nature or any change in personnel or in any employment or consulting agreement.

**2.8 *Absence of Certain Changes or Events.*** Except as set forth in the schedules to this Agreement, since the Balance Sheet Date, neither of Sellers has suffered any Seller Material Adverse Effect.

**2.9 *Absence of Undisclosed Liabilities.*** Except as set forth on *Schedule 2.9* or on the Latest Balance Sheet and the liabilities under the Prior Agreement contemplated by Section 6.7 hereof, neither Seller has any absolute, accrued or contingent indebtedness, liability or liabilities arising out of any transaction or state of facts, whether accrued, to become due, contingent, or otherwise.

**2.10 *Litigation.*** Except as disclosed on *Schedule 2.10*, there are no investigations, complaints, charges, grievances, actions, claims, suits, proceedings at law or in equity or by any governmental or administrative instrumentality or agency (including without limitation, the MPUC or the FCC) ("Proceedings") pending or, to the knowledge of CSC or Sellers, threatened against either Seller or CSC (or any of their respective directors, officers or employees) which relate to the Business or the Purchased Assets and which would individually or in the aggregate, if determined adversely to either Seller or CSC, have a Seller Material Adverse Effect. No investigation, complaint, action, suit or

proceeding is pending at law or in equity or by or before any governmental instrumentality or other agency now pending against either Seller, or any director, officer or key employee of CSC or either Seller that has a reasonable possibility of calling into question the validity, or hindering the enforceability or performance, of this Agreement or any action taken or to be taken pursuant hereto or any of the other agreements and transactions contemplated hereby, nor, to the Sellers' knowledge, has there occurred any event or does there exist any condition on the basis of which any such litigation, proceeding or investigation might properly be instituted. There is no outstanding judgment, injunction, decree or order issued by any governmental instrumentality or other agency (including, without limitation, the MPUC or the FCC) against either Seller or CSC that, individually or in the aggregate, constitutes a Seller Material Adverse Effect.

2.11 *Proxy Statement.* Any proxy, information statement or similar materials distributed to CSC's shareholders in connection with the transactions contemplated by this Agreement, including any amendments or supplements thereto (the "Proxy Statement") will not, at the time that it or any amendment or supplement thereto is mailed to CSC's shareholders, or at the time of the special shareholders' meeting relating to the CSC Shareholder Approval (the "Shareholders' Meeting"), contain any untrue statement of a material fact or omit to state any 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, except that no representation is made by the Sellers or CSC with respect to information supplied by Buyer for inclusion in the Proxy Statement. No filings with the Securities Exchange Commission or the Maine Office of Securities are required to be made by Sellers or CSC with respect to the CSC Shareholder Approval or the Shareholders' Meeting under applicable federal or state securities laws.

## 2.12 *Taxes.*

(a) *Tax Returns.* Each Seller and CSC has timely and properly filed all federal, state, local and foreign tax returns (including but not limited to income, franchise, sales, payroll, employee

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withholding and social security and unemployment) ("Tax Returns") that it was required to file since January 1, 1996. All such Tax Returns are correct and true in all material respects. Except as disclosed on *Schedule 2.12*, all taxes (including interest and penalties) due and owing by either Seller or CSC, or to which any of them may be liable under Treasury Regulations §1.1502-6 (or analogous state or foreign provisions) by virtue of having been a member of any affiliated group (as defined in Section 1504(a) of the Internal Revenue Code, as amended to date (the "Code")) (or other group filing on a combined or unitary basis), have been paid. Neither Seller nor CSC was (at any time after January 1, 1996) or is a party to any tax sharing agreement, nor currently is the beneficiary of any extension of time within which to file any report or return. No claim has been made since January 1, 1996 by a taxing authority in a jurisdiction where either Seller or CSC does not file reports and returns that it is or may be subject to taxation by that jurisdiction. Any liability of the Sellers or CSC for taxes not yet due and payable, or which are being contested in good faith, has been provided for on the Financial Statements in accordance with GAAP or are described on *Schedule 2.9*.

(b) Neither Seller nor CSC (nor any officer or employee responsible for tax matters) has knowledge (defined as Sellers' knowledge) that any taxing authority will assess any additional taxes for any period for which returns have been filed. Except as disclosed in *Schedule 2.12*, there is no dispute or claim concerning any tax liability of either Seller or CSC either (i) claimed or raised by any Governmental Entity or taxing authority in writing, or (ii) as to which either Seller or CSC has knowledge based upon personal contact with any agent of such taxing authority. *Schedule 2.12* lists all tax returns filed with respect to either Seller or CSC for taxable periods beginning January 1, 1996 to and including the date of this Agreement, and indicates those returns that have been audited or currently are the subject of an audit. Sellers have made available to Buyer true, correct and complete copies of all federal, state and local income Tax Returns, examination reports and statements of deficiencies assessed against or agreed to by either Seller for the period beginning January 1, 1996 to present.

(c) Neither Seller is a "foreign person" within the meaning of Section 1445 of the Code. Neither Seller nor CSC is a party to any agreement, whether written or unwritten, providing for the payment of taxes, payment for tax losses, entitlements to refunds or similar tax matters. Neither of Sellers has been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

(d) No property of Sellers is "tax-exempt use property" within the meaning of Section 168(h) of the Code or property that the Sellers will be required to treat as being owned by another person pursuant to Section 168(f)(8) of the Internal Revenue Code of 1954, as amended, in effect immediately before the enactment of the Tax Reform Act of 1986.

(e) Neither of Sellers nor CSC has consented to any extension of the statute of limitations with respect to any open federal, state or local tax returns. Neither of Sellers nor CSC has, since January 1, 1996, entered into a closing agreement pursuant to Section 7121 of the Code.

(f) There are no tax liens upon any property or assets of Sellers, including but not limited to the Purchased Assets, except for liens for current taxes not yet due and payable.

(g) Each Seller and CSC, and each payor of benefit payments under any Company Plan, has withheld and timely paid all taxes (including, without limitation, federal, state, local, or foreign income, franchise, payroll, employee withholding and social security and unemployment taxes) required to have been withheld and paid in connection with amounts paid or owing to any employee, creditor, independent contractor, stockholder or other third party since January 1, 1996. All Forms W-2 and 1099-series forms required to be filed with respect thereto have been timely and properly filed except where the failure to file would not individually or in the aggregate have a Seller Material Adverse Effect.

(h) Neither Seller nor CSC (i) has made since January 1, 1996 and will not make any elections under Section 341(f) of the Code, and (ii) has not made since January 1, 1996 any payment (and is not obligated to make any payment) that will be nondeductible under Section 280G of the Code.

### 2.13 *Employee Benefit Plans; Labor and Employment Matters.*

(a) Set forth in *Schedule 2.13* is a true, correct and complete list of each of the following employee benefit plans maintained, sponsored or contributed to by the Sellers or CSC or any ERISA Affiliate at any time since January 1, 1997, or with respect to which the Sellers or CSC or any ERISA Affiliate could reasonably have any liabilities, or which provides or will provide benefits to present or former employees, officers, directors or independent contractors of the Sellers or CSC or any ERISA Affiliate, or their dependents, survivors or beneficiaries (the "Company Plans"): (i) each "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA) ("Pension Plan"), (ii) each "employee welfare benefit plan" (as such term is defined in Section 3(1) of ERISA), and (iii) each employee benefit plan, program or arrangement that is not subject to ERISA, including without limitation any retirement, pension, savings, profit sharing, money purchase pension, defined benefit, deferred compensation, severance, retention, golden parachute, stock ownership, stock purchase, stock option, phantom stock, equity, performance, bonus, incentive, vacation or holiday pay, educational assistance or tuition remission or reimbursement, cafeteria, dependent care, transportation, hospitalization or other medical, disability, death benefit plan (whether provided through insurance, on a funded or unfunded basis, or otherwise), or other welfare, benefit or fringe benefit plan, policy, trust, understanding or arrangement of any kind, whether written or oral. Neither Seller, nor CSC, nor any ERISA Affiliate currently sponsors, maintains or is required to contribute to or make any payments in respect of, or has at any time sponsored, maintained or been required to contribute to or make any payments in respect of, (i) any Pension Plan subject to Title IV or Section 302 of ERISA or Section 412 of the Code or (ii) any "multiemployer plan" (as such term is defined in Section 3(37) of ERISA) ("Multiemployer Plan").

With respect to each Company Plan, Sellers or CSC have provided to Buyer a true, correct and complete copy of each of the following that is applicable to such Company Plan: the current plan document with all amendments thereto; any related trust or custodial agreements, insurance or annuity

contracts currently in effect; the current summary plan description and any subsequent summary of material modifications; the Sellers and CSC's current employee handbook; the most recent favorable IRS determination or opinion letter received; Form 5500s for the plan year ended December 31, 2001; notices of all reportable events filed (or descriptions of reportable events which have occurred, but have not been reported); any application for and grant or denial of funding waiver under Code Section 412; any Form 5330s filed with the Internal Revenue Service; SEC registration statements and SEC required disclosure to participants and Form 11-Ks; and a schedule of contributions for the past three years to any Multiemployer Plan.

(b) With respect to the Company Plans, except as set forth in *Schedule 2.13* and except as would not individually or in the aggregate have a Seller Material Adverse Effect: (i) each Company Plan intended to be qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code") has received a favorable determination letter from the Internal Revenue Service (the "IRS") that it is so qualified and since the date of such letter there are no circumstances that are reasonably likely to affect the qualified status of such Company Plan, (ii) each Company Plan has been operated in all material respects in accordance with its terms and the requirements of any applicable laws, regulations or administrative rulings, (iii) none of the Sellers, CSC or any ERISA Affiliate has incurred or has any reason to believe that it will incur any direct or indirect liability under, arising out of or by operation of Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and no fact or event exists that is reasonably likely to give rise to any such liability, (iv) there is no pending or, to the knowledge of the Sellers or CSC, threatened claim, suit or grievance in respect of any of the Company Plans or, to the knowledge of Sellers or CSC, any basis for any such claim, suit or grievance, other than claims for benefits in the ordinary course of business, and (v) all required contributions, reserves or premium payments for the Company Plans have been made.

(c) None of the Sellers, CSC or, to the knowledge of the Sellers, any other "disqualified person" (within the meaning of Section 4975 of the Code) or "party in interest" (within the meaning of Section 3(14) of ERISA) has taken any action with respect to any Company Plan that could subject any such plan (or its related trust), the Sellers, CSC or any officer, director or employee of any of the foregoing to a material penalty or tax under Section 502(i) or Section 502(l) of ERISA or Section 4975 of the Code, provided that as to Multiemployer Plans, the representation and warranty in this Section 2.13(c) is made only to the knowledge of the Sellers.

(d) Except as set forth in *Schedule 2.13*, none of Sellers or CSC maintains or contributes to any employee welfare benefit plan which provides benefits to employees after termination of employment other than as required by Part 6 of Title I of ERISA. Any employee welfare benefit plan set forth in *Schedule 2.13* as described in the previous sentence can be amended or terminated at any time in the future.

(e) Except as set forth in *Schedule 2.13* and except as would not individually or in the aggregate be reasonably likely to have a Seller Material Adverse Effect, (i) Sellers and CSC have complied in all material respects with all applicable laws, rules and regulations which relate to wages, hours, discrimination in employment and collective bargaining and are not liable for any arrears of wages or any taxes or penalties for failure to comply with any of the foregoing and (ii) there is no pending or, to the knowledge of the Sellers, threatened claim, suit, arbitration, grievance or investigation regarding employment matters against the Sellers or CSC. Except as set forth in *Schedule 2.13*, (x) there is no unsatisfied award, judgment or other final resolution of a dispute regarding employment matters against the Sellers or CSC that requires continuing compliance therewith or that individually or in the aggregate constitutes a material liability and (y) none of Sellers or CSC is a party to any collective bargaining or other labor union contracts. There is no pending or, to the knowledge of the Sellers, threatened labor dispute, strike or work

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stoppage against the Sellers or CSC which would interfere with the respective business activities of the Sellers or CSC, except where such dispute, strike or work stoppage would not have a Seller Material Adverse Effect and, to the knowledge of the Sellers, there are no pending or threatened union organizing or election activities involving any non-union employees of the Sellers or CSC.

(f) As used herein, "ERISA Affiliate" shall mean (i) any corporation which at any time on or before the Closing Date is or was a member of the same controlled group of corporations (within the meaning of Section 414(b) of the Code) with Sellers or CSC,

(ii) any partnership, trade or business (whether or not incorporated) which at any time on or before the Closing Date is or was under common control (within the meaning of Section 414(c) of the Code) with Sellers or CSC, (iii) any entity which at any time on or before the Closing Date is or was a member of the same affiliated service group (within the meaning of Section 414(m) of the Code) with Sellers, CSC or any corporation described in clause (i) of this paragraph or any partnership, trade or business described in clause (ii) of this paragraph, and (iv) any entity which at any time on or before the Closing Date was required to be aggregated with Sellers or CSC under Code Section 414(o).

(g) *Schedule 2.13(g)* contains a true and complete list of names and current hourly wage, monthly salary or other compensation of all directors, officers, management employees, consultants, independent contractors or managers of the Business, with a summary of existing bonuses, additional compensation and other benefits (whether current or deferred), if any, paid or payable to each such person for services rendered in the fiscal year ended December 31, 2002. *Schedule 2.13(g)* contains a true and complete listing and summary description of all employment, compensation, non competition, confidentiality, consulting and independent contractor agreements and any other similar agreements between either Seller, CSC and their respective directors, officers, employees, independent contractors and consultants.

(h) Neither Seller nor CSC are parties to any contract with any labor organization, nor have they agreed to, been required to or been asked to recognize or negotiate any union or other collective bargaining unit, nor has any union or other collective bargaining unit been certified as representing any of their respective employees. Neither the Sellers nor CSC has knowledge of any organization currently being made, pursued or threatened by or on behalf of any labor union with respect to their respective employees. Neither Seller nor CSC has, within the last three years, experienced any strike, work stoppage, slow down, lockout, grievance proceeding, claim of unfair labor practices or other significant labor difficulty of any nature, nor are any claims pending or, to the best knowledge of Sellers, threatened between either Seller or CSC and any of their respective employees.

(i) Neither of the Sellers nor CSC has received notification as of the date of this Agreement that any of its current significant employees (or one or more employees who, when taken together, would be significant to CSC or the Sellers) presently plan to terminate or otherwise resign from employment, whether by reason of the transactions contemplated hereby or otherwise. The employment of all persons presently employed or retained in the Business is terminable at will, and the Buyer will not be, pursuant to any current contract, arrangement or understanding (including collective bargaining agreements), applicable law, or otherwise, obligated to pay any severance pay or other benefit by reason of the voluntary or involuntary termination of employment of any present or former employee (including managers), consultant, independent contractor or agent of either Seller or CSC, prior to, on or after the Closing.

#### 2.14 *Environmental Laws and Regulations.* When used in this Section 2.14:

(a) "Environmental Laws" shall mean any and all federal, state or local laws, rules, orders, regulations, statutes, common law, ordinances, codes, decrees or requirements of any Environmental Authority or any other Governmental Entity regulating, relating to or imposing

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liability or standards of conduct concerning any Regulated Materials, environmental protection, or human health protection involving Regulated Materials or worker health and safety as currently in effect or as in effect at any time in the past;

(b) "Environmental Authority" shall mean any Governmental Entity responsible for the due administration and/or enforcement of any Environmental Law.

(c) "Environmental Permits" shall mean all governmental approvals, authorizations, registrations, permits and licenses, including those related to environmental quality and the emission, discharge, storage, handling, treatment, use, generation or transportation of Regulated Materials required by Environmental Laws or otherwise required for the Sellers to conduct the Business.

(d) "Regulated Materials" shall mean any pollutant, contaminant, hazardous material, hazardous waste, infectious medical waste, hazardous or toxic substance (and all constituents and degradation products thereof) defined or regulated as such in or under any Environmental Law, including, without limitation, petroleum, crude oil or fractions thereof, petroleum products, waste or used oil, natural or synthetic gas, asbestos or asbestos-containing materials and polychlorinated biphenyls, materials exhibiting the characteristics of ignitability, corrosivity, reactivity or extraction procedure toxicity, as such terms are defined in connection with hazardous materials or hazardous wastes or hazardous or toxic substances in any Environmental Law; and

(e) "Release" shall have the same meaning as provided in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, Section 101(22), 42 U.S.C. Section 9601(22).

(i) Except as set forth in *Schedule 2.14*, the Sellers are in compliance in all material respects with all Environmental Laws. The conduct of the Business does not violate or conflict with and has not in the past violated or conflicted with in any material respect any Environmental Laws.

(ii) Except as set forth in *Schedule 2.14*, the Sellers have obtained all necessary Environmental Permits. The Sellers' Environmental Permits are in full force and effect, and the Sellers are in material compliance therewith.

(iii) Except as set forth in *Schedule 2.14*, (A) the Sellers have not received any complaint or notice from any Environmental Authority or any other person alleging any past or present violation of any Environmental Law in connection with the operation of the Business that is currently unresolved, (B) to the knowledge of the Sellers, there is no investigative proceeding against the Sellers by any Environmental Authority in connection with the past or present operation of the Business or ownership or operation of any of the real properties identified on *Schedule 1.1(f)*, or any other real property leased or licensed by the Sellers, and (C) there are no pending claims under any Environmental Law against the Sellers.

(iv) Except as set forth in *Schedule 2.14*, the Sellers have not been subject to any administrative or judicial enforcement action or proceeding of any kind pursuant to any Environmental Law in connection with the Business.

(v) Except as set forth in *Schedule 2.14*, the Sellers are not subject to any remedial obligation or other response action (including without limitation, any assessment, containment or removal action) under any administrative order, decree, or agreement pursuant to any Environmental Law.

(vi) Except as set forth in *Schedule 2.14*, (A) no real property currently or formerly owned, leased, operated or used by the Sellers (including any real property used for off-site disposal, deposit or storage of any Regulated Material) is listed or, to the knowledge of

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Sellers, has been proposed for listing on any federal list of Superfund or National Priorities List, including any analogous state lists, sites or similar governmental lists, (B) to the Sellers' knowledge, there exist no circumstances that could result in any such property being listed on any federal list of Superfund or National Priorities List sites or similar governmental lists, including any analogous state lists, regarding waste sites at which there has been a Release or threatened Release of Regulated Materials, and (C) to the Sellers' knowledge, none of their real property has been used at any time by any person as a hazardous waste treatment, storage or disposal site.

(vii) Except as set forth in *Schedule 2.14*, there are no (A) underground storage tanks (as defined under the Resource Conservation and Recovery Act or any other applicable Environmental Law), or (B) capacitors, transformers or other equipment or fixtures containing polychlorinated biphenyls ("PCBs") (other than light fixtures which contain PCBs), located in, at, under or on the real property owned or leased by the Sellers.

(viii) Except as set forth in *Schedule 2.14*, there are no facts, actions, activities, circumstances, conditions, occurrences, events, liabilities, or incidents, including any Release, threatened Release, generation, use, treatment, storage, disposal, arranging for disposal, transportation, or the presence of Regulated Materials, that are likely to (A) result in any environmental liability of Sellers, (B) prevent or interfere with the operation of the Sellers' Business as it is currently being conducted, in compliance with all applicable Environmental Laws, (C) materially and adversely affect the assets, Business or financial condition of the Sellers, or (D) materially and adversely impact or affect the use of any real property owned, operated, or leased by the Sellers.

(ix) The Sellers have provided to Buyer all environmental reports, documents and other written materials relating to environmental conditions and compliance with Environmental Laws which are within Sellers' custody, possession and control.

(x) The representations and warranties contained in this Section 2.14 constitute Sellers' and CSC's sole and exclusive representations and warranties with respect to matters involving Environmental Laws, Regulated Materials and Environmental Permits.

(xi) Neither this transaction or any element of this transaction requires any disclosures or notifications to any Environmental Authority or other Government Entity pursuant to any transaction-triggered Environmental Law.

## 2.15 *Real Property.*

(a) Except for (i) Permitted Liens, (ii) as set forth on *Schedule 2.15*, and (iii) Liens to be discharged at or prior to Closing, CST and CCI have good, valid and marketable title to all of their real property (other than properties which are leased), free and clear of all Liens, mortgages, restrictions and other encumbrances and defects of title of any nature whatsoever. All owned or leased real property of the Business (the "Properties") is described on *Schedule 2.15*. A true copy of each lease to which either of the Sellers is a party has been delivered by Sellers to Buyer, and each such lease is listed on *Schedule 2.15*, is in full force and effect and affords such company peaceful and undisturbed possession of the subject matter of such lease. Each of the Sellers has performed all material obligations required to be performed by it under each of the leases to which it is a party, no amount due under any such leases remains unpaid, and no material contingency, claim, dispute or other disagreement exists between the parties to any such lease. No default or event of default on the part of either of the Sellers or, to the knowledge of Sellers, on the part of the lessor, exists under any such lease, and neither Seller has received any notice of default under any such lease or any indication that the owner of the leased property intends to terminate such lease, and no event has occurred which with notice or the lapse of time, or both,

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would constitute a default under any such lease. Except as specifically disclosed on *Schedule 2.15*, the Sellers hold all easements, rights-of-way and other rights necessary to own, operate and maintain the physical plant of the Sellers (including all telephone lines) and neither Seller is in breach of, or default under, any such easement, right-of-way or other right and there are not any materially burdensome limitations or obligations under any such easement, right-of-way or other right. A true copy of all easements, rights of way and all other rights necessary to own, operate and maintain the physical plans of the Sellers (including all telephone lines) (collectively the "Easements") and all deeds for real property owned have been delivered by Sellers to Buyer, and each such deed and Easement is listed on *Schedule 1.1(f)*.

