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February 4, 1998

100-86-72

Ms. Blanca S. Bayo  
Director, Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

VIA FEDERAL EXPRESS

Re: Transfer of Control of Network Long Distance, Inc.  
to IXC Long Distance, Inc.

Dear Ms. Bayo:

IXC Long Distance, Inc. ("IXCLD") and Network Long Distance, Inc. ("Network") (referred to jointly as the "Parties"), by their attorneys, hereby notify the Florida Public Service Commission of their intention to transfer control of all outstanding capital stock of Network to IXCLD. The Parties both hold Certificates of Public Convenience and Necessity, and there will be no transfer of certificates, permits or operative rights.

IXCLD, a Delaware corporation, maintains its headquarters at 1122 Capital of Texas Highway South, Austin, Texas 78746. IXCLD is a wholly owned subsidiary of IXC Communications, Inc. ("IXC"), whose stock is publicly traded on the NASDAQ Stock Market. IXCLD currently operates as a reseller of intrastate interexchange services in forty-eight states, including Florida. IXCLD received its authority to provide telecommunications services in Florida on July 5, 1995, in Docket No. 950259-TI. IXCLD also provides interstate and international telecommunications services pursuant to authority of the Federal Communications Commission ("FCC").

Network, a Delaware corporation, maintains its headquarters at 11817 Canon Boulevard, Suite 600, Newport News, Virginia 23606. Network's stock is publicly traded on the NASDAQ Stock Market. Network provides resold intrastate interexchange telecommunications services in forty-seven states, including

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Florida.<sup>1</sup> Network received its authority to provide telecommunications services in Florida on June 30, 1993, in Docket No. 930249-TI. Network also provides interstate and international telecommunications services pursuant to authority of the FCC.

On December 19, 1997, IXCLD and Network executed a Stock Acquisition Agreement and Plan of Merger ("Agreement") pursuant to which IXCLD will acquire all outstanding capital stock of Network after requisite regulatory approvals have been obtained.<sup>2</sup> The proposed transaction is also subject to the approval of Network's stockholders.

To accomplish the acquisition, IXCLD formed a wholly-owned subsidiary, Pisces Acquisition Corp. ("Acquisition Corp."). At the closing of the proposed transaction, Acquisition Corp. will be merged with and into Network. Network will be the survivor of the merger with Acquisition Corp. In the merger, (i) the outstanding shares of capital stock of Network will be converted into shares of IXC common stock, and (ii) the outstanding shares of Acquisition Corp. will be converted into shares of capital stock of Network. Following consummation of the merger, Network, under the corporate name Eclipse Telecommunications, Inc., will be a wholly-owned subsidiary of IXCLD. After consummation of the Agreement, employment agreements will be entered into with the current management of Network.

Following the transfer of control transaction described herein, Network will continue to operate and will remain the holder of its certification. Network's and IXCLD's current customers will not be affected adversely by the proposed acquisition. The transfer of stock will be made in a seamless fashion that will not affect the provision of telecommunications

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<sup>1</sup> Applications were previously submitted regarding the merger into Network of Network's wholly owned subsidiaries Eastern Telecom International Corp. ("Eastern") and United Wats, Inc. ("UWI"). The Eastern application was assigned Case No. 980097-TI. The UWI application was assigned Case No. 971634-TI. Further, a notification letter has been submitted regarding Network's acquisition of National Teleservice, Inc. ("NTI"), and NTI's merger into Network.

<sup>2</sup> A copy of the Agreement is attached hereto as Exhibit "A."

services in Florida. The management of Network and IXCLD will not change as a result of the transaction. Similarly, following the transaction, Network and IXCLD will continue respectively to provide services to customers under existing service arrangements.

IXCLD is a wholly owned subsidiary of IXC Communications, Inc. ("IXC"), whose stock is publicly traded on the NASDAQ Stock Market. IXC is financially well qualified to consummate the proposed transaction. In 1995, IXC issued and sold seven notes in the aggregate principal amount of \$285,000,000 to institutional and accredited investors, and in July 1996, its initial public offering of equity generated net proceeds (before expenses) of approximately \$83,000,000 in additional capital for the company. In addition, in April 1997, IXC completed the sale of \$100 million of 7½% Junior Convertible Preferred Stock Due 2007. Further, in August 1997, IXC completed the sale of \$300 million of 12½% Junior Exchangeable Preferred Stock Due 2009.

Current financial information for IXC and Network is attached hereto as Exhibits "B" and "C."

The stock transfer described above is clearly in the public interest. The proposed transaction will bring together IXCLD and Network, two rapidly growing providers of interexchange telecommunications services. The combination of the two companies' resources and expertise will strengthen the companies' competitive positions in the interexchange marketplace in Florida and elsewhere.

The transaction will also combine the complementary management skills, background, and experience of IXCLD and Network, allowing the companies to capitalize and build on the diverse expertise of each company in providing telecommunications services to the public. In addition, IXCLD and Network will realize significant economic and marketing efficiencies and enhancements, permitting significant savings in operating costs and capital expenditures. In sum, the proposed stock transfer will benefit the public interest by enhancing the ability of IXCLD and Network to offer a full range of competitively priced services in the interexchange marketplace, thereby further invigorating competition in Florida.

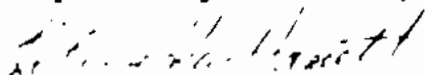
It is the Parties' understanding that prior Commission approval is not required for the transaction described above. In

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the event, however, that the Commission determines that approval is required, please consider this letter as a request for expedited approval. Absent written notice to the contrary within thirty days of the date of this letter, the Parties will assume that no further action is required and will consummate the transaction as planned.

Enclosed are seven (7) copies of this letter including Exhibits. Also enclosed is a receipt copy of this letter. Please file-stamp and return the receipt copy in the self-addressed, stamped envelope provided. Please contact the undersigned with any questions or comments regarding this transaction.

Respectfully submitted,



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Enclosures

**EXHIBIT A**  
**Copy of the Proposed Agreement**

**STOCK ACQUISITION  
AGREEMENT AND PLAN OF MERGER  
BY AND AMONG  
EXC COMMUNICATIONS, INC.,  
EXC LONG DISTANCE, INC.,  
PISCES ACQUISITION CORP.,  
AND  
NETWORK LONG DISTANCE, INC.**

**December 19, 1997**

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## STOCK ACQUISITION AGREEMENT AND PLAN OF MERGER

**THIS STOCK ACQUISITION AGREEMENT AND PLAN OF MERGER** (the "Agreement") is made and entered into as of the 19th day of December, 1997, by and among IXC Communications, Inc., a Delaware corporation ("IXC"), IXC Long Distance, Inc., a Delaware corporation and a wholly-owned subsidiary of IXC ("IXC Long Distance"), Pisces Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of IXC Long Distance ("Acquisition"), and Network Long Distance, Inc., a Delaware corporation ("Network").

**WHEREAS**, Network is engaged in the business of providing communications services;

**WHEREAS**, IXC Long Distance has formed Acquisition as a wholly-owned subsidiary in order to effect the merger of Acquisition with and into Network (the "Merger") in accordance with this Agreement and in accordance with the laws of the state of Delaware so that, upon consummation of the Merger, Network will be a wholly-owned subsidiary of IXC Long Distance, and Acquisition will cease to exist;

**WHEREAS**, it is the intent of the parties that the Merger qualify as a reorganization under Section 368(a)(1)(B) of the Internal Revenue Code of 1986, as amended (the "Code"), and this Agreement is intended to be and is adopted as a plan of reorganization within the meaning of Section 368(b) of the Code;

**WHEREAS**, it is the intent of the parties that the Merger shall be recorded for accounting purposes as a pooling-of-interests;

**WHEREAS**, this Agreement has been approved by the respective boards of directors of IXC, IXC Long Distance, Acquisition and Network; and

**WHEREAS**, the parties desire to induce each other to enter into this Agreement by making certain representations, warranties and covenants contained herein.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual agreements, covenants, representations, warranties and promises set forth herein, and in order to prescribe the terms and conditions of the Merger, the parties hereto agree as follows:

### ARTICLE I THE MERGER

**Section 1.1 The Merger.** At the Effective Time (as defined in Section 1.2), upon the terms and subject to the conditions hereof, and in accordance with the General Corporation Law of the State of Delaware (the "Corporation Law"), Acquisition will be merged with and into Network in the Merger whereupon Network shall continue as the surviving corporation (the

shall be delivered in exchange therefor. Each share of common stock, par value \$.01 per share, of Acquisition shall be canceled and retired and be converted into the right to receive one share of the Surviving Corporation's common stock

(b) Except as set forth in Section 2.1(a), each share of Network Common issued and outstanding immediately prior to the Effective Time shall be converted into the right to receive 0.2998 shares (the "Exchange Ratio") of common stock, par value \$.01 per share, of DXC (the "DXC Common") (the "Share Consideration").

(c) All warrants or rights to purchase shares of Network Common issued and outstanding immediately prior to the Effective Time (the "Warrants") shall be canceled and converted into the right to receive an option (a "New Warrant") to acquire shares of DXC Common equal to the number of shares of Network Common subject to purchase under such Warrant multiplied by the Exchange Ratio (the "Warrant Consideration"). Each New Warrant shall, other than to reflect the application of the Exchange Ratio, contain terms and conditions as are substantially similar to the terms and conditions as the Warrant exchanged therefor. The Warrant Consideration and the Share Consideration are referred to together herein as the "Merger Consideration".

(d) Notwithstanding Section 2.1(b) and (c), no fractional share of DXC Common shall be issued in the Merger, whether as a part of the Share Consideration or Warrant Consideration. In lieu thereof, any person who would have received a fractional share of less than one-half will have such fractional share rounded down to the prior whole share number and any person who would have received a fractional share of one-half or more shall have such fractional share rounded up to the next whole share number. If the application of the Exchange Ratio to any Warrant would result in a New Warrant being issued to acquire any fractional share, such fractional share shall likewise be rounded up or down, as applicable.

(e) Network acknowledges and represents that 313,000 shares of Network Common issued to Michael Ross and held in escrow are included in the 13,393,678 shares of Network Common outstanding and that any release of such shares from such escrow, whether to Mr. Ross, Network, or the Surviving Corporation, will have no effect whatsoever on the Exchange Ratio.

(f) In the event of any reclassification, recapitalization or stock split with respect to DXC Common (or if a record date with respect to any of the foregoing should occur) prior to the Effective Time, appropriate and proportionate adjustments, if any, shall be made to the Exchange Ratio and all references to the Exchange Ratio in this Agreement shall be deemed to be the Exchange Ratio as so adjusted.

**Section 2.2 Surrender of Shares.** Promptly after the Effective Time, the Surviving Corporation shall cause to be mailed (a) to each record holder, as of the Effective Time, of an

outstanding certificate or certificates which immediately prior to the Effective Time represented Network Common (the "Certificates"), and (b) to each record holder, as of the Effective Time, of a Warrant, in each case, a form letter of transmittal which shall specify that delivery shall be effected, and risk of loss and title to the Certificates or Warrants, as applicable, shall pass, only upon proper delivery thereof to the trust company to act as agent for the holders of Network Common and Warrants in connection with the Merger (the "Agent") and instructions for use in effecting the surrender of the Certificates or Warrants, as applicable, for payment of the Merger Consideration. Upon surrender to the Agent of a Certificate or Warrant, together with such letter of transmittal, duly completed and validly executed in accordance with the instructions thereto, and such other documents as may be required pursuant to such instructions, the holder of each Certificate or Warrant shall be entitled to receive in exchange therefor the Merger Consideration and such Certificate or Warrant, respectively, shall then be canceled. If payment of the Merger Consideration is to be made to a person other than the person in whose name the surrendered Certificate or Warrant is registered on the stock transfer books of Network, it shall be a condition of payment that the Certificate or Warrant so surrendered shall be endorsed properly or otherwise be in proper form for transfer and that the person requesting such payment shall have paid all transfer and other taxes required by reason of the payment of the Merger Consideration to a person other than the registered holder of the Certificate or Warrant surrendered or shall have established to the satisfaction of the Surviving Corporation that such taxes either have been paid or are not applicable.

**Section 2.3 Stock Transfer Books.** At the close of business on the day of the Effective Time, the stock transfer books of Network shall be closed and thereafter there shall be no further registration or transfer of Network Common. From and after the Effective Time, the holders of Network Common outstanding immediately prior to the Effective Time shall cease to have any rights with respect to Network Common except as otherwise provided herein or by applicable law.

**Section 2.4 Date, Time and Place of Closing.** The closing of the Merger (the "Closing") shall be held on the fifth business day following the satisfaction or waiver of all of the conditions set forth in Article VIII hereof, at such place, time and date as the parties hereto shall mutually agree. The date of the Closing is referred to herein as the "Closing Date."

**Section 2.5 Deliveries by Network at Closing.** At the Closing, and thereafter as may be reasonably requested by IXC, Network shall deliver to LXC the following, all in form and content reasonably acceptable to IXC and its counsel:

- (a) Certified copies of duly adopted resolutions of the Board of Directors and stockholders of Network authorizing, approving, and consenting to the execution and delivery of this Agreement, and the other agreements contemplated hereby (the "Transaction Documents") to which it is a party, to the consummation of the transactions contemplated herein and therein, and to the performance of the agreements set forth herein and therein;

(b) The waiver, release, consent, estoppel certificate or other document of any person, corporation, association, or other entity of any nature whatsoever, in form reasonably acceptable to IXC, which are a condition to Closing of IXC, IXC Long Distance or Acquisition under Article VIII hereof, or which IXC in its reasonable judgment deems necessary to (i) consummate the transactions contemplated hereby and (ii) make the warranties and representations made by Network in this Agreement true;

(c) Duly executed employment agreements (the "Employment Agreements") in mutually reasonably satisfactory form and content and with such senior executives of Network as IXC may reasonably request;

(d) An opinion of Network's counsel dated as of the Closing Date in form and content reasonably satisfactory to IXC,

(e) All corporate minute books, stock ledger and transfer books and all other books and records, and the corporate seal of Network, and

(f) Such other documents as IXC or its counsel may reasonably request.

**Section 2.6 Deliveries by IXC at Closing.** At the Closing, IXC will deliver the following, all in form and content reasonably acceptable to Network and its counsel:

(a) Certified copies of duly adopted resolutions of the Board of Directors of IXC authorizing, approving, and consenting to the execution and delivery of this Agreement and the Transaction Documents to which it is a party, to the consummation of the transactions contemplated herein and therein, and to the performance of the agreements set forth herein and therein;

(b) The waiver, release, consent, estoppel certificate or other document of any person, corporation, association, or other entity of any nature whatsoever, in form reasonably acceptable to Network, which are a condition to Closing of Network under Article VIII hereof or which Network in its reasonable judgment deems necessary to (i) consummate the transactions contemplated hereby and (ii) make the warranties and representations made by IXC in this Agreement true,

(c) An opinion of IXC's counsel dated as of the Closing Date in form and content reasonably satisfactory to Network,

(d) Duly executed Employment Agreements; and

(e) Such other documents as Network or its counsel may reasonably request.

**ARTICLE III**  
**REPRESENTATIONS AND WARRANTIES OF NETWORK**

Network represents and warrants to EXC as follows:

**Section 3.1 Corporate Existence.** Network and each of the Subsidiaries (as defined in Section 3.2) is duly organized, validly existing, and in good standing under the laws of the state of its incorporation. Attached hereto as Exhibit 3.1 is a complete and correct copy of the Certificate of Incorporation and Bylaws (together with all amendments thereto) of Network. Each of Network and the Subsidiaries is duly certified or licensed in each state and jurisdiction where such qualification, certification or licensing is necessary or required for Network or such Subsidiary to conduct its business and offer communications services.

**Section 3.2 Subsidiaries.** Network has no subsidiary corporations or any other interest in any corporation, partnership, association or joint venture, other than as described on Schedule 3.2 (the "Subsidiaries").

**Section 3.3 Corporate Power and Authority.** Each of Network and the Subsidiaries has all requisite corporate power and authority to own its properties and assets, and to carry on the business in which it is now engaged. Network has the corporate power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party, and to perform its covenants set forth herein and therein.

**Section 3.4 Capitalization.** The authorized capital stock of Network at December 19, 1997 consists of: (a) 20,000,000 shares of Network Common, of which 13,393,678 shares are issued and outstanding and no shares are held as treasury stock and (b) 25,000,000 shares of preferred stock, par value \$.01 per share, of which no shares are issued and outstanding and no shares are held as treasury stock. Other than this Agreement, and except as set forth on Schedule 3.4 hereto, there is not outstanding any subscription, option, warrant, call, right or other agreement or commitment obligating Network to issue, sell, deliver or transfer (including any right of conversion or exchange under any outstanding security or other instrument) any shares of the Network Common or any other securities or shares of the capital stock of Network. Other than this Agreement, and except as set forth on Schedule 3.4 hereto, there is not outstanding any subscription, option, warrant, call, right or other agreement or commitment obligating a Subsidiary to issue, sell, deliver or transfer (including any right of conversion or exchange under any outstanding security or other instrument) any securities or shares of the capital stock of such Subsidiary. All such issued and outstanding shares are validly issued, fully paid and nonassessable. There are no restrictions imposed by the Certificate of Incorporation or Bylaws of Network, and there are no other agreements, understandings or commitments, which would in any way affect or impair the transactions contemplated hereby.

