

**Fill in this information to identify the case:**

Debtor Windstream Communications, LLC

United States Bankruptcy Court for the: Southern District of New York  
(State)

Case number 19-22433

## Official Form 410

## Proof of Claim

04/16

**Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.**

**Filers must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

**Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.**

**Part 1: Identify the Claim**

1. Who is the current creditor?	<u>11101 ANDERSON DRIVE LLC</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	<b>Where should notices to the creditor be sent?</b> 11101 ANDERSON DRIVE LLC C/O COLLIERS INTERNATIONAL ATTN MELANIE GIBSON, PROPERTY MANAGER 1 ALLIED DRIVE, SUITE 1500 LITTLE ROCK, AR 72202-2065  Contact phone <u>501-372-6161</u> Contact email <u>melanie.gibson@colliers.com</u>	<b>Where should payments to the creditor be sent? (if different)</b>   Contact phone _____ Contact email _____
	Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)  Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

<b>6. Do you have any number you use to identify the debtor?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor:   __ __ __ __
<b>7. How much is the claim?</b>	\$ <u>406339.64</u> <b>Does this amount include interest or other charges?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
<b>8. What is the basis of the claim?</b>	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  <u>Rejection damages</u>
<b>9. Is all or part of the claim secured?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. <b>Nature or property:</b>  <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> .  <input type="checkbox"/> Motor vehicle  <input type="checkbox"/> Other. Describe: _____  <b>Basis for perfection:</b> _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  <b>Value of property:</b> \$ _____ <b>Amount of the claim that is secured:</b> \$ _____ <b>Amount of the claim that is unsecured:</b> \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)  <b>Amount necessary to cure any default as of the date of the petition:</b> \$ _____  <b>Annual Interest Rate</b> (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
<b>10. Is this claim based on a lease?</b>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. <b>Amount necessary to cure any default as of the date of the petition.</b> \$ <u>0.00</u>
<b>11. Is this claim subject to a right of setoff?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check all that apply:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Amount entitled to priority

\$ \_\_\_\_\_

☐ Up to \$2,850\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ \_\_\_\_\_

☐ Wages, salaries, or commissions (up to \$12,850\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ \_\_\_\_\_

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ \_\_\_\_\_

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ \_\_\_\_\_

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

\$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ \_\_\_\_\_

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☒ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 07/15/2019  
MM / DD / YYYY

/s/Melanie Gibson  
Signature

Print the name of the person who is completing and signing this claim:

Name Melanie Gibson  
First name Middle name Last name

Title Property Manager

Company Colliers International  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address \_\_\_\_\_

Contact phone \_\_\_\_\_ Email \_\_\_\_\_



# KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (877) 759-8815 | International (424) 236-7262

<b>Debtor:</b> 19-22433 - Windstream Communications, LLC <b>District:</b> Southern District of New York, White Plains Division		
<b>Creditor:</b> 11101 ANDERSON DRIVE LLC C/O COLLIERS INTERNATIONAL ATTN MELANIE GIBSON, PROPERTY MANAGER 1 ALLIED DRIVE SUITE 1500 LITTLE ROCK, AR, 72202-2065  <b>Phone:</b> 501-372-6161 <b>Phone 2:</b>  <b>Fax:</b>  <b>Email:</b> melanie.gibson@colliers.com	<b>Has Supporting Documentation:</b> Yes, supporting documentation successfully uploaded <b>Related Document Statement:</b>	
	<b>Has Related Claim:</b> No <b>Related Claim Filed By:</b>	
	<b>Filing Party:</b> Creditor	
<b>Other Names Used with Debtor:</b>	<b>Amends Claim:</b> No <b>Acquired Claim:</b> No	
<b>Basis of Claim:</b> Rejection damages	<b>Last 4 Digits:</b> No	<b>Uniform Claim Identifier:</b>
<b>Total Amount of Claim:</b> 406339.64	<b>Includes Interest or Charges:</b> No	
<b>Has Priority Claim:</b> No	<b>Priority Under:</b>	
<b>Has Secured Claim:</b> No <b>Amount of 503(b)(9):</b> No <b>Based on Lease:</b> Yes, 0.00 <b>Subject to Right of Setoff:</b> No	<b>Nature of Secured Amount:</b> <b>Value of Property:</b> <b>Annual Interest Rate:</b> <b>Arrearage Amount:</b> <b>Basis for Perfection:</b> <b>Amount Unsecured:</b>	
<b>Submitted By:</b> Melanie Gibson on 15-Jul-2019 12:06:02 p.m. Eastern Time <b>Title:</b> Property Manager <b>Company:</b> Colliers International		



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	
	)	Chapter 11
WINDSTREAM HOLDINGS, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 19-22312 (RDD)
	)	
Debtors.	)	(Jointly Administered)
	)	

**ORDER AUTHORIZING REJECTION OF CERTAIN UNEXPIRED  
LEASES EFFECTIVE *NUNC PRO TUNC* TO THE PETITION DATE**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) authorizing the Debtors to (i) reject certain unexpired leases of real property, including any guaranties thereof and any amendments, modifications, or subleases thereto (collectively, the “Leases”) for nonresidential real properties, each effective *nunc pro tunc* to the Petition Date, and (ii) abandon certain personal properties (collectively, the “Personal Property”) located at the premises associated with the Leases, and upon the Grossi Declaration; and the Court having found that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated February 1, 2012, as a core proceeding under 28 U.S.C. § 157(b) that this Court may decide a final order consistent with Article III of the United States Constitution; and the Court

<sup>1</sup> The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.



having found that venue of the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and the opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and upon the record of the hearing held by the Court on the Motion and all of the proceedings and pleadings herein; and after due deliberation, this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. Pursuant to section 365 of the Bankruptcy Code, the Agreements identified on Exhibit 1 attached hereto are hereby rejected effective *nunc pro tunc* to the Petition Date.
3. The Debtors do not waive any claims that they may have against any counterparty to the Leases, whether or not such claims arise under, are related to the rejection of, or are independent of the Leases.
4. The Debtors are authorized to abandon any Personal Property located at the premises identified on Schedule 1 hereto free and clear of all liens, claims, encumbrances, interests, and rights of third parties. The applicable counterparty to each Lease may dispose of such Personal Property without further notice to any party claiming an interest in such abandoned Personal Property.
5. Nothing herein shall prejudice the Debtors' rights to argue that any of the Leases were terminated prior to the Petition Date or that any claim for damages arising from the Lease's rejection be limited to the remedies available under any applicable termination provisions contained in such lease or sublease, as applicable, or that any such claim is an obligation of a third property and not of the Debtors or their estates.

6. Notwithstanding anything to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

7. Notwithstanding anything to the contrary contained herein, any payment made or action taken by any of the Debtors pursuant to the authority granted herein as well as the exercise of any and all other rights granted or approved hereunder shall be subject to the requirements imposed on the Debtors under any orders of this Court approving any debtor-in-possession financing for, or any use of cash collateral by, the Debtors (such order, the "DIP Order") and any budget in connection therewith. Notwithstanding anything to the contrary in this Order, in the event of any inconsistency between the terms of this Order and the terms of any applicable DIP Order, the terms of the DIP Order shall govern.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

9. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: White Plains, New York  
April 22, 2019

/s/Robert D. Drain

THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1**

**Amended Schedule of Rejected Leases**

<b>Debtor / Lessee</b>	<b>Property Location</b>	<b>Lessor (or Sublessee)</b>	<b>Effective Date of Rejection</b>
PaeTec Communications, LLC	PROPERTY LEASE 375 PEARL STREET NEW YORK, NY 10013	SABEY CORPORATION ATTN: GENERAL COUNSEL 12201 TUKWILA INTERNATIONAL BLVD 4 FLOOR SEATTLE, WA 98168-5121	Petition Date
Windstream NuVox, LLC	PROPERTY LEASE 2301 LUCIEN WAY MAITLAND, FL 32751	TGT MAITLAND II LLC C/O TOWER REALTY ASSET MANAGEMENT, INC. ATTN: T. CASTINO, PORTFOLIO MANAGER 135 W. CENTRAL BLVD. STE. 900 ORLANDO, FL 32801	Petition Date
McLeodUSA Telecommunications Services, L.L.C.	PROPERTY LEASE TIMBERLAKE CORPORATE CENTER, BLDG 1 1390 TIMBERLAKE MANOR PARKWAY CHESTERFIELD, MO 63017	FRANKLIN STREET PROPERTIES CORP. ATTN: ASSET MANAGEMENT 401 EDGEWATER PLACE SUITE 200 WAKEFIELD, MA 01880  FSP TIMBERLAKE CORP. ATTN: C. TURLEY, PROPERTY ADMINISTRATOR 1350 TIMBERLAKE MANOR PARKWAY SUITE 575 CHESTERFIELD, MO 63017	Petition Date



Debtor / Lessee	Property Location	Lessor (or Sublessee)	Effective Date of Rejection
Windstream Communications, LLC	PROPERTY LEASE 1101 17TH STREET WASHINGTON, DC 20036	CEC 1101 17TH STREET L.L.C. C/O JBG SMITH PROPERTIES ATTN: LEASE ADMINISTRATION 4445 WILLARD AVE SUITE 400 CHEVY CHASE, MD 20815  CEC 1101 17TH STREET L.L.C. C/O JBG SMITH PROPERTIES ATTN: LEGAL - COMMERCIAL LEASING ADMINISTRATION 4445 WILLARD AVE SUITE 400 CHEVY CHASE, MD 20815	Petition Date
Windstream NuVox, LLC	PROPERTY LEASE 4700 FALLS OF THE NEUSE ROAD RALEIGH, NC 27609	US REIF 4700 FALLS NORTH CAROLINA LLC C/O INTERCONTINENTAL REAL ESTATE CORPORATION ATTN: MATTHEW FLOTTA 1270 SOLDIERS FIELD RD. BOSTON, MA 02135  US REIF 4700 FALLS NORTH CAROLINA LLC C/O SPECTRUM COMPANIES ATTN: ELIZABETH SWARINGEN 111 CORNING RD, SUITE 130 CARY, NC 27518 BRADLEY & ASSOCIATES ATTN: JAMES BRADLEY	Petition Date

Debtor / Lessee	Property Location	Lessor (or Sublessee)	Effective Date of Rejection
		1270 SOLDIERS FIELD RD. BOSTON, MA 02135	
Windstream Communications, LLC	PROPERTY LEASE 11101 ANDERSON DRIVE SIMMONS BUILDING LITTLE ROCK, AR 72212	11101 ANDERSON DRIVE LLC C/O COLLIERS INTERNATIONAL ATTN: MELANIE GIBSON, PROPERTY MANAGER 1 ALLIED DRIVE SUITE 1500 LITTLE ROCK, AR 72202-2065	Petition Date
Windstream Communications, LLC	PROPERTY LEASE 1306 CONCOURSE DRIVE 1ST FLOOR SUITE 101 LINTHICUM, MD 21090	CONCOURSE DRIVE BWI, LLC C/O GCP MANAGEMENT LLC ATTN: J. WOLFE, SENIOR ASSET MANAGER 25 S. CHARLES STREET - SUITE 1002A BALTIMORE, MD 21201	Petition Date
PaeTec Communications, LLC	PROPERTY LEASE 401 PLYMOUTH ROAD SUITE 400 PLYMOUTH MEETING, PA 19462	PLYMOUTH TFC, GENERAL PARTNERSHIP ATTN: H. JEFFREY DEVUONO, EXECUTIVE PRESIDENT 555 EAST LANCASTER AVE., SUITE 100 RANDOR, PA 19087  PLYMOUTH TFC, GENERAL PARTNERSHIP C/O BRANDYWINE REALTY TRUST ATTN: BRAD A. MOLOTSKY 555 EAST LANCASTER AVE., SUITE 100 RADNOR, PA 19087	Petition Date

Debtor / Lessee	Property Location	Lessor (or Sublessee)	Effective Date of Rejection
McLeodUSA Telecommunications Services, L.L.C.	PROPERTY LEASE ONE WEST THIRD STREET WILLIAMS CENTER TOWER I TULSA, OK 74103	METROPOLITAN TULSA INVESTMENTS, LLC MERCURY TULSA, LLC LANCASTER TULSA, LLC C/O WILLIAMS CENTER TOWERS MANAGEMENT OFFICE ATTN: THOMAS HINDS, GENERAL MANAGER TWO WEST SECOND STREET, SUITE 22 TULSA, OKLAHOMA 74103  METROPOLITAN TULSA INVESTMENTS, LLC C/O FREDERIC DORWART LAWYERS 124 EAST FOURTH STREET TULSA, OK 74103	Petition Date
Windstream Communications, LLC	PROPERTY LEASE 60 SOUTH SIXTH STREET MINNEAPOLIS, MN 55402	KBSIII 60 SOUTH SIXTH STREET, LLC C/O CUSHMAN & WAKEFIELD ATTN: TRACIE GOEPFERT 3500 AMERICAN BLVD STE 200 MINNEAPOLIS, MN 55431  KBSIII 60 SOUTH SIXTH STREET, LLC ATTN: RBC PLAZA PROPERTY MANAGEMENT OFFICE C/O CUSHMAN & WAKEFIELD/NORTHMARQ 555 NICOLLET MALL, SUITE 50 MINNEAPOLIS, MN 55402  KBSIII 60 SOUTH SIXTH STREET, LLC	Petition Date

Debtor / Lessee	Property Location	Lessor (or Sublessee)	Effective Date of Rejection
		C/O KBS CAPITAL ADVISORS, LLC ATTN: GIOVANNI CORDOVES, SENIOR VICE PRESIDENT 620 NEWPORT CENTER DRIVE - SUITE 1300 NEWPORT BEACH, CA 92660	
Broadview Networks, Inc.	PROPERTY LEASE 350 GRANITE BRAINTREE, MA 02171	FOXROCK BRAINTREE COB REALTY, LLC C/O FOXROCK PROPERTIES ATTN: CHRIS REALE 150 NEWPORT AVENUE EXTENSION QUINCY, MA 02171	Petition Date
McLeodUSA Telecommunications Services, L.L.C.	PROPERTY LEASE 2300 MAIN STREET SUITE 315 KANSAS CITY, MO 64108	KCO 2300 MAIN 520 LLC C/O KESSINGER/HUNTER & CO, AS AGENT 2600 GRAND BLVD STE 700 KANSAS CITY, MO 64108	Petition Date
Windstream NuVox, LLC	PROPERTY LEASE 1225 WEISGARBER ROAD KNOXVILLE, TN 37909	ATRIUM L.P. C/O AVISION YOUNG ATTN: J. HOFFER, PROPERTY MANAGER 630 S. CONCORD STREET KNOXVILLE, TN 37919	Petition Date
Windstream Communications, LLC	PROPERTY LEASE 6001 INDIAN SCHOOL ROAD NORTHEAST SUITE 400 ALBUQUERQUE, NM 87110	ALBUQUERQUE CENTRE LTD. CO. ATTN: TIM CALAHAN 8814 HORIZON BLVD NE #400 ALBUQUERQUE, NM 87113	April 16, 2019

Debtor / Lessee	Property Location	Lessor (or Sublessee)	Effective Date of Rejection
Windstream Supply, LLC	PROPERTY LEASE 13560 MORRIS ROAD MILTON, GA 30004	13560 MORRIS ROAD OFFICE INVESTORS LLC C/O JONES LANG LASALLE ATTN: PROPERTY MANAGER 13560 MORRIS RD STE 4350 ALPHARETTA, GA 30004  13560 MORRIS ROAD OFFICE INVESTORS LLC C/O UBS REALTY INVESTORS, LLC ATTN: GENERAL COUNSEL and ASSET MANAGEMENT 10 STATE HOUSE SQUARE 15TH FLOOR HARTFORD, CT 06103	Petition Date
Broadview Networks, Inc.	PROPERTY LEASE 1000 ATRIUM WAY SUITE 101 MOUNT LAUREL, NJ 08054	BARUCH MT. LAUREL, LLC C/O ZAMIR EQUITIES, LLC ATTN: T. TECHANANALERT 551 5TH AVE. - SUITE 2500 NEW YORK, NY 10176	Petition Date
Windstream NuVox, LLC	PROPERTY LEASE 100 WEST CYPRESS CREEK ROAD FORT LAUDERDALE, FL 33309	HALCAR TRADE CENTRE, LLC 4488 W. BOY SCOUT BLVD. SUITE 250 TAMPA, FL 33607  HALCAR TRADE CENTRE, LLC C/O CARDINAL POINT MANAGEMENT 2400 E. COMMERCIAL BLVD. - SUITE 218 FT. LAUDERDALE, FL 33308	Petition Date