(b) Except as set forth on *Schedule 2.15*, neither Seller is in violation of any zoning, land use, building or safety law, ordinance, regulation or requirement or other law or regulation applicable to the operation of its owned or leased properties ("Zoning Requirements"), nor has it received any notice of violation with which it has not complied, in any case in which the consequences of such violation if asserted by the applicable Governmental Entity would be adverse with respect to such company or would materially impair the ability of such company to use the affected parcel of owned or leased property in the manner and scope in which it is now being used for the operation of the Business. Except as set forth on *Schedule 2.15*, (i) there are no operations on the

Properties which constitute nonconforming uses under any material Zoning Requirement, and (ii) neither Seller has any knowledge of, and neither Seller has received any notice (other than published notice not actually received) of, any pending or contemplated rezoning proceeding affecting the Properties.

(c) Except as set forth on *Schedule 2.15*, (i) no person or entity has any right or option to purchase, lease, sublease or license the real property of CST or CCI or any portion thereof, and (ii) the use of the real property of CST and CCI is permitted in all material respects under applicable laws, ordinances, rules, or regulations and is in conformity in all material respects with the same.

#### 2.16 *Tangible Personal Property; Intangible Property.*

(a) The Purchased Assets, together with the Excluded Assets, include any and all personal property used in the operation of the Business. Except (i) as set forth in *Schedule 2.16*, (ii) Permitted Liens and (iii) Liens to be discharged at the Closing, none of the Purchased Assets is subject to any Lien and each Seller has good, valid, and marketable title, free and clear of all title defects, objections and Liens, to the tangible personal property included in the Purchased Assets. None of the title defects, objections or Liens (if any) listed in *Schedule 2.16* adversely affects the value of any of the items of tangible personal property included in the Personal Property or interferes with its use in the conduct of the Business. Except as set forth in *Schedule 2.16*, each Seller holds good and transferable leaseholds in all of the tangible personal property leased by it, in each case under valid and enforceable leases. Neither Seller is in default with respect to any item of tangible personal property purported to be leased by it, and no event has occurred that constitutes or with due notice or lapse of time or both would constitute a default under any lease thereof.

(b) The Purchased Assets include all items of intangible property which are material to the Business as currently conducted, taken as a whole, including, without limitation, trade names, unregistered trademarks and service marks, brand names, patents and copyrights.

2.17 *Insurance.* *Schedule 2.17* sets forth a list of all insurance policies and all material fidelity bonds or other insurance service contracts (the "Insurance Policies") providing coverage for the properties or operations of the Business, the type and amount of coverage, and the expiration dates of the Insurance Policies. There is no claim pending under any of the Insurance Policies as to which coverage has been questioned, denied or disputed by the underwriters of such policies. All premiums

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payable under all Insurance Policies have been paid, and Sellers have otherwise complied in all material respects with the terms and conditions of all of the Insurance Policies. The Insurance Policies are valid and enforceable in accordance with their terms, are issued by insurers that are financially sound and reputable, are in full force and effect and insure against risk and liabilities customary in the industry and as required by law or any material contract to which either Seller is a party. Since January 1, 2000, except as set forth on *Schedule 2.17*, neither Seller nor CSC has received notice from any of its current insurance carriers: (i) threatening a suspension, revocation, modification or cancellation of any Insurance Policy or a material increase in any premium in connection therewith, or (ii) informing such company that any coverage listed on *Schedule 2.17* will or may not be available in the future on substantially the same terms as now in effect.

2.18 *Compliance with Laws and Orders.* Except as set forth in *Schedule 2.18*, each Seller has been and is in compliance in all material respects with all applicable statutes, laws, ordinances, regulations, franchises, licenses, permits, administrative permissions or approvals, rules, governmental policies or orders of any Governmental Entity (including, without limitation, the MPUC and the FCC), and any judgment, ruling, decree or order of any court, administrative agency or tribunal or any arbitrator or arbitral panel or tribunal applicable to its business or operations; and the conduct of the Business has been and is in compliance with all federal, state and local energy, public utility, health, wage and hour (including but not limited to the Fair Labor Standards Act), employment, workplace or worker safety and health, including but not limited to OSHA, and all other requirements of any Governmental Entity (including, without limitation, requirements of the MPUC and the FCC). Each Seller has all permits, licenses, registrations, franchises and other authorizations from, and has made all necessary filings with, all Governmental Entities, including the MPUC and the FCC, required to conduct the Business as now being conducted. No investigation or review by any Governmental Entity with respect to the Business is pending or, to the knowledge of either Seller or CSC, has been threatened. Since the Balance Sheet Date, except as set forth on *Schedule 2.18*, neither the Sellers nor CSC has received any notice or

other communication (whether oral or written) from any Governmental Entity or any other person regarding (i) any actual, alleged, possible, or potential violation of or failure to comply with, any applicable law, or (ii) any actual, alleged, possible, or potential obligation on the part of either Seller or CSC to undertake, or to bear all or any portion of the cost of, any remedial action of any nature, nor to the knowledge of Sellers is there any basis for any such notice or other communication.

#### 2.19 *Permits.*

(a) Each Seller owns, holds or possesses all licenses, franchises, permits, privileges, immunities, approvals and other authorizations from Governmental Entities which are reasonably necessary to entitle it to own or lease, operate and use its assets and to carry on and conduct its Business substantially as currently conducted (herein collectively called "Governmental Permits"). Complete and correct copies of all of the Governmental Permits have heretofore been delivered or made available to Buyer and are listed on *Schedule 2.19*.

(b) Except as set forth in *Schedule 2.19*, each of such Governmental Permits is in full force and effect, and each Seller has fulfilled and performed its obligations under each of the Governmental Permits. No proceedings to revoke, refuse, renew, modify or restrict the Governmental Permits are pending or, to Sellers' knowledge, threatened, and no event has occurred or condition or state of facts exists which constitutes or, after notice or lapse of time or both, would constitute a breach or default under any such Governmental Permit or which permits or, after notice or lapse of time or both, would permit restriction, modification, revocation or termination of any such Governmental Permit, or which would adversely affect in any material respect the rights of either Seller under any such Governmental Permit, (ii) no notice of cancellation, of default or of any dispute concerning any Governmental Permit, or of any event, condition or state of facts described in the preceding clause, has been received by, or is known to,

either Seller or CSC, and (iii) all filings and reports required by Governmental Entities have been timely and properly made.

2.20 *Intellectual Property.* The Purchased Assets include all rights in all patents, patent rights, trademarks, trade names, trade dress, logos, service marks, copyrights, know how and other proprietary intellectual property rights and computer programs held or used by Sellers ("Intellectual Property Rights") necessary to carry out the Business, all of which are listed on *Schedule 2.20*. Except as set forth on *Schedule 2.20*, the Intellectual Property Rights do not infringe on any proprietary right of any person and no claims (x) challenging the validity, effectiveness or ownership by either Seller of any of the Intellectual Property Rights, or (y) to the effect that the Intellectual Property Rights infringe or will infringe any intellectual property or other proprietary right of any person have been asserted or, to the Sellers' knowledge, are threatened by any person nor are there any valid grounds for any bona fide claim of any such kind. To the best of the Sellers' knowledge, there is no material unauthorized use, infringement or misappropriation of any of the Intellectual Property Rights by any third party, employee or former employee of either Seller.

#### 2.21 *Certain Agreements.*

(a) Except as set forth in *Schedule 2.21*, there are no amounts payable by either Seller or CSC to any officers or employees of either Seller or CSC (in their capacity as officers or employees), and not vesting or acceleration of rights or the lapse of restrictions, as a result of the transactions contemplated by this Agreement and/or any subsequent employment termination.

(b) Except as set forth on *Schedule 2.21*, there are no contracts, understandings, arrangements or commitments (whether written or oral) between either Seller, on the one hand, and CSC, any stockholder, officer, director or employee of CSC or any of its affiliates (other than Sellers), on the other hand.

2.22 *Brokers and Finders.* Except for the fees and expenses payable to Chanin Capital Partners, which fees and expenses are reflected in its agreement with CSC (and payable by CSC), none of CSC, CST or CCI has employed any investment banker, broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement which would be entitled to any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

2.23 *Opinion of Financial Advisor.* CSC has received the opinion of Chanin Capital Partners, dated April 18, 2003, to the effect that, as of such date, the consideration to be received by the Sellers pursuant to this Agreement is fair to CSC from a financial point of view, subject to customary assumptions and qualifications.

2.24 *Totality of Purchased Assets.* The Purchased Assets, together with the Excluded Assets, include all assets used in the operation of the Business.

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## ARTICLE III

### REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to the Sellers and CSC that:

3.1 *Corporate Organization and Qualification.* Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is qualified and in good corporate standing as a foreign corporation in each jurisdiction where the properties owned, leased or operated, or the business conducted, by it require such qualification, except where the failure to so qualify or be in such good standing would not have a Buyer Material Adverse Effect or adversely affect the consummation of the transactions contemplated hereby. Buyer has all requisite power and authority (corporate or otherwise) to own its properties and to carry on its business as it is now being conducted, except where failure to have such power and authority would not have a Buyer Material Adverse Effect or adversely affect the consummation of the transactions contemplated hereby. Buyer has heretofore made available to CSC and the Sellers complete and correct copies of its Certificate of Incorporation and By-Laws.

3.2 *Authority Relative to This Agreement.* Buyer has the requisite corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. This Agreement and the consummation by Buyer of the transactions contemplated hereby have been duly and validly authorized by the Board of Directors of Buyer, and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer and, assuming this Agreement constitutes the valid and binding agreement of CSC and the Sellers, constitutes the valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, except that such enforceability may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally, and (b) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity).

3.3 *Consents and Approvals; No Violation.* Neither the execution and delivery of this Agreement by Buyer nor the consummation by Buyer of the transactions contemplated hereby will:

(a) conflict with or result in any breach of any provision of the Certificate of Incorporation or the By-Laws of Buyer;

(b) require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Entity, except (i) such filings and consents as may be required by the FCC or the FCC Rules, or by the MPUC or the MPUC Rules, (ii) as may be required by any applicable state securities or "blue sky" laws or state takeover laws, (iii) such filings and consents as may be required under any local government environmental, health or safety law or regulation pertaining to any notification, disclosure or required approval triggered by the transactions contemplated by this Agreement or (iv) where the failure to obtain such consent, approval, authorization or permit, or to make such filing or notification, would not individually or in the aggregate have a Buyer Material Adverse Effect or adversely affect the consummation of the transactions contemplated hereby;

(c) except as set forth in *Schedule 3.3(c)*, result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation or acceleration or lien or other charge or encumbrance) under any of the terms, conditions or provisions of any note, license, agreement or other instrument or obligation to which Buyer or

any of its Subsidiaries may be bound, except for such violations, breaches and defaults (or rights of termination, cancellation or acceleration or Lien or other charge or encumbrance) as to which requisite waivers or consents have been obtained or which individually or in the aggregate

would not have a Buyer Material Adverse Effect or adversely affect the consummation of the transactions contemplated hereby; or

(d) assuming the consents, approvals, authorizations, permits, filings and notifications referred to in this Section 3.3 are duly and timely obtained or made, violate any order, writ, injunction, decree, statute, rule or regulation applicable to Buyer or any of its Subsidiaries or to any of their respective assets, except for violations which would not individually or in the aggregate have a Buyer Material Adverse Effect or adversely affect the consummation of the transactions contemplated hereby.

3.4 *Financing.* Buyer has adequate funding to consummate the transactions provided herein.

3.5 *Brokers and Finders.* Buyer has not employed any investment banker, broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement which would be entitled to any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

## ARTICLE IV

### ADDITIONAL COVENANTS AND AGREEMENTS

4.1 *Shareholders' Meeting.* CSC, acting through its Board of Directors, shall:

(a) duly call, give notice of, convene and hold the Shareholders' Meeting, to be held reasonably promptly after the date hereof, for the purpose of considering and taking action upon this Agreement, including the obtaining of the CSC Shareholder Approval;

(b) include in the Proxy Statement the recommendation of CSC's Board of Directors that shareholders of CSC vote in favor of the approval and adoption of this Agreement; notwithstanding anything to the contrary in this Agreement, CSC's Board of Directors may withdraw, modify or amend its recommendation if in the good faith opinion of CSC's Board of Directors, after consultation with counsel, such recommendation is reasonably determined to be inconsistent with its fiduciary duties to CSC's shareholders under applicable law; and any such withdrawal, modification or amendment shall not constitute a breach of this Agreement; and

(c) use all reasonable efforts to (i) promptly prepare the Proxy Statement, (ii) cause the Proxy Statement to be mailed to its shareholders reasonably promptly, and in any event within twenty (20) business days, following the date hereof, and (iii) obtain the necessary approvals by its shareholders of this Agreement and the transactions contemplated hereby unless, in the good faith opinion of CSC's Board of Directors after consultation with its counsel, obtaining such approvals is inconsistent with its fiduciary duties to CSC's shareholders under applicable law.

At such meeting, Buyer and its Affiliates will vote all shares of CSC's voting stock, if any, owned by any of them in favor of approval and adoption of this Agreement and the transactions contemplated hereby.

4.1A *Regulatory Matters.* The parties shall, promptly after the date hereof, cooperatively commence efforts to obtain MPUC and FCC approvals of the transactions contemplated hereby and the authorizations listed in *Schedule 4.1A*. The parties shall diligently pursue and use their best efforts to obtain such authorizations and approvals as promptly as practicable prior to the Closing Date.

4.2 *Conduct of Business of CST and CCI.* Each Seller and CSC agree that during the period from the date of this Agreement to the Closing Date (unless the Buyer shall otherwise agree in writing and except as otherwise contemplated by this Agreement), each Seller will:

(i) conduct its operations according to its ordinary and usual course of business consistent with past practice and, to the extent consistent therewith, with no less diligence and effort than would be applied in the absence of this

Agreement, and (ii) to the extent consistent with its ordinary and usual course of business consistent with past practice and, to the extent consistent therewith, with no less diligence and effort than would be applied in the absence of this Agreement (A) seek to preserve intact its current business organizations, (B) keep available the services of its current officers and employees and (C) preserve its relationships with customers, suppliers and others having business dealings with it to the end that goodwill and ongoing businesses shall not be impaired in any material respect on the Closing Date. Without limiting the generality of the foregoing, and except as otherwise permitted in this Agreement or as set forth in *Schedule 4.2*, prior to the Closing Date, neither of the Sellers nor (with respect only to subparagraphs (c)-(g), (l), (m), (n) and (p) hereof) CSC will, without the prior written consent of Buyer:

(a) sell, pledge, lease, license or otherwise encumber or transfer any of the Purchased Assets or adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of either Seller (except for (i) the distribution by CST of the stock of CSF and CoBank, (ii) the sales of obsolete or worn-out assets or assets being replaced prior to the Closing Date, or (iii) sales of other assets having a fair value not exceeding \$50,000 in any individual instance or \$150,000 in the aggregate; provided, however, that Sellers shall provide Buyer with prior notice of any such proposed sale of other assets described in this clause (iii) having a fair value in excess of \$25,000);

(b) modify or adopt any amendments to its Articles of Incorporation or By-Laws or alter through merger, liquidation, reorganization, restructuring or in any other fashion the corporate structure or ownership of either Seller;

(c) grant any material increases in (or make amendments to) the compensation of any of its directors, officers or key employees, except in the ordinary course of business and in accordance with past practice;

(d) except as set forth on *Schedule 4.2*, pay or agree to pay any pension, retirement allowance or other employee benefit not required or contemplated by any of the existing benefit, severance, termination, pension or employment plans, agreements or arrangements as in effect on the date hereof to any such director or officer, whether past or present;

(e) except as set forth on *Schedule 4.2*, enter into any new, or materially amend any existing, bonus, profit sharing, retention, golden parachute, employment, severance, termination or similar agreement with any director, officer or key employee;

(f) except as set forth on *Schedule 4.2* or as may be required to comply with applicable law or as may be required by those items listed on *Schedule 4.2*, adopt or become obligated under any plan, program or arrangement which, if existing on the date hereof, would be a Company Plan in accordance with Section 2.13(a) or amend any Company Plan if such amendment would have the effect of enhancing any benefits thereunder;

(g) except as set forth on *Schedule 4.2*, take any position with respect to or settle or compromise any material tax claim, file any material amended tax return or claim for refund, or file any tax return incorporating a material position, election or method of accounting inconsistent with a position, election or method incorporated in past tax returns, except as required by law, or take any action or position that would increase the tax liability of either Seller so as to have a Seller Material Adverse Effect;

(h) except in the ordinary course of business consistent with past practice or as contemplated by this Section 4.2, (i) lease, sublease, license, sublicense, transfer, mortgage, or encumber its real or personal property or (ii) acquire any real or personal property;

(i) subject any of its assets, or any part thereof, to any Lien or suffer such to be imposed other than such Liens as may arise in the ordinary course of business consistent with past practices or by operation of law which will not, individually or in the aggregate, have a Seller Material Adverse Effect;

(j) pay, loan or advance any amount to any person or entity (other than dividends in cash or stock of CSF or CoBank to CSC) or enter into any agreement or arrangement to do so;

(k) guarantee any indebtedness for borrowed money or any other obligation of any other person;

(l) fail to keep in full force and effect insurance comparable in amount and scope to coverage maintained by it (or on behalf of it) with respect to the Business or the Purchased Assets on the date hereof;

(m) take or permit to occur any other action or omission that would cause any of the representations and warranties made by it in this Agreement not to remain true and correct in all material respects;

(n) make any change in any method of accounting or accounting principle, method, estimate or practice except for any such change required by reason of a concurrent change in GAAP or write down the value of any inventory or write-off as uncollectible any accounts receivable except in the ordinary course of business consistent with past practices;

(o) settle, release or forgive (or commence) any material claim, litigation or adversarial proceeding or waive any material right (other than the release of liabilities of CSC to CST); or

(p) authorize, recommend, propose or announce an intention to do any of the foregoing, or enter into any contract, agreement, commitment or arrangement to do any of the foregoing.

#### 4.3 *No Solicitation of Transactions.*

(a) Except as contemplated or as otherwise permitted by this Agreement, neither Seller nor CSC shall, nor shall any of them permit any of its Subsidiaries to, nor shall any of them authorize or permit any officer, director or employee of, or any investment banker, attorney or other advisor or representative of, either Seller or CSC or any Subsidiary to (i) solicit or initiate, encourage, or facilitate, directly or indirectly, any inquiries relating to, or the submission of, any proposal or offer, whether in writing or otherwise, from any person other than Buyer or any affiliates thereof (a "Third Party") to acquire beneficial ownership (as defined under Rule 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) of any of the Purchased Assets, or any class of equity securities of either Seller or CSC pursuant to a merger, consolidation or other business combination, sale of shares of stock, sale of assets, tender offer, exchange offer or similar transaction (a "Competing Transaction"), (ii) participate in any discussions or negotiations regarding, or furnish to any person any information or data with respect to or access to the properties of, or take any other action to knowingly facilitate the making of any proposal that constitutes, or may reasonably be expected to lead to, any Competing Transaction, or (iii) enter into any agreement with respect to any Competing Transaction, approve or recommend or resolve to approve or recommend any Competing Transaction or enter into any agreement requiring it to abandon, terminate or fail to consummate the transactions contemplated by this Agreement. Notwithstanding the foregoing sentence, if CSC or either Seller receives an unsolicited bona fide, written proposal or offer for a Competing Transaction by a Third Party, which CSC's Board of Directors determines in good faith (after consulting CSC's Board of Directors' independent financial advisor) (A) is reasonably likely to result in terms which are more favorable from a financial point of view to CSC than the transactions contemplated by this Agreement, and (B) is reasonably capable and reasonably likely of being consummated (provided that CSC, including

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CSC's Board of Directors, and any of its advisors shall be permitted to contact such Third Party and its advisors solely for the purpose of clarifying the proposal and any material contingencies and the capability of consummation) (a "Superior Competing Transaction"), then CSC, CST and CCI may, in response to an unsolicited request therefor and subject to compliance with

Section 4.3(b), furnish information with respect to CSC, CST and CCI to, and participate in discussions and negotiations directly or through its representatives with, such Third Party.