**Section 3.5 Binding Effect.** This Agreement and each of the Transaction Documents to be executed and delivered by Network in connection herewith, when executed and delivered,

will be the legal, valid and binding obligation of Network, enforceable against it in accordance with their terms, except as enforceability may be limited by (a) applicable bankruptcy, reorganization, insolvency, moratorium and similar laws affecting the enforcement of creditors' rights generally and (b) general equitable principles (regardless of whether enforceability is considered in a proceeding in equity or at law)

**Section 3.6 Execution and Delivery Permitted.** The execution, delivery and performance of this Agreement, and the Transaction Documents, and the consummation of the transactions contemplated hereby or thereby, will not violate or result in a breach of any term of Network's or a Subsidiary's Certificate of Incorporation or Bylaws, result in a breach of or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under or result in the termination of, or accelerate the performance required by, any term in any material agreement, tariff or other instrument to which Network or a Subsidiary is a party or by which it is bound (unless such default has been previously waived by the other party to such agreement, tariff or other instrument), violate any law or any order, rule, judgment, decree or award or regulation applicable to Network or a Subsidiary of any court or any regulatory body, administrative agency or other governmental instrumentality having jurisdiction over Network, such Subsidiary or any of their respective properties, and will not result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of its assets, which lien, charge or encumbrance has not been removed prior to Closing. The Board of Directors of Network and the Stockholders have, or as of the Closing Date shall have taken all actions required by law and by Network's Certificate of Incorporation and Bylaws to authorize the execution, delivery and performance of this Agreement, together with its Schedules and Exhibits, and the consummation of the transactions contemplated by this Agreement or by any of the Exhibits. Except as set forth on Schedule 3.6 hereto, none of the execution, delivery or performance of this Agreement or any of the Transaction Documents, or the consummation of the transactions contemplated hereby or thereby requires any filing with or the consent or approval of any third party, including but not limited to any governmental body or entity other than (a) compliance with the Securities Act of 1933, as amended (the "Securities Act") and the Securities Exchange Act of 1934, as amended (the "Exchange Act") (b) applications to the Federal Communications Commission ("FCC") and the certain state utility regulatory commissions in states in which Network or a Subsidiary offers services (such commissions together with the FCC constitute a "Commission" or the "Commissions"), (c) notifications to the Federal Trade Commission (the "FTC") and the Department of Justice (the "DOJ") under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), and (d) the filing with the Delaware Secretary of State of the Certificate of Merger in respect of the Merger in accordance with the Corporation Law.

**Section 3.7 Reports and Financial Statements.** Since March 31, 1996, to the extent Network has been required to make filings under the Securities Act, the Exchange Act or applicable state laws and regulations, Network has filed with the SEC or the applicable state regulatory authority, as the case may be, all forms, statements, reports and documents (including all exhibits, amendments and supplements thereto) required to be filed by it under each of the



Securities Act, the Exchange Act and applicable state laws and regulations, and the respective rules and regulations thereunder, all of which complied in all material respects with all applicable requirements of the appropriate act and the rules and regulations thereunder. Network has previously delivered to EXC true and complete copies of its (a) Annual Report on Form 10-K for the fiscal year ended March 31, 1997, as filed with the SEC, which includes the audited consolidated financial statements of Network and the Subsidiaries for the fiscal year then ended (the "Network Financial Statements"), (b) interim report on Form 10-Q for the quarters ended June 30, and September 30, 1997, which includes unaudited consolidated financial statements of Network and the Subsidiaries for the fiscal quarters then ended (the "Network Recent Financial Statements"), (c) proxy and information statements relating to all meetings (whether annual or special) of its shareholders (the "Shareholders"), and actions by written consent in lieu of a Shareholders' meeting, from March 31, 1997 until the date hereof, and (d) all other reports or registration statements filed by Network with the SEC since June 30, 1997 (collectively, the "Network SEC Reports"). As of their respective dates, the Network SEC Reports did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The audited consolidated financial statements and unaudited interim financial statements of Network and the Subsidiaries included in the Network SEC Reports and the Network Financial Statements have been prepared in accordance with United States generally accepted accounting principles ("GAAP") (except as may be indicated therein or in the notes thereto) and fairly present in all material respects the financial position of Network and the Subsidiaries as of the dates thereof and the results of their operations and changes in financial position for the periods then ended, subject, in the case of the unaudited interim financial statements, to normal year-end and audit adjustments and the absence of explanatory notes. The Network Financial Statements contain and reflect adequate reserves for (a) all known liabilities or obligations of any nature, whether absolute, contingent or otherwise, in accordance with GAAP and (b) all reasonably anticipated losses and costs in excess of expected revenue relating to such loss. The unaudited consolidated interim financial statements of Network, and the Subsidiaries included in the Network SEC Reports, have been similarly prepared and contain and reflect adequate reserves for (a) all known liabilities or obligations of any nature, whether absolute, contingent or otherwise, in accordance with GAAP and (b) all reasonably anticipated losses.

**Section 3.8 Absence of Certain Changes.** Except as set forth on Schedule 3.8, since September 30, 1997 there has not been:

- (a) Any material adverse change in the financial condition, operations, business or prospects of Network and the Subsidiaries (a "Network Material Adverse Effect"), including, but not limited to, any state or federal regulatory proceedings against Network or a Subsidiary which could culminate in an order or other action which could have such an adverse change, excluding generally known industry trends and competitive conditions affecting the industry generally;

(b) Any material physical damage or destruction, whether or not covered by insurance, which has resulted in, or reasonably could be expected to result in a Network Material Adverse Effect;

(c) Any material labor dispute or threat thereof or any attempt to organize or reorganize the employees of Network or a Subsidiary for the purpose of collective bargaining;

(d) Any direct or indirect redemption, purchase or other acquisition by Network of any of the Network Common or any other shares of capital stock of Network, or declaration of or payment or distribution of any kind of cash or other assets to any Shareholder;

(e) Any employment, severance, consulting or other compensation contract, or any amendment or supplement thereto, entered into by Network or a Subsidiary with any director or officer, or any increase of compensation payable or to become payable to any of its officers, except for increases in compensation in the ordinary course of business;

(f) Any communication, whether oral or written, to Network from Network's customers or suppliers or agencies regulating Network notifying it of, nor does Network, after making due inquiry, have any knowledge of, any potential developments affecting it, which would reasonably lead it to expect an Network Material Adverse Effect; or

(g) Any satisfaction or discharge of any material lien by Network or a Subsidiary or payment by Network or a Subsidiary of any material obligation or liability, other than an obligation or liability included in the unaudited consolidated interim balance sheet of Network and the Subsidiaries as of September 30, 1997, current liabilities incurred since such date in the ordinary course of business, liabilities incurred in carrying out the transactions contemplated by this Agreement and obligations and liabilities under, and pursuant to the terms of, the contracts and agreements listed in Schedule 3.16 hereof;

(h) Any sale or transfer of any assets or cancellation by Network or a Subsidiary of debts or claims having a value, in the aggregate, of more than \$500,000, except, in each case, in the ordinary course of business;

(i) Any knowing waiver by Network or a Subsidiary of any rights having a value, in the aggregate, in excess of \$500,000;

(j) Any mortgage, pledge or lien or other encumbrance of any of Network or a Subsidiary's assets, tangible or intangible; or

(k) Any assignment, sale or transfer by Network or a Subsidiary of any material patent, trademark, trade name, trade secret, copyright or other intangible asset.

**Section 3.9 No Undisclosed Liabilities** Except as set forth on Schedule 3.9, as of September 30, 1997, neither Network nor any Subsidiary had any material liabilities, absolute or contingent, which are not shown on the Network Recent Financial Statements. All liabilities, absolute or contingent, of Network and any Subsidiary incurred subsequent to September 30, 1997, have, and as of the Closing Date will have been incurred only in the ordinary course of business. Neither Network nor any Subsidiary will, prior to the Closing, incur any single such liability incurred subsequent to the date of this Agreement in excess of \$500,000 without the consent of DC. The accounts, notes and other receivables, whether current or non-current, of Network and any Subsidiary shown in the Network Recent Financial Statements, and all such receivables of Network and any Subsidiary as at the Closing, arose from bona fide transactions

**Section 3.10 RESERVED**

**Section 3.11 Benefit Plans; ERISA**

(a) Schedule 3.11(a) lists all material contracts, agreements, arrangements and understandings, whether written or oral, with respect to the payment or delivery to any person of compensation, bonuses, perquisites, benefits and other items of value by Network or any Subsidiary providing benefits in excess of \$25,000 per person per year.

(b) Schedule 3.11(b) lists each employee of Network or any Subsidiary whose annual base salary is \$75,000 or more and identifies the salary, commissions, bonuses, perquisites and benefits for each such employee.

(c) No employee of Network or any Subsidiary will be entitled to severance or any similar pay by virtue of the transactions contemplated by this Agreement. Schedule 3.11(c) sets forth each employee of Network or any Subsidiary who has any right to severance or any similar pay in excess of \$50,000 for any reason, listing the employee name, severance amount or method of calculation, and the basis for such right.

(d) Schedule 3.11(d) contains a true and complete list of each written pension, profit sharing, other deferred compensation, bonus, incentive compensation, stock purchase, stock option, retirement, supplemental retirement, severance or termination pay, medical, hospitalization, life insurance, dental, disability, salary continuation, supplemental unemployment benefits plan, program, arrangement or contract maintained, contributed to, or required to be contributed to by Network or any Related Party (hereinafter defined) for the benefit of any current or former employee, director or agent of Network or any Related Party, whether or not any of the foregoing is funded and whether or not subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA") (collectively, the "Network Benefit Plans"). Network and its Related Parties do not have any express or implied commitment or contract to create any additional Network Benefit Plan or modify any existing Network Benefit Plan, in a manner that would materially increase its costs other than as may be required to comply with ERISA

or the Code. Network has delivered to IXC, with respect to each applicable Network Benefit Plan (i) true and complete copies of all material documents embodying each Network Benefit Plan including, without limitation, the plan and trust or other funding arrangement relating thereto, summary plan descriptions, employee handbooks or personnel manuals, and all amendments and supplements thereto, (ii) the most recent annual report (Series 5500 and all schedules thereto), if any, required by ERISA; and (iii) the most recent determination letter received from the Internal Revenue Service ("IRS"), if any. For purposes of this Section 3.11, "Related Party" means any member of a controlled group of corporations, a group of trades or businesses under common control or an affiliated service group, within the meaning of Section 414(b), (c), (m) or (o) of the Code, of Network.

(e) Except as provided in Schedule 3.11(e) none of the Network Benefit Plans is intended by Network or any Related Party to meet, or is required to meet, the requirements of Section 401(a) of the Code and no Network Benefit Plan is subject to Title IV of ERISA.

(f) Network and any Related Party have performed the obligations required to be performed by them under, and are not in default under or in violation of, any and all of the Network Benefit Plans in any material respect, and each Network Benefit Plan has been operated in all material respects in accordance with the requirements of all applicable laws and regulations. Neither any Network Benefit Plan or fiduciary nor Network or any Related Party has taken any action, or failed to take any action, that could subject it or any other person to any material liability for any excise tax under Chapter 43 of the Code or for breach of fiduciary duty with respect to or in connection with a Network Benefit Plan.

(g) Except as provided in Schedule 3.11(g) at no time has Network or any Related Party been required to contribute to any "multiemployer plan" (within the meaning of Section 3(37) of ERISA) and Network and its Related Parties have no liability (contingent or otherwise) relating to the withdrawal or partial withdrawal from a multiemployer plan. Network and its Related Parties do not participate in any "multiple employer plans," within the meaning of Code Section 413(c).

(h) No Network Benefit Plan provides or is required to provide group health, medical, death or survivor benefits to any former or retired employee of Network, a Related Party or beneficiary thereof, except to the extent (i) required under any state law or (ii) under Section 601 of ERISA.

(i) No Network Benefit Plan or fiduciary has nor does Network or any Related Party have any material liability to any participant, beneficiary or other person under any provision of ERISA or any other applicable law by reason of any payment of, or failure to pay, benefits or other amounts with respect to or in connection with any Network Benefit Plan.

(j) Except as set forth on Schedule 3.11(j), each Network Benefit Plan may be terminated by Network or its Related Parties within a period of thirty (30) days following the Closing Date without acceleration or additional vesting of any benefits and without payment of any amount as a penalty, bonus, premium, severance pay or other compensation or amount.

**Section 3.12 Litigation.** Except as set forth in Schedule 3.12.

(a) There are no claims, suits, actions, or proceedings of any nature whatsoever in law or in equity, pending before any court, governmental department, commission, agency, instrumentality or authority or any arbitrator, or, to the best knowledge of Network, threatened, nor are there, to the best knowledge of Network, any investigations, whether or not purportedly on behalf of Network, complaints or reviews by any court, governmental department, commission, agency, instrumentality or authority or any arbitrator pending or threatened against, relating to or affecting, Network or a Subsidiary which could have a Network Material Adverse Effect.

(b) Neither Network nor any Subsidiary is operating under or subject to, nor in default with respect to, any order, writ, injunction, garnishment, levy or decree of any federal, state, municipal or other governmental court, department, commission, board, bureau, agency or instrumentality, which could have a Network Material Adverse Effect. The use or ownership of Network's assets, the use or occupancy of Network's or a Subsidiary's real property, and any interests related thereto, and the Merger does not constitute a default thereunder.

(c) During the past five years, there has not been nor is there now pending, any claim(s) against any person in his or her capacity as either a director or officer of Network or a Subsidiary. Network has no actual knowledge or information of any act, error or omission which would give rise to such a claim.

(d) There is no claim, legal action, suit, arbitration, governmental investigation or other legal or other administrative proceeding, including any bankruptcy proceeding, nor any order, decree or judgment in progress, pending, in effect or, to the knowledge of Network threatened, against or relating to Network or a Subsidiary, which would negatively affect the transactions contemplated by this Agreement.

**Section 3.13 Compliance with Laws.** Except as set forth on Schedule 3.13, (i) Network's and each of the Subsidiaries' operation of its business is in compliance in all material respects with all applicable tariffs, laws, regulations and orders, and (ii) neither Network nor any Subsidiary has received written notice of any violation by Network or such Subsidiary of its tariffs or of laws, regulations and orders from any governmental entity having authority to enforce such tariffs, laws, regulations and orders, including, but not limited to, the Communications Act of

1934 as amended by (a) the Telecommunications Act of 1996 and (b) the Telephone Consumer Protection Act of 1991.