Debtor / Lessee	Property Location	Lessor (or Sublessee)	Effective Date of Rejection
Windstream Communications, LLC	PROPERTY LEASE 425 WALNUT ST US BANK TOWER - STE 2140 CINCINNATI, OH 45202	US BANK NATIONAL ASSOCIATION JOSEPH G ULLRICH SDS 12-1716 PO BOX 86 MINNEAPOLIS, MN 55486-1716  US BANK NATIONAL ASSOCIATION ATTN: PROPERTY MANAGEMENT OFFICE 425 WALNUT ST CINCINNATI, OH 45202	Petition Date
Earthlink Business, LLC	PROPERTY LEASE 7301 NORTH STATE HIGHWAY 161 SUITE 100 IRVING, TX 75039	AMERICAN FIDELITY ASSURANCE CO ATTN: CATHY KYSER 2000 N CLASSEN BLVD STE 226A OKLAHOMA CITY, OK 73106  AMERICAN FIDELITY ASSURANCE CO PLAZA ONE61 5100 N. CLASSEN BLVD OKLAHOMA CITY, OK 73118	Petition Date
Earthlink, LLC	PROPERTY LEASE 770 THE CITY DRIVE ORANGE, CA 92868	GPI-OCS, LLC ATTN: DIRECTOR OF LEASING 5601 GRANITE PARKWAY SUITE 800 PLANO, TX 75024	Petition Date
PaeTec Communications, LLC	PROPERTY LEASE 11480 COMMERCE PARK DRIVE RESTON, VA 20191	THE REALTY ASSOCIATES FUND X, LP C/O MRP REALTY 3050 K STREET NW - SUITE 125 WASHINGTON, DC 20007	Petition Date

Debtor / Lessee	Property Location	Lessor (or Sublessee)	Effective Date of Rejection
		THE REALTY ASSOCIATES FUND X, LP C/O TA REALTY ATTN: ASSET MANAGER - NORTHERN VA 28 STATE STREET BOSTON, MA 02109	
DeltaCom, Inc.	PROPERTY LEASE 3501 NORTH CAUSEWAY BOULEVARD METAIRIE, LA 70002	3501 N CAUSEWAY ASSOCIATES, LLC C/O SRSA GULF SOUTH MANAGEMENT INC ATTN: M. HILFERTY 2555 SEVERN AVE. - SUITE 200 METAIRIE, LA 70002	Petition Date
PaeTec Communications, LLC	PROPERTY LEASE 6 COMMERCE DRIVE 3RD FLOOR CRANFORD, NJ 07016	6 COMMERCE LLC C/O SIGNATURE ACQUISITIONS 20 COMMERCE DRIVE CRANFORD, NJ 07016  6 COMMERCE LLC C/O MACK-CALI REALTY CORPORATION 343 THORNALL STREET 8TH FLOOR EDISON, NJ 08837-2206	Petition Date
Windstream Communications, LLC	PROPERTY LEASE 4611 ROGERS AVENUE SUITE 102 FORT SMITH, AR 72903	DUCKHORN DEVELOPMENT LLC C/O GHAN & COOPER COMMERCIAL PROPERTIES LLC 4611 ROGERS AVENUE SUITE 200 FORT SMITH, AR 72903	Petition Date

Debtor / Lessee	Property Location	Lessor (or Sublessee)	Effective Date of Rejection
Conversent Communications of New Jersey, LLC Earthlink LLC	PROPERTY LEASE 160 CHUBB AVENUE LYNDHURST, NJ 07071	CCC NJ OWNER LLC C/O AVISON YOUNG-NEW YORK LLC 199 LEE AVENUE SUITE 185 BROOKLYN, NY 12211  CCC NJ OWNER LLC C/O AVISON YOUNG-NEW YORK LLC 1120 HEADQUARTERS PLAZA - NORTH TOWER 8TH FLOOR MORRISTOWN, NJ 07960	Petition Date
Earthlink Business, LLC	PROPERTY LEASE 2851 CHARLEVOIX SE GRAND RAPIDS, MI 49546	OPEN TERRACE ASSOCIATES, L.L.C. 750 TRADE CENTER WAY SUITE 100 KALAMAZOO, MI 49002	Petition Date
Windstream Business Holdings, LLC	PROPERTY LEASE 1170 PEACHTREE ROAD ATLANTA, GA, 30309	HANCOCK REIT PROSCENIUM LLC c/o JOHN HANCOCK FINANCIAL SERVICES Property 13005 - Lease ID LEARTLL 01 DEPT U - PO BOX 5147 BUFFALO, NY 14240-5147  HANCOCK REIT PROSCENIUM LLC 1170 PEACHTREE STREET, N.E., STE 1865 ATLANTA, GA 30309	Petition Date



Debtor / Lessee	Property Location	Lessor (or Sublessee)	Effective Date of Rejection
Windstream Business Holdings, LLC	PROPERTY SUBLEASE 1170 PEACHTREE ROAD ATLANTA, GA, 30309	SAMSARA NETWORKS, INC. 1170 PEACHTREE ROAD ATLANTA, GA 30309 ATTN: FACILITIES AND REAL ESTATE  SAMSARA NETWORKS, INC. 444 DE HARO ST. - SUITE 101 SAN FRANCISCO, CA 94107 ATTN: BEN CALDERON	Petition Date
PAETEC Holding, LLC	PROPERTY SUBLEASE 6801 MORRISON BOULEVARD CHARLOTTE, NC 28211	AGDATA, LP 6060 PIEDMONT ROW DR. S SUITE 300 CHARLOTTE, NC 28287 ATTN: CFO  AGDATA, LP 6060 PIEDMONT ROW DR. S SUITE 300 CHARLOTTE, NC 28287 ATTN: GENERAL COUNSEL	Petition Date

# OFFICE BUILDING LEASE

This Office Building Lease (this "Lease") is made this 7-17-06 ("Effective Date") by and between Alltel Communications, Inc., a Delaware corporation ("Landlord"), and Windstream Communications, Inc., a Delaware corporation ("Tenant"). Landlord and Tenant may hereinafter be referred to individually as a "Party" or collectively as "Parties".

The Parties agree as follows:

## ARTICLE 1

### TERM AND POSSESSION

#### SECTION 1.1 LEASE OF PREMISES AND TERM

- 1.101 Lease of Premises. In consideration of and subject to this Lease, Landlord hereby leases unto Tenant, and Tenant hereby leases from Landlord, the Premises (as defined below). The "Premises" is 26,491 rentable square feet ("Premises Rentable Area") in that certain building located at 11101 Anderson Drive, Little Rock, Arkansas (the "Building"), as depicted on the site plan attached hereto as Exhibit A. Tenant agrees to confine its use to the Premises and associated Common Areas to the extent necessary to perform its obligations hereunder. Landlord reserves for its exclusive use the remaining rentable space in the Building other than the Common Areas. The Building, the parking lots and other improvements located thereon and appurtenances thereto are referred to collectively herein as the "Property".
- 1.102 Term. The term of this Lease shall commence on the Effective Date and thereafter shall expire, unless sooner terminated in accordance with this Lease on May 18, 2011 (the "Term"); except that Tenant shall have the option, but not the obligation, to extend the term of this Lease for Two (2) additional terms of Five (5) years each (the "Extended Term") on the same terms and conditions in effect during the Term, subject to rental increases as provided in Article 2, so long as Tenant is not in default under this Lease at the time of exercise of the option or at the commencement of the Extended Term. If Tenant elects to exercise its option to extend the Term of this Lease, Tenant shall do so by giving Landlord written notice of its intent to extend not less than 90 days prior to the expiration of the Term or Extended Term.

#### SECTION 1.2 DELIVERY AND OCCUPANCY OF THE PREMISES.

- 1.201 Condition of Premises. Tenant agrees to accept the Premises in its "AS IS" "WHERE IS" condition and Landlord makes no representations or warranties relating to the Premises.
- 1.202 Tenant's Improvements. After the Effective Date, Tenant may make such improvements to the Premises as Tenant deems necessary for Tenant's occupancy of the Premises ("Tenant's Improvements"). Prior to beginning work on Tenant's Improvements, Tenant shall submit to Landlord such plans or scopes of work as necessary to describe Tenant's Improvements and Tenant's proposed contractors to perform Tenant's Improvements ("Improvement Plans"). Within 10 days after receipt of the Improvement Plans, Landlord shall, in writing, approve or reasonably disapprove the Improvement Plans. If Landlord does not respond within such 10-day period, Landlord shall be deemed to have approved the Improvement Plans. Tenant may, in its discretion, begin Tenant's

Improvements at any time after Landlord approves the Improvement Plans. Tenant shall have no obligation, at the expiration of the Term or earlier termination of this Lease, to remove any of Tenant's Improvements. Notwithstanding the foregoing, Tenant shall have the right, without Landlord's approval, to make non-structural Tenant Improvements which do not affect the Building's systems and do not exceed [REDACTED] in the aggregate on an annual basis, provided Tenant shall provide Landlord with copies of Improvement Plans prior to commencing such Tenant Improvements. Any of Tenant's Improvements not removed by Tenant shall be deemed the property of Landlord.

**SECTION 1.3 HOLDING OVER.** In the event Tenant retains possession of the Premises after the expiration of the Term, such possession shall constitute a month to month tenancy terminable by either Party upon 30 days written notice, subject, however, to the terms, provisions, covenants and agreements of this Lease insofar as consistent with such a tenancy. In such event, Tenant shall pay Landlord as rent for the period of such holdover an amount equal [REDACTED] (as defined below) in effect immediately preceding expiration of the Term for the first 90 days of such holdover and [REDACTED] effect immediately preceding expiration of the Term thereafter, prorated on a daily basis. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend the Term except for the month to month tenancy described above; no payments of money by Tenant to Landlord after the expiration of the Term shall, except for the month to month tenancy described above, reinstate, continue or extend the term of this Lease and no extension of this Lease after the expiration or earlier termination thereof shall be valid unless reduced to writing and signed by both Landlord and Tenant. In addition, Tenant shall indemnify and hold harmless Landlord from and against all claims, liabilities, causes of action, actual out-of-pocket costs and expenses, including reasonable attorneys' fees, reasonably incurred by Landlord as a result of such holdover, subject to Section 13.502 hereof.

## ARTICLE 2

### RENT

**SECTION 2.1 BASIC RENT.** Tenant shall pay as annual rent for the Premises, during the Term, the amount of [REDACTED] annually ("Basic Annual Rent").

The Basic Annual Rent shall be payable in equal monthly installments of [REDACTED] in advance, without demand, offset or deduction. The monthly installments of Basic Annual Rent shall commence on the Effective Date (the "Rental Commencement Date") and shall continue on the first (1<sup>st</sup>) day of each calendar month thereafter for the following twenty-four (24) months, at which time Basic Annual Rent shall be adjusted as set forth herein. If the Rental Commencement Date occurs on a day other than the first day of the calendar month, the Rent for such partial month shall be prorated. All payments shall be payable to Landlord and sent to such place as Landlord may designate from time to time in writing. All payments shall be in the form of a check, provided that payment by check shall not be deemed made if the check is not duly honored with good funds; alternatively, and at Tenant's option, Tenant may pay Landlord by way of direct deposit into a bank account designated by Landlord.

**SECTION 2.2 RENT DEFINED AND NO OFFSETS.** Basic Annual Rent and all other sums (whether or not expressly designated as rent) required to be paid to Landlord by Tenant under this Lease (including, without limitation, any sums payable to Landlord under any addendum, exhibit, or schedule attached hereto) shall constitute rent and are sometimes collectively referred to as "Rent". Each payment of Rent shall be paid by Tenant when due, without prior demand therefor and without deduction or setoff, except as otherwise expressly stated herein.

**SECTION 2.3 INTEREST ON LATE PAYMENTS.** All payments due from one party to the other under this Lease, which are not paid when first due, (including the payment of Basic Annual Rent), which remain unpaid at the end of five (5) days following the delinquent party's receipt of written notice of delinquency, or immediately if such late payment has occurred more than twice during the first twelve (12) month period following the Effective Date or more than once in any subsequent twelve (12) month period, shall bear interest from the original due date until paid at the highest rate allowed by the state where the Premises is located (the "Interest Rate").

**SECTION 2.4 LATE PAYMENT CHARGES.** Tenant acknowledges that late payments by Tenant to Landlord of amounts due from Tenant under this Lease will cause Landlord to incur costs not otherwise contemplated by this Lease, the exact amount of which is extremely difficult or impracticable to determine. Therefore, if an installment of Rent or other amounts due from Tenant is not received by Landlord within five (5) days after Tenant's receipt of written notice, or immediately if such late payment has occurred more than twice during the first twelve (12) month period following the Effective Date or more than once in any subsequent twelve (12) month period, then Tenant shall pay to Landlord an additional sum equal to [REDACTED] of the amount overdue as a late charge.

### ARTICLE 3

#### OPERATING COST

**SECTION 3.1 LANDLORD'S EXPENSES DEFINED.** "Operating Expenses" shall, unless otherwise excluded or stated to be Landlord's sole cost in this Lease, mean all of the costs and expenses Landlord pays during the Term in connection with owning, operating, maintaining, insuring and managing the Building and Land for a particular calendar year or portion thereof, as reasonably determined by Landlord in accordance with generally accepted accounting principles, such costs and expenses to include, but not be limited to, the following: (1) Taxes (as defined below); (2) insurance premiums for property insurance, premises liability; rent loss and such other insurance coverages that Landlord obtains which is customary for properties similar to the Building, (3) all electricity, gas, water and sewer ("Utility Expenses"); (4) all service testing and other charges incurred in the operation and maintenance of elevators and the plumbing, fire sprinkler, security, heating, ventilation and air conditioning systems; (5) cleaning and janitorial service; (6) supplies costs; (7) repair costs; (8) costs of landscape repair, replacement or maintenance and sprinkler maintenance costs; (9) security and alarm services; (10) license, permit and inspection fees; (11) trash removal; (12) parking lot maintenance, repair, and operating costs but excluding replacement; (13) any charges assessed against the Property pursuant to any recorded covenants affecting the Property as of the Effective Date; (14) the cost of any capital improvements to the Property which are intended to reduce operating costs, and improvements made to the Property by Landlord that are required under any governmental law or regulation which was not promulgated, or which was promulgated but was not applicable to the Building, at the time the Building was constructed, amortized over such period as Landlord shall reasonably determine (but not less than the useful life of such improvement); (15) the cost of any improvement made to the Common Areas (as defined below) or Service Corridors of the Property that are required under interpretations or regulations issued after the Effective Date under, or amendments made after the Effective Date to, the provisions of the American With Disabilities Act of 1990, 42 U.S.C. §§12101-12213 (such statutes, interpretations and regulations are herein collectively called the "Disability Acts"), amortized over such period as Landlord shall reasonably determine (but not less than the useful life of such improvement); (16) management fees; (17) salaries, wages and other compensation paid to employees at or below the grade of Building manager or Building engineer. Excess Operating Expenses shall not include any of the following: (1) cost of capital improvements,

except as listed above; (2) expenses for painting, redecorating, or other work which Landlord performs for any tenant in the Project, the expense of which is paid by such tenant; (3) interest, amortization, or other payments on loans to Landlord, whether secured or unsecured; (4) depreciation of the Project or other said improvements; (5) ground rent; (6) leasing commissions; (7) salaries, wages or other compensation paid to officers or executives of Landlord or employees above the grade of the Building manager and Building engineer; and (8) income, excess profits, or franchise taxes or other such taxes imposed on or measured by the equity or income of Landlord and property of Landlord from the operation of the Property.

**SECTION 3.2 TAXES DEFINED.** "Taxes" shall mean (1) all real estate taxes and other taxes or assessments which are levied, due and payable during the Term with respect to the Property or any portion thereof for each calendar year (but excluding any penalties thereon), (2) any tax, surcharge or assessment, however denominated, including any excise, sales, capital stock, assets, franchise, transaction, business activity, privilege or other tax, which is imposed upon Landlord or the Property as a supplement to or in lieu of real estate taxes or as a means of raising government revenue to replace revenue lost because of a reduction in real estate taxes, and (3) the costs and expenses of an unaffiliated consultant, if any, or of contesting the validity or amount of any tax, surcharge or assessment described in clause (1) or (2) above. Taxes which are being contested by Landlord shall nevertheless be included in Operating Expenses; provided, however, that in the event that Tenant shall have paid any amount of Additional Rent and Landlord shall thereafter receive a refund of any portion of any Taxes on which such payment shall have been based, Landlord shall pay to Tenant the appropriate portion of such refund. Taxes shall exclude any Taxes specifically attributed and allocated to any improvements or additions made by other tenants in the Building.