(b) CSC and the Sellers shall advise Buyer immediately orally and in writing of (i) any Competing Transaction or any inquiry with respect to or which could reasonably be expected to lead to any Competing Transaction received by any officer or director of CSC, CST or CCI or, to the knowledge of CSC, CST or CCI, any financial advisor, attorney or other advisor or representative of CSC, CST or CCI and (ii) the material terms of such Competing Transaction. Each of CSC, CST and CCI will keep Buyer reasonably informed of the status and details of any such Competing Transaction proposal or inquiry in a timely manner.

#### 4.4 *Reasonable Efforts.*

(a) Subject to the terms and conditions herein provided, each of the parties hereto shall use all reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement, including using its reasonable efforts to obtain all necessary or appropriate waivers, consents and approvals, to effect all necessary registrations, filings and submissions (including, but not limited to any submissions requested by the FCC or MPUC) and to lift any injunction or other legal bar to the consummation of the transactions contemplated by this Agreement (and, in such case, to proceed with such transactions as expeditiously as possible), subject, however, to the requisite votes of the shareholders of CSC.

(b) Notwithstanding the foregoing, none of CSC, CST or CCI shall be obligated to use its reasonable efforts or take any action pursuant to this Section if in the good faith opinion of CSC's Board of Directors after consultation with its counsel such actions are reasonably determined to be inconsistent with its fiduciary duties to its shareholders under applicable law.

4.5 *Access to Information.* Following execution of this Agreement, upon reasonable notice, each of CST and CCI (and, to the extent reasonably relevant to the Business, CSC) shall afford to officers, employees, counsel, accountants, engineers, consultants, prospective financing sources, and other authorized representatives of Buyer ("Representatives"), full, open, continuing and reasonable access for all purposes related to this Agreement (including, but not limited to, the purpose of conducting environmental tests and obtaining environmental reports), upon reasonable notice throughout the period prior to the Closing Date, to its (i) equipment, personal and intangible properties, facilities and real properties, (ii) accounting files, financial and operating data, budgets, projections and plans, (iii) regulatory and other government filings, (iv) employment records, policies and files, and records and documents pertaining to Company Plans, (v) material contracts, agreements and undertakings, (vi) environmental filings and tax returns, (vii) corporate and stockholder records and legal files (excluding matters related to the sale of the Business), (viii) reports, schedules, books and records, and (ix) other information relevant to the Business (the "Information"); and, during such period, each Seller and CSC shall furnish or make available reasonably promptly to such Representatives copies of all such Information as may reasonably be requested, including but not limited to a copy of each report, schedule or other document filed or received by either Seller or CSC pursuant to federal or state securities laws or with any Governmental Entity at any time prior to the Closing. In addition, in furtherance of the foregoing, promptly following the date of this Agreement, Sellers shall provide to Buyer an operating plan and budget for the Sellers for the 2003 fiscal year (the "Plan and Budget"). The Sellers shall exercise reasonable efforts to manage the operations of the Business to the Plan and

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Budget. The Sellers and CSC will promptly provide Buyer written copies of any reports, data or summaries describing any variance or deviation from the Plan and Budget as may be provided to CSC's executive officers or board members. The Sellers will make available to Buyer one or more members of Sellers' senior management not less frequently than weekly for discussions concerning the operations of the Business, including but not limited to the Plan and Budget. Sellers shall make reasonably available all officers, employees, agents or advisors of CSC, CST, and CCI to Buyer's Representatives for purposes of reviewing, providing, discussing, or describing any of the Information or otherwise keeping the Buyer and its Representatives apprised with respect to, and responding to Buyer's inquiries regarding, the Business and the Plan and Budget. Buyer agrees that it will not, and will cause its Representatives not to, use any information obtained pursuant to this Section for any purpose unrelated to the consummation of the transactions contemplated by this Agreement. The Confidentiality Agreement, dated October 23, 2002 (the "Confidentiality Agreement"), by and between CSC and Buyer shall apply with respect to information furnished

by CSC, CST, CCI or their respective officers, employees, counsel, accountants and other authorized representatives hereunder. No information or knowledge obtained in any investigation pursuant to this Section shall affect or be deemed to modify any representation or warranty contained in this Agreement or the conditions to the obligations of the parties to consummate the transactions contemplated thereby.

**4.6 Publicity.** The parties will consult with each other and will mutually agree upon any press releases or public announcements pertaining to the transactions contemplated by this Agreement and shall not issue any such press releases or make any such public announcements prior to such consultation and agreement, except as may be required by applicable law, in which case the party proposing to issue such press release or make such public announcement shall use its reasonable efforts to consult in good faith with the other party before issuing any such press releases or making any such public announcements.

**4.7 Employees.** At or prior to the Closing, Buyer hereby agrees to offer employment to each individual listed on *Schedule 4.7* on the terms set forth in *Schedule 4.7*. Buyer agrees to indemnify and hold CSC and the Sellers harmless from and against any severance or other obligations to the individuals listed on *Schedule 4.7* who accept such offer of employment from Buyer, which severance or other obligations arise out of Buyer's employment relationship post-Closing with any individual listed on *Schedule 4.7*. Buyer shall have the right to interview each individual listed on *Schedule 4.7* as soon as possible after execution of this Agreement.

Sellers and/or CSC agree to be responsible for health insurance plan continuation coverage to the extent required by COBRA (or any similar continuation coverage law) under the appropriate Company Plan for each employee or former employee of either Seller or CSC (and any covered dependent of any such employee or former employee) who ceased to be covered under such Company Plan under circumstances permitting the election of continuation coverage, regardless of whether such employee or former employee (or dependent) ceased to be so covered before, at or after the Closing Date.

**4.8 Notice of Breach.** Through the Closing Date, the Sellers and CSC shall promptly give Buyer written notice with particularity upon having knowledge of any matter that may constitute a breach of any representation, warranty, agreement or covenant contained in this Agreement. Through the Closing Date, the Sellers and CSC shall promptly supplement the schedules to this Agreement (a "Supplement") after the occurrence of any event that changes or is reasonably likely to change in any material respect any statement made by the Sellers or CSC in this Agreement or in any such Schedule, provided that no such Supplement or modification will be effective to amend or otherwise modify any Schedule or Buyer's rights under this Agreement.

**4.9 Obligation to File Tax Returns.** CSC shall cause to be prepared and filed all tax returns with the appropriate Governmental Entities relating to the Business for periods ending on or prior to the Closing and shall pay all taxes due with respect to such tax returns.

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**4.10 Post-Closing Cooperation.** Following the Closing, in order to ensure a smooth transition following the sale of the Business, Buyer agrees that it shall: (i) at no cost to CSC, provide to CSC and its employees office space mutually agreed upon by the parties hereto at 117 Main Street, Winthrop, Maine reasonably sufficient for use by 5 employees and/or officers of CSC for a period of 4 months (which period may be extended as mutually agreed upon by the parties) to be used by such employees and/or officers for tasks reasonably associated with the transition and the conduct of the remaining operations of CSC; and (ii) at no cost to CSC, make reasonably available such of those employees of Buyer who previously assisted in maintaining the financial records of CSC and Sellers for such period of time as is reasonably required to completely reflect in such financial records the effect of the transactions contemplated in this Agreement, as well as results of operations for periods that include periods prior to the Closing Date, all pursuant to an agreed-upon transition plan.

## ARTICLE V

### CONDITIONS TO CLOSING

**5.1 Conditions to Each Party's Obligations to Effect the Closing.** The respective obligations of each party to consummate the transactions contemplated by this Agreement are subject to the satisfaction at or prior to the Closing Date of the following conditions:

(a) *Shareholder Approval.* This Agreement shall have been duly approved by the shareholders of CSC in accordance with applicable law.

(b) *Injunction.* There shall not be in effect any statute, rule, regulation, executive order, decree, ruling or injunction or other order of a court or Governmental Entity of competent jurisdiction directing that the transactions contemplated herein not be consummated; provided, however, that prior to invoking this condition the invoking party shall have used its reasonable efforts to have any such decree, ruling, injunction or order vacated.

(c) *Governmental Filings and Consents.* All governmental consents, orders and approvals legally required by the FCC or MPUC for the consummation of the transactions contemplated hereby shall have been obtained and be in effect on the Closing Date, except where the failure to obtain any such consent order or approval would not reasonably be expected to have a Buyer Material Adverse Effect (assuming such transactions had taken place).

5.2 *Conditions to Sellers' and CSC's Obligations to Effect the Closing.* The obligations of the Sellers and CSC to consummate the transactions contemplated by this Agreement are subject to the satisfaction at or prior to the Closing Date of the following additional conditions:

(a) The representations and warranties of Buyer contained in this Agreement that address matters only as of a particular date shall be true and correct as of such date (without giving effect to any materiality qualifications therein) and all other representations and warranties of the Buyer contained in this Agreement shall be true and correct as of the Closing Date (without giving effect to any materiality qualifications therein) except, in either case, as a result of facts and circumstances that, taken together, have not had a Buyer Material Adverse Effect, and the Sellers and CSC shall have received a certificate of the President or a Vice President of Buyer to the foregoing effect.

(b) Buyer shall have performed and complied with in all material respects its obligations under this Agreement to be performed or complied with by Buyer on or prior to the Closing Date, and the Sellers and CSC shall have received a certificate of the President or a Vice President of Buyer to the foregoing effect.

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5.3 *Conditions to the Buyer's Obligations to Effect the Closing.* The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to the satisfaction on or prior to the Closing Date of the following additional conditions:

(a) The representations and warranties of the Sellers and CSC contained in this Agreement that address matters only as of a particular date shall be true and correct (without giving effect to any materiality qualification therein) and all other representations and warranties of the Sellers and CSC contained in this Agreement shall be true and correct as of the Closing Date (without giving effect to any materiality qualification therein), except, in either case, as a result of facts and circumstances that, taken together, do not constitute a Seller Material Adverse Effect, and the Buyer shall have received a certificate of the President or a Vice President of each Seller and CSC to the foregoing effect.

(b) Each Seller and CSC shall have performed and complied with in all material respects its obligations under this Agreement to be performed or complied with on or prior to the Closing Date, and Buyer shall have received a certificate of the President or a Vice President of each Seller and CSC to the foregoing effect.

(c) No preliminary or permanent injunction or other order issued by any court or Governmental Entity, nor any statute, rule, regulation, decree or executive order promulgated or enacted by any Governmental Entity, which declares this Agreement invalid in any respect or prevents the consummation of the transactions contemplated hereby shall be in effect; and no action or proceeding before any court or Governmental Entity shall be pending or have been instituted or threatened by any Governmental Entity or by any other person or entity which seeks to prevent or delay the consummation of the transactions contemplated by this Agreement or which challenges the validity or enforceability of this Agreement.

(d) During the period from December 31, 2002 to the Closing Date, there shall not have been any change, effect or circumstance constituting a Seller Material Adverse Effect.

(e) Buyer shall have received a favorable opinion, dated the Closing Date, from (a) Pierce Atwood, counsel to the Sellers and CSC, in form and substance reasonably acceptable to Buyer and Buyer's counsel, and (b) Preti, Flaherty, Beliveau, Pachios & Haley, LLC, special counsel to Buyer, as to receipt of MPUC approval of the transactions contemplated by this Agreement in form and substance reasonably acceptable to Buyer. The opinion of Pierce Atwood shall reflect (in addition to other customary opinions reasonably required by Buyer and Buyer's counsel) that the transactions contemplated by this Agreement have been duly and properly authorized by all necessary shareholder action, as well as the matters described in Section 6.7 hereof.

(f) Buyer shall have received such other certificates, instruments, deeds (quitclaim with covenant) of all real property owned by Seller, assignments of all leases (under which either Seller is lessee) with applicable consents, assignments of all easements held by either Seller with applicable consents, and documents in confirmation of the representations and warranties of Sellers and CSC or in furtherance of the transactions contemplated by this Agreement as Buyer or its counsel may reasonably request.

(g) The Buyer shall have received the monthly financial statements of CST for each month (commencing with April, 2003) within twenty (20) days after the end of such month, all of which financial statements shall have been prepared in accordance with the standards reflected in Section 2.6 hereof (other than for the absence of footnote disclosure and normal year-end adjustments), and none of which financial statements shall have reflected any change, effect or circumstance constituting a Seller Material Adverse Effect or other material breach of any representation or warranty of Sellers or CSC contained herein.

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## ARTICLE VI

### TERMINATION; AMENDMENT; WAIVER

6.1 *Termination by Mutual Consent.* This Agreement may be terminated at any time prior to the Closing Date, by the mutual written consent of Buyer, CSC and Sellers.

6.2 *Termination by Either Buyer or Sellers.* This Agreement may be terminated by Buyer or Sellers if (i) any court of competent jurisdiction in the United States or some other Governmental Entity shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and nonappealable, or (ii) the CSC Shareholder Approval shall not have been received at the Shareholders' Meeting duly called and held (or such Shareholders' Meeting is not held prior to August 15, 2003), or (iii) the Closing shall not have occurred on or before March 31, 2004 (the "Termination Date"); provided, that the right to terminate this Agreement pursuant to this Section shall not be available to any party whose failure to fulfill any of its obligations under this Agreement results in the failure of the CSC Shareholder Approval to be timely obtained or the Closing not to have occurred prior to March 31, 2004.

6.3 *Termination by Buyer.* This Agreement may be terminated by Buyer prior to the Closing Date, if (i) either Seller or CSC shall have failed to perform in any material respect any of its material obligations under this Agreement to be performed at or prior to such date of termination, which failure to perform is not cured, or is incapable of being cured, within thirty (30) days after the receipt by the Sellers and CSC of written notice of such failure, (ii) any representation or warranty of the Sellers or CSC that addressed matters only as of a specified date was not true and correct as of such date or any other representation or warranty of the Sellers contained in this Agreement shall not be true and correct (in either case, without giving effect to any materiality qualifications therein) (except for changes permitted by this Agreement), except, in any case, such failures to be true and correct resulting from facts and circumstances that do not together constitute a Seller Material Adverse Effect; provided, that such failure to be true and correct is not cured, or is incapable of being cured, within thirty (30) days after the receipt by the Sellers and CSC of written notice of such failure, or (iii) CSC's Board of Directors withdraws or materially modifies or changes its recommendation of this Agreement in a manner adverse to Buyer.

6.4 *Termination by Sellers and CSC.* This Agreement may be terminated by Sellers and CSC at any time prior to the Closing Date if (i) Buyer shall have failed to perform in any material respect any of its material obligations under this Agreement to be performed at or prior to such date of termination, which failure to perform is not cured, or is incapable of being cured, within thirty (30) days after the receipt by Buyer of written notice of such failure, (ii) any representation or warranty of Buyer that addressed matters only as of a specified date was not true and correct as of such date or any other representation or warranty of Buyer contained in this Agreement shall not be true and correct (in either case without giving effect to any materiality qualifications therein) (except for changes permitted by this Agreement), except, in any case, such failures to be true and correct resulting from facts and circumstances that are not reasonably likely to adversely affect Buyer's ability to consummate the transactions contemplated by this Agreement; provided, that such failure to be true and correct is not cured, or is incapable of being cured, within thirty (30) days after receipt by Buyer of written notice of such failure, or (iii) CSC's Board of Directors withdraws or materially modifies or changes its recommendation of this Agreement, if there exists at such time a proposal or offer for a Competing Transaction that constitutes a Superior Competing Transaction.

6.5 *Effect of Termination.* In addition, in any circumstance in which this Agreement is terminated (a) by either Buyer or Sellers pursuant to Section 6.2(ii), (b) by Buyer pursuant to Section 6.3(iii), or (c) by Sellers and CSC pursuant to Section 6.4(iii) and within one year after the termination of this

Agreement, Sellers or CSC consummate a Competing Transaction, then Sellers and CSC shall make payment to Buyer, concurrently with the consummation of such Competing Transaction (via wire or certified check) an amount equal to (i) \$1,000,000, and (ii) Buyer's attorneys' fees incurred in connection with the transaction contemplated by this Agreement not to exceed \$150,000 (the "Termination Fees"). In addition, if following any termination pursuant to Section 6.4(iii), such Competing Transaction is not consummated within one (1) year after the date of such termination (or such Competing Transaction is earlier terminated) and Buyer shall not have received the Termination Fees, then the Buyer shall have the right to require CSC and the Sellers to specifically perform this Agreement and to submit to a judgment, order or decree to such effect issued by a court of competent jurisdiction in Maine. In the event of the termination and abandonment of this Agreement pursuant to Article VI, this Agreement shall forthwith become void and have no effect, without any liability on the part of any party hereto or its affiliates, directors, officers or shareholders, other than the provisions of this Section 6.5 and the provisions of Sections 1.7(b), 6.7, 7.1 and 7.2 and the last three sentences of Section 4.5. Nothing contained in this Section 6.5 shall relieve any party from liability for any willful breach of any covenant or other agreement contained in this Agreement, except that if Sellers shall retain the Deposit as provided herein, the receipt and retention thereof shall be Sellers' and CSC's sole and exclusive remedy (whether at law or equity) in the event of such a termination; and if Buyer shall retain the Termination Fees as provided herein, the receipt and retention thereof shall be Buyer's sole and exclusive remedy (whether at law or equity) in the event of such a termination

6.6 *Extension; Waiver.* At any time prior to the Closing Date, either Buyer or Sellers 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 either party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. The failure of either party hereto to assert any of its rights hereunder shall not constitute a waiver of such rights. As used in this Section 6.6, with respect to the Buyer, the "other" party means either Seller or CSC and, with respect to the Sellers or CSC, the "other" party means the Buyer.

#### 6.7 *Prior Agreement*

Sellers and CSC warrant and represent to Buyer that (i) the negotiation and execution of this Agreement followed receipt by Sellers and CSC from Buyer of an unsolicited bona fide, written proposal or offer for a Competing Transaction as defined in the Asset Purchase Agreement (the "Prior Agreement") dated March 4, 2003, between Sellers and CSC, on the one hand, and CST Holdings, Inc. ("Holdings"), on the other hand, (ii) this Agreement and the transaction contemplated herein constitute a Superior Competing Transaction as defined in such Prior Agreement, and (iii) Sellers and CSC have complied in all respects with the Prior Agreement, including but not limited to Section 4.3 thereof prohibiting (among other things) solicitation of offers from parties other than Holdings. The opinion of Pierce Atwood referred to in

Section 5.3(e) shall opine as to the performance by CSC and Sellers of their obligations under Section 4.3 of the Prior Agreement and the due adoption by the Boards of Directors of CSC and Sellers of the corporate actions of CSC and the Sellers contemplated thereby (but such opinion giver may reasonably rely upon certificates of Sellers and CSC in usual and customary form certifying to the matters set out in the first sentence of this Section 6.7). Sellers and CSC shall indemnify Buyer from and hold Buyer harmless with respect to any and all claims, liabilities, obligations, damages, costs and expenses (including without limitation reasonable attorneys' fees and expenses) arising out of or in connection with the Prior Agreement, or Sellers' and CSC's termination of the Prior Agreement, or arising out of or in connection with any claim asserted by Holdings against Buyer to the effect that Buyer interfered with the Prior Agreement, or wrongfully procured the termination of the Prior Agreement, or to any similar effect. If the Closing contemplated herein occurs,

Buyer shall, in addition to paying the Purchase Price as contemplated herein, pay and discharge any "breakup fee" and related reimbursement of attorneys' fees due from Sellers and CSC to Holdings under Section 6.5 of the Prior Agreement, up to a maximum additional payment by Buyer pursuant to this sentence of \$1,005,000. In addition to the other obligations of Sellers and CSC to be performed at or prior to Closing, and not in limitation thereof, Sellers and CSC shall execute and deliver to Buyer at Closing a certificate, duly authorized and duly executed by the President or a Vice President of Sellers and CSC, setting out the sum due, if any, from Sellers and CSC for the "breakup fee" and related reimbursement of attorneys' fees and expenses as contemplated in this Section 6.7.

## ARTICLE VII

### MISCELLANEOUS AND GENERAL

**7.1 *Payment of Expenses.*** Whether or not the transactions contemplated by this Agreement shall be consummated, each party hereto shall pay its own expenses incident to preparing for, entering into and carrying out this Agreement and the consummation of the transactions contemplated hereby.

**7.2 *Survival of Representations and Warranties; Survival of Confidentiality.*** The representations and warranties made herein shall not survive beyond the earlier of (i) termination of this Agreement, or (ii) the Closing Date. This Section 7.2 shall not limit any covenant or agreement of the parties hereto which by its terms contemplates performance after the Closing Date. The Confidentiality Agreement shall survive any termination of this Agreement, and the provisions of such Confidentiality Agreement shall apply to all information and material delivered by any party hereunder.

**7.3 *Modification or Amendment.*** The parties hereto may modify or amend this Agreement, by written agreement executed and delivered by duly authorized officers of the respective parties; provided, however, that after approval of this Agreement by the shareholders of CSC, no amendment shall be made which changes the consideration payable for the Purchased Assets or adversely affects the rights of CSC or its shareholders hereunder without any approval of such shareholders as required by Maine law.

**7.4 *Waiver of Conditions.*** The conditions to each party's obligations to consummate the transactions contemplated by this Agreement are for the sole benefit of such party and may be waived by such party in whole or in part to the extent permitted by applicable law.