**Section 3.14 Taxes** Except as set forth in Schedule 3.14, (a) all federal income tax returns, and other federal tax returns, declarations of estimated tax or estimated tax deposit forms of every nature required to be filed by Network have been duly filed or will be duly filed as of Closing, and (b) all state, county and local tax returns and declarations of estimated tax or estimated tax deposit forms required to be filed by Network, have been duly filed (except where failure to file such returns, declarations or forms described in this clause (b) would not have a Network Material Adverse Effect) and all of the returns, declarations and forms referred to in clauses (a) and (b) were or will be when filed true, correct and complete in all material respects and Network has paid all taxes which have become due and owing or pursuant to any assessment received by it and has paid all installments of estimated tax due. None of such tax returns of Network or any such Subsidiary contains, or will contain, a disclosure statement under Section 6662 of the Code (or any predecessor statute) or any similar provision of state, local or foreign law. Where such returns and reports have not been audited and approved or settled, there has not been any waiver or extension of any applicable statute of limitations, and Network has not received any notice of deficiency or adjustment. Except as described on Schedule 3.14, attached hereto and made a part hereof, the balance sheet in the Network Recent Financial Statements contains liabilities which are and will be sufficient for the payment of all respective federal, state, county, city and local taxes and assessments, whether current or deferred. All taxes and other assessments and levies which Network is required by law to withhold or to collect have been duly withheld and collected, and have been paid over to the proper governmental authorities or are held by Network in its bank accounts for such payment. All statements and reports required to be filed under any chapter of the Code by Network have been duly filed. No issue has been raised by the IRS or any other taxing authority in any examination which reasonably could be expected to result in a proposed deficiency for any period not previously examined and no state of facts exists or has existed which would constitute grounds for the assessment of any liability for taxes with respect to periods prior to the Closing which have not been examined by the IRS or any other taxing authority. Except as set forth in Schedule 3.14, there is no pending or, to the knowledge of Network, threatened action, audit, proceeding or investigation with respect to (i) the assessment or collection of taxes or (ii) a claim for refund made by Network or any Subsidiary with respect to taxes previously paid. No consent has been filed under Section 341(f) of the Code with respect to Network or any of the Subsidiaries. Neither Network nor any of the Subsidiaries was previously acquired in a "qualified stock purchase" under Section 338(d)(3) of the Code and no elections under Section 338(g) of the Code, protective carryover basis elections or offset prohibition elections are applicable to Network or any such Subsidiary or any predecessor corporation. Neither Network nor any of the Subsidiaries has participated in, or cooperated with, an international boycott within the meaning of Section 999 of the Code. Except as disclosed in Schedule 3.14, neither Network nor any of the Subsidiaries is required to include in income any adjustment pursuant to Section 481(a) of the Code (or similar provisions of other law or regulations) by reason of change in accounting method nor does Network or any Subsidiary have any knowledge that the IRS (or other taxing authority) has proposed, or is considering, any such

change in accounting method. Neither Network nor any of the Subsidiaries is a party to any agreement, contract, arrangement or plan that would result in the payment of any "excess parachute payment" within the meaning of Section 280G of the Code. None of the assets of Network or any of the Subsidiaries is property that is required to be treated as owned by any other Person pursuant to the "safe harbor lease" provisions of former Section 168(f)(8) of the Internal Revenue Code of 1954 as amended and in effect immediately prior to the enactment of the Tax Reform Act of 1986 and none of the assets of the Network or any such Subsidiary is "tax exempt use property" within the meaning of Section 168(h) of the Code. None of the assets of Network or any of the Subsidiaries secures any debt the interest on which is tax exempt under Section 103 of the Code. No indebtedness of Network or any of the Subsidiaries consists of "corporate acquisition indebtedness" within the meaning of Section 279 of the Code. There is no currently binding election with respect to taxes affecting Network or any of the Subsidiaries for any period beginning on or after the Closing Date. Neither Network nor any of the Subsidiaries has applied for and not yet received a ruling or determination from a taxing authority regarding a past or prospective transaction of Network or any of the Subsidiaries. Neither Network nor any of the Subsidiaries has been included in any consolidated, combined or unitary Tax Return provided for under the laws of the United States, any state or locality with respect to Taxes for any taxable period for which the statute of limitations has not expired; has any liability for the Taxes of any Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local, or foreign law), as a transferee or successor, by contract, or otherwise; and there are not tax sharing agreements in effect between Network or any of the Subsidiaries and any other Person. No contract of Network or any of the Subsidiaries that is a long-term contract (for purposes of Section 460 of the Code) has been reported on a method of tax accounting other than the 100 percent percentage of completion method of income tax purposes.

**Section 3.15 Banks.** Schedule 3.15 is a correct and complete list setting forth the name of each bank in which Network has an account, line of credit, credit facility or safe deposit box, the names of all persons authorized to draw thereon or to have access thereto, and the name of each person holding a power of attorney from Network or any Subsidiary.

**Section 3.16 Contracts.** Schedule 3.16 lists (or, in the case of oral contracts, plans, agreements, arrangements and leases, describes) all of the following contracts, plans, agreements, arrangements and leases to which Network or any Subsidiary is a party: (a) each contract for the future purchase of materials, services, supplies or equipment which (i) has a term in excess of one year or (ii) obligates Network or any Subsidiary to pay, in one installment or in the aggregate over its term or one year, whichever is shorter, an amount in excess of \$100,000; (b) each contract and letter of authorization with a customer made in the ordinary course of business which generates revenues for Network or any Subsidiary over its term or in any one twelve (12) month period, whichever is shorter, in excess of \$100,000; (c) each lease of, or license or right to use, real and personal property which (i) has a term in excess of one year or (ii) obligates Network or any Subsidiary to pay, in one installment or in the aggregate over its term or one year, whichever is shorter, an amount in excess of \$100,000, which leases and licenses and rights shall be set forth separately in Schedule 3.16; (d) each contract and agreement with Affiliates (as defined in Section

3.26 below) of Network and each Subsidiary, (e) mortgages, indentures, security agreements and other agreements and other instruments relating to the borrowing of money by, or any extension of credit to, Network or any Subsidiary, (f) partnership, joint venture or other arrangements or agreements to which Network or a Subsidiary is a party involving the sharing of profits; (g) contracts or commitments limiting the freedom of Network or any Subsidiary to compete in any line of business or in any geographic area or with any person, and (h) agreements pursuant to which Network or any Subsidiary acquired (by merger, consolidation or acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division thereof. Except as set forth on Schedule 3.16 hereto, Network and each Subsidiary has performed in all material respects all obligations required to be performed by it to date and has not breached and is not in default under any agreement, in any material respect, listed in Schedule 3.16 or to which it is a party or by which it is bound, and all of the same are enforceable in accordance with their terms.

**Section 3.17 Titles, Real Property Matters.** Schedule 3.17 contains descriptions by categories of Network's and each Subsidiary's owned real property (including all plants and structures located thereon) (the "Real Property") as of the date of this Agreement. Except as set forth in Schedule 3.17, Network and each Subsidiary has good and marketable title in fee simple to such properties, free and clear of all liens and encumbrances and use restrictions. Network and each Subsidiary owns or leases all the furniture, equipment and leasehold improvements located in the structures referred to in Schedule 3.17. All other assets and property used in the business of Network and each Subsidiary, and all assets and property reflected in the balance sheet included in the Network Recent Financial Statements or acquired after the date of such balance sheet (other than assets or property sold or otherwise disposed of in the ordinary course of its business subsequent to such date) are in each case free and clear of all security interests, mortgages, pledges, liens, conditional sales, agreements, leases, encumbrances or charges of any nature whatsoever except as set forth in Schedule 3.17. All real estate owned, leased or licensed by Network, and the Subsidiaries, their uses, appurtenances and improvements substantially comply with all applicable ordinances and regulations, building, and zoning laws. The buildings, machinery and equipment of Network and the Subsidiaries are in good and serviceable condition, reasonable wear and tear excepted.

**Section 3.18 Environmental Matters.**

(a) To the knowledge of Network, operations of Network or any of its Subsidiaries conducted at the Real Property, any of Network's or a Subsidiary's previously owned real property and any real property previously owned or now leased, licensed or otherwise occupied by Network or such Subsidiary (each a "Site") at all times during such ownership, lease, license or occupation complied in all respects with Environmental Laws (as defined below), except for noncompliance that would not have a Network Material Adverse Effect. Network and each Subsidiary has obtained all governmental authorizations and permits under Environmental Laws necessary for its operations.



Network and each Subsidiary is in material compliance with each term and condition of such authorizations and permits.

(b) The real property occupied by Network in connection with its business or a Subsidiary's operations thereon are not, to the best knowledge of Network, subject to (i) any federal, state, or local investigation, to the best knowledge of Network, (ii) any judicial or administrative proceeding alleging the violation of or liability under any Environmental Law, or (iii) any outstanding written order or agreement with any governmental authority or private party relating to any Environmental Law.

(c) For the purpose of this Agreement, the term "Environmental Laws" shall mean:

The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986; the Emergency Planning and Community Right-to-Know Act; the Resource Conservation and Recovery Act; the Hazardous Materials Transportation Act of 1974; the Federal Water Pollution Control Act; the Clean Air Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Safe Drinking Water Act; the Toxic Substances Control Act; the Oil Pollution Act of 1990; any laws regulating the use of biological agents or substances including medical or infectious wastes, each as amended or supplemented through the date hereof.

**Section 3.19 Broker's Fees.** Except as disclosed on Schedule 3.12, no person or entity other than Morgan Stanley & Co. has been authorized to act as a broker, finder, financial advisor or in any other similar capacity as to give rise to any claim for brokerage or finder's fees or commissions with respect to the transactions contemplated hereby by anyone claiming to have acted on behalf of Network.

**Section 3.20 Labor Matters.** No group of employees of Network or a Subsidiary is presently organized into a collective bargaining unit. No labor union has recently attempted, or is presently attempting, to organize any of Network's or a Subsidiary's employees into a collective bargaining unit. No employees of Network or a Subsidiary are on strike or threatening to strike.

**Section 3.21 Conflicts of Interest.** Except as set forth on Schedule 3.21, no director, officer, or employee of Network or a Subsidiary or any relative of any of them, has (a) loaned to or guaranteed the loan of a third party to Network or a Subsidiary or borrowed any money from Network or a Subsidiary or (b) any interest in any property, real or personal whether owned or leased, tangible or intangible, including but not limited to, software, inventions, patents, trade names or trademarks used in connection with or pertaining to the business of Network, a Subsidiary or any lender, supplier, customer, sales representatives or distributor of Network or a Subsidiary; provided, however, that such director, officer, or employee or relative thereof shall

not be deemed to have such interest solely by virtue of the ownership of less than five percent of any stock or indebtedness of any publicly held company, the stock or indebtedness of which is traded on a recognized stock exchange

**Section 3.22 Insurance Coverage** Schedule 3.22 is a correct and complete list of all material insurance held by Network and the Subsidiaries including the policy number, name of carrier, coverage, term, expiration date and premium. Network and each of the Subsidiaries have their buildings, plants and properties, including, but not limited to telecommunications equipment and inventories, insured for its actual cash value, but not exceeding the amount it would cost to repair or replace such properties, against loss or damage by fire and all other hazards and risks of the character usually insured against by persons operating similar properties in the localities where such properties are located under valid and enforceable policies issued by insurers of recognized responsibility. Such insurance coverage will be continued in full force and effect through the Closing. Neither Network nor any Subsidiary has not been refused any insurance by an insurance carrier to which it has applied for insurance during the past three years.

**Section 3.23 RESERVED.**

**Section 3.24 Correct Records.** The financial records, ledgers, account books, minute books, stock certificate books, stock registers, and other corporate records of Network and each of the Subsidiaries are current, correct and complete in all material respects.

**Section 3.25 Vote Required.** The approval of the Merger and the adoption of this Agreement by the holders of a majority of the voting power entitled to be cast by all holders of the outstanding shares of Network Common (the "Network Shareholder Approval") is the only vote of the holders of any class or series of the capital stock of Network required to approve this Agreement, the Merger, and the other transactions contemplated hereby.

**Section 3.26 Accounting Matters.** Neither Network nor, to Network's best knowledge, any of its Affiliates (as defined below), has taken or agreed to take any action that would prevent the accounting for the transactions contemplated by this Agreement as a pooling of interests in accordance with GAAP and applicable SEC regulations. For purposes of this Agreement, the term "Affiliate," except where otherwise defined herein, shall mean, as to any person, any other person which directly or indirectly controls, or is under common control with, or is controlled by such person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership or securities or partnership or other ownership interests, by contract or otherwise).

**Section 3.27 Registration Statement and Proxy Statement.** None of the information supplied or to be supplied by or on behalf of Network for inclusion or incorporation by reference in (a) the registration statement on Form S-4 or any post-effective amendment to a registration statement on Form S-4 to be filed with the SEC by IXC in connection with the issuance of shares

of the IXC Common in connection with the Merger (the "Registration Statement") will, at the time the Registration Statement is filed with the SEC and at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and (b) the proxy statement, in definitive form, relating to the meeting of the Shareholders to be held in connection with the Merger and the transactions related thereto (the "Proxy Statement") will, at the dates mailed to the Shareholders and at the time of the meeting of the Shareholders to be held in connection with the Merger, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Registration Statement and the Proxy Statement will comply as to form in all material respects with the provisions of the Securities Act and the Exchange Act and the rules and regulations thereunder.

**Section 3.28 Opinion of Financial Advisor.** Network has received the opinion of Morgan Stanley & Co., dated as of the date hereof, to the effect that, as of such date, the Merger Consideration is fair from a financial point of view to the Shareholders.

**Section 3.29 Letters of Agency.** Network has made available to IXC true and complete copies of all customer letters of agencies ("LOAs") as of September 30, 1997. To Network's knowledge, after diligent scrutiny as required by law, all such LOAs were obtained in accordance with applicable law and were valid of such date.

**Section 3.30 Permits.** All material franchises, permits, licenses, qualifications, rights-of-way, easements, municipals and other approvals, authorizations, orders, consents and other rights from, and filings with, any government authority of any jurisdiction worldwide relating to the conduct of Network's and each Subsidiary's business (collectively, "Permits") have been duly obtained and are in full force and effect and there are no proceedings pending or, to Network's knowledge, threatened which may result in the revocation, cancellation or suspension, or any adverse modification, of any Permit.

**Section 3.31 Section 203 Not Applicable.** The Board of Directors of Network has taken all actions so that the restrictions contained in Section 203 of the Corporation Law applicable to a "business combination" (as defined in such Section 203) will not apply to the execution, delivery or performance of this Agreement or to the consummation of the Merger or the other transactions contemplated by this Agreement or any of the Transaction Documents. Network does not own any shares of the capital stock of IXC.

**Section 3.32 Disclaimer.** Network shall not be deemed to have made to IXC any representation or warranty other than as expressly made by Network in this Article III. Without limiting the generality of the foregoing, and notwithstanding any otherwise express representations and warranties made by Network in this Article III, Network makes no representation or warranty to IXC with respect to:

(a) Any projections, estimates, or budgets heretofore delivered to or made available to IXC of future revenues, expenses, or expenditures or future results of operations; or

(b) Except as expressly covered by a representation or warranty contained in this Article III, any other information or documents (financial or otherwise) made available to IXC or its counsel, accountants, or advisers with respect to Network.

### **Section 3.33 Due Diligence Investigation**

(a) Network acknowledges that it has had the opportunity to visit with IXC and meet with IXC's respective officers and other representatives to discuss the business and the assets, liabilities, financial condition, cash flow, and operations of IXC.

(b) Network acknowledges that it has made its own independent examination, investigation, analysis, and evaluation of IXC, including Network's own estimate of the value of IXC's business.

(c) Network acknowledges that it has undertaken such due diligence (including a review of the assets, liabilities, books, records, and contracts of IXC) as Network deems adequate, including that described above

**Section 3.34 Form of Warrant.** Each of the agreements representing the Warrants is of one of three forms provided to IXC entitled "Certificate for Common Stock Purchase Warrant", "Non-Qualified Stock Option Award Agreement", or "Representative's Stock Purchase Option or Warrant Agreement".

## **ARTICLE IV COVENANTS OF NETWORK**

Network covenants and agrees that from the date hereof to and including the Effective Time:

**Section 4.1 Maintenance of Business.** Network shall, and shall cause each of the Subsidiaries to, continue to carry on its business, maintain its plants and equipment and keep its books of account, records and files in substantially the same manner as heretofore. Schedule 4.1 contains a list of all expenses outside the ordinary course of business that Network anticipates making, or anticipates that the Subsidiaries will make, prior to or at Closing, excluding all legal, professional and investment advisor fees incurred in connection with the Merger. Network will maintain, and will cause each of the Subsidiaries to maintain, in full force and effect without reduction insurance policies now in effect. Network will continue, and will cause each of the Subsidiaries to continue, to carry on such activities, plans, capital and operating programs which

were approved by its board of directors prior to the date hereof, provided that such activities, plans and programs shall not involve expenditures exceeding \$250,000 for each such activity, plan or program. If any such activities, plans or programs exceed \$250,000 they shall, prior to their implementation, be submitted to IXC in writing, and shall have been approved by IXC.

**Section 2 Negative Covenants.** Except for the permitted actions of Network set forth on Schedule 4.2, without the prior written consent of IXC, Network shall not, and shall not permit any of the Subsidiaries to:

(a) Issue, sell, purchase or redeem, or grant shares, options, warrants or such other rights to purchase or otherwise agree to issue, sell, purchase or redeem any shares of its capital stock or any other securities of Network or such Subsidiary;

(b) Amend its Certificate of Incorporation or amend its Bylaws;

(c) Incur or prepay any liability for borrowed money, short term debt or long term debt (as those terms are defined in GAAP), and at Closing, Network shall have no Indebtedness as defined in IXC's Indenture relating to its 12-1/2% Senior Notes due 2005, except as approved by IXC;

(d) Pay or guarantee any obligation or liability, other than obligations or liabilities reflected in the balance sheet contained in the Network Recent Financial Statements, when due, liabilities incurred since the date of such balance sheet in the ordinary course of business and obligations under contracts and agreements referred to in Schedules annexed hereto or entered into in the ordinary course of business;

(e) Adopt or modify any severance, consulting, bonus, pension, profit sharing, benefit or other compensation plan or arrangement or increase its overall work force, other than in the normal course of business, or enter into any written contract of employment requiring payments of more than \$75,000 in any 12 month period;

(f) Enter into or modify any contract or commitment, incur any liability, absolute or contingent, waive or fail to enforce any right or enter into any other transactions, other than in the ordinary course of business;

(g) Willfully take any action that would or might reasonably be expected to result in any representation or warranty set forth in this Agreement being or becoming untrue in any material respect or in any of the conditions to the consummation of the transactions contemplated by this Agreement set forth in Article VIII hereof not being satisfied;

(h) Have declared, paid, made or become obligated to make any dividend payment or other distribution to the Shareholders.