**SECTION 3.3 TENANT'S PORTION OF EXCESS OPERATING EXPENSES.** Commencing on January 1, 2006, Tenant agrees to pay to Landlord Tenant's Share [as hereinafter defined] of the difference between (i) the Operating Expenses of each calendar year and (ii) the Operating Expenses incurred for calendar year 2005 (the "Excess Operating Expenses") on the first day of each calendar month, in advance, during the Term. Landlord shall, prior to the beginning of each calendar year, estimate the expected Excess Operating Expenses for such calendar year and Tenant's Share thereof, 1/12th of which shall constitute the monthly installments for such year. Within one hundred twenty (120) days after the end of each calendar year, Landlord shall advise Tenant of the actual Excess Operating Expenses paid or payable during the prior calendar year and thereupon there shall be an adjustment between Landlord and Tenant and any amounts due Landlord shall be paid by Tenant within five (5) days and any amounts due Tenant shall be offset against Tenant's Share of future Excess Operating Expenses, except in the last year of this Lease where such amount shall be paid to Tenant. However, Landlord's failure to provide such statement of Excess Operating Expenses by the date provided herein shall in no way excuse Tenant from its obligation to pay Tenant's Share of Excess Operating Expenses, or constitute a waiver of Landlord's right to bill and collect such Tenant's Share of Excess Operating Expenses from Tenant in accordance with this Section. If Tenant's Share is greater than the amount paid by Tenant during said prior year, Tenant shall pay Landlord the difference between the amount paid by Tenant and the amount actually due upon Landlord billing Tenant for same. Landlord agrees to keep, at its principal office, records relating to said Excess Operating Expenses. Tenant shall have the right to audit said records for the sole purpose of ascertaining the correctness of said Excess Operating Expenses. Such audit shall be made during normal business hours; not unreasonably interfere with Landlord's office operations; shall be performed by Tenant, Tenant's chief financial officer, or a certified public accountant selected by Tenant; not be made more often than once during each calendar year; and, be limited to the preceding calendar year unless Tenant shall be notified of an Excess Operating Expense adjustment for a year prior to the preceding calendar year. If Tenant desires to audit said records as aforesaid, Tenant shall notify Landlord thirty (30) days in advance thereof, commence said audit within sixty (60) days of said notice, and once commenced, diligently complete the same.

**SECTION 3.4 ADJUSTMENTS TO MEASUREMENT OF PREMISES.** For purposes of this Lease, "Tenant's Share" is that number which results from dividing the Premises Rentable Area by the building rentable area, then expressing such quotient as a percentage. The Parties agree that Tenant's Share is [REDACTED]

**SECTION 3.5 GROSS UP PROVISION.** With respect to each calendar year or partial calendar year during the Term of this Lease in which the Building is not occupied to the extent of 95% of the Building Rentable Area, Operating Expenses shall be grossed up to include all additional costs and expenses of owning, operating, maintaining and managing the Building which Landlord reasonably and in good faith determined that it would have incurred, paid or been obligated to pay during such year or partial year if the Building had been occupied to the extent of 95% of the Building Rentable Area (the "Gross Up"). In calculating the Gross Up, Landlord shall exclude the cost of any service which Landlord does not actually provide tenants in the Building unless the Building is actually occupied to the extent of 95% of the Building Rentable Area or more (by way of example, if Landlord would provide a Building concierge were the Building fully occupied but is not choosing to provide a concierge during any period in which the actual occupancy of the Building is less than 95% of the Building Rentable Area, then the cost of a concierge shall not be included in the Gross Up). As to any calendar year or partial calendar year in which the Building is occupied to the extent of 95% or more of the Building Rentable Area, the actual Operating Expenses allocable to such calendar year or partial year shall be used in the calculation of Additional Rent hereunder.

**SECTION 3.6 SURVIVAL.** The provisions of this Article 3 shall survive the expiration or earlier termination of this Lease.

#### ARTICLE 3A

##### TENANT'S RIGHT OF FIRST REFUSAL

- 3.101A Grant. Provided that Tenant is not in default as described in Article 13, both at the time Tenant should be offered the following right of first refusal by Landlord and as of the effective date of the commencement of such lease term for the premises resulting from Tenant having exercised such right of first refusal, Tenant shall have a right of first refusal to lease the remaining office space located in the Building totaling approximately 9,636 rentable square feet identified on Exhibit A as the Gaunt Tenant Space, the NW Mutual Tenant Space and the Motorola Tenant Space ("ROFR Space"), the exact square footage of which shall be determined and confirmed at the time Landlord presents Tenant with Landlord's Notice during the Term hereof (such right to be referred to as a "Right of First Refusal"). The ROFR Space is more particularly shown on Exhibit B.
- 3.102A Notice and Exercise of Right. Landlord shall send Landlord's Notice to Tenant of a bona fide offer from a third party to enter into a lease agreement for said ROFR Space or any portion thereof, and Tenant shall have seven (7) days from receipt of Landlord's Notice to notify Landlord in writing that Tenant elects to exercise its Right of First Refusal or to waive its rights to lease said ROFR Space. In the event Tenant fails to exercise its Right of First Refusal within such Seven (7) day period, Tenant shall be deemed to have waived its right to the ROFR Space as to the portion offered.
- 3.103A Lease of ROFR Space. If Tenant exercises the Right of First Refusal, then said exercise shall obligate Landlord and Tenant to complete the lease agreement for the subject ROFR Space in accordance with the terms hereof. If Tenant should subsequently fail to complete the lease agreement for ROFR Space within sixty (60) days after exercise of Tenant's Right of First Refusal to lease ROFR Space other than due to Landlord's default or delay, then Tenant shall be liable to Landlord for actual damages suffered by Landlord as a result of Tenant not having honored its written obligation to lease ROFR Space and any future Right of First Refusal granted to Tenant under the terms of this Article 3 shall be null and void and cease to exist as of that time.
- 3.104A Termination of Right of First Refusal. Tenant's Right of First Refusal granted herein shall automatically terminate with respect to the portion of the ROFR Space offered in a Landlord's Notice upon the first to occur of: (i) Tenant's exercise of its right to lease such ROFR Space or (ii) Tenant's waiver of its right to lease such ROFR Space.
- 3.105A Conditions of ROFR. Tenant's Right of First Refusal for ROFR Space shall be subject to the following conditions:

- (i) Tenant's Right of First Refusal for ROFR Space shall automatically expire at midnight on May 18, 2011.
- (ii) In the event that Tenant exercises its Right of First Refusal for the ROFR Space, then Tenant shall lease the ROFR Space under the same terms and conditions as Tenant's existing Lease such that the rental rate for the ROFR Space shall be the same as the rental rate and rental schedule in effect for Tenant's existing Lease beginning on the effective date of the lease term for said ROFR Space. The lease term for the ROFR Space shall be co-terminous with Tenant's existing Term as set forth in the Lease. Landlord shall be obligated to demise ROFR Space for Tenant in the same manner and scope as contemplated in Section 1.201 of the Lease for Tenant's original Premises.

## ARTICLE 4

### OCCUPANCY AND USE

#### SECTION 4.1 USE.

- 4.101 General. As used in this Lease, the "Permitted Use" shall mean only the general office use necessary for the business currently conducted by Tenant at the Premises. Tenant shall use the Premises for the Permitted Use. Without limiting the foregoing, Tenant shall comply with all laws, statutes, ordinances, orders, permits and regulations affecting Tenant's use and occupancy of the Premises.
- 4.102 Abandonment/Vacation. Notwithstanding anything in this Lease to the contrary, so long as Tenant has paid and continues to pay on a timely basis all Rent and maintains insurance in accordance with the Lease terms, Tenant shall not be in default of this Lease if Tenant vacates or abandons the Premises, provided Tenant remains in compliance with this Lease.
- 4.103 Landlord's Compliance Obligation. Landlord shall comply with all laws, statutes, ordinances, orders and regulations relating to the ownership of the Property. The foregoing sentence shall not relieve Tenant of Tenant's obligations in accordance with Section 4.101. Notwithstanding anything to the contrary in this Lease, Landlord shall be responsible for compliance with the Americans with Disabilities Act of 1990 ("ADA") in the Common Area and Tenant shall be responsible for compliance with the ADA in the Premises.
- 4.104 Hazardous and Toxic Materials.
  - (a) For purposes of this Lease, the term "Hazardous Substance" means any hazardous, toxic, flammable, corrosive, reactive, explosive or radioactive substance, material or waste which is or becomes regulated by any local governmental authority, the state in which the Premises is located, or the United States government, including, without limitation, any petroleum, petroleum products, asbestos, asbestos containing materials, lead, lead containing materials, flammable explosives, radioactive materials, polychlorinated biphenyl or any other hazardous, toxic or dangerous substance, material, or waste as defined for purposes of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et. seq. ("CERCLA"); Hazardous Materials Transportation Act, 49 U.S.C. Section 1802 ("HTMTA"); the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et. seq. ("RCRA"), Toxic Substance Control Act, 15 U.S.C. Section 2601, et. seq. ("TSCA"), Federal Insecticide Fungicide and Rodenticide Act, 7 U.S.C.

Section 136, et. seq. ("FIFRA"), and all amendments to the foregoing, or any other federal, state or local law, ordinance, rule or regulation applicable to the Property, and establishing liability, standards or required action as to discharge, spillage, storage, uncontrolled loss, seepage, filtration, disposal, removal, use or existence of a hazardous, toxic or dangerous substance, material or waste (collectively, the "Environmental Laws").

- (b) Tenant shall not incorporate into, or use or otherwise place or dispose of at, the Premises or any other portion of the Property, any Hazardous Substance, except for use and storage of cleaning and office supplies used in the ordinary course of Tenant's business, so long as the same is in compliance with Environmental Laws. Landlord shall, at Landlord's sole cost and expense and in accordance with this Lease, have the right to periodically inspect, take samples for testing and otherwise investigate the Premises for the presence of hazardous or toxic materials.
- (c) For those Hazardous Substances that are present solely as the result of negligence, misconduct or other acts of Tenant or Tenant's agents, employees, contractors, guests or invitees, Tenant (1) hereby assumes all liability, if any, to any governmental entity or third party for any violation of applicable Environmental Laws; (2) hereby waives any rights of Tenant to seek contribution from Landlord in any action under the provisions of CERCLA, or any other Environmental Law; (3) hereby waives any rights of Tenant to seek any statutory or common law indemnification by or contribution from Landlord and (4) agrees to indemnify, defend, protect and hold Landlord and Landlord's officers, directors, employees, shareholders, managers, members, successors, assigns, agents, affiliates, representatives, partners, and contractors (collectively, "Landlord Parties") harmless from any and all claims, actions, administrative proceedings (including, without limitation, informal proceedings), judgments, damages, penalties, fines, costs, liabilities, interest, or losses, including reasonable attorneys' fees and expenses, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature (collectively, "Claims, Damages and Expenses") suffered by or asserted against Landlord or Landlord Parties as a result of any Hazardous Substances which exist or may exist on the Property, regardless of when the Hazardous Substances are discovered or when the Claims, Damages, or Expenses arise. This Section 4.104(c) shall survive expiration or earlier termination of this Lease.
- (d) Except as set forth in subsection (c) above, Landlord (1) hereby assumes all liability, if any, to any governmental entity or third party for any violation of applicable Environmental Laws; (2) hereby waives any rights of Landlord to seek contribution from Tenant in any action under the provisions of CERCLA, or any other Environmental Law; (3) hereby waives any rights of Landlord to seek any statutory or common law indemnification by or contribution from Tenant; and (4) agrees to indemnify, defend, protect and hold Tenant and Tenant's officers, directors, employees, shareholders, successors, assigns, agents, affiliates, representatives, partners, and contractors (collectively, "Tenant Parties") harmless from any and all Claims, Damages and Expenses suffered by or asserted against Tenant or Tenant Parties as a result of any Hazardous Substances which exist or may exist on the Property, regardless of when the Hazardous Substances are discovered or when the Claims, Damages, or Expenses arise. This Section 4.104(d) shall survive expiration or earlier termination of this Lease.



**SECTION 4.2 RULES AND REGULATIONS.** To the extent not inconsistent with this Lease, Tenant will comply with all rules and regulations (the "Rules and Regulations") as attached hereto as Exhibit C and such other rules and regulations as may be reasonably adopted by Landlord and uniformly applied to all tenants in the Building in the future.

**SECTION 4.3 ACCESS.** Provided the entry does not interfere with Tenant's use of the Premises, Landlord and its authorized agents shall have the right, during Normal Business Hours (as defined below), to enter the Premises to inspect the Premises during the last six (6) months of the Term, to show the Premises to prospective tenants, lenders or purchasers, to fulfill Landlord's obligations or exercise its rights (including without limitation Landlord's Reserved Right [as hereinafter defined]) under this Lease. Except in the case of an emergency and to fulfill Landlord's obligations hereunder, any entry by Landlord shall be upon at least 24 hours notice, which notice may be oral. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock the doors providing access to the Premises. Landlord shall have the right to use any and all means which Landlord may deem proper to enter the Premises in an emergency but shall repair any damage to the Premises or to Tenant's property as a result of such entry, to the extent that the same is not covered by any insurance required to be carried hereunder.

**SECTION 4.4 QUIET ENJOYMENT.** Provided Tenant timely pays Rent and performs all of the covenants, conditions and provisions on Tenant's part to be performed hereunder, Tenant shall have the quiet enjoyment of the Premises for the remainder of the Term, subject to all of the provisions of this Lease. Landlord shall protect, defend, and indemnify Tenant against any interference with Tenant's quiet enjoyment of the Premises. Landlord warrants to Tenant that Landlord may rightfully enter into this Lease.

**SECTION 4.5 PERMITS.** If any additional governmental license or permit shall be required for the proper and lawful occupancy by Tenant of the Premises and/or the conduct of Tenant's business in the Premises or any part thereof, Tenant, at its expense, shall procure and thereafter maintain such license or permit. Additionally, if any subsequent alteration or improvement is made to the Premises by Tenant, Tenant shall, at its expense, take all actions to procure any such modification or amendment or additional permit.

## **ARTICLE 5**

### **UTILITIES AND SERVICES**

#### **SECTION 5.1 SERVICES TO BE PROVIDED.**

Landlord agrees to furnish to the Premises utilities and services, which services may include elevator service, heat and air conditioning, electricity, water, janitorial services, maintenance of common areas and security. Tenant shall be responsible for electrical service and maintenance for the engineering lab identified on Exhibit A.

#### **SECTION 5.2 ADDITIONAL SERVICES.**

Landlord may impose a reasonable charge for any utilities and services, including without limitation air conditioning, electrical current and water, provided by Landlord by reason of any use of the services at any time other than Normal Business Hours or beyond the levels or quantities that Landlord agrees herein to furnish or because of special electrical, cooling or ventilating needs created by Tenant's hybrid telephone equipment, computers or other equipment.

#### **SECTION 5.3 SERVICE INTERRUPTION.**

- 5.301 Service Interruption/Waiver of Landlord Liability. Landlord shall not be liable for and Tenant shall not be entitled to any abatement or reduction of Rent by reason of, Landlord's failure to maintain temperature or electrical constancy levels or to furnish any of the foregoing services when such failure is caused by accident, breakage, repairs, strikes, lockouts or other labor disturbance or labor dispute of any character, governmental

regulation, moratorium or other governmental action, inability by exercise of reasonable diligence to obtain electricity, water or fuel, or by any other cause beyond Landlord's reasonable control (collectively, "Uncontrollable Events"), nor shall any such Uncontrollable Event or results or effects thereof be construed as an eviction (constructive or actual) of Tenant or as a breach of the implied warranty of suitability, or relieve Tenant from the obligation to perform any covenant or agreement herein and in no event shall Landlord be liable for damage to persons or property (including, without limitation, business interruption), or be in default hereunder, as a result of any such Uncontrollable Event or results or effects thereof. Notwithstanding the foregoing, the waiver of this Section 5.301 shall not apply if Landlord does not begin restoration of the service(s) interrupted by an Uncontrollable Event within 24 hours of the end such Uncontrollable Event and thereafter diligently pursue the restoration of the service(s).

## **ARTICLE 6**

### **MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS**

#### **SECTION 6.1 LANDLORD'S OBLIGATION TO MAINTAIN AND REPAIR.**

- 6.101 Landlord's Obligation. Without limiting any other obligation of Landlord under this Lease, Landlord shall (subject to Section 7.1 and Article 8 and except for ordinary wear and tear) maintain the exterior walls, foundations, roof and load bearing and structural elements of the Building and perform routine maintenance of mechanical, electrical, plumbing, HVAC, the generator, and the common areas. All repairs and replacements performed by or on behalf of Landlord shall be performed diligently, in a good and workmanlike manner and in accordance with applicable governmental laws, rules, and regulations.
- 6.102 Rights of Tenant. In the event Landlord fails, after fifteen (15) days written notice or within forty-eight (48) hours in the event of emergency, to perform its obligations under Section 6.101, Tenant shall have the right to perform such obligations and deduct the cost thereof from future payments of Rent.