**7.5 *Counterparts.*** For the convenience of the parties hereto, this Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

**7.6 *Governing Law; Dispute Resolution.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Maine, without giving effect to the principles of conflicts of law thereof; provided, however, that this Agreement shall be interpreted, construed and applied in accordance with the language herein and the intent of the parties as expressed in this Agreement, without regard to any presumptions, rules of construction or similar rules under the laws of the State of Maine or any other state. With the exception of disputes arising under Section 1.10 hereof, which shall be resolved pursuant to Section 7.13 hereof, any and all disputes arising under this Agreement shall be adjudicated in the state or federal courts located in the State of Maine, to whose exclusive jurisdiction the parties hereby irrevocably submit for such purpose and as to which venue the parties waive all objections.

7.7 *Notices.* Any notice, request, instruction or other document to be given hereunder by any party to the other parties shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, or by facsimile transmission (with a confirming copy sent by overnight courier), as follows:

(a) If to Sellers or CSC, to

Community Service Communications, Inc.  
117 Main Street  
P.O. Box 400  
Winthrop, ME 04364  
Attention: Mark H. Blake, President  
Fax: (207) 377-4444

With a copy to:

David J. Champoux, Esq.  
Pierce Atwood  
One Monument Square  
Portland, ME 04101  
Fax: (207) 791-1350

(b) If to Buyer, to

Ryan P. Nelson  
Director, Corporate Development  
FairPoint Communications, Inc.  
521 E. Morehead Street, Suite 250  
Charlotte, NC 28202  
Fax: (704) 344-8121

with copies to:

Shirley J. Linn, Esq.  
Vice President and General Counsel  
FairPoint Communications, Inc.  
521 E. Morehead Street, Suite 250  
Charlotte, NC 28202  
Fax: (704) 344-1594

Susan L. Sowell, Esq.  
Katten Muchin Zavis Rosenman  
401 South Tryon Street, Suite 2600  
Charlotte, NC 28202  
Fax: (702) 444-2060

or to such other persons or addresses as may be designated in writing by the party to receive such notice.

7.8 *Entire Agreement; Assignment.* This Agreement (including the Schedules and Exhibits hereto) and the Confidentiality Agreement constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all other prior agreements and understandings, written or oral, between the parties with respect thereto. The parties agree and acknowledge that (i) this Agreement has not been entered into under time pressure, and that all parties have had an adequate opportunity to review this Agreement with counsel, (ii) no oral assurances have been given by any party that this Agreement is an interim agreement or that a more comprehensive Agreement is or will be

forthcoming, (iii) there are no oral conditions or promises that supplement or modify the Agreement, and (iv) this Section 7.8 does not constitute "boilerplate," but rather is a critical substantive provision of the Agreement. This Agreement may not be assigned by any party (by operation of law or otherwise) without the written consent of the other parties hereto, *provided however*, that Buyer may assign its rights (but not its obligations arising on or prior to the Closing Date) under this Agreement to any of its Affiliates prior to the Closing Date without the consent of CSC or Sellers if such Affiliate is a newly formed entity having no other telephone operating assets (or any direct or indirect subsidiary having such assets).

7.9 *Parties in Interest.* This Agreement shall be binding upon and inure solely to the benefit of each party hereto and its respective successors and assigns. Nothing in this Agreement, express or implied, other than the right to receive the consideration payable pursuant to Article I hereof, is intended to or shall confer upon any other person any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

7.10 *Certain Definitions.* As used herein:

(a) An "Affiliate" of, or a person "affiliated" with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(b) "Assumed Contracts" means the following contracts, obligations, understandings or commitments (whether written or oral) of either Seller or CSC to the extent same relate to the Business: (i) all contracts entered into prior to the date hereof which (A) are set forth on *Schedule 7.10(b)* and (B) for which consent to assignment (if required) has been obtained at or prior to the Closing by Sellers, (ii) all contracts entered into by Sellers or CSC from and after the date hereof which require aggregate payments thereunder of \$50,000 or more, provided the Buyer has consented in writing to the execution of such contract or such contract is specifically permitted under Section 4.2 hereof, and (iii) all other contracts entered into by Sellers or CSC from and after the date hereof which require aggregate payments thereunder of less than \$50,000 and which are set forth on a written list delivered by Sellers to Buyer at or prior to the Closing pursuant to Section 1.3(d) hereof.

(c) "Buyer Material Adverse Effect" shall mean any change, effect or circumstance that is adverse to the business, properties, financial condition or results of operations of Buyer or any of its Subsidiaries which is material to Buyer and its Subsidiaries, taken as a whole, but shall not include any change, effect or circumstance arising from any change, effect or circumstance that is generally applicable to or in (i) the telecommunications industry generally including, without limitation, the adoption or implementation of regulatory changes or the issuance of additional licenses and/or certificates for the provision of wireless telecommunications services, (ii) the United States economy or the economy generally prevailing in the jurisdictions where Sellers or Buyer do business, or (iii) the United States or global financial or capital markets.

(d) "Governmental Entity" shall mean any federal, state or local government or any court, tribunal, administrative agency or commission or other governmental or other regulatory authority or agency, including the FCC, MPUC, and other public utility or service commission or similar agency.

(e) "Lien" means any lien, encumbrance, pledge, mortgage, security interest, claim, lease, charge, option, right of first refusal, easement, servitude, transfer restriction of any kind, character or nature.

(f) "Permitted Liens" shall mean any (i) (A) platting, subdivision, zoning, building and other similar legal requirements relating to land which are not violated by the buildings, structures and other improvements located thereon, (B) easements, restrictive covenants, rights-of-way, leases,

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encroachments and other encumbrances and agreements (other than contracts or options pursuant to which any property owned by either Seller is or may be required to be sold), whether or not of record, (C) reservations of coal, oil, gas, minerals and mineral interests, whether or not of record, and (D) minor imperfections of title, none of which items set forth in this clause (i) individually or in the aggregate, could reasonably be expected to have a Seller Material Adverse Effect, (ii) mechanics', materialmen's, carriers', workmen's, warehousemen's, repairmen's, landlords', or other like Liens securing obligations that are not delinquent, (iii) Liens for taxes and other governmental charges, assessments or fees which are not yet due and payable, (iv) Liens in favor of a landlord of leased property (A) created by operation of statutory or common law, (B) encumbering personal property located at such leased property, and (C) which do not secure any rents or other payments that are past due as of the date hereof or the Closing Date, and (v) Liens encumbering the landlord's interest under leased property.

(g) "Seller Material Adverse Effect" shall mean any change, effect or circumstance that is adverse to the business, properties, financial condition or results of operations of Sellers which is material to Sellers, or the Purchased Assets, taken as a whole, but shall not include any change, effect or circumstance that is generally applicable to or in (i) the telecommunications industry generally or the Maine telecommunications industry including, without limitation, the adoption or implementation of regulatory changes or the issuance of additional licenses and/or certificates for the provision of wireless telecommunications services, (ii) the United States economy or the Maine economy generally, or (iii) the United States or global financial or capital markets.

The parties agree and acknowledge that it shall constitute a Seller Material Adverse Effect if the MPUC shall take action prior to the Closing Date related to changes in CST's local and/or intrastate access rates that causes CST to benefit from less than half of the 2003 Rate Increases. The "Rate Plan" shall mean the proposed Rate Plan filed by CST with the MPUC on December 4, 2002, which comprises three (3) steps:

**Step 1:** Increased basic exchange rates by approximately \$737,000 (per annum) on January 15, 2003;

**Step 2:** Anticipates an additional increase in basic exchange rates by approximately \$368,000 (per annum) on April 1, 2003; and

**Step 3:** Anticipates an additional increase in basic exchange rates by approximately \$368,000 (per annum) on May 30, 2003.

Such rate increases, totaling approximately \$1,473,000, are collectively referred to herein as the "2003 Rate Increases". The parties further agree and acknowledge that neither (i) any postponed decision of the MPUC or suspension relating to Step 2 or Step 3 (or both Step 2 and Step 3) of the Rate Plan nor (ii) any action by the MPUC or the Maine Legislature resulting in Step 2 or Step 3 (or both Step 2 and Step 3) of the Rate Plan not being implemented, or Step 1 of the Rate Plan being wholly or partially rescinded due to (and to the extent of) the rescission, in whole or in part, of the contemplated reduction in CST's intrastate access rates, will constitute a Seller Material Adverse Effect, *provided* that the Step 1 rate increase has not been rescinded by the MPUC on or prior to the Closing Date (in the absence of the commensurate rescission of the contemplated reduction of CST's intrastate access rates). The parties agree and acknowledge, however, that the objective criteria set forth herein with respect to the Rate Plan shall not be applicable to any other Seller Material Adverse Effect, and that, except as expressly set forth herein, no other change, event or circumstance relating to Sellers' Rate Plan may be deemed to constitute a Seller Material Adverse Effect. Any change, event or circumstance that would otherwise result in a Seller Material Adverse Effect in connection with the Rate Plan which is, directly or

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constitute a Seller Material Adverse Effect. The parties further agree and acknowledge that the failure or refusal of employees of CSC to accept the offers of employment by Buyer contemplated by Section 4.7 hereof shall not constitute a Seller Material Adverse Effect in the absence of any breach by Sellers or CSC of the terms of this Agreement relevant thereto.

(h) "Sellers' knowledge" or words of like import shall mean a particular fact or other matter that of any of the following named individuals knows: Mark H. Blake, William Ralph, Gilles Soucy, Leslie Harkins, Heidi Lukas and James Sanborn, it being understood and acknowledged that such individuals, in some instances, are not involved in the day-to-day operations of Sellers. For purposes of this Agreement, such individuals will be deemed to have knowledge of:

(i) all matters of which they have actual knowledge, and

(ii) all matters of which they have personally been given notice orally or in writing (including without limitation by email).

(i) "Subsidiary" shall mean, when used with reference to any entity, any corporation, partnership, joint venture, limited liability corporation or other entity in which the former entity owns, directly or indirectly, more than fifty percent (50%) of the outstanding voting securities or equity interests or is a general partner.

7.11 *Validity.* The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, each of which shall remain in full force and effect.

7.12 *Captions; Interpretation.* The Article, Section and paragraph captions herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof. No party shall be deemed to have been the drafter of this Agreement, which is the product of detailed, arm's length negotiations between the parties and their respective counsel.

7.13 *Arbitration.* Any claim or controversy arising between the parties pursuant to Section 1.10 hereof shall be decided by arbitration, and any other claim or controversy arising between the parties under this Agreement (if each party so agrees in writing) may be decided by arbitration. Any party may invoke arbitration under this Section 7.13 by notice to the other of the initial selection of an arbitrator and the filing of such notice with the American Arbitration Association (the "AAA"); *provided, however*, that in no event shall such notice be given if institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by any applicable statute of limitations or by this Agreement. Arbitration shall be held in Portland, Maine (and in no other place) under the auspices of the AAA pursuant to the Commercial Arbitration Rules of the AAA, and shall be by three arbitrators independent of the parties to this Agreement selected from a list provided by the AAA. One of the arbitrators shall be appointed by Sellers and CSC. One of the arbitrators shall be appointed by Buyer. The third arbitrator is to be selected by these two arbitrators before the beginning of the arbitration. If, however, any party fails to select an arbitrator within 15 days after receiving notice under this Agreement of an initial selection of an arbitrator by the other party, the party appointing the first arbitrator may also appoint the second arbitrator on behalf of the party who has failed to make the appointment. Should the two arbitrators appointed by the parties fail to agree upon the choice of a third arbitrator within 15 days after the appointment of a second arbitrator, the appointment shall be made by the AAA. Each party shall submit its case in writing to the arbitrators within one month of the constitution of the arbitration tribunal. The arbitrators are empowered to determine questions both of fact and of law, but shall to the maximum extent possible construe this Agreement strictly in accordance with its terms and conditions and the purposes and intents evinced thereby. Discovery shall be permitted under the same standards set forth in the Federal Rules of Civil Procedure. Whether a hearing shall be held or additional evidence accepted, and the rules governing

any such hearing, shall be in the sole discretion of the arbitrators, subject to the AAA rules as the arbitrators construe them. All decisions of the arbitrators shall be by majority vote. The arbitrators shall make their decision in writing at the earliest convenient date. The costs of arbitration, including the fees of the arbitrators, shall be in the discretion of the arbitrators, who may direct to and by whom and in what manner these costs or any part thereof shall be paid. To the maximum extent permitted by law, the decision of the arbitration tribunal shall be final and binding on the parties to this Agreement and not subject to appeal. If a party against whom the arbitration tribunal renders an award fails to abide by such award, a party may bring an action to enforce the same in a court of competent jurisdiction.

7.14 *Cooperation with Buyer's SEC Filings.*

(a) CSC and the Sellers understand that the Buyer is under an obligation to file a registration statement on Form S-4 (the "Buyer Registration Statement") with the United States Securities and Exchange Commission (the "SEC") relating to the Buyer's offer to exchange its SEC-registered 11<sup>7</sup>/<sub>8</sub>% Senior Notes due March 1, 2010 for any and all of its outstanding unregistered 11<sup>7</sup>/<sub>8</sub>% Senior Notes due March 1, 2010, and will be required to include in the Buyer Registration Statement:

- (i) certain audited financial statements of CST,
- (ii) certain unaudited stub period financial statements of CST,
- (iii) certain pro forma financial information relating to CST, and
- (iv) the consent(s) of the accountants who audited the CST financial statements to the inclusion of the audited financial statements in the Buyer Registration Statement.

(a) All of the foregoing financial statements, pro forma financial information and consents will be required to comply with the requirements of SEC Regulation S-X.

(b) CSC and the Sellers agree to provide to Buyer upon Buyer's written request, as promptly as reasonably practicable after receipt of any such written request and in any event by the delivery date reasonably specified in any such written notice, all financial statements and pro forma financial information of CSC and the Sellers that the Buyer is required under applicable SEC rules and regulations to include in the Buyer Registration Statement, and to cause CSC's and the Sellers' independent certified public accountants to provide their consent(s) to the inclusion of CSC's and the Sellers' audited financial statements in the Buyer Registration Statement. Buyer agrees promptly to reimburse CSC for any and all expenses reasonably incurred in connection with this Section 7.14.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

COMMUNITY SERVICE COMMUNICATIONS, INC.

By: /s/ MARK H. BLAKE  
Name: Mark H. Blake  
Title: President

COMMUNITY SERVICE TELEPHONE CO.

By: /s/ MARK H. BLAKE  
Name: Mark H. Blake  
Title: President

COMMTEL COMMUNICATIONS, INC.

By: /s/ MARK H. BLAKE  
Name: Mark H. Blake  
Title: President

FAIRPOINT COMMUNICATIONS, INC.

By: /s/ SHIRLEY J. LINN  
Name: Shirley J. Linn  
Title: Vice President

QuickLinks

[ASSET PURCHASE AGREEMENT](#)

## STOCK PURCHASE AGREEMENT

among

**GOLDEN WEST TELEPHONE PROPERTIES, INC.  
MJD SERVICES CORP.  
UNION TELEPHONE COMPANY OF HARTFORD  
ARMOUR INDEPENDENT TELEPHONE CO.  
WMW CABLE TV CO.  
and  
KADOKA TELEPHONE CO.**

**dated as of May 9, 2003**

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## AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this "**Agreement**") is entered into as of the 9<sup>th</sup> day of May, 2003 among GOLDEN WEST TELEPHONE PROPERTIES, INC., a South Dakota corporation (the "**Purchaser**"), MJD SERVICES CORP., a Delaware corporation ("**MJD**" or the "**Seller**"), UNION TELEPHONE COMPANY OF HARTFORD, a South Dakota corporation ("**Union**"), ARMOUR INDEPENDENT TELEPHONE CO., a South Dakota corporation ("**Armour**"), WMW CABLE TV CO., a South Dakota corporation ("**WMW**") and KADOKA TELEPHONE CO., a South Dakota corporation ("**Kadoka**"). Union, Armour, WMW and Kadoka and all subsidiaries thereof shall be hereinafter referred to collectively as the "**Company**" or "**Companies**".

## RECITALS

**WHEREAS**, MJD owns 174 shares of the common stock of Union, each with a \$70.00 par value, such 174 shares of common stock constituting all of the issued and outstanding shares of capital stock of Union (the "**Union Capital Stock**");

**WHEREAS**, Union owns 25,000 shares of common stock of Union TelNET, Inc., a South Dakota corporation ("**TelNET**"), each with a \$1.00 par value, such 25,000 shares of common stock constituting all of the issued and outstanding shares of capital stock of TelNET (the "**TelNET Capital Stock**");

**WHEREAS**, Union owns 200 shares of preferred stock of Armour (the "**Armour Preferred Stock**"), each with a par value of \$1,000.00;

**WHEREAS**, MJD owns 2,330 shares of common stock of Armour, each with a par value of \$100.00 (the "**Armour Common Stock**") and these 2,330 shares of common stock of Armour owned by MJD along with the 200 shares of preferred stock of Armour owned by Union, constitute all of the issued and outstanding shares of capital stock of Armour (the "**Armour Capital Stock**");

**WHEREAS**, Armour owns 10,000 shares of common stock of Bridgewater-Canistota Independent Telephone Co., a South Dakota corporation ("**Bridgewater**"), each with a \$10.00 par value, such 10,000 shares of common stock constituting all of the issued and outstanding shares of capital stock of Bridgewater (the "**Bridgewater Capital Stock**");

**WHEREAS**, MJD owns 500 shares of common stock of WMW, each with a par value of \$10.00, such 500 shares of common stock constituting all of the issued and outstanding shares of capital stock of WMW (the "**WMW Capital Stock**");

**WHEREAS**, MJD owns 1,212 shares of common stock of Kadoka, each with a par value of \$100.00, such 1,212 shares of common stock constituting all of the issued and outstanding shares of capital stock of Kadoka (the "**Kadoka Capital Stock**");

**WHEREAS**, any and all shares, options, warrants, rights and interests, legal or equitable, in or with respect to the Union Capital Stock, the TelNET Capital Stock, the Armour Capital Stock, the Bridgewater Capital Stock, the WMW Capital Stock and the Kadoka Capital Stock hereinafter referred to collectively as the "**Shares**";

**WHEREAS**, Union is an operating telephone company that provides wireline telecommunication services in the Hartford and Wall Lake exchanges in the State of South Dakota with approximately 1,889 access lines;

**WHEREAS**, Armour is an operating telephone company that provides wireline telecommunication services in the Armour exchange in the State of South Dakota with approximately 684 access lines;

**WHEREAS**, Bridgewater is an operating telephone company that provides wireline telecommunication services in the Bridgewater and Canistota exchanges in the State of South Dakota with approximately 993 access lines;

**WHEREAS**, Kadoka is an operating telephone company that provides wireline telecommunication services in the Kadoka exchange in the State of South Dakota with approximately 577 access lines;

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**WHEREAS**, WMW is an operating cable television provider that services the Hartford exchange and surrounding areas in the State of South Dakota with approximately 700 subscribers;

**WHEREAS**, TelNET is an operating internet provider in the State of South Dakota with approximately 600 dial-up subscribers and 300 DSL subscribers; and

**WHEREAS**, the business of Union, Armour, Bridgewater, Kadoka, WMW, TelNET are hereinafter referred to as the "**Communications Business**", the "**Business**" or the "**business**".

## ARTICLE I

### PURCHASE OF STOCK

Section 1.1 *Purchase and Sale.* At the Closing Date, on the terms and subject to the conditions set forth in this Agreement, the Seller agrees to sell to the Purchaser, and the Purchaser agrees to purchase from the Seller, the Shares, free and clear of any and all liens, encumbrances, restrictions, pledges and control agreements. At the Closing, the Seller shall deliver to the Purchaser, or cause to be delivered by Union, TelNET, Armour, Bridgewater, WMW or Kadoka, as the case may be, certificates representing all of the Shares which are required to be delivered or which are otherwise deliverable by the Seller pursuant hereto. All of the certificates representing all of the Union Capital Stock, Armour Common Stock, WMW Capital Stock and Kadoka Capital Stock shall be duly endorsed in blank for transfer or accompanied by duly executed stock powers, acceptable in form and substance to the Purchaser, assigning such Union Capital Stock, Armour Common Stock, WMW Capital Stock and Kadoka Capital Stock in blank.

#### Section 1.2 *Purchase Price.*

(a) The Purchaser shall purchase the Armour Common Stock, the Union Capital Stock, the WMW Capital Stock and the Kadoka Capital Stock and thereby the Bridgewater Capital Stock, the TelNET Capital Stock and the Armour Preferred Stock, from the Seller on the Closing Date, as provided in Section 9.2 hereof, for the Adjusted Purchase Price (as defined below). The Adjusted Purchase Price (as defined in accordance with Section 1.2(c) below) shall be the sum of Twenty-Four Million and No/100 Dollars (\$24,000,000) (the "**Base Purchase Price**") plus or minus "Net Working Capital" as defined in accordance with Section 1.2(b) below. The Adjusted Purchase Price shall be allocated in accordance with the provisions of Section 6.7(c) hereof.