(i) Enter into any material contracts (or modify in a material way any such existing contracts) for (i) the material purchase of communications services unless such contracts are first approved by IXC, or (ii) acquire (by merger, consolidation or acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division thereof,

(j) Willfully take any action which would, or would be reasonably likely to, prevent accounting for the transactions contemplated by this Agreement as a pooling-of-interests in accordance with GAAP and applicable SEC regulations;

(k) Take any action which would, or would be reasonably likely to, adversely affect the ability of the Merger to qualify for tax-free treatment under the Code, both to the parties hereto and their respective shareholders,

(l) Make any changes in its accounting methods, except as required by law, rule, regulation, or GAAP; or

(m) Fail to maintain its advertising and promotional expenditures in the ordinary course of business consistent with past practice.

**Section 4.3 Organization, Goodwill.** Network shall preserve, and shall cause each of the Subsidiaries to preserve, its business organization intact and use its best efforts to substantially retain its present officers and employees and preserve the good will of its suppliers, customers and others having business relations with it.

**Section 4.4 RESERVED.**

**Section 4.5 Corporate Action.** Subject to the provisions of this Agreement, Network shall take all necessary corporate and other action required of it to carry out the transactions contemplated by this Agreement; provided, however, that nothing in this Article IV or anywhere else in this Agreement shall require Network to carry out such transactions if a Final Order (as defined in Section 8.3 of this Agreement) of a Commission contains a term, condition or provision which Network and DXC reasonably determine to be unduly burdensome.

**Section 4.6 Third Party Consents.**

(a) Network will obtain, and will cause each of the Subsidiaries to obtain, or cause to be obtained the consent of any third party whose consent is required in order that Network can enter into and consummate the transactions contemplated by this Agreement (assuming that DXC is able to consummate such transactions) without material violation of any representation, warranty or covenant made by it in this Agreement; provided, however, that if in the reasonable business judgment of Network and IXC, it would be

impracticable to obtain regulatory approval of the Merger in a jurisdiction, the failure to obtain such approval will not be a breach of this covenant.

(b) Network will use its reasonable efforts, and will cause each of the Subsidiaries to use its reasonable efforts, to cooperate with IXC to obtain or cause to be obtained the consent of any third party whose consent is required in order that the transactions contemplated by this Agreement may be consummated without violation of any representation, warranty or covenant made by IXC in this Agreement.

**Section 4.7 Securities Laws.** Network will cooperate, and will cause each of the Subsidiaries to cooperate, with IXC in taking all action and providing all information necessary to permit the transactions contemplated herein to be consummated in compliance with all applicable federal and state securities laws and regulations.

**Section 4.8 Communications Laws.**

(a) Network will take all reasonable action, and will cause each of the Subsidiaries to take all reasonable action necessary to permit the transactions contemplated herein to be consummated in compliance with all applicable federal, state and local telecommunications laws governing or applicable to Network the Subsidiaries and their respective businesses.

(b) Network will use its reasonable efforts, and will cause each of the Subsidiaries to use its reasonable efforts, to cooperate with IXC to permit the transactions contemplated herein to be consummated in compliance with all applicable federal, state and local telecommunications laws governing or applicable to IXC and its business.

**Section 4.9 Notice of Proceedings.** Network will, upon becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the transactions contemplated hereunder, or upon receiving any notice from any governmental department, court, agency or commission of its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin the consummation of this Agreement or such transactions, or to nullify or render ineffective this Agreement or such transactions if consummated, promptly notify IXC in writing of such order, decree, complaint or notice.

**Section 4.10 Confidentiality.** Network shall maintain all information gained from IXC in connection with its evaluation of the transactions contemplated by this Agreement that is confidential and proprietary to IXC (the "IXC Confidential Information") in strict confidence, and shall take all precautions necessary to prevent disclosure, access to, or transmission of the IXC Confidential Information, or any part thereof, to any third party, except (a) for the exclusive purpose of evaluating the Merger and (b) as required by law or order of any court having competent jurisdiction; provided, however, that before disclosing any IXC Confidential

Information under this exception, Network shall give IXC sufficient notice to allow it to seek an appropriate protective order, and (c) as is necessary or required for Network to satisfy its disclosure obligations under applicable federal and state securities laws. Network shall use its reasonable best efforts to ensure that any person or entity to whom they disclose IXC Confidential Information shall keep such information confidential. The IXC Confidential Information shall be used only for the purposes of evaluating the transactions contemplated hereby and in the event the Closing does not occur for any reason, Network shall, immediately upon IXC's request, return all copies and recordings of the IXC Confidential Information in their possession or under their control and delete all records thereof in any data storage system maintained by or for Network. Network's obligations under this Section 4.10 shall survive the Closing for a period of three years.

**Section 4.11 RESERVED.**

**Section 4.12 Adverse Events.** Promptly after the occurrence, or failure to occur, of any event, the occurrence or failure of which (a) would result in a Network Material Adverse Effect, or could reasonably be expected to result in a Network Material Adverse Effect or materially adversely affect the ability of Network to perform any of its obligations under this Agreement, (b) if known as of the date of this Agreement, would have been required to be disclosed to IXC, or (c) causes any representation or warranty contained in this Agreement or any Schedule hereto to be untrue or inaccurate in any material respect at any time from the date of this Agreement to and including the Closing Date, Network shall provide to IXC all relevant information related thereto.

**Section 4.13 Shareholders' Approval.**

(a) Network shall, as soon as reasonably practicable after the date hereof, (i) take all steps necessary to duly call, give notice of, convene, and hold a meeting of the Shareholders (the "Network Meeting") for the purpose of securing the Network Shareholder Approval, (ii) distribute to the Shareholders the Proxy Statement in accordance with applicable federal and state law and its Certificate of Incorporation and Bylaws, (iii) recommend to the Shareholders the approval of the Merger, this Agreement, the Transaction Documents to which Network is a party, and the transactions contemplated hereby and thereby, and the adoption of this Agreement and such Transaction Documents, and (iv) cooperate and consult with IXC with respect to each of the foregoing matters.

(b) The Network Meeting shall be held on such date as Network and IXC shall mutually determine.

(c) It shall be a condition to the obligation of Network to distribute to the Shareholders the proxy statement that the opinion of Morgan Stanley & Co. referred to in Section 3.28 shall not have been withdrawn.



**Section 4.14 Rule 145 Affiliates** Network shall identify in a letter to IXC all persons who are, and to Network's best knowledge who will be at the Closing Date, "affiliates" of Network as such term is used in Rule 145 under the Securities Act (or otherwise under applicable SEC accounting releases with respect to pooling-of-interests accounting treatment). Network shall use all reasonable efforts to cause its affiliates (including any person who may be deemed to have become such an affiliate after the date of the letter referred to in the prior sentence) to deliver to IXC on or prior to the Closing Date a written acknowledgment of such persons' affiliate status, including such person's agreement not to dispose of any Merger Consideration received by them in any manner that would cause the transactions contemplated hereby not to qualify for pooling-of-interests accounting treatment.

**Section 4.15 Tax Returns**. Network shall provide to IXC for its review any tax returns (a) with respect to the fiscal year ended March 31, 1997 and (b) for any stub periods, due to be filed between the date of this Agreement and the Effective Time

**Section 4.16 No Solicitation**. Network agrees that, prior to the Effective Time, it shall not, nor shall any of its directors, officers, employees, agents or representatives, directly or indirectly, solicit, initiate or encourage (including by way of furnishing or disclosing information) inquiries or proposals concerning any merger, consolidation or acquisition or purchase of all or any substantial portion of the assets or capital stock of Network ("Network Acquisition Transaction") or negotiate or enter into any discussions or other communications with any prospective purchaser (other than IXC or its affiliates) with respect to any Network Acquisition Transaction, except to the extent required for its Board of Directors and officers to meet their fiduciary duties to the Shareholders. Network shall immediately advise IXC of any inquiries or proposals relating to any Network Acquisition Transaction.

## ARTICLE V REPRESENTATIONS AND WARRANTIES OF IXC, IXC LONG DISTANCE AND ACQUISITION

IXC, IXC Long Distance, and Acquisition hereby represent and warrant to Network as follows:

**Section 5.1 Corporate Existence**. Each of IXC, IXC Long Distance and Acquisition is a corporation duly organized, validly existing and in good standing under the laws of their respective jurisdictions of incorporation. Attached hereto as Exhibit 5.1 is a complete and correct copy of the Certificate of Incorporation and Bylaws (together with all amendments thereto) of IXC, IXC Long Distance and Acquisition. Each of IXC, IXC Long Distance and Acquisition is duly qualified, certified or licensed in each state and jurisdiction where such qualification, certification or licensing is necessary or required for IXC, IXC Long Distance and Acquisition to conduct their businesses. IXC Long Distance is duly qualified, certified or licensed in each

state and jurisdiction where such qualification, certification or licensing is necessary or required for IXC Long Distance to offer communication services.

**Section 5.2 Corporate Power and Authority** Each of IXC, IXC Long Distance and Acquisition has all requisite corporate power and authority to own its properties and assets, and to carry on the business in which it is now engaged. Each of IXC, IXC Long Distance and Acquisition has the corporate power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party, and to perform their respective covenants set forth herein and therein.

**Section 5.3 Capitalization** The authorized capital stock of IXC at November 30, 1997 consists of: (a) 100,000,000 shares of IXC Common, of which 31,552,708 shares are issued and outstanding and (b) 3,000,000 shares of preferred stock, par value \$.01 per share, of which 1,400,000 shares are designated as Convertible Preferred Stock, 900,000 shares are designated as Exchangeable Preferred Stock, 2,000 shares are designated as Series 1 Preferred Stock, and 12,550 shares are designated as Series 3 Preferred Stock. At November 30, 1997, there were 1,036,574 shares of Convertible Preferred Stock issued and outstanding, 308,959 shares of Exchangeable Preferred Stock issued and outstanding, 414.03 shares of Series 3 Preferred Stock issued and outstanding; all of the previously issued Series 1 Preferred Stock had been redeemed and no other shares of Preferred Stock were outstanding. Except as set forth on Schedule 5.3, at November 30, 1997, there are no other classes of equity, options, warrants, calls, rights or commitments or any other agreements of any character relating to the sale, issuance or voting of any shares of capital stock of IXC, or any securities convertible into or evidencing the right to purchase any shares of capital stock of IXC. All such issued and outstanding shares are validly issued, fully paid and nonassessable. There are no restrictions imposed by the Certificate of Incorporation or Bylaws of IXC, and there are no other agreements, understandings or commitments, which would in any way affect or impair the transactions contemplated hereby.

**Section 5.4 Binding Effect** This Agreement and each of the Transaction Documents required to be delivered by IXC, IXC Long Distance or Acquisition in connection herewith, when executed and delivered, will be the legal, valid and binding obligation of IXC, IXC Long Distance or Acquisition, as applicable, enforceable against them in accordance with their terms, except as enforceability may be limited by (a) applicable bankruptcy, reorganization, insolvency, moratorium and similar laws affecting the enforcement of creditors' rights generally and (b) general equitable principles (regardless of whether enforceability is considered in a proceeding in equity or at law).

**Section 5.5 Execution and Delivery Permitted** The execution, delivery and performance of this Agreement, and the Transaction Documents and the consummation of the transactions contemplated hereby or thereby will not violate or result in a breach of any term of IXC's Certificate of Incorporation or Bylaws or result in a breach of or constitute a default (or an event which, with notice or lapse of time or both would constitute a default) under or result in the termination of, or accelerate the performance required by or under any term in any

agreement, tariff, or other instrument to which either IXC, IXC Long Distance or Acquisition, is a party or by which either of them is bound (unless such default has been previously waived by the other party to such agreement, tariff, or other instrument), or violate any law or any order, rule, judgment, decree, or award, or regulation applicable to them, of any court or any regulatory body, administrative agency or other governmental instrumentality having jurisdiction over them or their properties. Each of IXC's and Acquisition's Board of Directors and, to the extent required stockholders, have, or as of the Closing Date shall have, taken all action required by law, and by their respective Certificates of Incorporation and their respective Bylaws to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement or by any of its Exhibits, including the issuance of the IXC Shares. Except as set forth on Schedule 5.5 hereto, none of the execution, delivery or performance of this Agreement or any of the Transaction Documents, or the consummation of the transactions contemplated hereby or thereby requires any filing with or the consent or approval of any third party, including but not limited to any governmental body or entity, other than (a) compliance with the Securities Act and the Exchange Act, (b) applications to the FCC and certain state utility regulatory commissions in states in which IXC, Network or a Subsidiary offers services, (c) notifications to the FTC and the DOJ under the HSR Act, and (d) the filing with the Delaware Secretary of State of the Certificate of Merger in respect of the Merger in accordance with the Corporation Law.

**Section 5.6 Reports and Financial Statements** Since December 31, 1996, to the extent IXC has been required to make filings under the Securities Act, the Exchange Act or applicable state laws and regulations, IXC has filed with the SEC or the applicable state regulatory authority, as the case may be, all forms, statements, reports and documents (including all exhibits, amendments and supplements thereto) required to be filed by it under each of the Securities Act, the Exchange Act and applicable state laws and regulations, and the respective rules and regulations thereunder, all of which complied in all material respects with all applicable requirements of the appropriate act and the rules and regulations thereunder. IXC has previously delivered to Network true and complete copies of its (a) Annual Reports on Form 10-K for the fiscal year ended December 31, 1996, as filed with the SEC, which includes the audited consolidated financial statements of IXC for the fiscal year then ended (the "IXC Financial Statements"), (b) proxy and information statements relating to all meetings of its shareholders (whether annual or special), and actions by written consent in lieu of a shareholders' meeting, from December 31, 1996 until the date hereof, (c) all other reports or registration statements filed by IXC with the SEC since December 31, 1996 (collectively, the "IXC SEC Reports"). As of their respective dates, the IXC SEC Reports did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The audited consolidated financial statements and unaudited interim financial statements of IXC included in the IXC SEC Reports and the IXC Financial Statements have been prepared in accordance with GAAP (except as may be indicated therein or in the notes thereto) and fairly present in all material respects the financial position of IXC and its subsidiaries as of the dates thereof and the results of their operations and changes in financial position for the periods then ended, subject, in the

case of the unaudited interim financial statements, to normal year-end and audit adjustments and the absence of explanatory footnotes. The IXC Financial Statements contain and reflect adequate reserves as of the date thereof for all known liabilities or obligations of any nature, whether absolute, contingent or otherwise, in accordance with GAAP. The unaudited interim financial statements of IXC included in the IXC SEC Reports, have been similarly prepared and contain and reflect adequate reserves as of the date thereof for all known liabilities or obligations of any nature, whether absolute, contingent or otherwise, in accordance with GAAP.

**Section 5.7 Absence of Certain Changes.** Except as set forth on Schedule 5.7, since the date of the most recent balance sheet included in the IXC Financial Statements, there has not been:

(a) Any material adverse change in the financial condition, operations, business or prospects of IXC and its subsidiaries (an "IXC Material Adverse Effect"), including, but not limited to, any state or federal regulatory proceedings which could culminate in an order or other action which could have such an adverse change, excluding generally known industry trends and competitive conditions affecting the industry generally;

(b) Any material physical damage or destruction, whether or not covered by insurance, which has resulted in, or reasonably could be expected to result in, an IXC Material Adverse Effect;

(c) Any material labor dispute or threat thereof or any attempt to organize or reorganize the employees of IXC for the purpose of collective bargaining;

(d) Any direct or indirect redemption, purchase or other acquisition by IXC of any shares of IXC Common, or declaration of or payment or distribution of any kind of cash or other assets with respect to the IXC Common;

(e) Any communication, whether oral or written, to IXC from IXC's customers or suppliers or agencies regulating IXC notifying IXC of, nor does IXC, after making due inquiry, have any knowledge of, any potential development affecting IXC, which would reasonably lead it to expect an IXC Material Adverse Effect; or

(f) Any assignment, sale or transfer of any material patent, trademark, trade name, trade secret, copyright or other intangible asset.

**Section 5.8 No Undisclosed Liabilities.** Except as set forth on Schedule 5.8 attached hereto and made a part hereof, as of September 30, 1997, neither IXC nor any of its subsidiaries that are included in the IXC Financial Statements had any material liabilities, absolute or contingent, which are not shown on the IXC Financial Statements.

**Section 5.9 RESERVED**

**Section 5.10 Benefit Plans: ERISA.**

(a) Schedule 5.10(a) contains a true and complete list of each written pension, profit sharing, other deferred compensation, bonus, incentive compensation, stock purchase, stock option, retirement, supplemental retirement, severance or termination pay, medical, hospitalization, life insurance, dental, disability, salary continuation, supplemental unemployment benefits plan, program, arrangement or contract maintained, contributed to, or required to be contributed to by IXC or any Related Party (hereinafter defined) for the benefit of any current or former employee, director or agent of IXC or any Related Party, whether or not any of the foregoing is funded and whether or not subject to the ERISA (collectively, the "IXC Benefit Plans"). IXC and its Related Parties do not have any express or implied commitment or contract to create any additional IXC Benefit Plan or modify any existing IXC Benefit Plan in a manner that would materially increase its costs, other than as may be required to comply with ERISA or the Code. IXC has delivered to Network, with respect to each applicable IXC Benefit Plan (i) true and complete copies of all material documents embodying each IXC Benefit Plan including, without limitation, the plan and trust or other funding arrangement relating thereto, summary plan descriptions, employee handbooks or personnel manuals, and all amendments and supplements thereto; (ii) the most recent annual report (Series 5500 and all schedules thereto), if any, required by ERISA, and (iii) the most recent determination letter received from the IRS, if any. For purposes of this Section 5.10, "Related Party" means any member of a controlled group of corporations, a group of trades or businesses under common control or an affiliated service group, within the meaning of Section 414(b), (c), (m) or (o) of the Code, of IXC.