#### **SECTION 6.2 TENANT'S OBLIGATION TO MAINTAIN AND REPAIR**

- 6.201 Tenant's Obligation. Subject to Sections 6.1, 7.1 and Article 8 of this Lease and except for ordinary wear and tear, Tenant shall, at Tenant's sole cost and expense, (1) maintain and keep the Premises (including, but not limited to, all fixtures, non load bearing walls, ceilings, floors, doors, windows, [except replacement of exterior plate glass], appliances, supplemental HVAC units (units used to control the temperature of portions of the Premises only), data and phone cables and any and all other equipment which is a part of or serves the Premises) in good repair and condition, ordinary wear and tear excepted, and (2) repair or replace any damage or injury done to the Building or any other part of the Property caused solely by Tenant, Tenant's agents, employees, guests, invitees, or licensees. All repairs and replacements performed by or on behalf of Tenant shall be performed diligently, in a good and workmanlike manner and in accordance with applicable governmental laws, rules, and regulations.
- 6.202 Rights of Landlord. In the event Tenant fails, after 15 days written notice or immediately in the event of emergency, to maintain and repair the Premises in good order, condition and repair as described in Section 6.201, Landlord shall have the right to perform such maintenance, repairs and replacements, and Tenant shall pay Landlord, as additional Rent, the cost thereof.

#### **SECTION 6.3 IMPROVEMENTS AND ALTERATIONS**

6.301 Alteration of Building. Landlord shall have the right to repair, change, redecorate, alter, improve, modify, renovate, enclose or make additions to any part of the Property (excluding the interior of the Premises but including, without limitation, structural elements and load bearing elements within the Premises and to enclose and/or change the arrangement and/or location of driveways or parking area or landscaping or other Common Areas of the Property), all without being held guilty of an actual or constructive eviction of Tenant or breach of the implied warranty of suitability and without an abatement of Rent (the "Reserved Right"). When exercising the Reserved Right, Landlord will interfere with Tenant's use and occupancy of the Premises as little as is reasonably practicable. All work performed by or on behalf of Landlord shall be performed diligently and in a good and workmanlike manner, and shall conform to applicable governmental laws, rules and regulations, and all rules for performing work in the Building.

6.302 Alterations and Installations by Tenant. Tenant shall not, without the prior written consent of Landlord, not to be reasonably withheld, make any alterations to, or install any equipment or machinery (other than office equipment and unattached personal property) on, the Premises of any kind (all such alterations are herein collectively referred to as "Installations"). All work performed by Tenant or its contractor relating to the Installations shall be performed diligently and in a good and workmanlike manner, and shall conform to applicable governmental laws, rules and regulations, and all rules for performing work in the Building. Upon completion of the Installations, Tenant shall deliver to Landlord "as built" plans.

## ARTICLE 7

### INSURANCE AND CASUALTY

#### SECTION 7.1 TOTAL OR PARTIAL DESTRUCTION OF THE BUILDING OR THE PREMISES.

- (a) If the Building should be totally destroyed by fire or other casualty or if either the Building (or any material portion thereof) or the Premises should be so damaged that rebuilding or repairs cannot be completed, in Landlord's reasonable opinion, within 180 days after the date Landlord receives the insurance proceeds and building permits necessary to rebuild (the "Rebuilding Period"); or the Premises will be unfit for occupancy or inaccessible by reasonable means for at least the Rebuilding Period, Landlord shall inform Tenant in writing, in which event, either Landlord or Tenant may, at its option, terminate this Lease and neither party shall have any remaining obligations except those which otherwise survive the expiration or earlier termination of this Lease. Landlord shall exercise the termination right pursuant to the preceding sentence, if at all, by delivering written notice of termination to Tenant within 30 days after the date of the fire or casualty. Tenant shall exercise its termination right pursuant to this Section 7.1(a), if at all, by delivering written notice of termination to Landlord within 10 days after the earlier of (1) being advised by Landlord that the Building was totally destroyed by fire or other casualty, (2) being advised by Landlord that the repairs to the Building or Premises cannot be completed within the Rebuilding Period, or (3) being advised by Landlord that the Premises will be unfit for occupancy or inaccessible by reasonable means for the Rebuilding Period. If neither Landlord nor Tenant elects to terminate this Lease pursuant to this Section 7.1(a), then Landlord shall complete the repair of the Building and Premises, within the Rebuilding Period (or within such additional time period as may be required so long as such repair is diligently pursued), to substantially the same condition which existed immediately prior to the happening of the casualty. Landlord shall have no obligation to repair Tenant's Improvements, as such improvements shall be covered by Tenant's insurance.
- (b) In no event shall Landlord be required to rebuild, repair or replace any part of the furniture, equipment, fixtures, inventory, supplies or any other personal property or any other

improvements, which may have been placed by Tenant within the Building or at the Premises. Notwithstanding anything to the contrary, Landlord shall allow Tenant a proportionate abatement of Rent from the date of the casualty until the date when the Premises and Building are rebuilt and ready for occupancy or the Lease terminates in accordance with this Section 7.1.

- (c) Notwithstanding Landlord's restoration obligation, in the event any mortgagee under a deed of trust or mortgage on the Building should require that the insurance proceeds be used to retire or reduce the mortgage debt, if the insurance company issuing Landlord's fire and casualty insurance policy fails or refuses to pay Landlord the proceeds under such policy, or the proceeds received are not sufficient to restore the Building, Landlord shall have no obligation to rebuild and this Lease shall terminate upon notice by Landlord to Tenant.

## **SECTION 7.2 TENANT'S INSURANCE.**

7.201 Types of Coverage. From and after the Effective Date, Tenant will carry, at its expense, Commercial General Liability and Property Insurance covering the Premises, Tenant's use thereof, Tenant's personal property, and Tenant's Improvements against claims for personal or bodily injury or death or property damage occurring upon, in or about the Premises (including contractual indemnity and liability coverage), such insurance to provide coverages of not less than \$[REDACTED] per occurrence and \$[REDACTED] annual aggregate. Additionally, each policy evidencing the insurance required under this subparagraph shall expressly insure both Tenant and, as additional insured, Landlord, Landlord's management company and Landlord's mortgagee, if any.

- 7.202 Other Requirements of Insurance. All such insurance will be issued and underwritten by a responsible carrier or carriers with a Best rating of at least "A" and licensed in the state in which the Premises is located and Tenant will be solely responsible for payment of premiums. Such insurance may be covered under a blanket policy covering the Premises and other locations of Tenant or an affiliate corporation. Landlord shall have no rights in any policy or policies maintained by Tenant.

- 7.203 Proof of Insurance. Simultaneously with the execution and delivery of this Lease, Tenant shall deliver to Landlord certificates of such insurance evidencing in-force coverage. Further, Tenant shall deliver to Landlord a certificate of insurance evidencing the renewal of each insurance policy required to be maintained by Tenant hereunder at least 30 days prior to the expiration of the policy in question and such policies shall provide that they can not be cancelled except upon at least thirty (30) days prior written notice to Tenant and Landlord.

## **SECTION 7.3 LANDLORD'S INSURANCE.**

- 7.301 Property Insurance. From and after the Effective Date, Landlord will carry a policy or policies of all risk extended coverage insurance covering the Building (excluding property required to be insured by Tenant and any other occupant of the Building) endorsed to provide replacement cost coverage and providing protection against perils included in the Special Form ("all-risk") insurance policy with any such deductibles as Landlord may from time to time determine.

- 7.302 Commercial General Liability Insurance. From and after the Effective Date, Landlord will carry a policy or policies of Commercial General Liability Insurance covering the Premises and Landlord's use thereof against claims for personal or bodily injury or death or property damage occurring upon, in or about the Premises (including contractual indemnity and liability coverage), such insurance to provide coverages of not less than \$[REDACTED] per occurrence and \$[REDACTED] annual aggregate, with a deductible reasonably acceptable to Landlord. Additionally, each policy evidencing the insurance

required under this subparagraph shall expressly insure both Landlord and, as additional insured, Tenant.

- 7.303 Proof of Insurance. Simultaneously with the execution and delivery of this Lease, Landlord shall deliver to Tenant certificates of such insurance evidencing in-force coverage. Further, if requested in writing by Tenant, Landlord shall deliver to Tenant a certificate of insurance evidencing the renewal of each insurance policy required to be maintained by Landlord hereunder within 15 days of such request.
- 7.304 Other Insurance. Landlord may obtain such other insurance as Landlord deems necessary for the Property, including, without limitation, rent loss insurance.

**SECTION 7.4 WAIVER OF SUBROGATION.** Both Tenant and Landlord agree to seek a waiver of subrogation clause from their respective insurers, which establishes a waiver of the insurer's subrogation against Landlord or Tenant as the case may be for any property loss (real/personal property or improvements/betterments) caused by the other. Any policy or policies of insurance procured by Landlord or Tenant, covering direct or indirect property loss, shall include a waiver of subrogation clause in favor of the other party as the case may be. The foregoing waiver shall not be effective if either or both parties fail to carry the insurance required by Section 7.2 and Section 7.3 or if either Party's insurer refuses or fails to properly waive subrogation rights.

## **ARTICLE 8**

### **CONDEMNATION**

**SECTION 8.1 CONDEMNATION RESULTING IN CONTINUED USE NOT FEASIBLE.** If the Property or any portion thereof that, in Landlord's reasonable opinion, is necessary to the continued efficient and/or economically feasible use of the Property shall be taken or condemned for public purposes, or sold to a condemning authority in lieu of taking, then Landlord may, at its option, terminate this Lease on the effective date of such taking by delivering written notice thereof to Tenant on or before 10 days after the effective date of the taking, condemnation or sale in lieu thereof.

**SECTION 8.2 CONDEMNATION OF PREMISES.** If all or a portion of the Premises is taken or condemned or sold in lieu thereof such that Tenant will, in Tenant's reasonable discretion, be unable to materially use the Premises for the Permitted Use for a period in excess of 60 days by reason of a temporary taking of the Premises or by reason of a taking of all or a portion of the Property through condemnation or sale in lieu thereof, then Tenant may terminate this Lease on the effective date of the taking, condemnation or sale in lieu thereof by delivering written notice thereof to the Landlord on or before 10 days prior to the effective date of such taking, condemnation or sale in lieu thereof.

**SECTION 8.3 CONDEMNATION WITHOUT TERMINATION.** If upon a taking or condemnation or sale in lieu of the taking of all or less than all of the Property, which gives either Landlord or Tenant the right to terminate this Lease pursuant to Section 8.1 or 8.2 above, shall occur and neither Landlord nor Tenant elects to exercise such termination right, then this Lease shall continue in full force and effect, provided that if the taking, condemnation or sale includes any portion of the Premises, the Basic Annual Rent shall be redetermined on the basis of the remaining square feet of Premises Rentable Area. Landlord, at Landlord's sole option and expense, shall restore and reconstruct the Building to substantially its former condition to the extent that the same may be reasonably feasible in Landlord's business judgment. Landlord's repair obligations herewith shall be limited to the condemnation award received by Landlord.

**SECTION 8.4 CONDEMNATION PROCEEDS.** Landlord shall receive the entire award (which shall include sales proceeds) payable as a result of a condemnation, taking or sale in lieu thereof. Tenant hereby assigns to Landlord any and all right, title and interest of Tenant now or

hereafter arising in and to any such award. Tenant shall, however, have the right to recover from such authority through a separate award, any compensation as may be awarded to Tenant on account of moving and relocation expenses and depreciation to and removal of Tenant's physical property.

## **ARTICLE 9**

### **LIENS**

Tenant shall keep the Premises and the Property free from all liens arising out of any work performed, materials furnished or obligations incurred by or for Tenant. If Tenant shall not, within 10 days following notification to Tenant of the imposition of any such lien, cause the same to be released of record by payment or the posting of a bond, Landlord shall have, in addition to all other remedies provided herein, the right but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of or defense against the claim giving rise to such lien. All amounts paid or incurred by Landlord in connection therewith shall be paid by Tenant to Landlord on demand, plus interest at the Interest Rate.

## **ARTICLE 10**

### **TAXES ON TENANT'S PROPERTY**

Tenant shall be liable for and shall pay, prior to their becoming delinquent, any and all taxes and assessments levied against any personal property or trade or other fixtures placed by Tenant in or about the Premises.

## **ARTICLE 11**

### **SUBLETTING AND ASSIGNING**

**SECTION 11.1 SUBLEASE AND ASSIGNMENT.** Provided Tenant is not in default hereunder, Landlord receives a copy of all transfer documentation at least 20 days prior to such transfer, and collectively Tenant and such transferee have a combined net worth at least equal to Tenant's net worth on the date hereof, Tenant shall have the right to assign, sublet, or otherwise transfer this Lease to Tenant's Affiliates without the consent of Landlord. As used in this Lease, "Affiliate" shall mean with respect to any person, entity or enterprise, any other person, entity or enterprise that, directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with such person, entity or enterprise. "Control" (including the correlative terms "Controls", "Controlled by" and "under common Control with") shall mean, with respect to any person, entity or enterprise, the power, directly or indirectly, either to (1) vote a majority of the voting shares or other voting interests in such person, entity or enterprise for the election of directors or other governing body of such person, entity or enterprise or (2) direct or cause the direction of the management and policies of such person, entity or enterprise, whether through the ownership of voting securities, by contract or otherwise. Otherwise, Tenant shall not have the right to assign, sublet, transfer, or encumber this Lease or its rights hereunder without Landlord's prior written permission. In the event of a sublease, assignment or transfer, Tenant shall remain liable for all of Tenant's obligations in accordance with this Lease.

**SECTION 11.2 LANDLORD'S RIGHTS.** If Tenant desires to sublease any portion of the Premises or assign this Lease to any person, entity or enterprise not an Affiliate of Tenant, Tenant shall submit to Landlord (1) in writing, the name of the proposed subtenant or assignee, the nature of the proposed subtenant's or assignee's business and, in the event of a sublease, the portion of the Premises which Tenant desires to sublease (2) a current balance sheet and income statement for such proposed subtenant or assignee, (3) a copy of the proposed form of sublease or assignment, and (4) such other information as Landlord may reasonably request (collectively, the "Required Information"). Landlord shall, within 15 days after Landlord's receipt of the Required Information, deliver to Tenant a written notice (each such notice, a "Landlord Response") in

which Landlord either (A) consents to the proposed sublease or assignment, or (B) withholds its consent to the proposed sublease or assignment, which consent shall not be unreasonably withheld.

**SECTION 11.3 LANDLORD'S RIGHTS RELATING TO ASSIGNEE OR SUBTENANT.**

To the extent the rentals or income derived from any sublease exceed the rentals due hereunder, Tenant shall be entitled to retain [REDACTED] of such rentals or income and Landlord shall be entitled to [REDACTED] of such rentals or income. If this Lease is assigned, Landlord shall collect directly from such assignee all Rent becoming due to Landlord.

**ARTICLE 12**

**TRANSFERS BY LANDLORD, SUBORDINATION AND  
TENANT'S ESTOPPEL CERTIFICATE**

**SECTION 12.1 SALE OF THE PROPERTY.** In the event of any transfer of title to the Property, the transferor shall automatically be relieved and freed of all obligations of Landlord under this Lease accruing after such transfer, provided that the transferee expressly assumes in writing all obligations of Landlord hereunder accruing after the date of such transfer. Tenant shall, in the event of the transfer of Landlord's interest in the Premises, or in the event of the termination of any lease in a sale-leaseback financing transaction wherein Landlord is the lessee, attorn to and recognize such transferee as Landlord under this Lease.

**SECTION 12.2 SUBORDINATION, ATTORNMEN AND NOTICE.** This Lease is subject and subordinate (1) to the lien of each mortgage, deed to secure debt and deed of trust or similar instrument encumbering all or any portion of the Property, regardless of whether such mortgage, deed to secure debt or deed of trust now exists or may hereafter be created, (2) to any and all advances (including interest thereon) to be made under each such mortgage, deed to secure debt or deed of trust and (3) to all modifications, consolidations, renewals, replacements and extensions of each such mortgage, deed to secure debt or deed of trust (each is referred to herein as a "Mortgage" and each landlord, grantee, trustee or mortgagee is referred to herein as a "Holder"); provided that the foregoing subordination to any Mortgage placed on the Property after the date hereof shall not become effective until and unless Landlord shall ensure that the Holder of each such Mortgage delivers to Tenant a non-disturbance agreement (which may include Tenant's agreement to attorn as set forth below), in a form reasonably acceptable to Tenant and Holder, permitting Tenant, if Tenant is not then in default under, or in breach of any provision of, this Lease, to remain in occupancy of the Premises in the event of a foreclosure of any such Mortgage. Tenant also agrees that the Holder of any Mortgage may elect to have this Lease superior to any Mortgage and, in the event of such election and upon notification by the Holder of such Mortgage to that effect, this Lease shall be deemed superior to such Mortgage, whether this Lease is dated prior to or subsequent to the date of such Mortgage. Tenant shall, in the event of any proceedings brought for the foreclosure of, or in the event of the exercise of the power of sale under, any Mortgage covering the Premises, attorn to and recognize the purchaser at foreclosure as Landlord under this Lease. The above subordination and attornment clauses shall be self-operative and no further instruments of subordination or attornment need be required by any Holder, purchaser or assignee. In confirmation thereof, Tenant agrees that, within ten (10) days of written request of Landlord, or any such mortgagee, grantee, trustee, purchaser or assignee, Tenant shall execute and deliver whatever instruments may be reasonably required for such purposes and to carry out the intent of this Section 12.2.