(b) The Base Purchase Price shall be adjusted by adding to it or subtracting from it, as the case may be, the Net Working Capital on the Closing Date. For the purposes hereof, "**Net Working Capital**" shall be defined as the Company's current assets minus current liabilities, computed in accordance with GAAP, consistently applied (on a consolidated basis). To the extent the Company's current assets exceed the Company's current liabilities on the Closing Date, the Base Purchase Price shall be increased, dollar for dollar. To the extent the Company's current liabilities exceed the Company's current assets on the Closing Date, the Base Purchase price shall be decreased, dollar for dollar. The Net Working Capital of the Company shall be based on an estimated closing balance sheet of the Company, which shall be delivered to the Purchaser at least ten (10) days prior to the Closing Date, prepared in good faith by the Seller, subject to the Purchaser's review and approval thereof, which shall not be unreasonably withheld.

(c) The sum of the Base Purchase Price, plus or minus the Net Working Capital all as determined above, shall be referred to herein as the "**Adjusted Purchase Price**".

Section 1.3 *Post-Closing Adjustments to the Adjusted Purchase Price.* The Adjusted Purchase Price payable by the Purchaser to the Seller on the Closing Date pursuant to Sections 1.2 and 9.2 hereof may be adjusted as follows. As soon as possible after the Closing Date, but in no event later than one hundred twenty (120) days after the Closing Date, the Purchaser shall prepare and submit to the Seller a Closing balance sheet for the Company as of the close of business on the Closing Date (the "**Closing Balance Sheet**"), which shall be prepared in accordance with GAAP and consistent with the Company's past practices, and which shall be mutually acceptable to the Seller and the Purchaser and their respective independent public accountants. Upon the Seller's and the Purchaser's mutual agreement as to the form and content of the Closing Balance Sheet, the amount of the Adjusted Purchase Price shall be increased or decreased, as the case may be, by the difference, if any, between the Net Working Capital determined in good faith as of the Closing Date and the Net Working Capital as such is determined based on the Closing Balance Sheet. If, as a result of the foregoing post-Closing adjustment, the Adjusted Purchase Price is

increased, the Purchaser shall pay the Seller, the amount of such increase by wire transfer of same-day funds within ten (10) Business Days of the date on which the parties agree on the Closing Balance Sheet. If as a result of the post-Closing adjustment, the Adjusted Purchase Price is decreased, the Seller shall refund to the Purchaser, the amount of such decrease by wire transfer of same-day funds within ten (10) Business Days of the date on which the parties agree on the Closing Balance Sheet.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller hereby represents and warrants to the Purchaser as follows:

Section 2.1 *Corporate Organization.* The Seller and each of the Companies are corporations duly organized, validly existing and in good standing under the laws of their respective jurisdiction of incorporation, with full corporate power and authority to own, operate and lease their properties and to conduct their business as presently conducted. The Seller is a Delaware corporation. The Companies are qualified to do business and are in good standing in every jurisdiction in which the conduct of their business, the ownership or lease of their properties, or the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby requires them to be so qualified. True, complete and correct copies of the Seller's and the Companies' charters and bylaws (and all amendments thereto) as presently in effect have been delivered to the Purchaser.

Section 2.2 *Authorization.* The Seller, Union, Armour, WMW and Kadoka each have full power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The Boards of Directors of the Seller, Union, Armour, WMW and Kadoka have duly authorized the execution, delivery and performance of this Agreement. This Agreement constitutes a legal, valid and binding obligation of each of the Seller, Union, Armour, WMW and Kadoka enforceable against each such party in accordance with its terms, subject to equitable considerations and the effect of bankruptcy and other laws affecting the rights of creditors generally. The Seller and/or the

Companies will, at the Closing, have full power and authority to deliver the Shares and the certificates evidencing the Shares to the Purchaser free and clear of all Liens as provided for herein.

**Section 2.3 *No Violation.*** Except as set forth on Schedule 2.3, the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby by each of the Seller and the Companies do not and will not (a) conflict with or result in a breach of the terms, conditions or provisions of, (b) constitute a default or event of default under (with due notice, lapse of time or both), (c) result in the creation of any Lien upon any of the Companies or its capital stock or assets pursuant to, (d) give any third party the right to accelerate any obligation under, (e) result in a violation of, or (f) require any authorization, consent, approval, exemption or other action by, or notice to, any Person pursuant to (i) the charter or bylaws of the Seller and/or the Companies, (ii) any applicable Regulation, (iii) any Order to which either the Seller and/or the Companies or any of their properties are subject, or (iv) any Contract to which the Seller and/or the Companies or any of their properties are subject. The Seller and the Companies have complied with all applicable Regulations and Orders in connection with the execution, delivery and performance of this Agreement and the transactions contemplated hereby, subject to the requirements which are conditions to the Closing.

**Section 2.4 *Subsidiaries and Investments.*** Except as set forth on Schedule 2.4, the Companies have no subsidiaries or investments in any Person. Except as set forth on Schedule 2.4, the transactions contemplated by this Agreement will not conflict with or result in a breach of the terms, conditions or provisions of any agreement to which any of the Companies are a party with respect to any such subsidiaries or investments, nor, with respect to the Seller and the Companies, shall the transactions contemplated by this Agreement trigger any purchase, put, call or right of first refusal rights in any Person to acquire any interest in any of the Companies or any of their assets, nor shall the transactions contemplated by this Agreement result in a violation of any contract or agreement to which any of the Seller or the Companies are a party, or require any authorization, consent, approval, exemption or other action by or notice to any Person. Any such investments constitute an asset of the Company and the Company is the only Person with any rights thereto. The Company is not a general partner in any of its investments, nor is any employee of the Company an officer or director of any such investment entity.

**Section 2.5 *Stock Record Book.*** Except as will not materially impair the ownership of the Company by Purchaser after acquisition, the stock record books of the Company are complete and correct in all material respects. No shares of capital stock of the Company are currently reserved for issuance for any purpose or upon the occurrence of any event or condition. The Shares constitute all of the issued and outstanding capital stock of the Company. The Seller is the true and lawful beneficial and record owner of all the classes of outstanding capital stock of Union, WMW and Kadoka. The Seller is the true and lawful beneficial and record owner of all of the classes of common stock of Armour. Union is the true and lawful beneficial and record owner of all of the classes of the outstanding TelNET Capital Stock and all of the outstanding preferred stock of Armour. The outstanding common and preferred stock of Armour held by the Seller and Union respectively constitutes all classes of the outstanding capital stock of Armour. Armour is the true and lawful beneficial and record owner of all of the classes of the outstanding capital stock of Bridgewater. Schedule 2.5 sets forth the total number of authorized and issued shares of capital stock for each Company.

**Section 2.6 *Corporate Books.*** Except as will not materially impair the ownership of the Company by Purchaser after acquisition, the corporate minute books of the Company are true and correct in all material respects since the acquisition of the applicable capital or common stock of the Company by the Seller and contain signed minutes of all of the proceedings of the shareholders and directors of the Company and of each of its subsidiaries since the acquisition of the applicable capital or common stock of the Company by the Seller. A true and complete list of the directors and officers of the Company and of each of its subsidiaries as of the date hereof is set forth on Schedule 2.6.

**Section 2.7 *Title to Stock.*** The Shares are owned of record by those shareholders and only such shareholders in such amounts as are set forth on Schedule 2.7 hereto. The Shares have been duly authorized and validly issued and are fully paid and non-assessable and were not issued in violation of any preemptive rights. The Shares were issued pursuant to applicable exemptions from registration under Federal securities laws and the securities laws of the State of South Dakota, are owned by the Seller or the Companies and will be sold pursuant hereto free and clear of all Liens. There is outstanding no security, option, warrant, right, call, subscription, agreement, commitment or understanding of any nature whatsoever, fixed or contingent, that directly or indirectly (i) calls for the issuance, sale, pledge or other disposition of any

Shares or of any other capital stock of the Company or any securities convertible into, or other rights to acquire, any such Shares or other capital stock of the Company or (ii) obligates the Company or the Seller to grant, offer or enter into any of the foregoing or (iii) relates to the voting or control of such Shares, capital stock, securities or rights. No person has any right to require the Company or the Seller to register any of the Company securities under the Securities Act of 1933. Upon payment of the Purchase Price to the Seller in accordance with this Agreement, the Seller will convey to the Purchaser good and marketable title to the Union Capital Stock, WMW Capital Stock, Kadoka Capital Stock and the Armour Common Stock and thereby to the Bridgewater Capital Stock, TelNET Capital Stock and Armour Preferred Stock. The assignments, endorsements, stock powers and other instruments of transfer delivered by the Seller to the Purchaser at the Closing will be sufficient to transfer the Seller's entire interest, and all of the interests, legal and beneficial, of the Seller, in and to the Union Capital Stock, the WMW Capital Stock, the Kadoka Capital Stock and the Armour Common Stock.

**Section 2.8 Options and Rights.** There are no outstanding subscriptions, options, warrants, rights, puts, calls, commitments, understandings or other Contracts of any nature whatsoever, fixed or contingent, by which the Company or the Seller is directly or indirectly bound to issue, sell, pledge, transfer or repurchase or otherwise acquire the Shares or other capital stock of the Company, or pursuant to which any Person has a right to purchase or to acquire, through conversion or otherwise, shares of the Company's capital stock, or which would obligate the Company or the Seller to grant, offer or enter into any contracts, agreements or other arrangements providing for any of the foregoing. None of the Shares are subject to any agreement or similar arrangement relating to the voting rights associated with such Shares.

**Section 2.9 Financial Statements.** The Seller has delivered to the Purchaser correct and complete copies of (i) the unaudited balance sheets, income statements and cash flow statements for each of the Companies as of December 31, 2000, December 31, 2001 and December 31, 2002 for the fiscal year reporting periods then ended (the "**Annual Financial Statements**") and (ii) the unaudited monthly balance sheet, income statement and cash flow statement for each of the Companies (the "**Monthly Financial Statements**") for January 31, 2003, copies of which are attached as Schedule 2.9. The Annual Financial Statements and the Monthly Financial Statements have been prepared in accordance with the books and records of the Companies and fairly present the financial condition and results of operations and cash flows

of the Companies as of, and for the respective periods ended on, such dates and were prepared in accordance with GAAP applied on a consistent basis.

**Section 2.10 Employees.**

(a) Schedule 2.10 sets forth a list of all of the Company's employees, officers, and directors, together with a description of any Contract regarding the terms of service and the rate and basis for total compensation of such persons.

(b) Except as set forth on Schedule 2.10 hereto, the Company has paid or made provision for the payment of all salaries and accrued wages, accrued vacation and sick leave, and any other form of accrued, but unpaid, compensation, and has complied in all material respects with all applicable laws, rules and regulations relating to the employment of labor, including those relating to wages, hours, collective bargaining and the payment and withholding of taxes, and has withheld and paid to the appropriate governmental authority, or is holding for payment not yet due to such authority, all amounts required by law or agreement to be withheld from the wages or salaries of its employees. No amounts have been accrued on the Company's books for vacation or sick leave in excess of the current year's obligations and no such obligations exist. No contracts or provisions (whether express or implied, including without limitation, as may be set forth in employee handbooks) exist that would obligate the Company to pay any severance compensation to any employee should his or her employment with the Company be terminated for any reason from and after the date hereof. No contracts or provisions exist that would obligate the Company to pay any amounts to any Person upon the change of control of the Company.

(c) Except as set forth on Schedule 2.10 hereto, the Company is not a party to any (i) outstanding employment agreements or contracts with officers or employees that are not terminable at will, or that provide for payment of any bonus, incentive, commission or severance compensation, (ii) agreement, policy or practice that requires it to pay termination or severance pay to salaried, exempt, non-exempt or hourly

employees, (iii) collective bargaining agreement or other labor union contract applicable to persons employed by the Company, nor does the Seller or the senior executive officers of the Company know of any activities or proceedings of any labor union to organize any such employees, or (iv) stock option, stock purchase, phantom stock, stock appreciation rights, performance shares or other similar plans or severance agreements, either currently maintained by the Company or, if terminated, under which employees or former employees have any rights that are outstanding. The Company has furnished to the Purchaser complete and correct copies of all such agreements set forth on Schedule 2.10 hereto, if any ("**Employment and Labor Agreements**"). The Company has not breached or otherwise failed to comply with any provisions of any Employment and Labor Agreements.

(d) There are no unfair labor practice charges or complaints pending before the Equal Employment Opportunity Commission or any Federal, state or local agency responsible for the prevention of unlawful employment practices and the Company has not received formal notice from any Federal, state or local agency responsible for the enforcement of labor or employment laws of an intention to conduct an investigation of the Company and, to the knowledge of the Seller and/or the senior executive officers of the Company, no such investigation is in progress or threatened.

Section 2.11 *Absence of Certain Changes.* Except as set forth in Schedule 2.11, since December 31, 2002 the Company has operated its Business in the ordinary course and there has been no (a) Material Adverse Change in the business, properties, financial condition or results of operations of the Company, (b) theft, damage, destruction, removal or loss of assets or properties, whether covered by insurance or not, having a Material Adverse Effect on the business, properties, financial condition or results of operations of the Company, (c) declaration, setting aside or payment of any dividend or distribution (whether in cash, stock or property) in respect of the Shares, except for cash dividends or distributions in the ordinary course of business, or any redemption of the Shares, (d) increase in the compensation payable to or to become payable by the Company to its employees, officers, directors, consultants or independent contractors, (e) entry by the Company into any Contract not in the ordinary course of business, including, without limitation, Contracts relating to any borrowing or capital expenditures, and if entered into in the ordinary course of business, such Contract does not obligate the Company to pay an amount in excess of fifteen thousand dollars (\$15,000) during the term of the Contract, (f) sale, assignment or transfer of any assets or properties of the Company except in the ordinary course of business and if sold, assigned or transferred in the ordinary course of business such sale, assignment or transfer was not of assets or property of the Company having an estimated fair market value in excess of fifteen thousand dollars (\$15,000) on the date of

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such disposition, (g) amendment or termination of any of the Company's Permits or Contracts, (h) waiver or release of any material right or claim of the Company, including without limitation forgiveness of any debt owed to the Company other than debt owed to an Affiliate, (i) labor dispute or union activity which affects the operation of the Company, (j) material liabilities incurred, other than liabilities incurred in the ordinary course of business consistent with past practice, or created, discharged or satisfied any material Lien, and (k) agreement by either the Seller or the Company to take any of the actions described in the preceding clauses (a) through (j) except as contemplated by this Agreement.

Section 2.12 *Contracts.*

(a) Generally. Except as listed on Schedule 2.12, the Company is not a party to any Contract relating to:

- (i) Collective bargaining agreements or any other Contract with any labor union.
- (ii) Loans to its employees, officers, directors, shareholders or Affiliates.
- (iii) The borrowing or loaning of money to or from any Person or the mortgaging, pledging or otherwise placing a Lien on any asset of the Company, including, but not limited to, any Contract with respect to the Company's indebtedness.

- (iv) Any guarantee, indemnity or other arrangement whereby the Company becomes liable for any obligation or liability of another.
- (v) The ownership, lease (whether as lessee or lessor) or operation of any property, real or personal.
- (vi) Prohibitions preventing it from freely engaging in any business or from competing with any Person.
- (vii) The purchase, acquisition, disposition or supply of any equipment, supplies, inventory or service, involving payment in excess of \$10,000.00.
- (viii) Sales, commissions, advertising or marketing.
- (ix) Unconditional purchase or payment obligations.
- (x) Agreements between the Company and customers of the Business.
- (xi) Agreements pertaining to the providing of cable television programming or Internet access or service by the Company.
- (xii) The grant or franchise of telephone or cable television franchise rights.
- (xiii) Proxies, voting trusts or powers of attorney to act on behalf of the Company or in connection with its properties or business affairs other than such powers to so act as normally pertain to corporate officers.

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(xiv) Existing warranties, product guarantees or similar arrangements in excess of \$50,000.

(b) Compliance. The Company has performed all material obligations required to be performed by it, and is not in receipt of any claim of default or breach or notice of audit, under any Contract to which it is subject (including, without limitation, those required to be disclosed on Schedule 2.12). Except as disclosed on Schedule 2.12, no event has occurred which with the passage of time or the giving of notice or both would result in a material default, breach or event of non-compliance by the Company under any material Contract to which it is subject. Except as disclosed on Schedule 2.12, the Company has no present expectation or intention of not fully performing all of its material obligations under any Contract to which it is subject and has no knowledge of any breach or anticipated breach by any other party to any Contract to which it is subject.

#### Section 2.13 *Title and Related Matters.*

(a) Owned Property, Liens. Set forth on Schedule 2.13(a) is a description of all real and material personal property owned by the Company. The Company has valid and marketable title to all such property, free and clear of all Liens, except Permitted Liens. On or before

the Closing Date, Seller shall, at its own expense, furnish Purchaser with a copy of Seller's title insurance policy or policies reflecting and insuring that the Company holds fee simple title to all such real property, free and clear of all liens, encumbrances, restrictions, covenants and other defects of title except for Permitted Liens. All material properties used in the Company's business operations as of the date hereof are set forth on Schedule 2.13(a) hereto.

(b) **Leased Property.** Set forth on Schedule 2.13(b) is a description of all real and personal property leased by the Company. Except as otherwise set forth on Schedule 2.13(b), the Company's leases are in full force and effect and are valid and enforceable in accordance with their respective terms. There exists no event of material default or event which constitutes or would constitute (with notice or lapse of time or both) a material default by the Company under any such lease, and neither the Seller nor the Company have received notice of such default or event. All rent and other amounts due and payable with respect to each of the Company's leases have been paid through the date of this Agreement. The Seller has delivered to the Purchaser, with respect to any leased real or personal property, true and complete copies of all such leases and all amendments, supplements thereto or memoranda thereof.

(c) **Condition.** Substantially all of the personal property assets set forth on Schedules 2.13(a) and (b) are as of the date of this Agreement, and as of the Closing Date will be, in good operating condition, reasonable wear and tear excepted. Except as set forth on Schedule 2.13(c), since December 31, 2002, the Company has not sold, transferred, leased, distributed or disposed of any of its assets or properties, except for transactions in the ordinary and regular course of business, the fair market value of which did not exceed fifteen thousand dollars (\$15,000) on the date of such sale, transfer, lease, distribution or disposal.

**Section 2.14 Litigation.** Except as set forth on Schedule 2.14, there is (a) no Claim or investigation pending or, to the Seller's knowledge, threatened, orally or in writing, against the Company, (b) no Claim by the Company pending or threatened against any Person, (c) no outstanding Order relating to the Company or the Shares, and (d) no Claim or investigation by any Person relating to the Shares.

**Section 2.15 Tax Matters.** The Company has filed all Federal, state, local and foreign tax reports, returns, information returns and any other documents required to be filed by each (collectively, "**Tax Returns**") and has duly paid all Taxes shown to be due and payable on such Tax Returns. All Taxes for which the Company may be held accountable or required to pay for periods ending on or prior to or including the Closing Date have been fully paid or reserved against in accordance with generally accepted accounting principles. All Taxes which are required to be withheld or collected by the

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Company have been duly withheld or collected and to the extent required, have been paid. There are no Liens for Taxes upon any property or assets of the Company except for Liens for Taxes not yet due and payable. There are no presently existing waivers of the statute of limitations on the right of the IRS or any other taxing authority to assess or collect additional Taxes or to contest the information reported on any Tax Return. There are no proceedings, examinations or claims currently pending by any taxing Authority in connection with any Tax Returns nor with respect to the periods to which such Tax Returns relate, nor are there any unresolved issues or unpaid deficiencies or outstanding or proposed assessments relating to any such proceedings, examinations, claims or Tax Returns.

**Section 2.16 Compliance with Applicable Laws, Regulations and Orders.** Except as set forth on Schedule 2.16, and except as would not materially impair the ability of the Purchaser to own or operate the Company after acquisition, the Company has been and is presently in material compliance with all laws, ordinances, codes, rules, Regulations and Orders applicable to the conduct of its Business, including, without limitation, all Regulations relating to health, sanitation, fire, zoning, building and occupational safety.