(b) Except as provided in Schedule 5.10(b) none of the IXC Benefit Plans is intended by IXC or any Related Party to meet, or is required to meet, the requirements of Section 401(a) of the Code and no IXC Benefit Plan is subject to Title IV of ERISA.

(c) IXC and any Related Party have performed the obligations required to be performed by them under, and are not in default under or in violation of, any and all of the IXC Benefit Plans in any material respect, and each IXC Benefit Plan has been operated in all material respects in accordance with the requirements of all applicable laws and regulations. Neither any IXC Benefit Plan or fiduciary nor IXC or any Related Party has taken any action, or failed to take any action, that could subject it or any other person to any material liability for any excise tax under Chapter 43 of the Code or for breach of fiduciary duty with respect to or in connection with a IXC Benefit Plan.

(d) At no time has IXC or any Related Party been required to contribute to any "multiemployer plan" (within the meaning of Section 3(37) of ERISA) and IXC and its Related Parties have no liability (contingent or otherwise) relating to the withdrawal or partial withdrawal from a multi employer plan. IXC and its Related Parties do not participate in any "multiple employer plans," within the meaning of Code Section 413(c)

(e) No IXC Benefit Plan provides or is required to provide group health, ~~medical~~-death or survivor benefits to any former or retired employee of IXC, a Related Party or beneficiary thereof, except to the extent (i) required under any state law or (ii) under Section 601 of ERISA.

(f) No IXC Benefit Plan or fiduciary has nor does IXC or any Related Party have any material liability to any participant, beneficiary or other person under any provision of ERISA or any other applicable law by reason of any payment of, or failure to pay, benefits or other amounts with respect to or in connection with any IXC Benefit Plan.

**Section 5.11 Litigation.** Except as set forth in Schedule 5.11

(a) There are no claims, suits, actions, or proceedings of any nature whatsoever in law or in equity, pending before any court, governmental department, commission, agency, instrumentality or authority or any arbitrator, or, to the best knowledge of IXC, threatened, nor are there, to the best knowledge of IXC, any investigations, whether or not purportedly on behalf of IXC, complaints or reviews by any court, governmental department, commission, agency, instrumentality or authority or any arbitrator pending or threatened against, relating to or affecting, IXC which could reasonably be expected to have an IXC Material Adverse Effect.

(b) IXC is not operating under or subject to, nor in default with respect to, any order, writ, injunction, garnishment, levy or decree of any federal, state, municipal or other governmental court, department, commission, board, bureau, agency or instrumentality, which could have an IXC Material Adverse Effect. The issuance of shares of IXC Common in the Merger will not constitute a default thereunder.

(c) As of December 16, 1997, during the past five years, there had not been nor was there pending, any claim(s) against any person in his or her capacity as either a director or officer of IXC. IXC has no actual knowledge or information of any act, error or omission which would give rise to such a claim.

(d) There is no claim, legal action, suit, arbitration, governmental investigation or other legal or other administrative proceeding, including any bankruptcy proceeding, nor any order, decree or judgement in progress, pending, in effect, or, to the knowledge of IXC threatened, against or relating to IXC or Acquisition, which could reasonably be expected to materially negatively affect the transactions contemplated by this Agreement.

**Section 5.12 Compliance with Laws.** Except as set forth on Schedule 5.12, IXC has not received written notice of any violation by IXC of its tariffs or of laws, regulations and orders from any governmental entity having authority to enforce such tariffs, laws, regulations and orders, including, but not limited to, the Communications Act of 1934 as amended by (a) the

Telecommunications Act of 1996 and (b) the Telephone Consumer Protection Act of 1991, which could reasonably be expected to have an IXC Material Adverse Effect.

**Section 5.13 Tax Returns** Except as set forth in Schedule 5.13, (a) all federal income tax returns, and other federal tax returns, declarations of estimated tax or estimated tax deposit forms of every nature required to be filed by IXC have been duly filed or will be duly filed as of Closing, and (b) all state, county and local tax returns and declarations of estimated tax or estimated tax deposit forms required to be filed by IXC have been duly filed (except where failure to file such returns, declarations or forms described in this clause (b) would not have an IXC Material Adverse Effect) and all of the returns, declarations and forms referred to in clauses (a) and (b) were or will be when filed true, correct and complete in all material respects and IXC has paid all taxes which have become due and owing or pursuant to any assessment received by it and has paid all installments of estimated tax due. Where such returns and reports have not been audited and approved or settled, there has not been any waiver or extension of any applicable statute of limitations, and IXC has not received any notice of deficiency or adjustment. Except as described on Schedule 5.13, attached hereto and made a part hereof, the unaudited interim balance sheet of IXC as of September 30, 1997, contains liabilities which are and will be sufficient for the payment of all respective federal, state, county, city and local taxes and assessments, whether current or deferred. All taxes and other assessments and levies which IXC is required by law to withhold or to collect have been duly withheld and collected, and have been paid over to the proper governmental authorities or are held by IXC in its bank accounts for such payment, except where the failure to so withhold will not have an IXC Material Adverse Effect. All statements and reports required to be filed under any chapter of the Code by IXC have been duly filed.

**Section 5.14 Environmental Matters.**

(a) To the knowledge of IXC, operations conducted on the real property of IXC at all times complied in all respects with Environmental Laws, except for non-compliance that would not have an IXC Material Adverse Effect. IXC has obtained all governmental authorizations and permits under Environmental Laws necessary for its operations. IXC is in material compliance with each term and condition of such authorizations and permits.

(b) The real property occupied by IXC in connection with its business and IXC's operations thereon are not to the best knowledge of IXC subject to (i) any federal, state, or local investigation, (ii) any judicial or administrative proceeding alleging a violation of or liability under any Environmental Law, or (iii) any outstanding written order or agreement with any governmental authority or private party relating to any Environmental Law.

**Section 5.15 RESERVED.**

**Section 5.16 Labor Matters.** No group of employees of IXC is presently organized into a collective bargaining unit. No labor union has recently attempted, or to best knowledge of IXC is presently attempting, to organize any of IXC's employees into a collective bargaining unit. No employees of IXC are on strike or threatening to strike.

**Section 5.17 RESERVED.**

**Section 5.18 RESERVED.**

**Section 5.19 Correct Records.** The financial records, ledgers, account books, minute books, stock certificate books, stock registers, and other corporate records of IXC are current, correct and complete in all material respects.

**Section 5.20 Vote Required.** No vote of the holders of any class or series of the capital stock of IXC is required to approve this Agreement, the Merger, and the other transactions contemplated hereby.

**Section 5.21 Accounting Matters.** To IXC's best knowledge, neither IXC nor any of its Affiliates has taken or agreed to take any action that would prevent the accounting for the transactions contemplated by this Agreement as a pooling of interests in accordance with GAAP and applicable SEC regulations.

**Section 5.22 Registration Statement and Proxy Statement.** None of the information supplied or to be supplied by or on behalf of IXC for inclusion in (a) the Registration Statement will at the time the Registration Statement is filed with the SEC and at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and (b) the Proxy Statement will, at the dates mailed to shareholders contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. None of the SEC filings of IXC which contain information to be incorporated by reference into the Registration Statements or the Proxy Statement contained, or shall contain, as of the date of each such SEC filing, any untrue statement of a material fact or omitted, or shall omit, as of the date of such SEC filing, to state any material fact required to be stated therein or necessary to make the statements therein not misleading. The Registration Statement will comply as to form in all material respects with the provisions of the Securities Act and the Exchange Act and the rules and regulations thereunder.

**Section 5.23 RESERVED.**

**Section 5.24 Disclaimer.** IXC shall not be deemed to have made to Network any representation or warranty other than as expressly made by IXC in this Article V. Without limiting the generality of the foregoing, and notwithstanding any otherwise express representations



and warranties made by IXC in this Article V, IXC makes no representation or warranty to Network with respect to:

(a) Any projections, estimates, or budgets heretofore delivered to or made available to Network of future revenues, expenses, or expenditures or future results of operations; or

(b) Except as expressly covered by a representation or warranty contained in this Article V, any other information or documents (financial or otherwise) made available to Network or its counsel, accountants, or advisers with respect to IXC.

#### **Section 5.25 Due Diligence Investigation**

(a) IXC acknowledges that (i) it has had the opportunity to visit with Network and meet with its respective officers and other representatives to discuss the business and the assets, liabilities, financial condition, cash flow, and operations of Network and (ii) all materials and information requested by IXC have been provided to IXC to IXC's reasonable satisfaction.

(b) IXC acknowledges that it has made its own independent examination, investigation, analysis, and evaluation of Network, including IXC's own estimate of the value of Network's business.

(c) IXC acknowledges that it has undertaken such due diligence (including a review of the assets, liabilities, books, records, and contracts of Network) as IXC deems adequate, including that described above.

### **ARTICLE VI COVENANTS OF IXC**

IXC covenants and agrees that from the date hereof to and including the Effective Time:

**Section 6.1 Maintenance of Business.** IXC shall continue to carry on its telecommunications business and maintain its and keep its books of account, records and files in substantially the same manner as heretofore.

**Section 6.2 Negative Covenants.** Except for the permitted actions of IXC set forth on Schedule 6.2, without the prior written consent of Network, IXC shall not:

(a) From the date hereof through the Effective Time, issue, sell, purchase or redeem, or grant options to purchase or otherwise agree to issue, sell, purchase or redeem any shares of its capital stock or other securities of IXC except for fair value as determined

as of the date of grant or agreement in the good faith judgment of the IXC Board of Directors;

(b) **RESERVED;**

(c) **Willfully take any action that would or might reasonably be expected to result in any representation or warranty set forth in this Agreement being or becoming untrue in any material respect or in any of the conditions to the consummation of the transactions contemplated by this Agreement set forth in Article VII hereof not being satisfied;**

(d) **Have made or become obligated to make any cash dividend payment or other cash distribution to the holders of IXC Common;**

(e) **Willfully take any action which would, or would be reasonably likely to, prevent accounting for the transactions contemplated by this Agreement as a pooling-of-interests in accordance with GAAP and applicable SEC regulations; or**

(f) **Willfully take any action which would, or would be reasonably likely to, adversely affect the ability of the Merger to qualify for tax-free treatment under the Code, both to the parties hereto and their respective shareholders (except for any cash received in lieu of fractional shares).**

**Section 6.3 RESERVED.**

**Section 6.4 RESERVED.**

**Section 6.5 Corporate Action.** Subject to the provisions of this Agreement, IXC shall take, and shall cause IXC Long Distance and Acquisition to take, all necessary corporate and other action required of it to carry out the transactions contemplated by this Agreement; provided, however, that nothing in this Article VI or anywhere else in this Agreement shall require IXC to carry out such transactions if a Final Order (as that term is defined in Section 8.3 of this Agreement) of a Commission contains a term, condition or provision which, in IXC's sole determination, is unduly burdensome.

**Section 6.6 Third Party Consents.**

(a) IXC will obtain or cause to be obtained the consent of any third party whose consent is required in order that IXC can enter into and consummate the transactions contemplated by this Agreement (assuming that Network is able to consummate such transaction) without material violation of any representation, warranty or covenant made by it in this Agreement, provided, however, that if in the reasonable business judgment of Network and IXC, it would be impracticable to obtain regulatory

approval of the Merger in a jurisdiction, the failure to obtain such approval will not be a breach of this covenant.

(b) IXC will use its reasonable efforts to cooperate with Network to obtain or cause to be obtained the consent of any third party whose consent is required in order that the transactions contemplated by this Agreement may be consummated without violation of any representation, warranty or covenant made by Network in this Agreement.

**Section 6.7 Securities Laws.** IXC will use its best efforts to take all action necessary to permit the transactions contemplated herein to be consummated in compliance with all applicable federal and state securities laws and regulations

**Section 6.8 Communications Laws**

(a) IXC will take all action reasonable necessary to permit IXC to consummate the transactions contemplated herein in compliance with all applicable federal, state and local telecommunications laws governing or applicable to IXC and its business (assuming that Network is able to consummate such transaction).

(b) IXC will use its reasonable efforts to cooperate with Network to permit the transactions contemplated herein to be consummated in compliance with all applicable federal, state and local telecommunications laws governing or applicable to Network and its business.

**Section 6.9 Notice of Proceedings.** IXC will, upon becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the transactions contemplated hereunder, or upon receiving any notice from any governmental department, court, agency or commission or its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin the consummation of this Agreement or such transactions, or to nullify or render ineffective this Agreement or such transactions if consummated, promptly notify Network in writing of such order, decree, complaint, or notice.

**Section 6.10 Confidentiality.** IXC shall maintain all information gained from Network in connection with its evaluation of the transactions contemplated by this Agreement that is confidential and proprietary to Network (the "Network Confidential Information") in strict confidence, and shall take all precautions necessary to prevent disclosure, access to, or transmission of the Network Confidential Information, or any part thereof, to any third party, except (a) for the exclusive purpose of evaluating the Merger, (b) as required by law or an order of any court having competent jurisdiction; provided, however, that before disclosing any Network Confidential Information under this exception, IXC shall give Network sufficient notice to allow it to seek an appropriate protective order, and (c) as is necessary or required for IXC to satisfy its disclosure obligations under applicable federal and state securities laws. IXC shall use

its reasonable best efforts to ensure that any person or entity to whom it discloses Network Confidential Information shall keep such information confidential. The Network Confidential Information shall be used only for the purposes of evaluating the transactions contemplated hereby and in the event the Closing does not occur for any reason, IXC shall, immediately upon Network's request, return all copies and recordings of the Network Confidential Information in its possession or under its control and delete all records thereof in any data storage system maintained by or for IXC. IXC's obligations under this Section 6.10 shall survive the Closing for a period of three years.

**Section 6.11 RESERVED.**

**Section 6.12 RESERVED.**

**Section 6.13 Adverse Events.** Promptly after the occurrence, or failure to occur, of any event, the occurrence or failure of which (a) would result in an IXC Material Adverse Effect or could reasonably be expected to result in an IXC Material Adverse Effect or materially adversely affect the ability of IXC to perform any of its obligations under this Agreement, (b) if known as of the date of this Agreement, would have been required to be disclosed to Network, or (c) causes any representation or warranty of IXC contained in this Agreement or any Schedule hereto to be untrue or inaccurate in any material respect at any time from the date of this Agreement to and including the Closing Date, IXC shall provide to Network all relevant information related thereto.

**Section 6.14 RESERVED.**

**Section 6.15 Issuance of Shares.** Upon issuance of shares of the IXC Common in the Merger as Merger Consideration, the IXC Shares will be duly authorized, validly issued, fully paid and nonassessable, free and clear of any lien, security interest or other encumbrance of any kind and free of any claim, except for the rights of IXC pursuant to this Agreement.

## ARTICLE VII ADDITIONAL AGREEMENTS

**Section 7.1 Applications to Commissions.** As soon as practicable after execution of this Agreement, Network and IXC shall join in applications to the Commissions requesting the approvals and authorizations of each such Commission of the transactions contemplated by this Agreement. Each party shall pay its own fees of the Commissions charged in connection with or incidental to the filing and processing of the aforesaid applications, as well as all other fees and expenses incurred in connection therewith. Each of the parties to this Agreement agrees that if IXC, using its reasonable judgment, determines that an application to any other state or federal agency for its approval or authorization of the transactions contemplated herein is required, then IXC shall file such application and Network shall join in such application with IXC and otherwise act in accordance with the provisions of this Section 7.1 with respect to any such application.

## **Section 7.2 Joint Proxy Statement and Registration Statement**

(a) IXC and Network will prepare and file with the SEC as soon as reasonably practicable after the date hereof the Registration Statement and the Proxy Statement (together, the "Joint Proxy/Registration Statement"). The parties hereto shall each use reasonable efforts to cause the Registration Statement to be declared effective under the Securities Act as promptly as practicable after such filing. Each party hereto shall also take such action as may be reasonably required to cause the shares of IXC Common issuable in connection with the Merger to be registered or to obtain an exemption from registration under applicable state "blue sky" or securities laws; provided, however, that no party shall be required to register or qualify as a foreign corporation or to take other action which would subject it to service of process in any jurisdiction where the IXC or the Surviving Corporation, as the case may be, will not otherwise be, following the Merger, so subject. Each of the parties hereto shall furnish all information concerning itself which is required or customary for inclusion in the Joint Proxy/Registration Statement. The parties shall use reasonable efforts to cause the shares of IXC Common issuable in the Merger to be approved for listing on the Nasdaq National Market ("NMS") upon official notice of issuance. The information provided by any party hereto for use in the Joint Proxy/Registration Statement shall be true and correct in all material respects without omission of any material fact which is required to make such information not false or misleading. No representation, covenant or agreement is made by any party hereto with respect to information supplied by any other party for inclusion in the Joint Proxy/Registration Statement.