**SECTION 12.3 TENANT'S ESTOPPEL CERTIFICATE.** Tenant shall, within ten (10) days of written request of Landlord or any mortgagee of Landlord (whether under a mortgage, deed to secure debt or deed of trust), without additional consideration, deliver an estoppel certificate, consisting of reasonable statements required by Landlord, any mortgagee or purchaser of any interest in the Property, which statements may include but shall not be limited to the following: this Lease is in full force and effect, with rental paid through the date specified in the certificate;

this Lease has not been modified or amended; Tenant is not aware that Landlord is in default or that Landlord has failed to fully perform all of Landlord's obligations hereunder; and such other statements as may reasonably be required by the requesting party. If Tenant is unable to make any statements contained in the estoppel certificate because the same is untrue, Tenant shall with specificity state the reason why such statement is untrue.

## ARTICLE 13

### DEFAULT

**SECTION 13.1 DEFAULTS BY TENANT.** The occurrence of any of the events described in subsections 13.101 through 13.105 shall, following the applicable notice and cure period, if any, constitute a default by Tenant under this Lease.

- 13.101 **Failure to Pay Rent.** The failure by Tenant to pay rent to Landlord within 5 business days after Landlord gives Tenant written notice specifying that the payment was not made when due; provided, however, Tenant shall not be entitled to such notice more than twice during the first twelve (12) month period, following the Effective Date, or more than once during any subsequent twelve (12) month period, after which such failure shall immediately constitute a default without need for notice or cure period.
- 13.102 **Failure to Perform Generally.** Except for a failure covered by subsection 13.101, any failure by Tenant to observe or perform any material provision of this Lease where such failure continues for thirty (30) days after Landlord gives Tenant written notice of such failure; provided that if such failure by its nature cannot be cured within such 30 day period, Tenant shall not be in default hereunder so long as Tenant commences curative action within such 30 day period, Tenant thereafter diligently and continuously pursues the curative action. Notwithstanding the foregoing, Tenant shall immediately be in default hereunder in the event of a failure to comply with Section 1.3 or Article 11 above.
- 13.103 **Bankruptcy, Insolvency, Etc.** Tenant (1) becomes or is declared insolvent according to any law, (2) admits that it is unable to pay its debts as they become due, (3) makes a transfer in fraud of creditors, or (4) files a petition for relief, or is the subject of an order for relief, under the Federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy or similar law (collectively, "applicable bankruptcy law").
- 13.104 **Receivership, Levy, Etc.** A receiver or trustee is appointed for Tenant or its property; the interest of Tenant under this Lease is levied on under execution or under other legal process; any involuntary petition is filed against Tenant under applicable bankruptcy law; or any action is taken to reorganize or modify Tenant's capital structure; provided, however, no action described in this subsection 13.104 shall constitute a default by Tenant if Tenant shall contest the action by appropriate proceedings and shall remove, vacate or terminate the action within sixty (60) days after the date of its inception.
- 13.105 **Dissolution or Liquidation.** Tenant dissolves or liquidates or otherwise fails to maintain its corporate structure.

With respect to the defaults described in subsections 13.103 through 13.105, Landlord shall not be obligated to give Tenant notices of default and Tenant shall have no right to cure such defaults.

**SECTION 13.2 REMEDIES OF LANDLORD.** Upon the occurrence of any default, and in addition to any other rights and remedies under this Lease, at law, or in equity, and with or without terminating this Lease, Landlord and its agents and representatives may exercise any or all of the following rights and remedies (and use by Landlord of one or more of the following remedies shall not preclude Landlord from simultaneously or later utilizing any one or more of these remedies):



(a) Landlord shall have the right, at its election, upon the occurrence of a default, to bring suit for the collection of any amounts for which Tenant may be in default or for the performance of any covenant or agreement required to be performed by Tenant hereunder.

(b) Landlord shall have the right, at its election, upon the occurrence of the default or at any time thereafter, to terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in Rent, enter upon and take possession of the Premises, and expel or remove Tenant and any other person who may be occupying said Premises or any part thereof, by force, if necessary, without being liable for prosecution or any claim of damages therefor. Tenant hereby agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of such termination, whether through inability to relet the Premises on satisfactory terms or otherwise.

(c) Landlord shall have the right, at its election, upon the occurrence of a default, to terminate Tenant's right of possession (but not this Lease) and enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, by entry (including the use of force, if necessary), dispossessory suit or otherwise, without thereby releasing Tenant from any liability hereunder, without terminating this Lease.

(d) At any time or from time to time after the repossession of the Premises or any part thereof pursuant to Section 13.2(c) above, whether or not this Lease shall have been terminated pursuant to Section 13.2(b) above, Landlord may (but shall be under no obligation to) relet the Premises or any other part thereof to a third party in an arms-length transaction for the account of Tenant, in the name of Tenant, Landlord or otherwise, without notice to Tenant, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term hereof) and on such conditions (which may include concessions or free rent) and at such a rate (which may be at a rental rate greater than or less than the Rent under this Lease) and for such uses as Landlord, in its absolute discretion, may determine, and Landlord may collect and receive any rents payable by reason of such reletting. Landlord shall not be responsible or liable for any failure to collect any rent due upon such reletting.

(e) No expiration or termination of this Lease pursuant to Section 13.2(b) above, by operation of law or otherwise, and no repossession of the Premises or any part thereof pursuant to Section 13.2(c) above or otherwise, and no reletting of the Premises or any part thereof pursuant to Section 13.2(d) above, shall relieve Tenant of its obligations and liabilities hereunder, all of which shall survive such expiration, termination, repossession or reletting.

(f) In the event of any expiration or termination of this Lease or repossession of the Premises or any part thereof by reason of the occurrence of a default, Tenant will pay to Landlord the Rent for the period to and including the date of such expiration, termination or repossession, and thereafter until the end of what would have been the term hereof in the absence of such expiration, termination or repossession, and whether or not the Premises or any part thereof shall have been relet. Tenant shall be liable to Landlord for, and shall pay to Landlord, as liquidated and agreed current damages, all Rent which would be payable under this Lease in the absence of such expiration, termination or repossession, less the net proceeds, if any, of any reletting effected for the account of Tenant pursuant to Section 13.2(d) above, after deducting from such proceeds all of Landlord's expenses reasonably incurred in connection with such reletting (including all repossession costs, marketing expenses, brokerage commissions, reasonable attorney's fees, repairs, additions and alteration costs and expenses of preparation for such reletting (including any redecorating of the Premises)). Tenant will pay such current damages on the days on which Rent would have been payable under this Lease in the absence of such expiration, termination or repossession, and Landlord shall be entitled to recover the same from Tenant on each such day.

(g) At any time after any such expiration or termination of this Lease or repossession of the Premises or any part thereof by reason of the occurrence of a default, whether or not Landlord shall have collected any current damages pursuant to Section 13.2(f) above, Landlord shall be entitled to recover from Tenant, and Tenant will pay to Landlord on demand, as and for liquidated and agreed final damages (and not as penalty or forfeiture) for Tenant's default and in lieu of all current damages beyond the date of such demand (it being agreed that it would be impracticable or extremely difficult to fix the actual damages), a lump sum payment equal to (x) the entire amount of Rent and other charges and assessments which would be payable under this Lease from the date of such demand (or, if it be earlier, the date to which Tenant shall have satisfied in full its obligations under (f) above to pay current damages) for what would be the then unexpired term hereof in the absence of such expiration, termination or repossession, discounted to present value by using a discount factor of four percent (4%) per annum, plus (y) all of Landlord's costs and expenses (including, without limitation, Landlord's repossession costs, marketing expenses, brokerage commissions, reasonable attorney's fees, repairs, additions and alteration costs and expenses of preparation for such reletting (including any redecorating of the Premises)) incurred in connection with or related to the reletting of the Premises minus (z) the market rental value for the Premises for the remainder of the Term based on Landlord's reasonable determination of both future rental value and the probability of reletting the Premises for all or part of the remaining Term, discounted to present value by using a discount factor of four percent (4%) per annum. If any applicable law shall validly limit the amount of such liquidated final damages to less than the amount above agreed upon, Landlord shall be entitled to the maximum amount allowable under such applicable law.

(h) No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute. In addition to the other remedies provided in this Lease, Landlord shall be entitled, to the extent permitted by law, to injunctive relief in case of the violation, or attempted or threatened violation, of any of the covenants, agreements, conditions or provisions of this Lease, or to a decree compelling performance of this Lease, or to any other remedy allowed to Landlord at law or in equity.

(i) In the event Landlord shall, without fault on its part, (i) consult with or hire an attorney in connection with a default by Tenant or (ii) be made a party to any litigation commenced against Tenant, and if Tenant, at its expense, shall fail within thirty (30) days after the effective date of notice from Landlord to provide Landlord with counsel approved by Landlord, Tenant shall pay as additional Rent all costs and reasonable attorney's fees incurred or paid by Landlord in connection with such default or litigation.

(j) Landlord may, but shall not be obligated to, cure any default by Tenant after complying with the notice provisions herein set forth, and whenever Landlord so elects, all costs and expenses paid or incurred by Landlord in curing such default, including reasonable attorney's fees, shall be deemed to be additional Rent due on demand with interest. Notwithstanding anything to the contrary contained in this Lease, in the event of an emergency, Landlord shall have the immediate right to cure any such breach or default by Tenant prior to the expiration of the applicable notice and cure period if reasonably necessary to protect the Premises, the Property, to prevent injury or damage to persons or property or in the event of any other emergency, and Tenant shall pay to Landlord all amounts expended by Landlord to cure such default within ten (10) days of written notice to Tenant of such amount.

(k) All amounts due from Tenant to Landlord under this Section 13.2 shall bear interest at the Interest Rate until paid in full.

**SECTION 13.3 DEFAULTS BY LANDLORD.** The occurrence of any of the events described in subsections 13.301 through 13.302 shall, after the applicable cure period, if any, constitute a default by Landlord under this Lease.

13.301 Failure to Pay Amounts owed to Tenant. The failure by Landlord to make any such payments due to Tenant hereunder within 20 business days after Tenant gives Landlord written notice specifying that the payment was not made when due.

13.302 Failure to Perform Generally. Except for a failure covered by subsection 13.301, any failure by Landlord to observe or perform any material provision of this Lease where such failure continues for 30 days after Tenant gives Landlord written notice of such failure, provided that if such failure by its nature cannot be cured within such 30 day period, Landlord shall not be in default hereunder so long as Landlord commences curative action within such 30 day period, and Landlord thereafter diligently and continuously pursues the curative action.

**SECTION 13.4 REMEDIES OF TENANT.** Upon default by Landlord, if any, Tenant may (1) terminate this Lease, whereupon the Parties shall have no further obligations or liabilities to the other hereunder, except for those obligations surviving expiration or earlier termination, (2) without judicial process, and without having any liability therefore, do whatever Landlord is obligated to do under this Lease and deduct the cost thereof from future payments of Rent, and/or (3) commence judicial proceedings against Landlord for specific performance.

**SECTION 13.5 LIMITATION OF LIABILITY, INDEMNIFICATION.**

13.501 Landlord Non-Liability. LANDLORD AND LANDLORD'S EMPLOYEES AND AGENTS SHALL NOT BE RESPONSIBLE FOR OR LIABLE TO TENANT, TENANT'S AFFILIATES, EMPLOYEES, AGENTS, GUESTS, OR INVITEES, OR TO ANY OTHER PERSON OR ENTITY, WHOMSOEVER, FOR ANY LOSS OR DAMAGE RESULTING TO SUCH PARTY OR ITS PROPERTY FROM BURST, STOPPED OR LEAKED WATER, GAS, SEWER OR STEAM PIPES, OR FOR ANY DAMAGE OR LOSS OF PROPERTY OR INJURY TO PERSONS OR PROPERTY WITHIN THE PREMISES FROM ANY CAUSE WHATSOEVER NOT CAUSED BY AN AFFIRMATIVE ACT OF LANDLORD OR LANDLORD'S DEFAULT HEREUNDER. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, LANDLORD'S LIABILITY HEREUNDER SHALL BE LIMITED TO THE EXTENT THAT TENANT SHALL LOOK SOLELY TO THE INTEREST OF LANDLORD IN AND TO THE PREMISES FOR THE COLLECTION OF ANY MONETARY JUDGMENT AGAINST LANDLORD FOR ANY BREACH BY LANDLORD OF ANY TERMS OR PROVISIONS OF THIS LEASE.

13.502 Tenant Limitation of Liability. TENANT AND TENANT'S AFFILIATES SHALL NOT BE LIABLE TO LANDLORD OR LANDLORD'S EMPLOYEES, OR AGENTS FOR ANY INJURY TO PERSON OR DAMAGE TO OR LOSS OF PROPERTY ON OR ABOUT THE PREMISES, BUILDING OR THE LAND CAUSED BY LANDLORD, ITS EMPLOYEES, OR AGENTS, OR ARISING OUT OF THE USE OF THE BUILDING OR LAND BY LANDLORD; AND LANDLORD HEREBY AGREES TO INDEMNIFY, PROTECT AND HOLD TENANT, TENANT PARTIES, AND TENANT'S AFFILIATES HARMLESS FROM ANY AND ALL ACTUAL OUT-OF-POCKET CLAIMS, DAMAGES, AND EXPENSES ARISING OUT OF ANY SUCH DAMAGE OR INJURY AND NOT FOR ANY CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOST PROFITS.

13.503 Indemnification. Tenant agrees to indemnify and hold Landlord and Landlord's entities harmless against and from any and all third-party claims of damages or injury arising from Tenant's use of the Premises, Building, and Common Areas, or the conduct of its business or from any activity, work, or thing(s) done, permitted or suffered by Tenant in the Premises, Building, and Common Areas, and shall further indemnify and hold harmless Landlord and Landlord entities against and from any and all third-party claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of

this Lease, or arising from any act, neglect, fault, or omission of Tenant, or of its agents, employees, visitors, invitees, guests, contractors, or licensees, and from and against all costs, reasonable attorneys' fees, expenses, and liabilities incurred in or about any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of such claim, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel reasonably approved by Landlord. Except for the gross negligence or willful misconduct of Tenant, Landlord will indemnify Tenant, its agents and employees against, and hold Tenant harmless from, any and all third party claims of damages or injury (excluding consequential or punitive damages or lost profits), losses, or expenses, including reasonably attorneys fees and court costs, incurred in connection with or arising from any breach, violation, or nonperformance by Landlord of any term, covenant or provision of this Lease or applicable laws. Neither party shall be liable to the other for any unauthorized or criminal entry of third parties into the Premises, Building, or Common Areas, or for any damage to person or property, or loss of property in and about the Premises, Building, Common Areas and the approaches, entrances, streets, sidewalks or corridors thereto, by or from any unauthorized or criminal acts of third parties, regardless of any breakdown, malfunction or insufficiency of any security measures, practices or equipment provided by Landlord or Tenant. Tenant shall immediately notify Landlord in writing of any breakdown or malfunction of any security measures, practices or equipment provided by Landlord as to which Tenant has knowledge. Landlord shall not be liable to Tenant for interference with the light or other incorporeal hereditaments caused by intangible, real, or mixed property or for any damage therefrom to Tenant or Tenant's property from any cause beyond Landlord's reasonable control. Tenant hereby agrees that in no event shall Landlord be liable for consequential damages, including injury to Tenant's business or any loss of income therefrom, nor shall Landlord be liable to Tenant for any damages caused by the act or neglect of any other tenant in the Building. The provisions of this Section 13.503 shall survive the termination of this Lease with respect to any damage, injury or death occurring prior to such termination. Tenant shall not be liable for any consequential or punitive damages or lost profits.

#### **ARTICLE 14**

##### **NOTICES**

Any notice or communication required or permitted in this Lease shall be given in writing, sent by (1) personal delivery, with written acknowledgement of delivery, (2) expedited delivery service, with proof of delivery, (3) United States mail, postage prepaid, registered or certified mail, return receipt requested, or (4) sent by facsimile transmission, addressed to the addresses in this Article 14 below, or to such other address or to the attention of such other person as shall be designated from time to time in writing by the applicable party and sent in accordance herewith.