**Section 2.17 Employee Benefits.** Set forth on Schedule 2.17 hereto is a true and complete list of all material written employee benefit plans, programs, agreements, compensation commitment or arrangements entered into or contributed to by the Company in respect of or for the benefit of any employee of the Company or former employee ("**Employee Benefits**"). Except as set forth on Schedule 2.17, all Employee Benefits comply in all material respects with all applicable laws, regulations or orders, are fully funded and no circumstances exist with respect to the Employee Benefits which could reasonably be expected to have a Material Adverse Effect on the Company or the Business. None of the Employee Benefits pertain to a multi-employer plan as defined in Section 414(f) of the Internal Revenue Code ("**Code**") or

Section 4001(a)(3) of Employee Retirement Income Security Act of 1974 ("**ERISA**"), nor is any such plan a plan with respect to which more than one employer makes contributions within the meaning of Sections 4063 and 4064 of ERISA. With respect to such Employee Benefits: (i) a determination letter has been received to the effect that the plan is qualified under Section 401 of the Code and the trust maintained pursuant thereto is exempt from federal income taxation under Section 501 of the Code, and, to the knowledge of the Seller, nothing has occurred to cause the loss of such qualification or exemption, (ii) all contributions required by the Code to be made to the plan for the plan year most recently ended and for all prior plan years have been made prior to the date of this Agreement, and no Company has a minimum funding waiver outstanding with respect to such plan, (iii) to the Seller's knowledge the administrators or sponsors of the plan have complied in all material respects with applicable ERISA and Code requirements as to the filing of reports, returns, documents and notices with the Secretary of Labor and Secretary of the Treasury of the United States, or the furnishing of such documents to participants or beneficiaries of such plan, (iv) the Company has in all material respects discharged all duties it has to the plan under Sections 404 and 405 of ERISA, and to the knowledge of the Seller, no party whom the Company is obligated to indemnify for a breach of those provisions has committed any such breach, (v) all amendments required to be adopted as of the date of this Agreement to bring the plan into conformity with any of the applicable provisions of ERISA or the Code have been timely and duly adopted, and the amendments have been, or will be, timely filed under Section 401(b) of the Code for a favorable determination letter thereon, (vi) any bonding required by applicable provisions of ERISA with respect to the plan has been obtained and is in full force and effect, and (vii) if the plan is subject to Title IV of ERISA, the Company has no outstanding liability or funding obligations to the Pension Benefit Guaranty Corporation with respect to the plan other than for the payment of premiums.

Section 2.18 *Environmental Matters.* The Company has obtained all Environmental Permits required in connection with the operation of its business. The Company, its Business, and its real property and other assets are in compliance in all material respects with (i) the terms and conditions of all such Environmental Permits and (ii) all other limitations, restrictions, conditions, standards,

prohibitions, requirements, obligations, schedules and timetables of any applicable Environmental Law or Regulation, Order, code, plan, decree, judgment, injunction or demand letter issued, entered, promulgated or approved thereunder. The Company currently possesses and maintains such Environmental Permits in its name, and no amendments or modifications, to such Environmental Permits or filings with any permitting Authority are required to permit the acquisition of the Shares as contemplated hereby. To the best of the Company's knowledge no approval or consents to such Environmental Permits or filing with any permitting Authority are required to permit the acquisition of the Shares as contemplated hereby. Except as set forth on Schedule 2.18, no notice, notification, demand, request for information, citation, summons or Order has been issued, no complaint has been filed, no penalty has been assessed and no investigation or review is pending or, to the Seller's knowledge, threatened by any Authority or other entity with respect to the Company relating to any Environmental Permit, license or authorization required in connection with the conduct of the business of the Company or with respect to the generation, treatment, storage, recycling, transportation, disposal or Release of any substance regulated under Environmental Laws ("**Hazardous Materials**"). To the Seller's knowledge, except as set forth on Schedule 2.18, there have been no Phase I or Phase II or other environmental site assessments conducted by or which are in the possession of the Seller or the Company in relation to any property or facility now or previously owned or leased by the Company.

Section 2.19 *Capital Expenditures and Investments.* The Company has no outstanding Contracts or commitments for capital expenditures and investments, except as set forth on Schedule 2.19 attached hereto, which Schedule includes a list of all disbursements on account of capital expenditures and investments by the Company since December 31, 2002. There has been no order or ruling from the SDPUC or any other regulatory body and none is threatened or expected by the Company requiring or recommending that the Company undertake any capital expenditures or investments. Attached to Schedule 2.19 are copies of the Company's 2003 fiscal year capital expenditure budgets.

Section 2.20 *Dealings with Affiliates.* Schedule 2.20 sets forth a complete and accurate list of all oral or written Contracts between the Company and any one or more of its Affiliates. Except as set forth on Schedule 2.20, since December 31, 2002, the Company has not made any payments, loaned any funds or property or made any credit arrangement with any Affiliate.

Section 2.21 *Insurance.* The Company currently is covered by insurance policies which provide for coverages that are usual and customary as to amount and scope in the business of the Company. Descriptions of all such policies, including the names of the insurer and the insured, and the types and amounts of coverage, are set forth on Schedule 2.21. All such policies are in full force and effect, all premiums with respect thereto have been paid or accrued therefor, and no notice of cancellation or termination has been received with respect to any such policy.

Section 2.22 *Commissions.* Except as set forth on Schedule 2.22 hereto, there are and will be no claims for brokerage commissions, finder's fees, fees for fairness opinions or financial advisory services or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of the Seller, the Company, or any of their Affiliates (collectively, "**Commissions**"). Any and all such Commissions shall be paid solely by the Seller, and not by the Company or the Purchaser.

Section 2.23 *Permits.* Except as set forth on Schedule 2.23, the Company holds all required permits, licenses, registrations, certificates, orders, approvals or other authorizations from any regulatory or governmental authority ("**Permits**") including without limitation, the FCC and the SDPUC. Each such Permit is in full force and effect, and the Company has not received notice that any suspension, cancellation or modification of the terms of any such Permit is threatened. The Company is in material compliance with the terms of each such Permit and neither the Company nor the Seller has received any notice or notification of any reason that any such Permit will not be renewed upon substantially the same terms as currently exist, upon expiration of such Permit.

Section 2.24 *Liabilities.* The Company has no material indebtedness, liability or obligation of any kind (whether known or unknown, accrued, absolute, asserted or unasserted, contingent or otherwise) except (a) as and to the extent properly reflected, reserved against or otherwise disclosed in the Annual Financial Statements and Monthly Financial Statements or (b) for liabilities and obligations incurred subsequent to the date of the Monthly Financial Statements in the ordinary course of business and which do not have a Material Adverse Effect or impair the ability of the Company to perform its obligations under this Agreement, constitute a breach of the Seller's representations and warranties contained herein, or prevent or delay the consummation of any of the transactions contemplated hereby.

Section 2.25 *Accounts Receivable.* Except to the extent that it is usual and customary in the industry of the Company to estimate settlement amounts to be received from certain carriers, all accounts receivable reflected on the Monthly Financial Statements represent sales actually made or services actually rendered in the ordinary course of business on or prior to the date of the Monthly Financial Statements. All such estimated settlement amounts are in the judgment of the Company reasonable and accurate and reflective of the past experience of the Company.

Section 2.26 *Related Party Accounts.* All amounts due from or payable to the Seller and its Affiliates (other than the Companies), on the one hand, and the Companies, on the other hand, shall be satisfied as of the Closing Date.

Section 2.27 *Full Disclosure.* Neither this Agreement nor any of the attached Schedules or Exhibits hereto, with respect to the transactions contemplated hereby, contains any untrue statement of a material fact or omits any material fact necessary to make each statement contained herein not misleading.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants to the Seller as follows:

Section 3.1 *Corporate Organization.* The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, with full corporate power and authority to own, operate and lease its properties and to conduct its business as presently conducted and proposed to be conducted. The Purchaser is qualified to do business and is in good standing in every

jurisdiction in which the conduct of its business, the ownership or lease of its properties, or the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby requires it to be so qualified.

**Section 3.2 *Authorization.*** The Purchaser has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The Board of Directors of the Purchaser has duly authorized the execution, delivery and performance of this Agreement, and no other corporate proceedings on its part are necessary to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. This Agreement constitutes a legal, valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms, subject to equitable considerations and the effect of bankruptcy and other laws affecting the rights of creditors generally.

**Section 3.3 *No Violation.*** Except as set forth on Schedule 3.3 hereto, the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby by the Purchaser do not and will not (a) conflict with or result in a breach of the terms, conditions or provisions of, (b) constitute a default or event of default under (with due notice, lapse of time or both), (c) result in the creation of any Lien upon the Purchaser or its capital stock (except upon the Shares as part of the Purchaser's financing of this transaction) or assets pursuant to, (d) give any third party the

right to accelerate any obligation under, (e) result in a violation of or (f) require any authorization, consent, approval, exemption or other action by, or notice to, any Person pursuant to (i) the charter or bylaws of the Purchaser, (ii) any applicable Regulation, (iii) any Order to which the Purchaser or any of its properties are subject, or (iv) any Contract to which the Purchaser or any of its properties are subject. The Purchaser has complied with all applicable Regulations and Orders in connection with the execution, delivery and performance of this Agreement and the transactions contemplated hereby, subject to the requirements which are conditions to the Closing.

**Section 3.4 *Investment Intent.*** The Purchaser represents and warrants to the Seller that it is purchasing the Shares for investment purposes and not with a view to distribution thereof and agrees that it shall not make any sale, transfer, or other disposition of the Shares in violation of the Securities Act of 1933, as amended, or the Regulations thereunder or under any other applicable securities laws.

**Section 3.5 *Commissions.*** There are and will be no claims for brokerage commissions, finder's fees, fees for fairness opinions or adversary services or similar compensation in connection with the transactions contemplated by this agreement based on any arrangement or agreement made by or on behalf of the Purchaser or any of its affiliates.

## **ARTICLE IV**

### **COVENANTS OF THE SELLER AND THE COMPANY**

Subject to the provisions of Section 4.9 hereof, from and after December 31, 2002 until the Closing Date, each of the Seller and the Company agree that they shall have acted and shall act, or refrain from acting where so required, to comply (and in the case of the Seller, to cause the Company to comply) with the following:

**Section 4.1 *Regular Course of Business.*** The Company shall operate its business diligently and in good faith, consistent with past management practices, shall maintain all of its properties in customary repair, order and condition, shall maintain (except for expiration due to lapse of time or cancellation by another party pursuant to the terms thereof) in the ordinary course of business all leases and Contracts in effect without change except as expressly provided herein and shall comply in all material respects with the provisions of all Regulations, Orders and Permits applicable to the Company and the conduct of its business. The Company shall maintain its financial and accounting records in a manner consistent with that employed at December 31, 2002.

**Section 4.2 *Capital Changes.*** The Seller shall not cause or permit the Company to and the Company shall not issue, sell, split, purchase or redeem any Shares of the capital stock of any class of the Company or issue or sell any securities convertible into, or options,

warrants or other rights to subscribe for, any Shares of the capital stock of the Company, nor shall the Company or the Seller enter into any Contract obligating the Company or the Seller to do so. Neither the Seller nor the Company shall enter into any contract obligating the Company or the Seller to further pledge, transfer or hypothecate or otherwise further encumber any Shares of its capital stock; nor shall the Company or the Seller allow the transfer of any Shares of its capital stock on its stock transfer ledger or other books and records. The Seller shall cause the removal of all Liens from any Shares prior to Closing. Schedule 4.2 sets forth all Liens on any Shares.

Section 4.3 *Borrowing.* The Company shall not incur, assume or guarantee any indebtedness or obligation not reflected on either the Annual Financial Statements or on the Monthly Financial Statements or on Schedule 2.19, except for amounts not to exceed ten thousand dollars (\$10,000) in the ordinary course of business. Further, the Company shall not incur, assume or guarantee any indebtedness or obligation of any Person.

Section 4.4 *Property.* The Company shall not sell, transfer, or dispose of any of its assets and properties, other than in the ordinary course of business, or allow any of its assets and properties to become subject to a Lien.

Section 4.5 *Interim Financial Information, Investment K-1s.* From and after the date hereof, the Company shall supply the Purchaser with a copy of its Monthly Financial Statements within forty-five (45) days after the end of each month. Further, the Company shall provide the Purchaser with any and all financial statements, K-1s and/or reports received with respect to investments set forth on Schedule 2.4 hereto promptly following receipt thereof by the Company or the Seller.

Section 4.6 *Consents and Authorizations.* Subject to Section 5.1 the Seller and the Company shall, promptly after the date hereof, commence efforts to obtain the consents, waivers and authorizations listed on Schedule 2.3 hereto. The Seller and the Company shall diligently pursue and use their best efforts to obtain such consents, waivers and authorizations as promptly as practicable prior to the Closing Date.

Section 4.7 *Access.* Each of the Seller and the Company shall afford to the Purchaser and its counsel, accountants, agents and other authorized representatives and to financial institutions specified by the Purchaser reasonable access during business hours to the Company's plants, properties, books and records in order that the Purchaser may have full opportunity to make such reasonable investigations as it shall desire to make of the affairs of the Company. The Company shall cause its officers, employees and auditors to furnish such additional financial and operating data and other information as the Purchaser or its lender shall from time to time reasonably request.

Section 4.8 *Notice of Transfer.* Each of the Seller and the Company shall cooperate in providing any required notices to the appropriate Authority regarding any issues of ownership or control or change thereof (including, without limitation, any such issues relating to the Permits).

Section 4.9 *Disclosure.* To the extent the Company shall have taken any actions contrary to any of the covenants set forth in this Article IV, from and after December 31, 2002 and prior to the date hereof, such actions are set forth on Schedule 4.9 hereto. From and after the date hereof, the Company shall not take any actions contrary to any of the covenants set forth in this Article IV without the prior written consent of the Purchaser, which consent shall not be unreasonably withheld.

Section 4.10 *Cooperation with the Purchaser.* Each of the Seller and the Company shall cooperate with the Purchaser as shall be necessary for the Purchaser to consummate this transaction and to obtain financing therefor.

Section 4.11 *Employees.* Prior to the Closing Date the Seller shall cause the Company to adjust the number of employees employed by the Company as directed by the Purchaser.

Section 4.12 *Affiliate Payables and Receivables.* On or prior to the Closing Date, all amounts due from or payable to the Seller and its Affiliates (other than Companies), on the one hand, and the Companies, on the other hand, shall be satisfied.

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## ARTICLE V

### COVENANTS OF THE PURCHASER

Section 5.1 *Consents and Authorizations.* The Purchaser shall, promptly after the date hereof, commence efforts to obtain the consents, waivers and authorizations listed on Schedule 3.3. The Purchaser shall diligently pursue and use its best efforts to obtain such consents, waivers and authorizations as promptly as practicable prior to the Closing Date. The Purchaser shall, at its expense, manage the process of obtaining, with the Seller and the Company's assistance, all government consents and approvals required to carry out the transactions contemplated by this Agreement.

Section 5.2 *Telephone, Cable and Internet Service.*

(a) The Purchaser agrees to cause Kadoka to provide residential local exchange telephone service without charge to Sadie Williams, Bruce G. Conlee and Virginia L. Conlee for so long as such person maintain a residence within Kadoka's exchange boundaries.

(b) The Purchaser agrees to cause to be provided to Marilyn M. Haugen, William G. Haugen Jr. and William G. Haugen, Sr.:

- (i) by Union, two fully featured lines (including voice messaging) for residential local exchange telephone service without charge for so long as such person maintains a residence within Union's exchange boundaries;
- (ii) by Union or TelNET, internet services without charge for so long as such person maintains a residence within Union's exchange boundaries and for so long as Union or TelNET is a provider of internet services within Union's exchange boundaries; and
- (iii) by WMW, cable television full package service without charge for so long as such person maintains a residence within WMW's existing service area and for so long as WMW is a provider of cable television service.

Section 5.3 *Cooperation with the Seller and the Company.* The Purchaser shall cooperate with the Seller and/or the Company as shall be necessary for the Seller and/or the Company to consummate this transaction.

## ARTICLE VI

### OTHER AGREEMENTS

The parties hereto further agree as follows:

Section 6.1 *Agreement to Defend.* In the event any claim of the nature specified in Section 7.4 or Section 8.3 hereof is commenced, whether before or after the Closing Date, the parties hereto agree to cooperate and use all reasonable efforts to defend against and respond thereto.

Section 6.2 *Further Assurances.* On the terms and subject to the conditions of this Agreement, the parties hereto shall use all reasonable efforts at their own expense, subject to the provisions of Section 12.13, to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable under applicable Regulations to consummate and make effective as promptly as possible the transactions contemplated by this Agreement, and to cooperate with each other in connection with the foregoing, including, without

limitation, using all reasonable efforts (a) to obtain all necessary waivers, consents and approvals from other parties to loan agreements, leases, mortgages and other Contracts, (b) to obtain all necessary consents, approvals and authorizations as are required to be obtained under any Regulations or in connection with any Permits, (c) to lift or rescind any injunction or restraining order or other Order adversely affecting the ability of the parties to consummate the transactions contemplated hereby and (d) to fulfill all conditions to the obligations of

the parties under this Agreement. Each of the parties hereto further covenants and agrees that it shall use all reasonable efforts to prevent a threatened or pending preliminary or permanent injunction or other Order.

**Section 6.3 *No Solicitation or Negotiation.*** Unless and until this Agreement is terminated, neither the Seller nor the Company shall, and each shall use best efforts to cause its Affiliates, and the directors, officers, employees, representatives, agents, advisors, accountants, shareholders and attorneys of each of them, not to initiate or solicit, directly or indirectly, any inquiries or the making of any proposal with respect to, or engage in negotiations concerning, or provide any confidential information or data to any Person with respect to, or have any discussions with any Person relating to, any acquisition, business combination or purchase of all or any significant asset of, or any equity interest in, directly or indirectly, the Company, or otherwise facilitate any effort or attempt to do or seek any of the foregoing and shall immediately cease and cause to be terminated any existing activities, discussions or negotiations with any parties conducted heretofore with respect to any of the foregoing.

**Section 6.4 *Public Announcements.*** Prior to the Closing Date, no party hereto nor any Affiliate, representative or shareholder of such party, shall disclose any of the terms, of this Agreement, including but not limited to the Purchase Price, to any third party, except as required by law or in connection with a securities filing and in connection with the Purchaser's financing of the transactions contemplated hereby, without the other parties' prior written consent. Prior to the Closing Date, the form, content and timing of all press releases, public announcements or publicity statements (but excluding disclosures necessitated by any securities filing) with respect to this Agreement shall be subject to the prior approval of both the Seller and the Purchaser.

**Section 6.5 *Records and Information.***

(a) **Retention of Records.** Except as otherwise required by Regulation or agreed to in writing, the Seller and the Purchaser shall each retain, and shall cause their respective Affiliates to retain, for a period of at least four (4) years, or, if greater, the period required by applicable Regulation, following the Closing Date, all records, books, contracts, instruments, computer data and other data and information (collectively, "**Information**") relating to the Company.

(b) **Access to Information.** From and after the Closing Date, the Seller shall afford to the Purchaser and its authorized accountants, counsel and other designated representatives reasonable access (including using reasonable efforts to give access to Persons or firms possessing Information) and duplicating rights during normal business hours to all Information within the Seller's possession relating to the Company, insofar as such access is reasonably required by the Purchaser. Similarly, the Purchaser shall afford to the Seller and their authorized accountants, counsel, and other designated representatives reasonable access (including reasonable efforts to give access to Persons or firms possessing Information) and duplicating rights during normal business hours to Information within the Purchaser's possession relating to the Company or its business as conducted prior to the Closing Date, insofar as such access is reasonably required by the Seller.

(c) **Witnesses.** At all times from and after the Closing Date, each of the Seller and the Purchaser shall use reasonable efforts to make available to the other, upon written request, its and its Affiliates' officers, directors, employees and agents as witnesses to the extent that such Persons may reasonably be required in connection with any legal, administrative or other proceedings in which the requesting party may from time to time be involved, at no cost; provided, however, that a party producing such witnesses shall be entitled to receive from the requesting party, upon presentation therefor, payment for such out-of-pocket costs and disbursements as may be reasonably incurred in producing such witnesses.

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Section 6.6 *Other Tax Matters.*

(a) Tax Returns. The parties hereto agree that the Seller shall prepare, and pay (but only to the extent not fully paid or reserved against on the Annual Financial Statements or the Monthly Financial Statements) all Taxes arising therefrom, all Tax Returns for the Company for the periods before the Closing Date and for all Taxes arising as a result of the transactions contemplated by this Agreement. Upon mutual agreement between the Seller and the Purchaser, the Company may prepare any such required Tax Returns. The Purchaser shall prepare, and pay all Taxes arising therefrom, all Tax Returns for the Company for the periods on and after the Closing Date.

(b) Information. The Purchaser and the Seller agree to furnish or cause to be furnished to each other, as promptly as practicable, such information (including access to books and records) and assistance relating to the Company as is reasonably requested for the filing of any Tax Return, in determining a Tax liability or right to refund, for the preparation of any audit or other proceeding, and for the prosecution of any claim, suit or proceeding relating to a proposed Tax adjustment. The Purchaser and the Seller shall cooperate with each other in the conduct of any Tax audit or other Tax proceedings involving the Company.

Section 6.7 *Section 338(h)(10) Election.*

(a) At the Purchaser's option, the Purchaser and the Seller shall jointly make or cause to be made an election under §338(h)(10) of the Code (and any corresponding elections under state, local, or foreign tax law (including an election similar to Section 338(g) of the Code with respect to a jurisdiction that allows such an election but not an election similar to Section 338(h)(10) of the Code)) (collectively the "**Section 338(h)(10) Elections**") with respect to the purchase and sale of the Shares of all or any of the Companies hereunder. The Seller shall pay any income tax attributable to the making of the Section 338(h)(10) Elections.