(b) IXC shall use its best efforts to cause to be delivered to Network letters of Ernst & Young LLP, dated a date within two business days before the date of the Joint Proxy/Registration Statement, and addressed to Network, in form and substance reasonably satisfactory to Network and customary in scope and substance for "cold comfort" letters delivered by independent public accountants in connection with registration statements on Form S-4.

(c) Network shall use its best efforts to cause to be delivered to IXC letters of Arthur Andersen & Co., dated a date within two business days before the date of the Joint Proxy/Registration Statement, and addressed to IXC, in form and substance reasonably satisfactory to IXC and customary in scope and substance for "cold comfort" letters delivered by independent public accountants in connection with registration statements on Form S-4.

(d) The Network Board of Directors shall recommend that the Shareholders vote to adopt and approve the Merger on the terms and subject to the conditions of this Agreement, and the Joint Proxy/Registration Statement shall contain such recommendation.

**Section 7.3 HSR Filings.** IXC and Network each shall file or cause to be filed with the FTC and the DOJ any notifications required to be filed by their respective "ultimate parent" companies under the HSR Act and the rules and regulations promulgated thereunder with respect to the transactions contemplated hereby. The parties will use all commercially reasonable efforts to make such filings promptly and to respond on a timely basis to any requests for additional information made by either of such agencies, provided, however, that nothing in this Agreement shall obligate any party (or any Affiliate) to sell or otherwise dispose of or hold separate any substantial business asset or product line in order to obtain any required governmental approval.

**Section 7.4 Expenses.** Except as otherwise provided herein, irrespective of whether the transactions contemplated by this Agreement are consummated, all costs and expenses incurred by Network shall be paid by Network and all costs and expenses incurred by IXC and Acquisition shall be paid by IXC.

## ARTICLE VIII CONDITIONS TO CLOSING

**Section 8.1 IXC, IXC Long Distance and Acquisition Conditions to Closing.** The obligations of IXC, IXC Long Distance and Acquisition hereunder are subject to the satisfaction or waiver of each of the following conditions at or before Closing:

(a) All representations and warranties of Network in this Agreement and any certificate or Schedule to be delivered pursuant hereto, which Schedule shall not be amended by Network without IXC's prior written consent, shall be true and accurate in all material respects on the date hereof and on and as of the Closing, and Network shall have delivered to IXC a certificate to such effect dated as of the Closing Date;

(b) There shall be no Network Material Adverse Effect from the date hereof through the Closing Date and the average monthly revenues of Network, as determined in accordance with Schedule 8.1(b), shall be at least \$8,400,000;

(c) Network shall perform and comply in all material respects with all of its obligations under this Agreement which are to be performed or complied with by it prior to the Closing Date;

(d) Network shall have delivered to IXC and Acquisition all of the documents required to be delivered by them pursuant to this Agreement.

(e) IXC and IXC's counsel shall have approved the form and substance of the documents delivered by Network pursuant to this Agreement, which approval shall not be unreasonably withheld or delayed;

(f) There shall be no claims, actions or suits pending or threatened against Network or a Subsidiary that would restrict or prohibit Network from consummating the transactions contemplated herein;

(g) The Network Shareholder Approval shall have been obtained;

(h) Prior to the Closing, there shall not have occurred any damage, destruction or loss in respect of Network or its assets exceeding \$500,000 not covered by insurance;

(i) Network shall have delivered to IXC a Certificate of Good Standing (or its equivalent) of Network and each of the Subsidiaries issued by the Secretary of State of their States of incorporation as of a date no more than 20 days prior to the Closing Date;

(j) Network shall have furnished to IXC a Certificate of the Secretary of Network, certified as of the Closing Date, as to the incumbency and signatures of the officers of Network executing this Agreement and any Transaction Documents to which Network is a party;

(k) Neither Network nor any of the Subsidiaries shall have suffered or incurred the loss, termination, suspension or adverse modification to, or been threatened with any such loss, termination, suspension or adverse modification to, any certificate, license or permit necessary or required for Network or such Subsidiary to continue, both before and after the Effective Time, to operate and conduct its business in the manner, and in the geographic areas, currently conducted by it as of the date of this Agreement, except such as would not have Network Material Adverse Effect;

(l) All Commission approvals and material regulatory approvals, including all licenses, permits, authorizations, consents and other approvals of and filings with any governmental or regulatory agency required to be obtained or made in connection with the consummation of the transactions contemplated by this Agreement shall have been obtained or made by or on behalf of the parties; and

(m) All material consents of other third-parties required to have been obtained in connection with the consummation of the transactions contemplated by this Agreement shall have been obtained by or on behalf of Network.

**Section 8.2 Network Conditions to Closing** The obligations of Network hereunder are subject to the satisfaction or waiver of each of the following conditions at or before Closing:

(a) All representations and warranties of IXC and Acquisition in this Agreement and any certificate or Schedule to be delivered pursuant hereto, which Schedule shall not be amended by IXC without Network's prior written consent, shall be true and accurate in all material respects on the date hereof and on and as of the Closing, and IXC

and Acquisition shall have delivered to the Network a certificate to such effect dated as of the Closing Date;

(b) There shall be no IXC Material Adverse Effect from the date hereof through the Closing Date;

(c) IXC and Acquisition shall perform and comply in all material respects with all of their obligations under this Agreement which are to be performed or complied with by IXC or Acquisition prior to or on the Closing Date;

(d) IXC and Acquisition shall have delivered to Network all of the documents required to be delivered by them by this Agreement.

(e) Network and Network's counsel shall have approved the form and substance of the documents delivered by IXC and Acquisition pursuant to this Agreement, which approval shall not be unreasonably withheld or delayed;

(f) There shall be no claims, actions or suits pending or threatened against IXC, IXC Long Distance or Acquisition that would restrict or prohibit IXC, IXC Long Distance or Acquisition from consummating the transactions contemplated herein;

(g) The Network Shareholder Approval shall have been obtained;

(h) IXC shall have delivered to Network Certificates of Good standing (or their equivalent) issued by the Delaware Secretary of State for IXC, IXC Long Distance and Acquisition, as of a date not more than 20 days prior to Closing Date; and

(i) IXC shall have furnished to Network a Certificate of the Secretary of IXC, IXC Long Distance and Acquisition certified as of the Closing Date, as to the incumbency and signatures of the officers of IXC, IXC Long Distance and Acquisition executing Agreement and any Transaction Document to which they are a party.

**Section 8.3 Mutual Conditions to Obligations of Network and IXC.** The obligations of Network and IXC hereunder are subject to:

(a) The receipt of Final Orders (as defined below) of the Commissions approving and authorizing the transactions contemplated herein which Final Orders are not to be unduly burdensome. For the purposes of this Agreement, a "Final Order" shall mean an order of any Commission which is not subject to rehearing by such Commission or to judicial review.



(b) The Registration Statement, at or before the Closing Date, having become effective in accordance with the Securities Act and the nonexistence of a stop order suspending such effectiveness at such time

(c) The receipt by each of a letter from its independent public accountants, dated as of the Closing Date, in form and substance reasonably satisfactory, in each case, to Network and IXC, stating that the transactions to be effected pursuant to this Agreement will qualify as a pooling of interests transaction under GAAP and applicable SEC regulations.

(d) The shares of IXC Common issuable pursuant to the MERGER having been approved for listing on the NMS upon official notice of issuance.

(e) Any waiting period (and any extension thereof) applicable to the consummation of the Merger under the HSR Act shall have expired or been terminated.

## ARTICLE IX MISCELLANEOUS

**Section 9.1 Survival.** The several representations and warranties of the parties contained in or made pursuant to this Agreement and the several covenants and agreements of the parties contained in this Agreement shall expire on the Closing Date and, except for the provisions of Sections 4.10, 6.10, 7.4, 9.2, 9.3, 9.4, 9.7, 9.8, 9.9, 9.10, 9.12, and 9.16, inclusive, of this Agreement, the several covenants and agreements of the parties contained in this Agreement shall expire on the termination or abandonment of this Agreement.

### **Section 9.2 Termination of Agreement; Termination Fee.**

(a) The transactions contemplated hereby may be abandoned, and this Agreement terminated, upon notice, at any time after the date of this Agreement, but not later than the Closing, by:

(i) The mutual consent of the Boards of Directors of Network and IXC;

(ii) IXC, if Network is in willful breach of any of its representations, warranties, covenants or agreements under this Agreement in any material respect and such breach has not been cured within 20 business days of IXC's notice to Network of such breach;

(iii) Network, if IXC, IXC Long Distance or Acquisition is in willful breach of any of its representations, warranties, covenants or agreements under this

Agreement in any material respect and such breach has not been cured within 20 business days of Network's notice to IXC of such breach.

(iv) Either Network or IXC, if the consummation of the Merger contemplated herein has been enjoined and such injunction is not subject to appeal or if a Final Order which contains an undue burdensome term, condition or provision is issued and no appeal is taken by either party therefrom;

(v) Either Network or IXC, by written notice to the other, if the Network Shareholders Approval shall not have been obtained at the Network Meeting, including any adjournments thereof.

(vi) The Board of Directors of Network or IXC if the Merger contemplated herein shall not have become effective on or before December 31, 1998; **provided, however**, that the right to terminate this Agreement under this Section 9.2(a)(vi) should not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur on or before such date; and **provided further**, if any condition to this Agreement shall fail to be satisfied by reason of the existence of an injunction or order of any court or governmental or regulatory body, then at the request of either party the deadline date referred to above shall be extended for a reasonable period of time, not in excess of sixty (60) days, to permit the parties to have such injunction vacated or order reversed;

(vii) RESERVED; or

(viii) Network if it received a bona fide, fully funded offer to acquire all of its outstanding common stock or all or substantially all of its assets, which, after taking into account the payment to be made to IXC under subsection (b) below, would in the opinion of the Network Board of Directors result in a value (at the time of the closing of such acquisition) to the Shareholders greater than \$142,000,000.

(b) Upon termination of this Agreement by Network pursuant to subsection (viii) of Section 9.2(a), Network agrees to pay IXC a fee in immediately available funds equal to \$7,500,000.

(c) Each of the parties acknowledge that the agreement contained in this Section 9.2 is an integral part of the transactions contemplated by this Agreement and that without such agreement, neither party would enter into this Agreement; accordingly, if either party fails to pay promptly the amount due pursuant to this Section 9.2, such party shall also pay the other party's costs and expenses (including reasonable attorney's fees) incurred in

(a) If to DXC, IXC Long Distance or Acquisition, to

IXC Communications, Inc.  
1122 Capital of Texas Highway South  
Austin, Texas 78746  
Fax: (512) 328-1834  
Attention: Jeffrey C. Smith, Esq.

with a copy to:

Riordan & McKinzie  
695 Town Center Drive, Suite 1500  
Costa Mesa, California 92626  
Fax: (714) 549-3244  
Attention: Michael P. Whalen, Esq.

or to such other address as DXC, IXC Long Distance or Acquisition, may from time to time designate by notice to Network; and

(b) If to Network, to:

Network Long Distance, Inc.  
7000 Squibb, Suite 310  
Mission, Kansas 66202  
Fax: (913) 262-2730  
Attention: Timothy A. Barton

with a copy to:

Blackwell Sanders Matheny Weary Lombardi LLP  
2300 Main, Suite 1100  
Kansas City, Missouri 64108  
Fax: (816) 983-8080  
Attention: James M. Ash, Esq.

or to such other address as Network may from time to time designate by notice to IXC.

**Section 9.8 Entire Agreement.** This Agreement, together with all of the Transaction Documents, constitutes the entire agreement between the parties and supersedes and cancels any and all prior agreements between the parties relating to the subject matter hereof.

**Section 9.9 Rules of Construction.** This Agreement shall be construed as follows:

(a) Except as otherwise defined in this Agreement, words shall be given their commonly understood meaning in agreements of this nature, except that accounting terms shall be given the meaning ascribed thereto by generally accepted accounting principles and interpretations;

(b) This Agreement has been negotiated on behalf of the parties hereto with the advice of counsel and no general rule of contract construction requiring an agreement to be more stringently construed against the drafter or proponent of any particular provision shall be applied in construction of this Agreement;

(c) The captions of Articles and Sections hereof are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement;

(d) Throughout this Agreement, the masculine, feminine or neuter genders shall be deemed to include the masculine, feminine and neuter, and the singular and plural, and vice versa; and

(e) All of the exhibits and schedules attached hereto are incorporated herein and made a part of this Agreement by reference thereto.

**Section 9.10 Law Governing.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the state of Delaware, but not including the choice of law rules thereof.

**Section 9.11 Waiver of Provisions.** The terms, covenants, representations, warranties or conditions of this Agreement may be waived only by a written instrument executed by the party waiving compliance. Such waiver shall be authorized solely by the majority vote of the Board of Directors or, to the extent permitted by applicable law, the Executive Committee of the party waiving compliance or by officers authorized by such Board or Committee. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any party of any condition, or the breach of any provision, term, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant, representation or warranty of this Agreement. The representations and warranties of Network and IXC contained in this Agreement or in any certificate or other document delivered pursuant hereto or in connection herewith prior to or at the Closing shall not be deemed waived or otherwise amended or modified by any investigation made by any party hereto.

**Section 9.12 Successors.** All of the terms and conditions of this Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of IXC and

Network. For the purpose of this Agreement, the term "successors" shall include but not be limited to heirs, legatees, and devisees.

**Section 9.13 Counterparts.** This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement, binding on all of the parties hereto, notwithstanding that all parties are not signatory to the original or the same counterpart.

**Section 9.14 Public Statements or Releases.** Network and DXC each agree not to make, issue or release any public announcement, statement or acknowledgment of the existence of, or reveal the terms, conditions and status of, the transactions provided for in this Agreement, without first attempting to the extent reasonably possible (and in all cases with regard to written matters) to clear such announcement, statement, acknowledgment or revelation with the other. Each agrees that it will not unreasonably withhold any such consent or clearance from the other.

**Section 9.15 Severability.** In the event that any provision in this Agreement be held invalid or unenforceable, by a court of competent jurisdiction, such provision shall be severable from, and such invalidity or unenforceability shall not be construed to have any effect on, the remaining provisions of this Agreement, unless such provision goes to the essence of this Agreement in which case the entire Agreement may be declared invalid and not binding upon any of the parties.

**Section 9.16 No Third Party Beneficiaries.** This Agreement and the obligations of parties hereunder shall operate exclusively for the benefit of the parties executing this Agreement and their permitted successors and assigns and not for the benefit of any other person or entity, including, without limitation, any other shareholder, creditor, employee or former employee of either Network or DXC and no such person or entity shall have any rights or remedies hereunder.

[SIGNATURE PAGE FOLLOWS]

## LIST OF EXHIBITS AND SCHEDULES

### EXHIBITS

- 3.1 Network Certificate of Incorporation and Bylaws
- 5.1 IXC and Acquisition Certificates of Incorporation and Bylaws

### SCHEDULES

#### Network Schedules:

- 3.2 Network Subsidiaries, Other Interests
- 3.4 Options, Warrants, Etc.
- 3.6 Consents and Approvals
- 3.8 Material Adverse Changes
- 3.9 Undisclosed Liabilities
- 3.11(a) Employment Contracts
- 3.11(b) Employee Salary and Benefit Information
- 3.11(c) Employee Severance Information
- 3.11(d) Benefit Plans
- 3.11(e) Title IV Plans
- 3.11(g) Multi-Employer Plans
- 3.11(j) Non-Terminable Benefit Plans
- 3.12 Litigation
- 3.13 Exceptions to Compliance with Laws, Tariffs
- 3.14 Tax Filings and Audits
- 3.15 Bank Accounts
- 3.16 Other Contracts, Agreements, Leases, Etc
- 3.17 Owned Real Property and Liens and Encumbrances
- 3.21 Conflicts of Interest
- 3.22 Insurance
- 4.1 Network Expenses Outside Ordinary Course
- 4.2 Permitted Actions
- 8.1(b) Revenue Test

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day, month and year first above written.

**DXC:**

**DXC Communications, Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**DXC LONG DISTANCE:**

**DXC Long Distance, Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_


**ACQUISITION:**

**Piscas Acquisition Corp.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**NETWORK:**

**Network Long Distance, Inc.**

By:   
Name: TIM A. BARTON  
Title: President

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day, month and year first above written.