**If to Landlord:**

Alltel Communications, Inc.  
One Allied Drive  
Attn: Vice President -  
Commercial Real Estate B1F4A  
Little Rock, AR 72202

**If to Tenant:**

Windstream Communications, Inc.  
Attn: Legal Department  
4001 Rodney Parham Road  
Little Rock, AR 72212  
Mailstop: 1170-B1-F-08-71A

Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein.

## ARTICLE 15

[INTENTIONALLY DELETED]

## ARTICLE 16

### MISCELLANEOUS PROVISIONS

**SECTION 16.1 BUILDING NAME AND ADDRESS.** Tenant shall not, without the written consent of Landlord, use the name of the Building for any purpose other than as the address of the business to be conducted by Tenant in the Premises and in no event shall Tenant acquire any rights in or to such names. Landlord shall have the right at any time to change the name, number or designation by which the Building is known.

**SECTION 16.2 SIGNAGE.** Subject to applicable signage and zoning ordinances and Landlord's prior written consent, Tenant, at its sole cost and expense, shall be permitted to furnish, install and maintain the following signage: (a) one identification sign on the exterior of the Building; and (b) one identification sign at the entrance to the Property, at locations to be approved in writing by Landlord, for the purpose of designating Tenant's business. In the event Tenant presents Landlord with Tenant's proposed signage prior to the Effective Date and such signage is approved by Landlord and meets all applicable government requirements, such pre-approved signage shall be attached hereto as Exhibit D and Tenant shall be permitted to install same in such locations to be approved in writing by Landlord.

**SECTION 16.3 NO WAIVER.** No waiver by Landlord or by Tenant of any provision of this Lease shall be deemed to be a waiver by either party of any other provision of this Lease. No waiver by Landlord or Tenant of any breach by the other party shall be deemed a waiver of any subsequent breach of the same or any other provision. The failure of Landlord or Tenant to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power or remedy contained in this Lease shall not be construed as a waiver or a relinquishment thereof for the future. The acceptance of any Rent by Landlord following a breach of this Lease by Tenant shall not constitute a waiver by Landlord of such breach or any other breach. No waiver by Landlord or Tenant of any provision of this Lease shall be deemed to have been made unless such waiver is expressly stated in writing signed by the waiving party. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly installment of Rent due under this Lease shall be deemed to be other than on account of the earliest Rent due hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy which may be available to Landlord.

**SECTION 16.4 APPLICABLE LAW.** This Lease shall be governed by and construed in accordance with the laws of the State in which the Premises is located.

**SECTION 16.5 COMMON AREAS.** "Common Areas" shall mean all areas, spaces, facilities and equipment made available by Landlord for the common and joint use of Landlord, Tenant and others designated by Landlord using or occupying space in the Building, including, but not limited to, walkways, sidewalks and driveways necessary for access to the Building, lobbies, parking lots and parking areas, landscaped area, public corridors, public rest rooms, stairs, elevators, drinking fountains and any such other areas and facilities as are designated by Landlord from time to time as Common Areas including, without limitation, access to the Premises through the main lobby and through the portion of the Building in which the Premises is located. Landlord shall provide parking for Tenant's use based on a ratio of 5 parking spaces per 1,000 square feet. "Service

Corridors" shall mean all loading docks, loading areas and all corridors that are not open to the public but which are available for use by Tenant and others designated by Landlord. "Service Areas" will refer to areas, spaces, facilities and equipment serving the Building but to which Tenant will not have access, including, but not limited to, mechanical, telephone, electrical and similar rooms, and air and water refrigeration equipment. Tenant is hereby granted a nonexclusive right to use the Common Areas and Service Corridors during the term of this Lease for their intended purposes, in common with others designated by Landlord, subject to the terms and conditions of this Lease, including, without limitation, the Rules and Regulations. The Building, Common Areas, Service Corridors and Service Areas will be at all times under the exclusive control, management and operation of the Landlord. Tenant agrees and acknowledges that the Premises do not include, and Landlord hereby expressly reserves for its sole and exclusive use, any and all mechanical, electrical, telephone and similar rooms, janitor closets, elevator, pipe and other vertical shafts and ducts, flues, stairwells, any area above the acoustical ceiling and any other areas not specifically shown on Exhibit A as being part of the Premises, unless otherwise provided herein.

**SECTION 16.6 SUCCESSORS AND ASSIGNS.** Subject to Article 11 hereof, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

**SECTION 16.7 BROKERS.** The Parties each represent and warrant to the other that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, and that it knows of no other real estate brokers or agents who are or claim to be entitled to a commission in connection with this Lease. Each Party agrees to defend, indemnify and hold harmless the other from and against any liability or claim, whether meritorious or not, arising with respect to any such broker and/or agent known to either Party and not so named but claiming to be entitled to a commission.

**SECTION 16.8 SEVERABILITY.** If any provision of this Lease or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the application of such provisions to other persons or circumstances and the remainder of this Lease shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

**SECTION 16.9 EXAMINATION OF LEASE.** Submission by Landlord of this instrument to Tenant for examination or signature does not constitute a reservation of or option for lease. This Lease will be effective as a lease only upon execution by and delivery to both Landlord and Tenant.

**SECTION 16.10 TIME.** Time is of the essence in this Lease and in each and all of the provisions hereof. Whenever a period of days is specified in this Lease, such period shall refer to calendar days unless otherwise expressly stated in this Lease. If any date provided under this Lease for performance of an obligation or expiration of a time period is a Saturday, Sunday or a holiday generally recognized by the United States federal government, the obligation shall be performed or the time period shall expire, as the case may be, on the next succeeding business day.

**SECTION 16.11 DEFINED TERMS AND MARGINAL HEADINGS.** The words "Landlord" and "Tenant" as used herein shall include the plural as well as singular. The headings and titles to the articles, sections and subsections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part of this Lease.

**SECTION 16.12 AUTHORITY OF TENANT.** Tenant represents to Landlord as follows: Tenant is duly incorporated and legally existing under the laws of the state of its incorporation and is duly qualified to do business in the state in which the Premises is located. Tenant has all requisite power and all governmental certificates of authority, licenses, permits, qualifications and

other documentation to lease the Premises and to carry on its business at the Premises consistent with the Permitted Use. Each person signing on behalf of Tenant is authorized to do so.

**SECTION 16.13 AUTHORITY OF LANDLORD.** Landlord represents to Tenant as follows: Landlord is a corporation duly incorporated and legally existing under the laws of the state of its incorporation and is duly qualified to do business in the state in which the Premises is located. Landlord has all requisite power and all governmental certificates of authority, licenses, permits, qualifications and other documentation to own the Premises, lease the Premises to Tenant and to carry on its business as now conducted and as contemplated to be conducted. Each person signing on behalf of Landlord is authorized to do so.

**SECTION 16.14 FORCE MAJEURE.** Whenever a period of time is herein prescribed for action to be taken by Landlord or Tenant, the party taking the action shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes which are beyond the reasonable control of such party; provided, however, in no event shall the foregoing apply to the financial obligations of either Landlord or Tenant to the other under this Lease, including Tenant's obligation to pay Basic Annual Rent, Rent or any other amount payable to Landlord hereunder.

**SECTION 16.15 NO RECORDING.** This Lease shall not be recorded. Notwithstanding the foregoing, Tenant may, at its option, record a Memorandum of Lease executed by both Parties. The cost of any recording fees shall be paid by Tenant.

**SECTION 16.16 NO LIGHT, AIR OR VIEW EASEMENT.** Any diminution or shutting off of light, air, view by any structure which may be erected on the Property or lands adjacent to the Property shall in no way affect this Lease or impose any liability on Landlord (even if Landlord is the adjacent land owner).

**SECTION 16.17 SURVIVAL OF INDEMNITIES.** Each indemnity agreement and hold harmless agreement contained herein shall survive the expiration or termination of this Lease.

**SECTION 16.18 RELATIONSHIP OF PARTIES.** The parties hereto shall always be as landlord and tenant; nothing herein shall be construed so as to constitute a joint venture or partnership between Landlord and Tenant and no estate shall pass out of Landlord.

**SECTION 16.19 PARKING.** Landlord shall provide parking for Tenant's use based on a ratio of 5 parking spaces per 1,000 square feet.

**SECTION 16.20 REASONABLENESS.** Wherever in this lease, the consent permission, or approval of either Party is required, such consent shall, unless specifically stated to the contrary, not be unreasonably withheld, conditioned or delayed.

**SECTION 16.21 EXHIBITS.** All exhibits and other attachments to this Lease are incorporated into this Lease and made a part hereof.

**SECTION 16.22 ENTIRE AGREEMENT.** This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease and no prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

**SECTION 16.23 COUNTERPARTS.** This Lease may be executed in two (2) or more counterparts with all being deemed collectively as one (1) lease.

**SECTION 16.24 CONFIDENTIALITY.** During the Term of this Lease and for one (1) year thereafter, Landlord and Tenant shall regard and preserve as confidential all information related to

the business of the other party, its parent, subsidiaries, affiliated companies, and/or any subsidiary or affiliated company of its parent ("Affiliated Companies") which it receives from the other party as a result of this Sublease and the rights granted hereunder ("Confidential Information"). The parties agree not to disclose any such Confidential Information without obtaining the other party's prior written consent. Confidential Information shall include, but is not limited to, information relating to the pricing, business plans, methods, processes, financial data, lists, apparatus, statistics, system, programs, research, development or related information of the party and/or Affiliated Companies.

The parties agree to use the Confidential Information only for the purpose of fulfilling their obligations under this Lease. No licenses or other rights to trademarks, inventions, copyrights or patents are implied or granted under this Lease. Each party shall provide the same care to avoid disclosure or an unauthorized use of the Confidential Information that it would use to protect its own information of a similarly confidential nature.

All Confidential Information, unless otherwise specified in writing, shall remain the property of the party releasing it, shall be used only for the purposes intended, and Confidential Information, including all copies thereof, shall, upon request, be returned to the other party or be destroyed after the need for it has expired. In any event, upon termination of this Lease, all such information and copies shall, at the request of the party that released it, be returned or destroyed.

Neither party shall have any obligation with respect to Confidential Information to the extent that such:

- A. Is already in the possession of the party free from any obligation to keep such information confidential;
- B. Is or becomes publicly known through no wrongful act of the party;
- C. Is rightfully received from a third party without restriction and without breach of this Lease;
- D. Is independently developed without use of any Confidential Information of the party and/or Affiliated Companies; or
- E. Must be disclosed pursuant to a court order or as required by any governmental authority having jurisdiction over either party.

**16.25 TAXES:** All charges and fees to be paid by Tenant under this Lease are exclusive of any applicable withholding, sales, use, value added, excise, services or other United States or foreign tax which may be assessed in connection with this Lease. In the event that a withholding, sales, use, value added, excise, value added services or other United States or foreign tax is assessed in connection with this Lease, Tenant will pay directly, reimburse or indemnify Landlord for such taxes, as well as any applicable interest and penalties. The parties will cooperate with each other in determining the extent to which any tax is due and owing under the circumstances, and shall provide and make available to each other any resale certificates, information regarding out-of-state or country use of materials, services or sale, and other exemption certificates or information reasonably requested by either party. This section shall have no application to any tax based upon the income of Landlord.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Lease as of the Effective Date.



LANDLORD:

ALLTEL COMMUNICATIONS, INC.

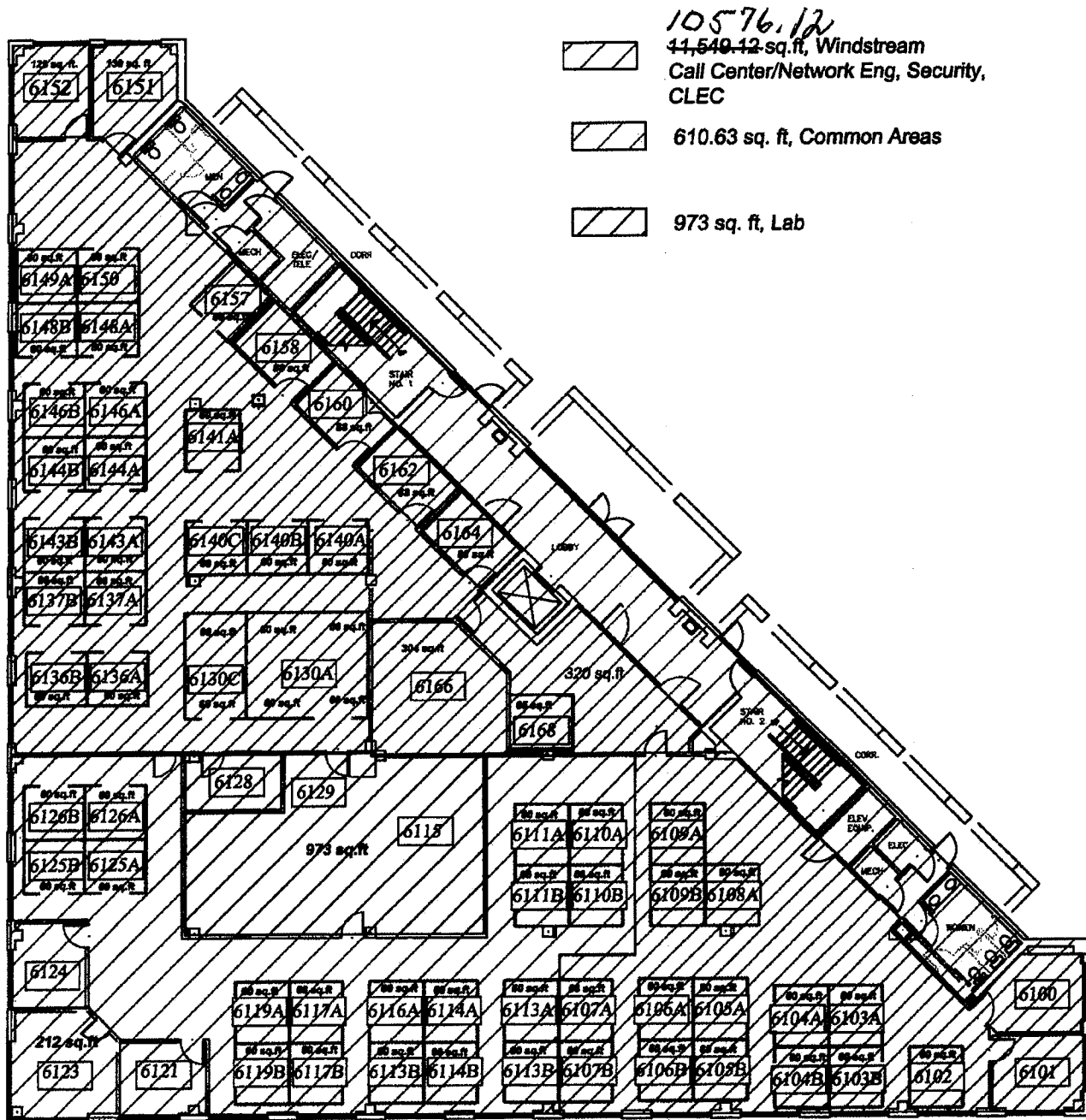
By: Judith Lemke  
Name: Judith Lemke  
Title: Vice President

TENANT:

WINDSTREAM COMMUNICATIONS, INC.