(b) The Purchaser shall be responsible for the preparation and timely filing of all forms necessary to implement the Section 338(h)(10) Elections. The Seller shall cooperate and assist with all reasonable requests of the Purchaser for assistance in the preparation and timely filing of all such forms reasonably necessary to implement the Section 338(h)(10) Elections.

(c) The Purchaser and the Seller shall use their best efforts to agree, as soon as practicable after the Closing, on the computation of the aggregate deemed sale price (as defined under Treasury Regulations Section 1.338-4) and any corresponding items for state and local tax purposes (the "**ADSP**"). As soon as practicable after the Closing, the Purchaser shall deliver to Seller a statement (the "**Allocation Statement**") computing and allocating the ADSP of the assets of the Companies with respect to which a Section 338(h)(10) election is being made in accordance with the Treasury Regulations promulgated under Section 338(h)(10). If, within thirty (30) days after the receipt of the Allocation Statement, the Seller objects to the allocation by the Purchaser of such amounts, and the Seller cannot in good faith reach agreement on the computation or allocation within thirty (30) days after notification of the objection, the Purchaser and the Seller within 5 days after the expiration of such thirty (30) day period shall submit the issue to arbitration by a nationally recognized accounting firm which has no material relationship with the Purchaser or the Seller as shall be mutually acceptable to the Purchaser and the Seller for resolution of the disagreement within sixty (60) days, it being agreed that the Purchaser and the Seller will jointly share the fees and expenses of such accounting arbitration firm. If the Seller does not respond within thirty (30) days, or upon the resolution of the disagreement, the allocations determined pursuant to this Section 6.7 shall be binding upon the parties and shall be used for purposes of all relevant tax returns, reports and filings.

Section 6.8 *Vermeer 5750 and Redi Haul Trailer.* The Purchaser shall purchase the Vermeer 5750 and Redi Haul Trailer leased by Union from MJD Capital Corp. on the Closing Date for the sum

equal to the net book value of the Vermeer 5750 and the Redi Haul Trailer as contained in the MJD Capital Corp. financial records.

Section 6.9 *Noncompetition.* The Seller covenants to the Purchaser that for a period of three (3) years following the Closing Date, the Seller shall not engage in the business of providing local telephone exchange or cable television within the Counties of Minnehaha, McCook, Douglas or Jackson, State of South Dakota, either directly or indirectly, as an owner, shareholder, partner, general partner, limited partner, limited liability partner, joint venturer, member or equity holder, or as a manager, independent contractor or other administrator. The Seller acknowledges and agrees that this covenant not to compete is given in consideration of the sale of a business containing goodwill.

## ARTICLE VII

### CONDITIONS TO THE OBLIGATIONS OF THE PURCHASER

The obligations of the Purchaser under this Agreement shall be subject to the satisfaction of each of the following conditions unless waived in writing by the Purchaser:

Section 7.1 *Representations and Warranties.* The representations and warranties of the Seller and the Company contained in Article II hereof and elsewhere in this Agreement and all information contained in any Schedule or attachment hereto shall be true and correct in all material respects when made and on the Closing Date as though then made, except as expressly provided herein or therein. The Seller and the Company shall have performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement to be performed and complied with by them prior to and on the Closing Date. The Seller shall have delivered to the Purchaser a certificate, dated the Closing Date, in a form reasonably satisfactory to the Purchaser, certifying to the foregoing, and providing such supplemental information, agreements and disclosures as shall be necessary to make such representations and warranties as accurate on the Closing Date as on the date originally given. Notwithstanding the foregoing, in the event such certificate, as delivered by Seller on the Closing Date, identifies, sets forth, or details any actions, events, omissions or conditions, which if not disclosed on such certificate, would constitute a breach of any representation, warranty or covenant contained herein or in any agreement, certificate, document, instrument, schedule or exhibit delivered in conjunction herewith and pursuant hereto, then Purchaser shall nonetheless be entitled to indemnification pursuant to the provisions of Article XI hereof for any claims, losses, costs, expenses, damages, injuries, or other liabilities, including reasonable attorneys' fees, incurred as a result of such disclosed actions, events, omissions or conditions.

Section 7.2 *Consents and Approvals.* In the case of any joint consents, approvals, authorizations or Orders, the Seller, the Company and the Purchaser shall have jointly obtained all consents, approvals, Orders, qualifications, licenses, Permits, regulatory approvals (including but not limited to any necessary consent, approval, exemption or notice as required by (a) the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and (b) the South Dakota Public Utility Commission) and other authorizations, whether specified on Schedules 2.3 and 3.3 hereto or not. In all other cases the Seller and the Company shall have obtained all consents, approvals, authorizations or Orders and given all notices, required by all applicable Regulations, Orders and Contracts binding on any of the Seller, the Company or the Purchaser or any of their respective properties and assets, with respect to the execution, delivery and performance of this Agreement. Purchaser shall advise Seller of any such known consents, approvals, authorizations, Orders or notices required with respect to the execution, delivery and performance of this Agreement. Purchaser shall cooperate with and assist Seller and the Company in all reasonable requests for assistance in obtaining any consents, approvals, Orders, qualifications, licenses, Permits, regulatory approvals or other authorizations reasonably required to consummate the transactions contemplated herein.

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Section 7.3 *No Material Adverse Change.* There shall have been no Material Adverse Change in the business, properties, financial condition or results of operations of the Company since December 31, 2002 through the Closing Date. The Purchaser shall have received a certificate, dated the Closing Date, from the Seller, in a form reasonably satisfactory to the Purchaser, certifying to the foregoing.

Section 7.4 *No Proceeding or Litigation.* No Order or Regulation shall be in effect and no litigation shall have been consummated or threatened which would prevent the consummation of the transactions contemplated hereby.

Section 7.5 *Secretary's Certificate.* The Purchaser shall have received a certificate, signed by the Secretary of the Company dated the Closing Date, as to the charter (attaching a Secretary of State certified copy thereof, with all amendments) and bylaws of the Company, respectively, and the resolutions adopted by the shareholders and directors of MJD, Union, Armour, WMW and Kadoka in connection with this Agreement in a form reasonably satisfactory to the Purchaser.

Section 7.6 *Certificates of Good Standing.* At the Closing, the Company shall have delivered to the Purchaser certificates issued by the appropriate governmental authorities evidencing the good standing of the Company in their respective jurisdictions of incorporation as of a date not more than fifteen (15) days prior to the Closing Date.

Section 7.7 *Resignations.* The Seller shall have caused all directors and officers of the Company to have resigned.

Section 7.8 *Other Documents.* The Purchaser shall have been furnished with such other and further documents and certificates, including certificates of the Seller, or the Company's officers, directors and others, as the Purchaser shall reasonably request to evidence compliance with the conditions set forth in this Agreement.

Section 7.9 *Liens.* The Seller shall have removed all Liens on the Shares and/or on the assets and properties of the Company other than Permitted Liens.

Section 7.10 *Delivery of Minute Books.* The Seller shall have delivered at Closing all original minute books, corporate seals and stock transfer records of the Company.

Section 7.11 *Delivery of Financial Statements.* The Seller shall have delivered the Monthly Financial Statements from and after the date hereof as soon as such Monthly Financial Statements shall have been prepared, all as provided in Section 4.5 hereof.

Section 7.12 *Employees.* The Seller shall have caused the Company to adjust the number of its employees as directed by the Purchaser as provided in Section 4.11.

## ARTICLE VIII

### CONDITIONS TO THE OBLIGATIONS OF THE SELLER

The obligations of the Seller under this Agreement shall be subject to the satisfaction of each of the following conditions unless waived in writing by the Seller:

Section 8.1 *Representations and Warranties.* The representations and warranties of the Purchaser contained in Article III hereof and elsewhere in this Agreement and all information contained in any Schedule or attachment hereto shall be true and correct in all material respects when made and on the Closing Date as though then made, except as expressly provided herein or therein. The Purchaser shall have performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement to be performed and complied with by it prior to and on the Closing Date. An officer of the Purchaser in his capacity as such shall have delivered to the Seller a certificate, dated the Closing Date, in a form reasonably satisfactory to the Seller, certifying to the foregoing, and

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providing such supplemental information, agreements and disclosures as shall be necessary to make such representations and warranties as accurate on the Closing Date as on the date originally given. Notwithstanding the foregoing, in the event such certificate, as delivered by Purchaser on the Closing Date, identifies, sets forth, or details any actions, events, omissions or conditions, which if not disclosed on such certificate would constitute a breach of any representation, warranty or covenant contained herein or in any agreement, certificate, document, instrument, schedule or exhibit delivered in conjunction herewith and pursuant hereto, then Seller shall nonetheless be entitled to

indemnification pursuant to the provisions of Article XI hereof for any claims, losses, costs, expenses, damages, injuries, or other liabilities, including reasonable attorneys' fees, incurred as a result of such disclosed actions, events, omissions or conditions.

**Section 8.2 *Consents and Approvals.*** In the case of any joint consents, approvals, authorizations or Orders, the Purchaser, the Seller and the Company shall have jointly obtained all consents, approvals, Orders, qualifications, licenses, Permits, regulatory approvals (including but not limited to any necessary consent, approval, exemption or notice as required by (a) the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and (b), the South Dakota Public Utility Commission) and other authorizations, whether specified on Schedules 2.3 and 3.3 hereto or not. In all other cases the Seller and the Company shall have obtained all consents, approvals, authorizations or Orders and given all notices, required by all applicable Regulations, Orders and Contracts binding on any of the Purchaser, the Seller or the Company or any of their respective properties and assets, with respect to the execution, delivery and performance of this Agreement. Purchaser shall advise Seller of any such known consents, approvals, authorizations, Orders or notices required with respect to the execution, delivery and performance of this Agreement. Purchaser shall cooperate with and assist Seller and the Company in all reasonable requests for assistance in obtaining any consents, approvals, Orders, qualifications, licenses, Permits, regulatory approvals or other authorizations reasonably required to consummate the transactions contemplated herein.

**Section 8.3 *No Proceeding or Litigation.*** No Order or Regulation shall be in effect and no litigation shall have been consummated or threatened which would prevent the consummation of the transactions contemplated hereby.

**Section 8.4 *Secretary's Certificate.*** The Seller shall have received a certificate, signed by the Secretary of the Purchaser, dated the Closing Date, as to the charter and bylaws of the Purchaser and the resolutions adopted by the directors of the Purchaser in connection with this Agreement in a form reasonably satisfactory to the Seller and a certificate issued by the appropriate governmental authority evidencing the good standing of the Purchaser in its jurisdiction of incorporation as of a date not more than fifteen (15) days prior to the Closing Date.

## ARTICLE IX

### CLOSING

**Section 9.1 *Closing.*** Unless this Agreement shall have been terminated or abandoned pursuant to the provisions of Article X hereof, a closing of the transactions contemplated by this Agreement (the "**Closing**") shall be held on or before December 1, 2003 (or on such date either before or after December 1, 2003 as the parties hereto shall mutually agree, which shall be on the first day of the month which is at least ten (10) days after receipt of all SDPUC and FCC and other approvals required as a precondition to Closing) (the "**Closing Date**") in the offices of the Seller's counsel; provided, that the Closing shall occur as soon as practicable after the satisfaction of the conditions contained in Articles VII and VIII hereof.

**Section 9.2 *Closing Date Payment and Receipt of Shares.*** On the Closing Date (i) the Seller will assign and transfer to the Purchaser good and valid title in and to the Shares, free and clear of all

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Liens, by delivering to the Purchaser stock certificates representing the Shares, duly endorsed for transfer and accompanied by duly executed stock powers endorsed in blank; (ii) the Purchaser shall, by wire transfer of same-day funds, deposit in an escrow account the amount of One Million and No/100 Dollars (\$1,000,000.00) ("**Escrow Funds**") all as provided in Section 11.2 hereof; (iii) the Purchaser shall, by wire transfer of same-day funds, pay to the Seller, the amount of the Adjusted Purchase Price for all of the Shares, less the Escrow Funds; and (iv) the parties shall deliver to each other the documents required under this Agreement to be delivered at the Closing.

## ARTICLE X

### TERMINATION AND ABANDONMENT

Section 10.1 *Methods of Termination.* This Agreement may be terminated and the transactions herein contemplated may be abandoned at any time:

(a) Mutual Consent. By mutual written consent of the Purchaser and the Seller.

(b) The Seller's Failure to Perform. By the Purchaser if as of the Closing Date any of the conditions specified in Article VII hereof have not been satisfied (and remain so unsatisfied for more than twenty (20) days after the Purchaser has notified the Seller in writing thereof) or if any of the Seller or the Company are otherwise in default in any material respect under this Agreement (and remains in default for more than twenty (20) days after the Purchaser has notified the Seller in writing of such default) or if at any time prior to the Closing Date it becomes apparent to the Purchaser (on reasonable grounds) that any of the Seller or the Company will be unable to satisfy one or more of the representations and warranties in Article II hereof or one or more of the covenants or agreements in Articles IV, VI or VII hereof.

(c) The Purchaser's Failure to Perform. By the Seller if as of the Closing Date any of the conditions specified in Article VIII hereof have not been satisfied (and remain so unsatisfied for more than twenty (20) days after the Seller has notified the Purchaser in writing thereof) or if the Purchaser is otherwise in default in any material respect under this Agreement (and remains in default for more than twenty (20) days after the Seller has notified the Purchaser in writing of such default) or if at any time prior to the Closing Date it becomes apparent to the Seller (on reasonable grounds) that the Purchaser will be unable to satisfy one or more of its representations and warranties in Article III hereof or one or more of the covenants or agreements in Articles V, VI or VIII hereof.

(d) Failure to Close by February 1, 2004. By either party in the event the Closing has not occurred by February 1, 2004, unless such failure to close shall be due to a breach of this Agreement by the party seeking to terminate the Agreement, or such failure to close shall be due to the non-receipt of approval from the SDPUC, which approval has been diligently sought, in which last case this date shall be extended for one hundred twenty (120) days automatically.

(e) Material Adverse Change. By the Purchaser if a Material Adverse Change shall be shown or indicated in any of the Monthly Financial Statements delivered after the date hereof or otherwise with respect to any of the conditions to Closing set forth in Section 7.3 hereof, and written notice of termination of this Agreement shall have been given by the Purchaser within thirty (30) business days of the Purchaser's receipt of such Monthly Financial Statements or the Purchaser's discovery of such Material Adverse Change.

(f) Remedies. In the event of any failure to perform as described in this Section 10.1, the non-breaching party shall have such remedies for breach of contract as are allowed by law in addition to or in substitution of the right of termination.

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Section 10.2 *Procedure Upon Termination.* If this Agreement is terminated as provided herein:

(a) Return of Records. Each party shall as promptly as practicable redeliver to the party furnishing the same, all data, information and other written material (including all copies thereof) of any other party relating to the transactions contemplated hereby, whether obtained before or after the execution hereof.

(b) Confidentiality. All information received by any party hereto with respect to the business of any other party (other than information which is a matter of public knowledge or which has heretofore been or is hereafter published in any publication for public distribution or filed as public information with any governmental authority) shall not at any time be used by such party, or disclosed to third parties.

## ARTICLE XI

### SURVIVAL OF TERMS; INDEMNIFICATION

Section 11.1 *Survival; Limitations.* All of the terms and conditions of this Agreement, together with the representations, warranties and covenants contained herein or in any instrument or document delivered or to be delivered pursuant to this Agreement and the agreements

of the parties to indemnify each other as set forth in this Article XI shall survive the execution of this Agreement and the Closing Date notwithstanding any investigation heretofore or hereafter made by or on behalf of any party hereto and shall continue for, and all claims with respect thereto shall be made eighteen (18) months from the Closing Date (the "**Indemnification Period**") provided, however, that with respect to the representations set forth in Sections 2.7 and 2.8 hereof, the Indemnification Period shall survive in perpetuity and provided further that with respect to any income tax liability of the Company attributable to any activities or transactions occurring by any of them prior to the Closing Date, the agreement of the Seller to indemnify the Purchaser and its Affiliates shall survive until, and all claims with respect thereto shall be made prior to, the expiration of the applicable statute of limitations prescribed by Section 6501 of the IRC, as such statutes of limitations may have been or be extended by agreement from time to time.

Section 11.2 *Escrow of Liquid Assets.* One Million and No/100 Dollars (\$1,000,000.00) of the Adjusted Purchase Price otherwise payable to Seller for the Shares (the "**Escrow Funds**") shall be maintained in an escrow account (the "**Escrow Account**") in pursuant to the terms and provisions of an Escrow Agreement to be executed at Closing substantially in the form attached hereto as Exhibit 11.2 (the "**Escrow Agreement**"). In addition to seeking indemnification directly from Seller under the provisions of Section 11.3 hereof, the Purchaser may make a claim from the Escrow Account for payment of any indemnity payment due under Section 11.3 in the manner provided in the Escrow Agreement.

Section 11.3 *Indemnification by the Seller.* After the Closing Date, subject to the limitations set forth in Sections 11.1, 11.8, 11.9 and 11.10 hereof, the Purchaser and its Affiliates (including, without limitation, the Company) and their respective officers, directors, employees, shareholders, representatives and agents, as well as their respective heirs, successors and assigns, shall be indemnified and held harmless by the Seller, against and in respect of any and all damage, loss, liability, cost or expense (including, unless otherwise provided herein, the reasonable fees and expenses of counsel resulting from, or in respect of, any of the following:

(a) **Misrepresentation or Breach.** Any misrepresentation or breach of warranty or covenant of any of the Seller or the Company contained in this Agreement, including those disclosed pursuant to the certificate provided for in Section 7.1 hereof, or any nonfulfillment of any obligation on the part of the Seller to be performed after the Closing under this Agreement, or contained in any Schedule or Exhibit to this Agreement.

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(b) **Taxes.** All Taxes of the Seller, of the Company or with respect to their investments or income, including but not limited to any and all income attributable to any period prior to the Closing Date.

(c) **Other Claims.** Any Claim of a third party arising out of the business or operations of the Company prior to the Closing Date or any Claim resulting from or arising out of the ownership, management or use of the Shares and/or the business of the Company prior to the Closing Date.

(d) **Related Expenses.** All expenses and costs, including but not limited to reasonable legal fees, paid or incurred in connection with any such indemnified Claim.

Section 11.4 *Indemnification by the Purchaser.* After the Closing Date, subject to the limitations set forth in Sections 11.1, 11.8, 11.9 and 11.10 hereof, the Seller and its Affiliates and their respective officers, directors, employees, shareholders, representatives and agents as well as their respective heirs, successors and assigns, shall be indemnified and held harmless by the Purchaser and the Company against and in respect of any and all damage, loss, liability, cost or expense (including, unless otherwise provided herein, the reasonable fees and expenses of counsel resulting from, or in respect of, any of the following:

(a) **Misrepresentation or Breach.** Any misrepresentation or breach of warranty or covenant of the Purchaser contained in this Agreement, including those disclosed pursuant to the certificate provided for in Section 8.1 hereof or any nonfulfillment of any obligation on the part of the Company (to be performed after the Closing) or the Purchaser under this Agreement, or contained in any Schedule or Exhibit to this Agreement.

(b) Taxes. All Taxes of the Purchaser or of the Company attributable to any period on or after the Closing Date.

(c) Other Claims. Any Claim of a third party arising out of the business or operations of the Company after the Closing Date, or any Claim resulting from or arising out of the ownership, management or use of the Shares and/or the Business of the Company on or after the Closing Date.

(d) Related Expenses. All expenses and costs, including but not limited to legal fees, reasonably paid or incurred in connection with any such indemnified Claim.

#### Section 11.5 *Third Party Claims.*

(a) Generally. Except as otherwise provided in this Agreement, the following procedures shall be applicable with respect to indemnification for third party Claims. Promptly after receipt by the party seeking indemnification hereunder (hereinafter referred to as the "**Indemnitee**") of notice of the commencement of any action or the assertion of any Claim, liability or obligation by a third party (whether by legal process or otherwise), against which Claim, liability or obligation another party to this Agreement (hereinafter the "**Indemnitor**") is, or may be, required under this Agreement to indemnify such Indemnitee, the Indemnitee shall, if a claim thereon is to be, or may be, made against the Indemnitor, immediately notify the Indemnitor in writing of the commencement or assertion thereof and give the Indemnitor a copy of such Claim or process and all legal pleadings. The Indemnitee's failure to give timely notice as required by this Section 11.5(a) shall not serve to eliminate or limit the Indemnitor's obligation to indemnify the Indemnitee unless such failure prejudices the rights of the Indemnitor, and then only to the extent of such prejudice. Moreover, the Indemnitee shall have the right to take any actions or steps it deems reasonable to avoid the occurrence of any prejudice to the rights of the Indemnitee. The Indemnitor shall have the right to assume the defense of such action with counsel of reputable standing unless with respect to such action (A) injunctive or equitable remedies have been sought therein in respect of the Indemnitee or its business or (B) such action is for an alleged amount of less than Five Thousand Dollars (\$5,000); provided, that the Indemnitee and counsel to the Indemnitee shall have the right to participate in the defense of any and all Claims pursuant to the provisions of Section 11.5(b) hereof. The Indemnitor and the Indemnitee shall reasonably

cooperate in the defense of such Claims. If the Indemnitee shall be required by judgment or a settlement agreement to pay any amount in respect of any obligation or liability against which the Indemnitor has agreed to indemnify the Indemnitee under this Agreement, the Indemnitor shall immediately pay such amount to the Indemnitee in order to enable the Indemnitee to make such payment, and otherwise shall promptly reimburse the Indemnitee in an amount equal to the amount of such payment, in either case, plus all reasonable out-of-pocket expenses (including legal fees and expenses) incurred by such Indemnitee at the specific request of the Indemnitor, as provided above, or as otherwise authorized by Section 11.5(b) hereof, in connection with such obligation or liability subject to this Article XI. No Indemnitor, in the defense of any such Claim, shall, except with the consent of the Indemnitee, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnitee of a release from all liability with respect to such Claim. In the event that the Indemnitor does not accept the defense of any matter for which it is entitled to assume such defense as provided in this Section 11.5(a), the Indemnitee shall have the full right to defend against any such Claim and shall be entitled to settle or agree to pay in full such Claim in its sole discretion. With respect to any matter as to which the Indemnitor is not entitled to assume the defense pursuant to the terms of this Section 11.5(a), the Indemnitee shall not enter into any settlement for which an indemnification Claim will be made hereunder without the approval of the Indemnitor, which shall not be unreasonably withheld.