**IXC:**

**IXC Communications, Inc.**

By: [Signature]  
Name: FREDERICK C. SMITH  
Title: SR. V.P. & C. Y. SECRETARY

**IXC LONG DISTANCE:**

**IXC Long Distance, Inc.**

By: [Signature]  
Name: FREDERICK C. SMITH  
Title: SR. V.P. & C. Y. SECRETARY

**ACQUISITION:**

**Pieces Acquisition Corp.**

By: [Signature]  
Name: FREDERICK C. SMITH  
Title: SR. V.P. & C. Y. SECRETARY

**NETWORK:**

**Network Long Distance, Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT B**  
**IXC Financial Information**

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D C 20549

FORM 10 Q

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

FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 1997

OR

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

FOR THE TRANSITION PERIOD FROM TO

COMMISSION FILE NUMBER 0-20803

INC COMMUNICATIONS, INC.  
(EXACT NAME OF REGISTRANT SPECIFIED IN ITS CHARTER)

DELAWARE  
(STATE OR OTHER JURISDICTION OF  
INCORPORATION OR ORGANIZATION)  
5000 PLAZA ON THE LAKE, SUITE 200  
AUSTIN, TEXAS  
(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES)

74-2644120  
(I R S EMPLOYER  
IDENTIFICATION NO.)

78746  
(ZIP CODE)

(REGISTRANT'S TELEPHONE NUMBER, INCLUDING AREA CODE) (512) 328 1112

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

The number of shares of Common Stock, \$ 01 par value, outstanding (the only  
class of common stock of the Company outstanding) was 31,542,891 on November 10,  
1997.

INC COMMUNICATIONS, INC. AND SUBSIDIARIES

QUARTER ENDED SEPTEMBER 30, 1997

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## IAC COMMUNICATIONS, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS  
(DOLLARS IN THOUSANDS, EXCEPT SHARE AND PER SHARE AMOUNTS)

	SEPTEMBER 30 1998	DECEMBER 31 1996
	UNAUDITED	UNAUDITED
<b>ASSETS</b>		
<b>Current assets</b>		
Cash and cash equivalents	\$ 281,964	\$ 51,140
Accounts receivable and other receivables, net of allowance for doubtful accounts of \$12,702 at September 30, 1997 and \$4,054 at December 31, 1996	74,567	87,568
Other current assets	1,214	1,110
<b>Total current assets</b>	357,745	140,818
Property and equipment	578,111	437,741
Less accumulated depreciation	(101,421)	(86,117)
	476,690	351,624
Escrow under lease notes		51,411
Investment in unconsolidated subsidiary	10,408	5,488
Deferred charges and other non-current assets	35,871	27,535
<b>Total assets</b>	<b>\$ 884,815</b>	<b>\$ 656,816</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)</b>		
<b>Current liabilities</b>		
Accounts payable and other current liabilities	\$ 13,178	\$ 14,544
Accrued interest	1,907	8,908
Current portion of long-term debt and capital lease obligations	7,760	8,740
<b>Total current liabilities</b>	22,845	32,192
Long-term debt and capital lease obligations, less current portion	295,950	295,511
Long term portion of unearned fiber usage revenue	50,137	5,100
Other noncurrent liabilities	1,018	4,219
7 1/4% Junior Convertible Preferred Stock, \$ 0.1 per share authorized - 3,000,000 shares of all classes of Preferred Stock, 1,036,574 shares issued and outstanding (aggregate liquidation preference of \$107,657, including dividends of \$3,857 at September 30, 1997)	0,154	
12 1/2% Junior Exchangeable Preferred Stock, \$ 0.1 per share authorized - 3,000,000 shares of all classes of Preferred Stock, 300,000 shares issued and outstanding (aggregate liquidation preference of \$304,167, including accrued dividends of \$4,167 at September 30, 1997)	30,177	
Stockholders' equity (deficit)		
10% Junior Series A Cumulative Preferred Stock, \$ 0.1 per share, authorized - 3,000,000 shares of all classes of Preferred Stock, 12,550 shares issued and outstanding (aggregate liquidation preference of \$20,484 at September 30, 1997)	1,255	1,255
Common stock, \$ 0.1 per share, 100,000,000 shares authorized	1,000,000	1,000,000

shares issued and outstanding -- 30,923,692 at September 30, 1997 and 30,795,014 at December 31, 1996

Additional paid-in capital	909	123,634
Accumulated deficit	(18,321)	(60,276)
	(17,412)	(36,642)
Total stockholders' equity (deficit)	(17,412)	(36,642)
Total liabilities and stockholders' equity (deficit)	\$ 184,873	\$459,151

See accompanying notes

INC COMMUNICATIONS, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
(DOLLARS AND NUMBER OF SHARES IN THOUSANDS, EXCEPT PER SHARE AMOUNTS)  
(UNAUDITED)

	THREE MONTHS ENDED SEPTEMBER 30		NINE MONTHS ENDED SEPTEMBER 30	
	1997	1996	1997	1996
Net operating revenues				
Private line	\$ 41,948	\$ 29,766	\$111,512	\$ 72,397
Switched long distance	76,292	35,250	179,704	97,876
Net operating revenues	118,240	65,016	289,016	130,273
Operating expenses				
Cost of communication services	87,885	49,524	227,021	9,017
Operations and administration	22,241	12,383	57,471	33,286
Depreciation and amortization	17,666	7,380	45,031	19,934
Operating loss	(11,555)	(2,121)	(44,505)	(11,964)
Interest income	1,190	1,220	4,046	1,471
Interest income on escrow under Senior Notes		1,054	791	6,641
Interest expense	(7,367)	(9,298)	(21,772)	(20,678)
Other, net	(1,757)		(1,757)	
Equity in net loss of unconsolidated subsidiaries	(7,117)	(10)	(14,061)	(24)
Loss before benefit (provision) for income taxes and minority interest	(17,537)	(8,805)	(75,242)	(34,552)
Benefit (provision) for income taxes	(211)	1,434	41	1,659
Minority interest	(186)	(153)	503	(197)
Net loss	(17,934)	(7,524)	(74,798)	(33,090)
Dividends applicable to preferred stock	(6,727)	(487)	(12,504)	(1,302)
Net loss applicable to common and common equivalent stockholders	\$ (24,661)	\$ (8,011)	\$ (87,302)	\$ (34,392)
Net loss per common and common equivalent share	\$ (1.06)	\$ (0.19)	\$ (1.76)	\$ (1.13)
Weighted average common and common equivalent shares	23,097	41,311	4,951	30,426

See accompanying notes

INC COMMUNICATIONS, INC AND SUBSIDIARIES  
 CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOW  
 (DOLLARS IN THOUSANDS)  
 (UNAUDITED)

	FOR THE NINE MONTHS ENDING SEPTEMBER 30	
	1997	1996
Net cash provided by operating activities	\$ 17,494	\$ 7,007
Investing activities		
Release of funds from escrow under Senior Notes	65,964	7,125
Deposit into escrow under Senior Notes	(12,152)	
Investments in unconsolidated subsidiary	(1,742)	(1,988)
Purchase of property and equipment	(102,471)	(73,559)
Net cash used in investing activities	(47,401)	(68,422)
Financing activities		
Net proceeds from the sale of convertible preferred stock	45,698	
Principal payments on long term debt and capital lease obligations	(1,154)	(11,587)
Net proceeds from the sale of exchangeable preferred stock	188,787	
Net proceeds from issuance of common stock - initial public offering		81,517
Proceeds from issuance of common stock - private placement		12,919
Other financing activities	92	(186)
Net cash provided by financing activities	133,473	81,144
Net increase in cash and cash equivalents	22,566	89,729
Cash and cash equivalents at beginning of period	62,341	6,919
Cash and cash equivalents at end of period	\$ 284,907	\$ 96,648
Supplemental disclosure of cash flow information		
Cash paid (received) for		
Interest	\$ 19,467	\$ 19,156
Taxes	\$ 129	\$ 184

See accompanying notes

## IXC COMMUNICATIONS, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
(UNAUDITED)

## 1. BASIS OF PRESENTATION AND SIGNIFICANT ACCOUNTING POLICIES

The accompanying unaudited Condensed Consolidated Financial Statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and notes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation for the periods indicated have been included. Operating results for the three month and nine month periods ended September 30, 1997 are not necessarily indicative of the results that may be expected for the year ended December 31, 1997. The Balance Sheet at December 31, 1996 has been derived from the audited financial statements at that date, but does not include all of the information and notes required by generally accepted accounting principles for complete financial statements. The accompanying financial statements should be read in conjunction with the audited consolidated financial statements (including the notes thereto) for the year ended December 31, 1996. Certain amounts shown in the 1996 financial statements have been reclassified to conform to the 1997 presentation.

## 2. LOSS PER COMMON AND COMMON EQUIVALENT SHARE

Loss per common and common equivalent share is based on net loss less preferred stock dividend requirements, divided by the weighted average common and common equivalent shares outstanding during the period. Outstanding options are included in the calculation to the extent they are dilutive. Loss per share on a fully diluted basis is not presented as the fully diluted effect is either antidilutive or not materially different from primary loss per common and common equivalent share, as computed.

## 3. INCOME TAXES

The Company has determined that a valuation allowance should be applied against a portion of the deferred tax assets related to the net operating loss incurred in 1997 due to uncertainty regarding its realizability. The difference between the tax benefit recorded for the nine months ended September 30, 1997 and the benefit calculated at the federal statutory rate is primarily due to the valuation allowance applied against the deferred tax assets.

## 4. COMMITMENTS AND CONTINGENCIES

During 1997, the Company has made and will continue to make material commitments related to the expansion of its fiber optic network.

During 1997, the Company has entered into several agreements with major long distance carriers for the sale of dark fiber amounting to \$743 million. Although these agreements provide for certain penalties if the Company does not complete construction of the defined routes within the time frame specified in the agreements, management does not anticipate that the Company will incur any material penalties under these provisions.

On April 4, 1997 Tel-Central Communications, Inc. ("Tel-Central") filed a complaint against IXC Long Distance, Inc. (one of the Company's subsidiaries) in the United States District Court in the Western District of Missouri, after the Company terminated service to Tel-Central for failure to pay for services. On May 23, 1997, Tel-Central filed a voluntary Chapter 11 petition in bankruptcy. The case was stayed as a result of the bankruptcy proceedings until August 1997, when Tel-Central dismissed the action.



From time to time the Company is involved in various legal proceedings arising in the ordinary course of business, some of which are covered by insurance. In the opinion of the Company's management, none of the

IXC COMMUNICATIONS, INC AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)  
(UNAUDITED)

claims relating to such proceedings will have a material effect on the financial condition or results of operations of the Company.

5. STOCK OPTIONS

During the quarter ended September 30, 1997, the Company granted stock options for an aggregate of 751,000 shares of common stock under the 1996 Stock Plan and the 1997 Special Executive Stock Plan. At September 30, 1997 stock options covering 2,793,066 shares of common stock were outstanding.

6. PROSPECTIVE ACCOUNTING CHANGES

In February 1997, the FASB issued SFAS No. 128, "Earnings Per Share" ("SFAS No. 128"), which simplifies the calculation of earnings per share. Under SFAS No. 128, stock options and other equity instruments are excluded from the calculation of "basic earnings per share", which will replace primary earnings per share disclosures. SFAS No. 128 is effective for periods ending after December 15, 1997. The Company believes that its future adoption of SFAS No. 128 will not have a significant impact on earnings per share disclosures for the periods presented.

In June 1997, the FASB issued SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information" ("SFAS No. 131"). SFAS No. 131 establishes standards for the way that public business enterprises report information about operating segments in annual financial statements and requires that those enterprises report selected information about operating segments in interim financial reports issued to shareholders. SFAS No. 131 is effective for financial statements for fiscal years beginning after December 15, 1997. The adoption of SFAS No. 131 will have no impact on the Company's consolidated results of operations, financial position or cash flows.

7. PREFERRED STOCK

In April 1997, the Company issued \$100 million of 7 1/4% Junior Convertible Preferred Stock Due 2007 ("Convertible Preferred Stock"). The net proceeds of approximately \$95.7 million from the offering were used to fund capital expenditures, investments in an unconsolidated subsidiary and general corporate purposes. Resales of the Convertible Preferred Stock and the common stock issuable upon conversion thereof were registered under the Securities Act of 1933, as amended (the "Securities Act"); in August 1997 in compliance with the registration rights agreement entered into by the Company with the initial purchasers of the Convertible Preferred Stock. On March 31, 2007, the Convertible Preferred Stock must be redeemed by the Company at a price equal to the liquidation preference plus accrued and unpaid dividends, thus it is "mandatorily redeemable" and is not reported in stockholders' equity. Dividends payable prior to or on June 30, 1999 are, at the option of the Company, payable in cash or through the issuance of additional shares of Convertible Preferred Stock equal to the dividend amount divided by the liquidation preference of such additional shares. After March 31, 1999, to the extent and for so long as the Company is not permitted to pay cash dividends on the Convertible Preferred Stock by the terms of any then outstanding indebtedness or any other agreement or instrument to which the Company is subject, the Company will be required to pay dividends, which shall accrue at the rate per annum of 8 3/4%, through the issuance of additional shares of Convertible Preferred Stock. Payment of cash dividends on the Convertible Preferred Stock is not currently permitted under the indenture for the Company's 12 1/2% Senior Notes due 2005 until certain financial conditions have been met. During September 1997, the Company issued 18,451 additional shares of Convertible Preferred Stock in satisfaction of its September 1997 dividend requirements.

In August 1997, the Company issued \$100 million of 12 1/2% Junior Exchangeable Preferred Stock Due 2009 (the "Exchangeable Preferred Stock"). The net proceeds of approximately \$285.5 million from the offering are being used to fund capital expenditures, investments in the Company's unconsolidated subsidiaries

EXC COMMUNICATIONS, INC AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)  
(UNAUDITED)

and general corporate purposes. The Exchangeable Preferred Stock has not been registered under the Securities Act and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. On August 15, 2009, the Exchangeable Preferred Stock must be redeemed by the Company at a price equal to the liquidation preference plus accrued and unpaid dividends; thus it is "mandatorily redeemable" and is not included in stockholders' equity. Dividends on the Exchangeable Preferred Stock will accrue at a rate of 12 1/2% per annum of the liquidation preference thereof and will be payable quarterly in arrears on February 15, May 15, August 15 and November 15 of each year commencing November 15, 1997. Dividends payable prior to or on August 15, 2000 are, at the option of the Company, payable in cash or through issuance of additional shares of Exchangeable Preferred Stock equal to the dividend amount divided by the liquidation preference of such additional shares. The registration rights agreement entered into by the Company with the initial purchasers of the Exchangeable Preferred Stock requires that the Company file an exchange offer registration statement (the "Exchange Offer Registration Statement") with respect to an offer (the "Registered Exchange Offer") to exchange the Exchangeable Preferred Stock for a new series of Exchangeable Preferred Stock registered under the Securities Act. In October 1997, the Company filed the Exchange Offer Registration Statement with the Securities and Exchange Commission. If, on or before January 19, 1998, the Registered Exchange Offer has not been consummated, or a shell registration statement has not been declared effective with respect to the Exchangeable Preferred Stock, the Exchangeable Preferred Stock dividend rate is subject to increase pursuant to the terms of the registration rights agreement. After February 15, 2001, interest on the Exchangeable Preferred Stock may be paid only in cash. Payment of cash dividends on the Exchangeable Preferred Stock is not currently permitted under the indenture for the Company's 12 1/2% Senior Notes due 2005 until certain financial conditions have been met.

8. PSINET INC.

In July 1997 the Company announced agreements with PSINet, Inc. ("PSINet"). Under the terms of the PSINet agreements, after consummation of the transaction, the Company will provide PSINet with an indefeasible right to use 10,000 miles of OC-48 transmission capacity on its Network over a 20 year period in exchange for 20% (post-issuance) of PSINet common stock. In addition, if the value of the PSINet common stock received by the Company is less than \$240 million at the earlier of one year after the final delivery of the transmission capacity (scheduled for late-1999) or four years after closing, PSINet will pay the Company cash or, at PSINet's option, deliver additional PSINet common stock to bring the value of the Company's investment to \$240 million. Upon delivery of the transmission capacity to PSINet, the Company will also receive a maintenance fee which, when all the capacity has been delivered, will be approximately \$11.5 million per year. The Company expects to consummate the transactions contemplated by the PSINet agreements upon the satisfaction of certain conditions, including the approval of PSINet stockholders. There can be no assurance that such conditions will be satisfied or that the PSINet transaction will be consummated.

9. SUBSEQUENT EVENTS

In October 1997, the Company formed a joint venture with Telenor AS, the Norwegian national telephone company, to provide telecommunication services to carriers and resellers in nine European countries. The joint venture will be owned 40 percent by the Company, 40 percent by Telenor Global Services AS, and 20 percent by Clarion Resources Communications Corporation, a U.S. based telecommunications company in which Telenor owns a controlling interest. Under the terms of the agreement, the Company will have two seats on the joint

venture's board.