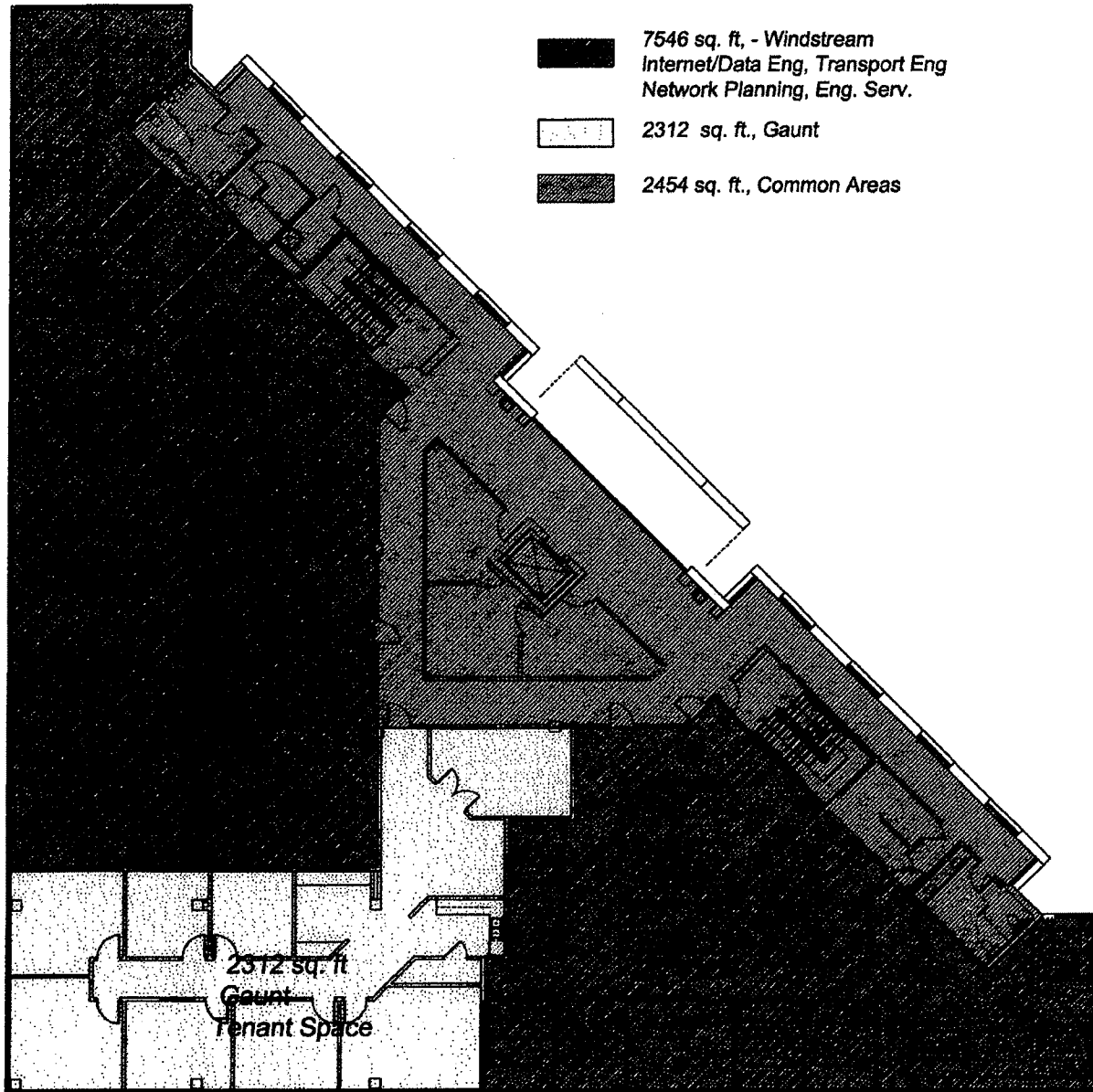
By: John Fletcher  
Name: John Fletcher  
Title: E.V.P. - General Counsel

# Exhibit A



8 FIRST FLOOR PLAN - SIMMONS BUILDING  
1/8" = 1'-0"

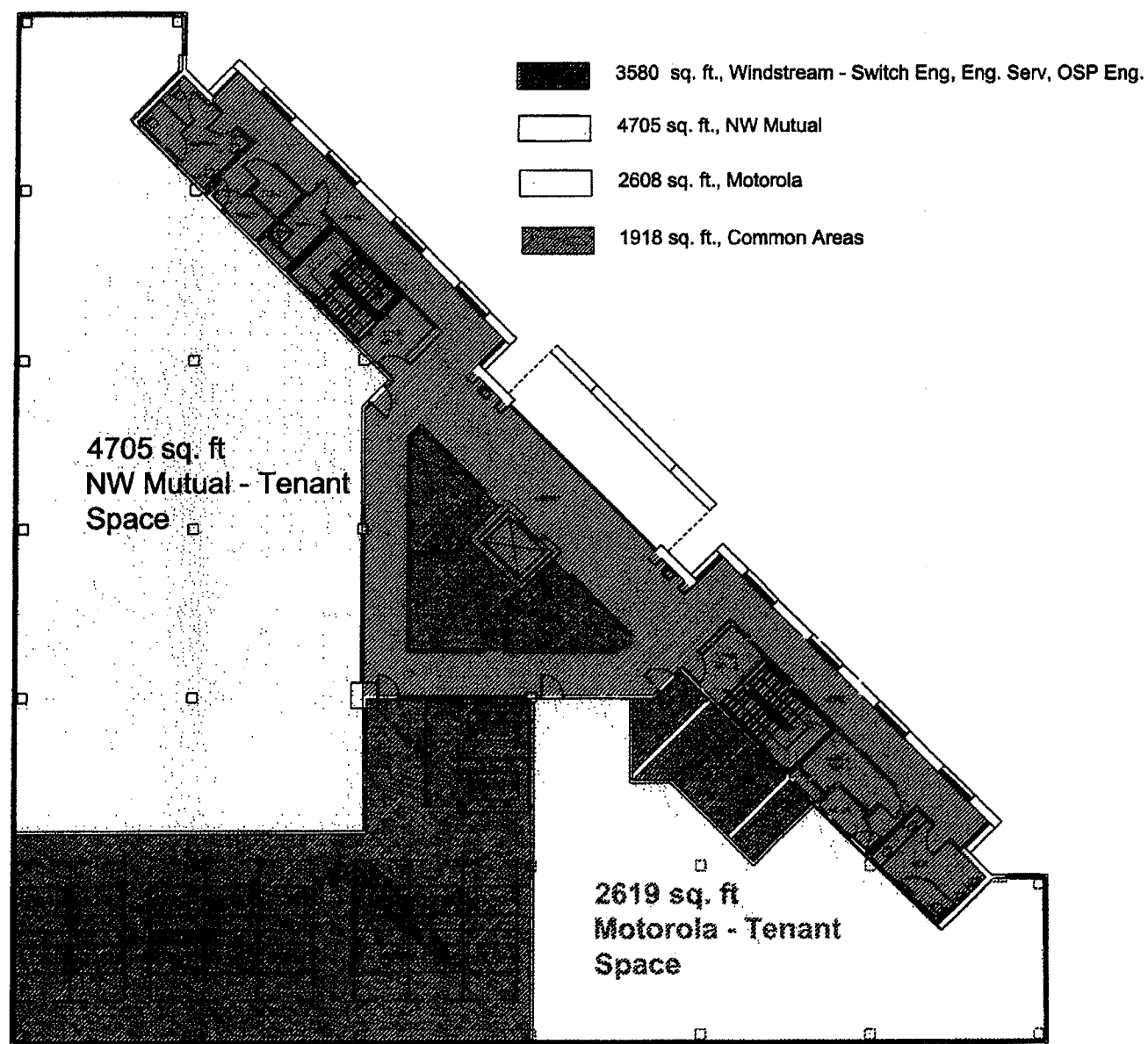
## Exhibit A



1/8" = 1'-0"

February 7, 2006

Exhibit A



⊗ THIRD FLOOR PLAN - SIMMONS BUILDING  
June 16, 2006

## **Exhibit B to Office Building Lease**

### **RULES AND REGULATIONS**

1. The sidewalks, walks, plaza entries, corridors, concourses, ramps, staircases, escalators and elevators of the Property shall not be obstructed or used by Tenant, or the employees, agents, servants, visitors or licensee of Tenant for any purpose other than ingress and egress to and from the Premises. No bicycle or motorcycle shall be brought into the Building or kept on the Premises without the consent of Landlord.
2. No freight, furniture or bulky matter of any description will be received into the Property or carried into the elevators except in such a manner, during such hours and using such elevators and passageways as may be approved by Landlord, and then only upon having been scheduled in advance. Any hand trucks, carryalls, or similar equipment used for the delivery or receipt of merchandise or equipment shall be equipped with rubber tires, side guards and such other safeguards as Landlord shall reasonably require.
3. Landlord shall have the right to prescribe the weight, position and manner of installation of safes or other heavy equipment which shall, if considered necessary by Landlord, be installed in a manner which shall insure satisfactory weight distribution. The time, routing and manner of moving safes or other heavy equipment shall be subject to prior approval by Landlord.
4. Tenant, or the employees, agents, servants, visitors or licensees of Tenant, shall not at any time leave, place or discard any rubbish, paper, articles or objects of any kind whatsoever outside the doors of the Premises or in the corridors, stairways or passageways of the Property.
5. Tenant shall keep doors to unattended areas locked and shall otherwise exercise reasonable precautions to protect property from theft, loss or damage. Landlord shall not be responsible for the theft, loss or damage of any property by third-parties or for any error with regard to the exclusion from or admission to the Property of any person.
6. Tenant shall not do any cooking (other than warming in a microwave oven) or conduct any restaurant, lucheonette, automat or cafeteria for the sale or service of food or beverages to its employees or to others and only under regulations fixed by Landlord. Tenant may, however, operate a coffee bar by and for its employees.
7. Landlord agrees to furnish to Tenant, at Landlord's expense, CardKeys for each of Tenant's employees for access to the Building during such times as the Building is not open to the public. Upon written request from Tenant, or other parties authorized by Tenant, Landlord will furnish additional CardKeys. Should any CardKeys be lost or stolen, Tenant will immediately notify Landlord and Landlord will issue replacement CardKeys with a different computer code number. Such replacement CardKeys will be at Tenant's expense.
8. Tenant shall give immediate notice to Landlord in case of theft, unauthorized solicitation or accident in the Premises or in the Property or of defects therein or in any fixtures or equipment, or of any known emergency in the Property.
9. Tenant shall not use the Premises or permit the Premises to be used for photographic, multilith or multigraph reproductions, except in connection with its own business and not as a service for others without Landlord's prior permission.
10. Tenant shall not use or permit any portion of the Premises to be used as an office for a public stenographer or typist, offset printing, the use of liquor, the sale of liquor or

tobacco, a barber or manicure shop, an employment bureau, a labor union office, a doctor's or dentist's office, a dance or music studio, any type of school, or for any use other than those specifically granted in this Lease.

11. Tenant shall not advertise for laborers giving the Premises as an address, nor pay such laborers at a location in the Premises.
12. The requirements of Tenant will be attended to only upon application of Landlord in the Building or at such other address as may be designated by Landlord in the Lease. Employees of Landlord shall not perform any work or do anything outside of their regular duties, unless under special instructions from the office of Landlord.
13. Tenant shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor was designed to carry and which is allowed by law. Business machines and mechanical and electrical equipment belonging to Tenant which cause noise, vibration, electrical or magnetic interference, or any other nuisance that may be transmitted to the structure or other portions of the Property or to the Premises to such a degree as to be reasonably objectionable to Landlord or which interfere with the use or enjoyment by other tenants of their premises to the public portions of the Property shall be placed and maintained by Tenant, at Tenant's expense, in settings of cork, rubber, spring type, or other vibration eliminators sufficient to eliminate noise or vibration.
14. Tenant shall not place, install or operate within the Premises or any other part of the Property any engine or stove without the written consent of Landlord.
15. No portion of the Premises or any part of the Property shall at any time be used or occupied as sleeping or lodging quarters.
16. Tenant shall at all times keep the Premises neat and orderly.
17. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein.
18. Normal business hours shall be deemed to be 8:00 a.m. through 6:00 p.m. on weekdays and 9:00 a.m. through 1:00 p.m. on Saturdays, exclusive of holidays. Holidays shall, for purposes of this Lease, be deemed to be New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and any other holidays commonly observed by landlords of comparable buildings in the market area of the Property.
19. Tenant shall use no other method of heating or cooling than that supplied by Landlord.
20. Tenant shall comply with all local and federal codes and ordinances.
21. Tenant and its agents, employees and invitees shall observe and comply with the driving and parking signs and markers on the Property and surrounding areas.
22. No animals or birds shall be brought to or kept in or about the Property.
23. No smoking or other use of tobacco products shall be allowed anywhere in the Property except in such specific portions of the Common Area designated from time to time by the Landlord in its sole and absolute discretion.

**EXHIBIT C**

**SIGNS**

## FIRST AMENDMENT TO OFFICE BUILDING LEASE

THIS FIRST AMENDMENT TO OFFICE BUILDING LEASE ("Amendment") made this 19th day of January, 2007 by and between Alltel Communications, Inc. ("Landlord") and Windstream Communications, Inc. ("Tenant").

### WITNESSETH:

**WHEREAS**, Landlord and Tenant entered into an Office Building Lease dated July 17, 2006 (the "Lease") for 26,491 square feet of floor space (the "Premises") located at 11101 Anderson Drive, Little Rock, AR (the "Premises"); and

**WHEREAS**, the parties desire to amend certain provisions of the Lease, as set forth herein;

**NOW, THEREFORE**, in consideration of the mutual promises and other good and valuable consideration, the Landlord and Tenant hereto agree to be bound by the following terms and conditions as of the Effective Date:

1. Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Lease.
2. Paragraph 1.203 shall be added to the Lease as follows:

"1.203. Engineering Lab. Tenant has submitted, and Landlord has approved, plans to modify a portion of the Premises for use as a power room and engineering lab (the "Engineering Lab"), as more particularly described on the electrical plans dated November 17, 2006, prepared by Lucas, Merriott & Associates and the engineering plans dated November 29, 2006 prepared by Batson Bravo Engineers P.A. (the "Plans"); copies of the Plans are attached to the Amendment as Exhibit "A." All modifications of the Premises shall be at Tenant's expense, in compliance with the Plans, and subject to applicable permitting requirements and government approvals. Conduit from the exterior of the Building shall be core drilled and painted to match the Building. Ground subject to trenching shall be restored to its original condition upon completion of trenching. Tenant shall obtain Landlord's prior written approval before scheduling shut-down of power to the Building for installation of the transformer. Tenant shall be responsible for all costs in connection with installation of the transformer, including, but not limited to, costs associated with third party tenants in the Building due to the shut-down of power to the Building. Tenant shall operate the Equipment Lab in accordance with all applicable laws and governmental regulations. Notwithstanding anything to the contrary contained herein, at the end of the Term or upon earlier termination of the Lease, Tenant shall restore the Engineering Lab to the



condition it was in prior to Tenant's modifications, reasonable wear and tear excepted."

3. Section 4.104(b) of the Lease shall be deleted in its entirety and replaced with the following:

"4.104(b) Tenant shall not incorporate into, or use or otherwise place or dispose of at, the Premises or any other portion of the Property, any Hazardous Substance, except for use and storage of batteries used in Tenant's Engineering Lab and cleaning and office supplies used in the ordinary course of Tenant's business, so long as the same is in compliance with Environmental Laws. Tenant shall provide Landlord with specific information regarding any such Hazardous Substances at the Premises, upon Landlord's request, as required in order for Landlord to comply with Environmental Laws. Landlord shall, at Landlord's sole cost and expense and in accordance with this Lease, have the right to periodically inspect, take samples for testing and otherwise investigate the Premises for the presence of hazardous or toxic materials."

4. Section 5.1 of the Lease shall be deleted in its entirety and replaced with the following:

**"SECTION 5.1 SERVICES TO BE PROVIDED.**

Except as provided in Paragraph 1.203, Landlord agrees to furnish to the Premises utilities and services, which services may include elevator service, heat and air conditioning, electricity, water, janitorial services, maintenance of common areas and security. Notwithstanding the foregoing, Tenant, at its expense, shall install a separate meter for electricity for the Engineering Lab and Tenant shall be responsible for paying the cost of electrical service and maintenance for the Engineering Lab."

5. The Landlord shall execute and return this Amendment to Tenant within seven (7) days of Landlord's receipt of this Amendment executed on behalf of Tenant.
6. This Amendment and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
7. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.
8. With the exception of the parties to this Amendment, the parties do not intend to confer, and there shall not exist, any right on the part of any person, entity or enterprise to claim any right, remedy or benefit under this Amendment.
9. Each party hereby represents and warrants to the other party that such party has the full power and authority to execute and deliver this Amendment and to perform

hereunder without the necessity of any act or consent of any other person, entity or enterprise.

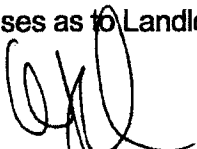
10. Any term or provision of this Amendment which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Amendment or affecting the validity or enforceability of any of the terms or provisions of this Amendment in any other jurisdiction. If any provision of this Amendment is so broad as to be unenforceable, the provision shall be interpreted to be only so broad as is enforceable.
11. This Amendment is the complete and entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings (whether written or oral) with respect to the subject matter hereof.
12. The terms and conditions of this Amendment may be amended or waived only in writing executed by duly authorized representatives of the parties hereto.
13. Except as expressly stated herein, all other terms and conditions shall remain in full force and effect as set forth in the original Lease.

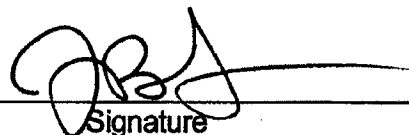
**\*\*\*END OF PAGE\*\*\***

In WITNESS WHEREOF, the parties have hereunto set their hands as of the date first stated hereof, which shall be the date upon which the latter of Landlord or Tenant shall so execute this Amendment as evidenced by the date inserted below the signature of each party at the time of execution ("Effective Date").