(b) Counsel. An Indemnitee shall have the right to employ its own counsel, but the fees and expenses of such counsel shall be at the expense of the Indemnitee, unless (i) the employment of such counsel shall have been authorized in writing by the Indemnitor in connection with the defense of such Claim and the Indemnitor has agreed in writing to pay such fees and expenses, or (ii) the Indemnitor shall not have employed counsel in the defense of such Claim (which counsel may be in-house counsel unless and until a lawsuit has been commenced). In either of which events, such fees and expenses of not more than one additional counsel for the Indemnitee shall be borne by the Indemnitor.

#### Section 11.6 *Other Claims.*

(a) In the event an Indemnitee should have a claim under this Article XI against an Indemnitor that does not involve a third party Claim, the Indemnitee shall promptly give notice (the "**Indemnitee Notice**") and the details thereof, including copies of all relevant information and documents, to the Indemnitor within a period of thirty (30) days following the discovery of the claim by the Indemnitee (the "**Claim Notice Period**"). The failure by any Indemnitee to give the Indemnitee Notice within the Claim Notice Period shall not impair the Indemnitee's rights hereunder except to the extent that the Indemnitor demonstrates that it has been prejudiced thereby. The Indemnitor will notify the Indemnitee within a period of twenty (20) days after the receipt of the Indemnitee Notice by the Indemnitor (the "**Indemnity Response Period**") whether the Indemnitor disputes its liability to the Indemnitee under this Article XI with respect to such Claim. If the Indemnitor notifies the Indemnitee that it does not dispute the Claim described in such Indemnitee Notice or fails to notify the Indemnitee within the Indemnity Response Period whether the Indemnitor disputes the claim described in such Indemnitee Notice, the actual damages as finally determined will be conclusively deemed to be a liability of the Indemnitor under this Article XI and the Indemnitor shall pay the amount of such damages to the Indemnitee on demand. If the Indemnitor notifies the Indemnitee within the Indemnity Response Period that the Indemnitor disputes its liability with respect to such Claim, the Indemnitor and the Indemnitee will proceed in good faith to negotiate a resolution of such dispute, and if not resolved through negotiations within a period of thirty (30) days from the date of such notice or such longer period as may be agreed to by the parties in writing, such dispute shall be resolved by arbitration in accordance with Section 11.6(b) hereof.

(b) Any dispute required to be submitted to arbitration pursuant to this Section 11.6 shall be finally and conclusively determined in accordance with the Commercial Arbitration Rules of the

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American Arbitration Association (the "**Rules of Arbitration**") then in effect by the decision of three (3) arbitrators (the "**Board of Arbitration**") selected in accordance with the Rules of Arbitration. The Board of Arbitration shall meet in Chicago, Illinois and shall render a decision in writing (concurred in by a majority of the members of the Board of Arbitration) with respect to and stating the amount, if any, which the Indemnitor is required to pay to the Indemnitee in respect of the claim made by the Indemnitee. The decision of the Board of Arbitration shall be rendered as soon as practical following commencement of proceedings with respect thereto. The Board of Arbitration shall cause its written decision to be delivered to the Indemnitee and the Indemnitor. Any decision made by the Board of Arbitration shall be final, binding and conclusive on the Indemnitee and the Indemnitor and entitled to be enforced to the fullest extent permitted by law and entered in any court of competent jurisdiction.

The parties hereto hereby consent to the jurisdiction of the foregoing Board of Arbitration and to the jurisdiction of any local, state or Federal court located in the States of North Carolina or South Dakota for the purpose of enforcing the decision or award of the Board of Arbitration or otherwise. The parties hereto agree that all service of process may be made on any such party by personal delivery or by registered or certified mail addressed to the appropriate party at the address for such party set forth in this Agreement.

All fees, costs and expenses of the prevailing party in any arbitration, including, but not limited to, attorneys' fees, shall be paid by the losing party and shall be awarded to the prevailing party as part of the decision of the Board of Arbitration. For purposes hereof, a "**Prevailing Party**" shall mean the party which substantially prevails in its position in arbitration. Each and every arbitration proceeding commenced pursuant to this Section 11.6(b) shall be consolidated with any arbitration proceedings simultaneously or previously commenced (but not concluded) under this Section 11.6(b).

Section 11.7 *Continued Liability for Indemnity Claims.* The liability of any Indemnitor hereunder with respect to claims hereunder shall continue for so long as any Claims for indemnification may be made hereunder pursuant to this Article XI and, with respect to any such indemnification Claims duly and timely made, thereafter until the Indemnitor's liability therefore is finally determined and satisfied.

Section 11.8 *Basket Amount.*

(a) Indemnification by the Seller. Notwithstanding anything to the contrary herein, the Seller will have no liability (for indemnification or otherwise) with respect to the matters described in Section 11.3 of this Agreement until the total of all damages suffered by the Purchaser

and/or its Affiliates exceeds Two Hundred Thousand Dollars (\$200,000) (the "**Basket Amount**"), and then only for the amount by which such damages exceed the Basket Amount.

(b) Indemnification by the Purchaser. Further, notwithstanding anything to the contrary herein, the Purchaser will have no liability (for indemnification or otherwise) with respect to the matters described in Section 11.4 of this Agreement (other than the nonfulfillment, in whole or in part, of any obligation on the part of the Purchaser under this Agreement which relates to the payment of the Adjusted Purchase Price) until the total of all damages suffered by the Seller and/or their Affiliates exceeds the Basket Amount and then only for the amount by which such damages exceed the Basket Amount.

Section 11.9 *Limitations on Indemnifications.* Notwithstanding anything to the contrary contained in this Agreement, the aggregate liability of the Seller under this Article XI shall not exceed the amount of one half of the Adjusted Purchase Price.

Section 11.10 *Exclusive Remedy.* Each Indemnatee's rights under and subject to the provisions of this Article XI shall be the Indemnatee's sole and exclusive remedy with respect to any claim against any Indemnitor based upon (i) those matters set forth in Section 11.3(a) through (d) inclusive, in the case of Claims by the Purchaser and/or its Affiliates, and (ii) those matters set forth in Section 11.4(a) through (d) inclusive, in the case of Claims by the Seller and/or its Affiliates, and the parties hereby

waive and relinquish any and all other applicable rights and remedies, if any, to which they may otherwise at any time be entitled; provided, however, that all Indemnitees shall retain their legal and equitable remedies with respect to Claims arising from fraud or from misrepresentations that are knowingly or intentionally made, with respect to Claims arising from Section 6.3 and Section 10.1 hereof and with respect to covenants and agreements to be performed and complied with by Indemnitors subsequent to the Closing Date.

## ARTICLE XII

### GENERAL PROVISIONS

Section 12.1 *Amendment and Modification.* Subject to applicable Regulations, this Agreement may be amended, modified and supplemented at any time with respect to any of the terms contained herein, by a written agreement signed by all of the parties hereto.

Section 12.2 *Waiver.* The failure of any party hereto to comply with any obligation, covenant, agreement or condition herein may be waived in writing by the other parties hereto, but such waiver shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any party hereto, such consent shall be given in writing.

Section 12.3 *Certain Definitions.*

"**Adjusted Purchase Price**" shall have the meaning ascribed to such term in Section 1.2.

"**Affiliate**" shall mean, with regard to any Person, any Person which, directly or indirectly, controls, is controlled by, or is under common control with, such Person thereof. "**Control**" (including, with correlative meaning, the terms "**controlled by**" and "**under common control with**"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by Contract or otherwise.

"**Agreement**" shall have the meaning ascribed to such term in the preamble hereof.

"**Annual Financial Statements**" shall have the meaning ascribed to such term in Section 2.9 hereof.

"**Armour Common Stock**" shall have the meaning ascribed to such term in the recitals hereof.

**"Armour Preferred Stock"** shall have the meaning ascribed to such term in the recitals hereof.

**"Authority"** shall mean any governmental authority, including, without limitation, the FCC and the SDPUC and all municipalities in which the Company engages in business, and any other governmental, regulatory or administrative body, agency, commission, board of arbitrators, or any court or judicial authority, whether Federal, state, local or foreign.

**"Base Purchase Price"** shall have the meaning ascribed to such term in Section 1.2 hereof.

**"Business Day"** shall mean any day that is not a Saturday or Sunday and that in North Carolina or South Dakota is not a day on which banking institutions are generally authorized or obligated by Regulation to close.

**"Claim"** shall mean any action, written claim, complaint, lawsuit, written demand, suit, notice of a violation, litigation, proceeding, arbitration or other dispute noticed in writing, or otherwise, whether civil, criminal, administrative or otherwise, by any Authority or other Person.

**"Closing"** shall have the meaning ascribed to such term in Section 9.1 hereof.

**"Closing Balance Sheet"** shall have the meaning ascribed to such term in Section 1.3 hereof.

**"Closing Date"** shall have the meaning ascribed to such term in Section 9.1 hereof.

**"Company"** shall have the meaning ascribed to such term in the preamble hereof.

**"Contract"** shall mean any agreement, contract, commitment, instrument or other binding arrangement or understanding, whether written or oral.

**"Employee Benefits"** shall have the meaning ascribed to such term in Section 2.17.

**"Environmental Law"** shall mean any Regulation or Order, including, but not limited to, any term or condition included in a validly issued Permit to construct or operate a facility subject to any Regulation or Order, which relates to or otherwise imposes liability or standards of conduct concerning environmental matters, mining or reclamation of mined land, discharges, emissions, releases or threatened releases of noises, odors or any pollutants, contaminants or hazardous or toxic wastes, substances or materials, whether as matter or energy, into ambient air, water or land or otherwise relating to the manufacture, processing, generation, distribution, use, treatment, storage, disposal, cleanup, transport or handling of pollutants, contaminants or hazardous wastes, substances or materials, including (but not limited to) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, the Resource Conservation and Recovery Act of 1976, as amended, the Toxic Substances Control Act of 1976, as amended, the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977, as amended, any so-called **"superlien"** law and any other similar Regulation by any Authority in effect on or before the Closing Date.

**"Escrow Account"** shall have the meaning ascribed to such term in Section 11.2 hereof.

**"Escrow Agreement"** shall have the meaning ascribed to such term in Section 11.2 hereof.

**"Escrow Funds"** shall have the meaning ascribed to such term in Section 11.2 hereof.

**"FCC"** shall mean the Federal Communications Commission.

**"GAAP"** shall mean generally accepted accounting principles currently in effect in the United States of America applied on a consistent basis.

**"Hazardous Materials"** shall have the meaning ascribed to such term in Section 2.18 hereof.

**"Indemnitee"** shall have the meaning ascribed to such term in Section 11.4(a) hereof.

**"Indemnitor"** shall have the meaning ascribed to such term in Section 11.4(a) hereof.

**"IRC"** or the **"Code"** means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

**"IRS"** means the Internal Revenue Service.

**"Lien"** shall mean any security interest, lien, mortgage, pledge, hypothecation, encumbrance, claim, easement, restriction (on transfer or otherwise) or interest of another Person of any kind or nature.

**"Material Adverse Change"** shall mean any developments or changes which would have a Material Adverse Effect.

**"Material Adverse Effect"** shall mean any change, effect or circumstance that is adverse to the business, properties, financial condition or results of operations of the Company which is material to the Company, taken as a whole, but shall not include any change, effect or circumstance that is generally applicable to or in (i) the telecommunications industry generally, (ii) the United States or South Dakota economy or the economy generally, or (iii) the South Dakota, United States or global financial or capital markets. For purposes of this Agreement, a change, effect or circumstance which

has a financial impact greater than the Basket Amount shall be deemed to be material to the Company taken as a whole.

**"Monthly Financial Statements"** shall have the meaning ascribed to such term in Section 2.9 hereof.

**"Order"** shall mean any judgment, decree (consent or otherwise), order, injunction (preliminary or permanent), stipulation, ruling, decree or consent of or by an Authority.

**"Permits"** shall have the meaning ascribed to such term in Section 2.23 hereof.

**"Permitted Liens"** shall mean (i) statutory Liens for Taxes not yet due and payable, (ii) such imperfections or irregularities of title, liens, easements, charges or encumbrances as do not interfere with the present use of the properties or assets subject thereto or affected thereby, do not otherwise impair present business operations at such properties, or do not have a Material Adverse Effect on the value of such properties and assets, and (iii) reservations of coal, oil, gas, minerals and mineral interests, whether or not of record.

**"Person"** shall mean any corporation, partnership, joint venture, organization, limited liability company, entity, Authority or natural person, together with any and all heirs, successors, representatives and assigns thereof.

**"Purchaser"** shall have the meaning ascribed to such term in the preamble hereof.

**"Regulation"** shall mean any law, statute, regulation, ordinance, requirement, rule, executive order or binding action of or by an Authority.

**"SDPUC"** shall mean the South Dakota Public Utility Commission.

**"Seller"** or **"Sellers"** shall have the meaning ascribed to such term in the preamble hereof.

**"Shares"** shall have the meaning ascribed to such term in the recitals hereof.

"**Tax Returns**" shall have the meaning ascribed to such term in Section 2.15 hereof.

"**Tax**" or "**Taxes**" means any income, gross receipt, net proceeds, alternative or add-on minimum, ad valorem, value added, estimated, turnover, sales, use, property, personal property (tangible and intangible), stamp, leasing, lease, user, excise, duty, franchise, transfer, license, withholding, payroll, employment, foreign, fuel, excess profits, occupational and interest equalization, windfall profits, severance and other taxes, charges, fees, levies or other assessments of any kind whatsoever (including interest, penalties, fines and additions thereto) imposed by any taxing Authority, Federal, state, local or foreign.

Section 12.4 *Notices.* All notices, claims, requests, demands or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand, by first class certified mail, return receipt requested, with postage paid, or by receipted overnight courier service to the intended recipient at the address specified below or at such other address as shall be designated by such party in any notice to the other parties.

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**Notices to the Purchaser:**

Golden West Telephone Properties, Inc.  
415 Crown Street  
P.O. Box 411  
Wall, SD 57790  
ATTN: George Strandell, General Manager & CEO  
(605) 279-2161 (Phone)  
(605) 279-2727 (Fax)

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**With Copies to:**

Meyer & Rogers  
P.O. Box 1117  
Pierre, SD 57501  
ATTN: Darla Pollman Rogers  
(605) 224-7889 (Phone)  
(605) 224-9060 (Fax)  
dprogers.meyerandrogers@midconetwork.com (E-mail)

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**Notices to the Company and to the Seller:**

MJD Services Corp.  
521 East Morehead Street, Suite 250  
Charlotte, NC 28202  
ATTN: Ryan Nelson, Director, Corporate  
Development  
(704) 227-3648 (Phone)  
(704) 344-8143 (Fax)  
rnelson@fairpoint.com (E-Mail)

---

**With Copies to:**

KMZ Rosenman  
401 S. Tryon Street, Suite 2600  
Charlotte, NC 28202  
ATTN: Susan L. Sowell, Esq.  
(704) 444-2000 (Phone)  
(704) 444-2060 (Fax)  
susan.sowell@kmzr.com (E-Mail)

FairPoint Communications, Inc.  
521 East Morehead Street, Suite 250  
Charlotte, NC 28202  
ATTN: Shirley J. Linn, Vice President  
and General Counsel  
(704) 344-8150 (Phone)  
(704) 344-1594 (Fax)  
slinn@fairpoint.com (E-mail)

and

Nations Media Partners  
444 W. 47<sup>th</sup> Street, Suite 300  
Kansas City, MO 64112  
ATTN: J. Jay Lang  
(816) 960-0100 (Phone)

Section 12.5 *Assignment*. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without the prior written consent of the other parties hereto; provided, that the Purchaser may, without the prior written consent of the Seller or any other party hereto, assign its rights and obligations hereunder and under any other Contracts or documents executed or delivered in connection herewith to (i) an Affiliate of the Purchaser, or (ii) its lenders as collateral in connection with the financing of the transactions contemplated hereby. No such assignment shall relieve the assignor of such assignor's liability for any and all continuing obligations hereunder, however.

Section 12.6 *Governing Law*. This Agreement shall be governed by the laws of the State of South Dakota, without regard to its principles of conflict of laws.

Section 12.7 *Counterparts*. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 12.8 *Headings*. The Article and Section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 12.9 *Entire Agreement*. This Agreement, including the Recitals, Schedules and Exhibits thereto, embodies the entire agreement and understanding of the parties hereto with regard to the subject matter hereof and supersedes all prior agreements, representations, warranties, promises, covenants, arrangements and understandings, oral or written, express or implied, among the parties with respect to such subject matter. There are no agreements, representations, warranties, promises, covenants, arrangements or understandings among the parties with respect to such subject matter other than those expressly set forth or referred to herein.

Section 12.10 *No Benefit*. This Agreement shall not be construed so as to confer any right or benefit upon any Person other than the signatories to this Agreement and each of their respective successors and permitted assigns.

Section 12.11 *Delays or Omissions*. No delay or omission to exercise any right, power or remedy accruing to any party hereto upon any breach or default of another party hereto under this Agreement shall impair any such right, power or remedy of such party 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. All remedies, whether under this Agreement, by Regulation or otherwise, afforded to any party shall be cumulative and not alternative.

Section 12.12 *Severability*. Unless otherwise provided herein, if any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.13 *Expenses*. Each of the parties hereto shall bear its own expenses, including, without limitation, legal fees, taxes and expenses, with respect to this Agreement and the transactions contemplated hereby. Additionally, notwithstanding the foregoing, with respect to compliance with any notice and/or approval requirements of the South Dakota Public Utilities Commission or any other Authority necessitated by the transactions contemplated herein, the Purchaser shall pay any and all legal fees, filing fees and expenses of regulatory counsel incurred in connection therewith.

Section 12.14 *Time of the Essence*. Time is strictly of the essence with respect to the provisions of this Agreement.

Section 12.15 *Injunctive Relief*. The parties hereby agree that any remedy at law for any breach of the provisions of this Agreement shall be inadequate and that the nonbreaching party shall be entitled to injunctive relief in addition to any other remedy which such nonbreaching party might have at law or in equity.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**GOLDEN WEST TELEPHONE PROPERTIES, INC.**

/s/ RICHARD BAYE

By: Richard Baye

Title: President

**MJD SERVICES CORP.**

/s/ EUGENE B. JOHNSON

By: Eugene B. Johnson

Title: Chief Executive Officer

**UNION TELEPHONE COMPANY OF HARTFORD**

/s/ EUGENE B. JOHNSON

By: Eugene B. Johnson

Title: Chief Executive Officer

**ARMOUR INDEPENDENT TELEPHONE CO.**

/s/ EUGENE B. JOHNSON

By: Eugene B. Johnson

Title: Chief Executive Officer

**WMW CABLE TV CO.**

/s/ EUGENE B. JOHNSON

By: Eugene B. Johnson

Title:

Chief Executive Officer

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**KADOKA TELEPHONE CO.**

/s/ EUGENE B. JOHNSON

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By:

Eugene B. Johnson

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Title:

Chief Executive Officer

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of FairPoint Communications, Inc. (the "Company") on Form 10-Q for the period ending March 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Eugene B. Johnson, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ EUGENE B. JOHNSON

---

Eugene B. Johnson  
*Chief Executive Officer*

May 13, 2003

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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QuickLinks

[Exhibit 99.1](#)

[CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002](#)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of FairPoint Communications, Inc. (the "Company") on Form 10-Q for the period ending March 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Walter E. Leach, Jr., Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ WALTER E. LEACH, JR.

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Walter E. Leach, Jr.  
*Chief Financial Officer*

May 13, 2003

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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QuickLinks

[Exhibit 99.2](#)

[CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002](#)