Witnesses as to Landlord

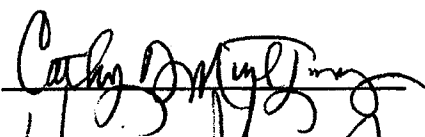
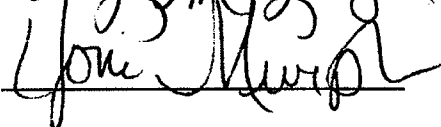
Landlord: Alltel Communications, Inc.


  
\_\_\_\_\_  
Christ Finner

  
\_\_\_\_\_  
Signature  
JAMES B. GOLDER  
Printed Name  
1/19/07  
Date

Witnesses as to Tenant

Tenant: Windstream Communications, Inc.

  
  
\_\_\_\_\_  
Jonie Minter

  
\_\_\_\_\_  
Signature  
RICK PRUITT  
Printed Name  
1-19-07  
Date


## ACKNOWLEDGMENT

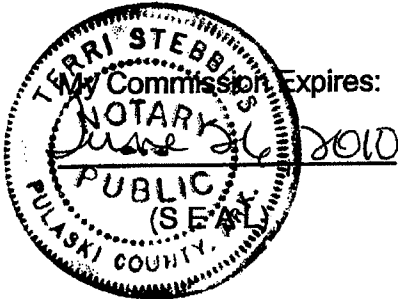
STATE OF ARKANSAS) ) SS  
COUNTY OF PULASKI )

On this 19 day of January 2007 before me, a Notary Public in and for the State of Arkansas, personally appeared James B. Goldberg known to me to be the V.P. Commercial Real Estate of Alltel Communications, Inc. who stated that the within and foregoing instrument was executed as the free and voluntary act and deed of said limited corporation for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument on behalf of the corporation.

**WITNESS** my hand and the official seal affixed the day and year first above written.

affixed the day and year first above written.

  
\_\_\_\_\_  
Notary Public



## ACKNOWLEDGMENT

STATE OF ARKANSAS) ) SS  
COUNTY OF PULASKI)

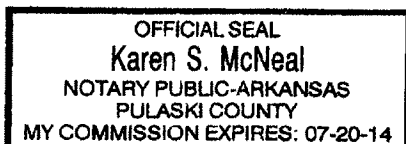
On this 19<sup>th</sup> day of January, 2007 before me, a Notary Public in and for the State of Arkansas, personally appeared Rick Pruitt known to me to be the Real Estate Director of Windstream Communications, Inc. who stated that the within and foregoing instrument was executed as the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument on behalf of the corporation.

**WITNESS my hand and the official seal affixed the day and year first above written.**

Karen S. McNeal  
Notary Public

**My Commission Expires:**

July 20, 2014  
(SEAL)



## SECOND AMENDMENT TO OFFICE BUILDING LEASE

THIS SECOND LEASE AMENDMENT (the "Amendment") is entered into this 22nd day of July, 2010, by and between **11101 Anderson Drive, LLC**, an Arkansas limited liability company ("Landlord"), successor by assignment from Alltel Properties, LLC and **Windstream Communications, Inc.**, a Delaware Corporation, ("Tenant").

### RECITALS

WHEREAS, Tenant entered into that certain Office Building Lease with Alltel Communications, Inc., a Delaware Corporation ("Original Landlord") dated July 17, 2006, and amended by that certain First Amendment to Office Building Lease dated January 19, 2007 (collectively, the "Lease") for certain premises consisting of 26,491 rentable square feet (the "Premises"), located on the entire First Floor and portions of the Second and Third Floors of the building commonly known as the Simmons Building, located at 11101 Anderson Drive, Little Rock, Arkansas (the "Building"); and

WHEREAS, Alltel Properties, LLC, an Arkansas limited liability company which is the successor entity to Original Landlord, sold the Building and associated real property to 11101 Anderson Drive, LLC, an Arkansas limited liability company ("Landlord") on March 29, 2010, and in connection therewith executed in favor of Landlord a certain Assignment and Assumption of Leases and Property Contracts whereby all of the rights and obligations of the landlord under the Lease, as heretofore modified, were assigned to and assumed by Landlord;

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. **Landlord Name.** Effective with the date of this Amendment the name of Landlord shall be changed to 11101 Anderson Drive, LLC.
2. **Term.** Tenant and Landlord hereby agree to extend the Term for an additional period of Five (5) years ("First Extension Term"). The commencement of the First Extension Term shall be May 19, 2011 and expiration date shall be May 18, 2016.

4. **Rent.** The Monthly Basic Rent for Year 1 of the First Extension Term shall be reduced to [REDACTED] or approximately [REDACTED] per Rentable Square Foot per year. The Basic Rent shall continue to be adjusted pursuant to Article 2 of the Lease throughout the remainder of the initial term, the First Extension Term and any further extensions, options, expansions or renewals. However, the following paragraph shall be deleted,

"Basic Annual Rent for each Extended Term shall be [REDACTED] of the fair market value of the Premises, based on the current fair market value of similar office space in the city in which the Premises is located."

**3. Operating Expense Base Year.** Effective with the date of this Amendment, Tenant shall no longer be required to pay its portion of the Excess Operating Expenses as defined in Article 3.3 of the Lease.

**4. Lease Controls.** In the event of a conflict in any terms or provisions of this Amendment and the Lease as modified, the terms of this Amendment shall control as to the terms set forth herein. However, any terms not outlined in this Amendment shall remain the same as outlined in the Lease.

IN WITNESS WHEREOF, the Landlord and the Tenant have executed or caused to be executed this Amendment on the dates shown below their signatures to be effective as of the date set forth above.

**Tenant:**  
**WINDSTREAM COMMUNICATIONS, INC.**

**Landlord:**  
**11101 ANDERSON DRIVE, LLC**

By: *Rick Pruitt* (SEAL)

By: *Isaac Smith* (SEAL)

Print Name: *RICK PRUITT*

Print Name: *Isaac Smith*

Title: *Mgr, Commercial Real Estate*

Title: *Principal Colliers International,*  
*authorized agent for Landlord*

Date: *7-22-10*

Date: *7/26/2010*

### THIRD AMENDMENT TO OFFICE BUILDING LEASE

THIS THIRD LEASE AMENDMENT (the "Amendment") is entered into this 15<sup>th</sup> day of April, 2011, by and between 11101 Anderson Drive, LLC, an Arkansas limited liability company ("Landlord"), successor by assignment from Alltel Properties, LLC and Windstream Communications, Inc., a Delaware corporation, ("Tenant").

#### RECITALS

WHEREAS, Tenant entered into that certain Office Building Lease with Alltel Communications, Inc., a Delaware Corporation ("Original Landlord") dated July 17, 2006, and amended by that certain First Amendment to Office Building Lease dated January 19, 2007 and Second Amendment to Office Building Lease dated July 22, 2010 (collectively, the "Lease") for certain premises consisting of 26,491 rentable square feet (the "Premises"), located on the entire First Floor and portions of the Second and Third Floors of the building commonly known as the Simmons Building, located at 11101 Anderson Drive, Little Rock, Arkansas (the "Building"); and

WHEREAS, Alltel Properties, LLC, an Arkansas limited liability company which is the successor entity to Original Landlord, sold the Building and associated real property to 11101 Anderson Drive, LLC, an Arkansas limited liability company ("Landlord") on March 29, 2010, and in connection therewith executed in favor of Landlord a certain Assignment and Assumption of Leases and Property Contracts whereby all of the rights and obligations of the landlord under the Lease, as heretofore modified, were assigned to and assumed by Landlord;

WHEREAS, Tenant now wished to expand the Premises to include the remaining available square feet on the third floor of the Building, consisting of 3,994 rentable square feet (the "Expansion Space");

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree to follow:

1. **Premises.** Effective with the date of this Amendment the Premises shall be changed from 26,491 rentable square feet to 30,485 rentable square feet. The Expansion Space is generally depicted on the attached Exhibit "A."
2. **Rent.** Beginning May 19, 2011, the Monthly Basic Rent for the Premises shall be [REDACTED] or approximately [REDACTED] per Rentable Square Foot per year.
3. **Improvements.** Tenant shall be permitted to make alterations to the Expansion Space subject to Landlord's final approval, which shall not be unreasonably withheld.
4. **Lease Controls.** In the event of a conflict in any terms or provisions of this Amendment and the Lease as modified, the terms of this Amendment shall control. However, any terms not outlined in this Amendment or the First or Second Amendment shall remain the same as outlined in the Lease.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Landlord and the Tenant have executed or caused to be executed this Amendment on the dates shown below their signatures to be effective as of the date set forth above.

Tenant:

WINDSTREAM COMMUNICATIONS, INC.

By: *Rick Pruitt*

Print Name: RICK PRUITT

Title: Commercial Real Estate

Date: 4-15-11

Landlord:

11101 ANDERSON DRIVE, LLC

By: *C. Isaac Smith*

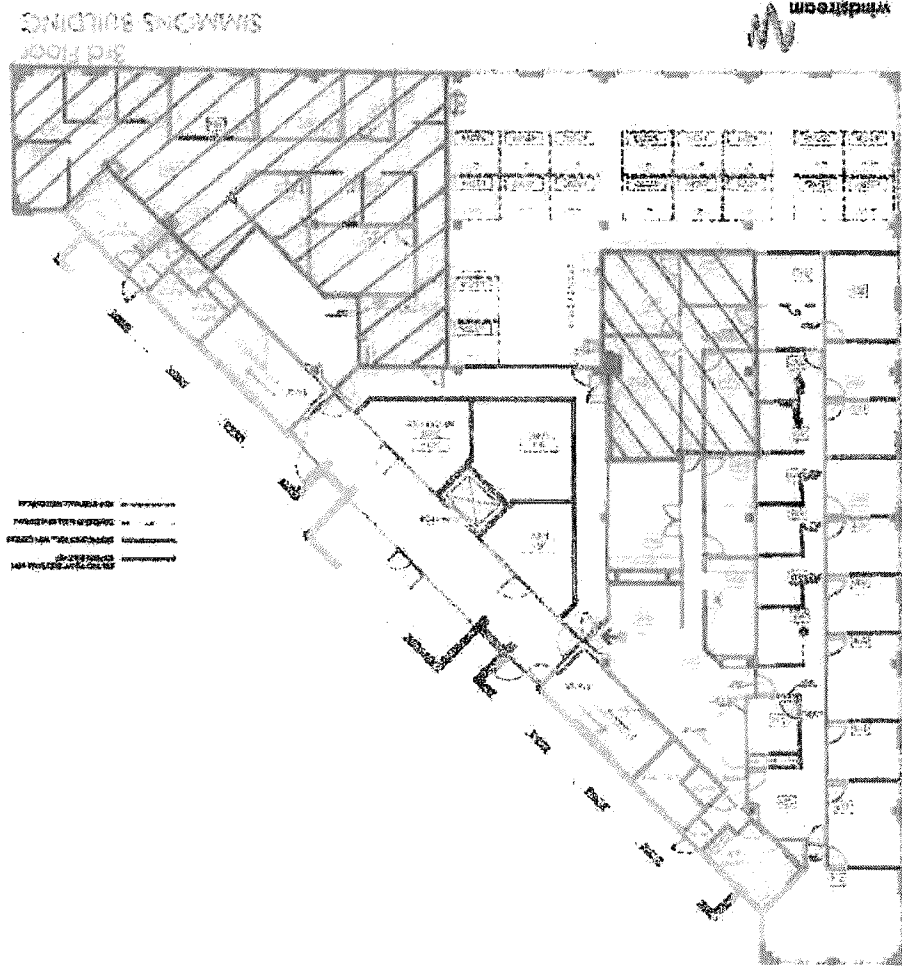
Print Name: C. ISAAC SMITH

Title: PRINCIPAL, COLLIER'S INTERNATIONAL  
AUTHORIZED AGENT OF LANDLORD

Date: 4-15-11



**EXHIBIT "A"**



## FOURTH AMENDMENT TO OFFICE BUILDING LEASE

THIS FOURTH LEASE AMENDMENT (the "Amendment") is entered into this 26th day of January, 2015, by and between 11101 Anderson Drive, LLC, an Arkansas limited liability company ("Landlord"), successor by assignment from Alltel Properties, LLC and Windstream Communications, Inc., a Delaware corporation, ("Tenant").

### RECITALS

WHEREAS, Tenant entered into that certain Office Building Lease with Alltel Communications, Inc., a Delaware Corporation ("Original Landlord") dated July 17, 2006, and amended by that certain First Amendment to Office Building Lease dated January 19, 2007 and Second Amendment to Office Building Lease dated July 22, 2010 (collectively, the "Lease") for certain premises consisting of 26,491 rentable square feet (the "Premises"), located on the entire First Floor and portions of the Second and Third Floors of the building commonly known as the Simmons Building, located at 11101 Anderson Drive, Little Rock, Arkansas (the "Building"); and

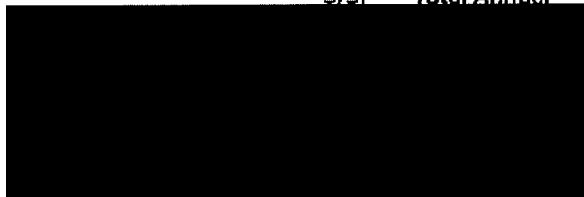
WHEREAS, Alltel Properties, LLC, an Arkansas limited liability company which is the successor entity to Original Landlord, sold the Building and associated real property to 11101 Anderson Drive, LLC, an Arkansas limited liability company ("Landlord") on March 29, 2010, and in connection therewith executed in favor of Landlord a certain Assignment and Assumption of Leases and Property Contracts whereby all of the rights and obligations of the landlord under the Lease, as heretofore modified, were assigned to and assumed by Landlord;

WHEREAS, Tenant wished to expand the Premises to include the remaining available square feet on the third floor of the Building, consisting of 3,994 rentable square feet (the "Expansion Space"); creating a total premises size of 30,485 rentable square feet.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree to follows:

1. **Term.** The expiration of the lease term shall be amended to 09/30/2019.
2. **Landlord Improvements.** Landlord at its sole cost and expense agrees to commence and complete in a good and workmanlike manner the following Landlord Improvements to the building common areas and Tenant's Premises prior to Sixty (60) days following execution of this amendment (with the exception of the parking lot, which should be June 1, 2015 (for weather reasons): (1) fix the pot holes, resurface & restripe the parking lot; (2) add one (1) 2'x4' light fixture in one office on the third floor; (3) remove Tenant's existing carpet on floors 1 & 2 and install new Tenant approved building standard carpet tiles (which will include raising the in-place furniture to complete the work) herein after referred to as "Landlord Improvements".
3. **Basic Annual Rent.** Commencing on February 1, 2015, the Basic Monthly Rent shall be modified to the below rent schedule.

\$/SF      Total Annual



The lease rate during Tenant's remaining Second Extension option period shall escalate annually over and above the average rental rate for the previous term. In addition, any reference to a Base Year for purposes of calculating additional Operating Expense pass-through shall be amended to the Calendar year 2016.

4. **Self Insurance.** Section 7.201 of the Lease is hereby amended and modified as follows: Notwithstanding anything contained herein Section 7 to the contrary, Tenant shall have the right but not the obligation to self-insure its personal property, plate glass and business interruption.
5. **Commission.** Except for Landlord's leasing agent Colliers International and Partners National Real Estate Group, Inc., Tenant represents and warrants unto the Landlord that Tenant has not had conversations or dealings with any other broker other than Colliers International ("Landlord Broker") and Partners National Real Estate Group, Inc. ("Tenant Broker") in connection with this Fourth Amendment. Landlord shall pay Tenant Broker within thirty (30) days after execution of this Fourth Amendment a commission of [REDACTED] of the lease consideration for any new additional rental over and above the existing term thru September 30, 2019 for their services in connection with this Fourth Amendment to the Lease. [REDACTED] shall be paid [REDACTED]
6. **Lease Controls.** In the event of a conflict in any terms or provisions of this Amendment and the Lease as modified, the terms of this Amendment shall control as to the terms set forth herein. However, any terms not outlined in this Amendment or the First, Second or Third Amendment shall remain the same as outlined in the Lease.

IN WITNESS WHEREOF, the Landlord and the Tenant have executed or caused to be executed this Amendment on the dates shown below their signatures to be effective as of the date set forth above.

Tenant:  
WINDSTREAM COMMUNICATIONS, INC.

By: Robert E. Cunderman

Print Name: Robert E. Cunderman

Title: CEO

Date: 1-23-15

Landlord:  
11101 ANDERSON DRIVE, LLC

By: Isaac Smith

Print Name: Isaac Smith

Title: Managing Member

Date: 1/26/15