In October 1997, the Company consummated its offer to exchange shares of its Common Stock for the 12,550 outstanding shares of its 10% Junior Series B Cumulative Redeemable Preferred Stock (the "Series B Preferred Stock"). Each holder that tendered shares of Series B Preferred Stock prior to the expiration date of

INC COMMUNICATIONS, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)  
(UNAUDITED)

the tender offer (October 31, 1997) received approximately 49.85 shares of Common Stock for each share of Series 3 Preferred Stock. The number of shares of Common Stock issued for each share of Series 3 Preferred Stock was calculated by dividing the aggregate per share liquidation preference, including accrued and unpaid dividend of one share of Series 3 Preferred Stock as of October 31, 1997 by \$33.00, the last reported sale price of the Company's Common Stock on the Nasdaq National Market at that date. The aggregate liquidation preference, including accrued and unpaid dividends of the Series 3 Preferred Stock at the tender date was approximately \$20.6 million (\$1.645 per share for the 12,550 shares outstanding). Over 95% of the shares of Series 3 Preferred Stock were tendered prior to the expiration of the exchange offer.

10 FINANCIAL INFORMATION FOR SUBSIDIARY GUARANTORS AND NON GUARANTOR SUBSIDIARIES

The Company conducts a significant portion of its business through subsidiaries. The Senior Notes are unconditionally guaranteed, jointly and severally, by certain wholly owned direct and indirect subsidiaries (the "Subsidiary Guarantors"). The obligations of each Subsidiary Guarantor are limited to the minimum extent necessary to prevent the guarantee from violating or becoming voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally. Certain subsidiaries of the Company do not guarantee the Senior Notes (the "Non-Guarantor Subsidiaries"). The claims of creditors of Non-Guarantor Subsidiaries have priority over the rights of the Company to receive dividends or distributions from such subsidiaries.

The equity method has been used by the Company with respect to investments in subsidiaries. The equity method has been used by Subsidiary Guarantors with respect to investments in Non-Guarantor Subsidiaries. Separate financial statements for Subsidiary Guarantors are not presented based on management's determination that they do not provide additional information that is material to investors. Presented below is condensed consolidating financial information for the Company, the Subsidiary Guarantors and the Non-Guarantor Subsidiaries as of and for the nine months ended September 30, 1997.

## IMC COMMUNICATIONS, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)  
(UNAUDITED)

## CONDENSED CONSOLIDATING BALANCE SHEET

	SEPTEMBER 30, 1997				CONSOLIDATED
	IMC	SUBSIDIARY CORPORATIONS	NON-EXEMPT SUBSIDIARIES	ELIMINATIONS	
	(DOLLARS IN THOUSANDS)				
<b>Current assets</b>					
Cash and cash equivalents	\$295,479	\$121,708	\$ 10,192	\$	\$283,963
Accounts receivable and other receivables, net	974	97,774	20,679		79,347
Other current assets	1,643	2,259	46		1,878
<b>Total current assets</b>	<b>298,096</b>	<b>321,741</b>	<b>30,917</b>		<b>650,754</b>
Property and equipment, net	9,894	413,252	7,165	(2,244)	478,057
Payable under Senior Notes due from affiliates	448,905		11,297	(448,905)	
Deferred charges and other non-current assets	10,659	9,674	32,170	(7,851)	44,652
<b>Total assets</b>	<b>\$767,554</b>	<b>\$843,667</b>	<b>\$ 72,549</b>	<b>\$ (461,144)</b>	<b>\$682,526</b>
<b>Current liabilities</b>					
Accounts payable accrued interest and other current liabilities	\$ 27,196	\$ 75,082	\$ 48,798	\$	\$151,076
Current portion of long-term debt and capital lease obligations	46	959	6,716		7,721
<b>Total current liabilities</b>	<b>27,242</b>	<b>76,041</b>	<b>55,514</b>		<b>158,797</b>
Long-term debt and capital lease obligations, less current portion	278,189	2,877	14,470		295,536
Due to affiliates		379,271	87,967	(468,568)	
Investments in and advances to unconsolidated subsidiaries	86,737	24,629		(11,363)	100,003
Other noncurrent liabilities		65,375		(4,331)	61,044
Convertible preferred stock	79,354				79,354
Exchangeable preferred stock	292,576				292,576
<b>Stockholders' equity (deficit)</b>					
Preferred stock	13		2,587	(1,585)	13
Common stock	109	1		(1)	109
Additional paid-in capital	118,321	30,654	36,327	(48,401)	118,321
Retained earnings (accumulated deficit)	(134,986)	(113,402)	(72,479)	18,085	(135,782)
<b>Total stockholders'</b>					

(deficit)	(18,843)	(89,305)	(37,497)	(19,096)	(17,109)
Total liabilities and stockholders (deficit)	<u>\$767,753</u>	<u>\$463,861</u>	<u>\$ 121,514</u>	<u>\$ 467,197</u>	<u>\$889,877</u>



INC COMMUNICATIONS, INC AND SUBSIDIARIES  
 NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - (CONTINUED)  
 (UNAUDITED)

CONDENSED CONSOLIDATING STATEMENT OF OPERATIONS

	FOR THE NINE MONTHS ENDED SEPTEMBER 30, 1997				
	INC	SUBSIDIARY QUARTERS	NON GUARANTY SUBSIDIARIES	ELIMINATIONS	TOTAL
	(DOLLARS IN THOUSANDS)				
Net operating revenue					
Private line	\$ 43	124 096	10 551	(23 975)	111 311
Switched long distance		88 484	157 113	(71 915)	174 766
Net operating revenues	47	213 174	167 664	(95 890)	289 755
Operating expenses					
Cost of communication services	3	196 014	(25 517)	95 251	229 021
Operations and administration	(53)	40 418	17 823	(115)	87 477
Depreciation and amortization	1,202	30 904	8 297	(68)	41 033
Operating loss	(1 109)	(14 766)	(24 769)	136	(40 508)
Interest income	32,951	510	307	(29 332)	4 436
Interest income on escrow under Senior Notes	203				203
Interest expense	(27,073)	(20 730)	(5 648)	(5 331)	(23 720)
Other, net	-	(1 747)			(1 747)
Equity in net loss of unconsolidated subsidiaries	(80,002)	(32 375)	(12 251)	(10 490)	(23 668)
Loss before benefit (provision) for income taxes and minority interest	(75,030)	(68 678)	(42 341)	(11 035)	(75 014)
Benefit (provision) for income taxes	(446)	(100)	766		41
Minority interest				(403)	(301)
Net loss	\$(75,476)	\$(68,977)	\$(41,555)	\$1,032	\$(75,476)

See accompanying notes

## INC COMMUNICATIONS, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)  
(UNAUDITED)

## CONDENSED CONSOLIDATING STATEMENT OF CASH FLOWS

	FOR THE NINE MONTHS ENDED SEPTEMBER 30, 1997				CUMULATIVE PERIOD
	INC	SUBSIDIARY CORPORATION	NON-REVENUE SUBSIDIARIES	REGISTRATION	
	DOLLARS IN THOUSANDS				
Net cash provided by (used in):					
operating activities	\$ 27,991	\$ 1,105,059	\$ 1,998,111	\$ 1,821,111	\$ 1,149,494
Investing activities:					
Release of funds from escrow under Senior Notes	60,964				60,964
Payments with escrow under Senior Notes	(18,152)				(18,152)
Investments in unconsolidated subsidiary			11,714		(11,714)
Purchase of property and equipment	(1,533)	(16,543)	(16,401)		(22,077)
Net cash provided by (used in) investing activities	41,379	(16,543)	(4,687)		(10,851)
Financing activities:					
Net proceeds from convertible preferred stock	95,000				95,000
Net proceeds from exchangeable preferred stock	288,207				288,207
Payments from (advance to) affiliates	(223,951)	(19,905)	(47,956)		(311,812)
Principal payments on long-term debt and capital lease obligations	122	(1,046)	(8,215)		(11,139)
Other financing activities	92				92
Net cash provided by financing activities	160,268	(17,946)	(56,171)		371,936
Net increase (decrease) in cash and cash equivalents	230,116	(12,253)	(5,853)	(821)	222,623
Cash and cash equivalents at beginning of period	65,343	1,455,111	4,511,111	821	61,340
Cash and cash equivalents at end of period	\$295,459	\$1,442,858	\$4,505,258	\$	\$283,963

See accompanying notes

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

Except for the historical information contained below, the matters discussed in this item are forward-looking statements that involve a number of risks and uncertainties. The Company's actual liquidity needs, capital resources and results may differ materially from the discussion set forth in the forward-looking statements. For a discussion of important factors that may cause the actual results, performance or achievements of the Company to be materially different from those expressed or implied by the forward looking statements, see "Business -- Risk Factors" in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1996. In light of such risks and uncertainties, there can be no assurance that the forward looking information contained in this item will in fact transpire.

**THREE AND NINE MONTHS ENDED SEPTEMBER 30, 1997 (COMPALED WITH THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 1996)**

Net operating revenue for the third quarter and year to date 1997 increased by 84.0% and 118.8% over the comparable 1996 periods, due mainly to the continuing implementation of the Company's switched services business. Revenue for the switched services business increased 99.4% and 200.1% for the 1997 third quarter and year-to-date over 1996. Billable minutes of use ("MUs") increased over 1996 by 120.1% to 825.3 million minutes for the quarter and 245.6% to 2.1 billion minutes year-to-date. Revenue for the Company's private line business increased 62.8% for the quarter and 53.8% year to date over 1996 due to increased demand for capacity and the availability of additional capacity resulting from the Company's network expansion.

Cost of communication services consists primarily of access charges paid to Local Exchange Carriers ("LECs") and transmission lease payments to, and exchanges with, other carriers. These costs increased 91.6% for the quarter and 149.4% year-to-date over 1996 due to additional leases supporting the Company's private line and switched services businesses. MUs obtained from other carriers and access charges paid to LECs in connection with the switched services business. The Company has historically had a relatively low cost of communication services as a percentage of revenues because substantially all its revenues were derived from private line services, generally provided at a relatively low cost over its own network. Expenses in the switched services business are substantially greater than the private line business due to the additional cost of LEC access charges, leases for long distance circuits and MOCUs obtained from other carriers. In July 1997 the Federal Communications Commission ("FCC") mandated rate reductions for the connection charges paid by long distance carriers to LECs. The favorable impact of these rate reductions during the third quarter are reflected in the financial statements. The Company expects its cost of communication services as a percentage of revenue to increase over historical results as the switched services revenue becomes a larger share of the Company's business.

Operations and administration expenses for the quarter and year to date for 1997 have increased 84.1% and 72.7% over 1996 primarily as a result of costs associated with the Company's switched network. Although the Company has been successful in establishing its nationwide switched services business with significant revenues, the Company's operating loss, plus depreciation and amortization ("EBITDA") in the switched services business has been negative and the Company believes it is likely to remain negative for the balance of the year.

Depreciation and amortization for the quarter and year to date for 1997 increased 142.7% and 105.8% over the comparable 1996 periods due to the increase in depreciable assets related to the Company's network expansion. Depreciation and amortization will continue to increase in conjunction with spending on capital assets to increase network capacity.

Interest income for the quarter and year to date for 1997 decreased over 1996 by \$ 8 million and \$3.3 million as proceeds from the Company's 1996 and 1997 debt and equity placements were used to construct the Company's network and operate its business. The Company's sale of \$300 million of its 12 1/2% Junior Exchangeable Preferred Stock Due 2009 (the "Exchangeable Preferred Stock", which occurred in August 1997), did not have a significant impact on interest income for the quarter.

Interest expense for the quarter and year-to-date periods decreased over 1996 by \$1.3 million and \$4.9 million. Total interest expense expensed for the year-to-date 1997 period was \$23.7 million, compared to \$28.7 million for the comparable 1996 period. Capitalization of interest reduced interest expense by \$4.9 million year-to-date in 1997, compared to \$1.4 million in 1996.

"Other, net" represents the net book value of a write off of an operating software module retired during 1997.

Equity in net loss of unconsolidated subsidiaries increased by \$7.3 million for the third quarter and \$13.6 million for the year-to-date 1997 over 1996 due to both the increased equity portion attributed to the Company and the increased losses in the Mexican telecommunications investment described below. The losses are expected to continue for this investment during the foreseeable future.

The income tax benefit for the quarter and year-to-date for 1997 decreased by \$3.1 million and \$5.7 million over 1996. This decrease occurred because although the tax benefit of the Company's losses are being fully reserved in both 1997 and 1996, in 1996 the Company recognized tax benefits related to the favorable resolution of federal income tax examinations.

The net loss applicable to common and common equivalent shareholders for the quarter and nine months ended September 30, 1997 were larger than the comparable 1996 periods due to the factors described above and the increase in preferred stock dividends in 1997. The increase in preferred stock dividends of \$6.5 million for the quarter, and \$6.3 million for the nine month period is the result of issuing the Convertible Preferred Stock in April, 1997 and the Exchangeable Preferred Stock in August 1997.

## LIQUIDITY AND CAPITAL RESOURCES

### Actual Results

The Company's private line operations have historically provided positive cash flow from operations, which has provided adequate liquidity to meet the Company's operational needs. However, the Company's capital expenditures and, since the issuance of the Company's 12 1/2% Senior Notes due 2005 (the "Senior Notes") in the fourth quarter of 1995, its interest expenses have been financed with the proceeds of debt and equity securities.

Cash provided by operating activities was \$17.5 million for the nine months ended September 30, 1997 compared to \$7.0 million in the comparable period of 1996. The improvement is due to the sale of fiber capacity partially offset by decreased year-over-year operating results associated with the implementation of the switched services business.

Cash used in investing activities for the nine months ended September 30, 1997 was \$168.8 million compared to \$5.1 million for the nine months ended September 30, 1996. The increase was due in part to higher capital spending and investment in the Marca-Tel joint venture. Capital spending, related to the expansion of the Company's network capacity, increased \$129.2 million to \$202.5 million for the nine months ended September 30, 1997. Funding of the Company's investment in the Marca-Tel joint venture was \$17.7 million during the first nine months of 1997, an increase of \$15.7 million over the comparable 1996 period. Escrow funding activity from the Company's senior debt to support the network expansion ended during the first nine months of 1997 with a year-over-year reduction of \$18.7 million.

Cash provided by financing activities increased to \$174.4 million for the first nine months of 1997 versus \$81.1 million for the comparable period in 1996. Increased funding during 1997 was the result of issuing the Company's 7 1/4% Junior Convertible Preferred Stock due 2007 (the "Convertible Preferred Stock") in April 1997 and issuing the Exchangeable Preferred Stock in August 1997. Net proceeds of \$95.7 million were received for the Convertible Preferred

Stock while net proceeds of \$288.3 million were received for the Exchangeable Preferred Stock. During the comparable period in 1996, net proceeds of \$94.0 million were received from issuance of common stock in connection with the Company's initial public offering and concurrent private placement to General Electric Pension Trust which occurred in Jul 1996.

## Sources of Cash

As of September 30, 1997, the Company had approximately \$244.0 million in cash. The Company expects that its primary sources of cash over the next twelve months will be cash on hand, cash generated by operations, the proceeds if any, from offerings of debt and/or equity securities, the Proposed Credit Facility (as herein defined), the NIFC Equipment Facility (as herein defined), additional vendor and working capital financing the Company may seek and the anticipated proceeds of fiber sales.

The Company is engaged in discussions with potential lenders regarding a revolving credit facility (the "Proposed Credit Facility") under which it seeks to borrow up to a certain percentage of eligible accounts receivable. Although the total availability under the Proposed Credit Facility would vary from time to time according to the aggregate amount of eligible accounts receivable, the Company anticipates that the lender would impose a limit on borrowings under the facility. There can be no assurance that the Company will obtain such a facility. In July 1997, the Company entered into a secured equipment financing facility with NIFC Capital Corporation, an affiliate of Northern Telecom Inc., to provide up to \$28 million in financing. Provided the Company meets certain financial tests, the Company expects to borrow approximately \$28 million under this agreement in the fourth quarter in connection with the purchase of certain equipment for use in its network.

In February 1997, the Company and a carrier entered into a contract ("IRU Agreement") pursuant to which the carrier will purchase an indefeasible right to use ("IRU") fibers from Chicago to Los Angeles (the "Chicago Los Angeles Fiber Sale") which, following performance by the Company of its obligations thereunder to the satisfaction of such carrier, will result in proceeds to the Company of approximately \$97.9 million. The Company has already received \$41.3 million from this contract, with the balance expected to be paid in the first quarter of 1998. In February 1997, the Company entered into a contract with another carrier pursuant to which the carrier will purchase an indefeasible right to use fibers from Los Angeles to New York (the "New York-Los Angeles Fiber Sale") which entitles the Company to receive, following performance by the Company of its obligations thereunder to the satisfaction of such carrier, approximately \$121.0 million. Assuming that the network expansion proceeds according to schedule, this amount will be due in January 1998. In October 1997, the carrier elected an option to pay this amount over a period of up to eighteen months. The Company has continued to enter into IRU agreements with carriers for varying amounts with substantially similar provisions as the two identified above. Entering into these IRU agreements allows the Company to build its network at a reduced cost per mile.

In July 1997, the Company announced agreements with PSINet Inc. ("PSINet"). Under the terms of the PSINet agreements, after consummation of the transaction, the Company will provide PSINet with an indefeasible right to use 10,000 miles of OC-48 transmission capacity on its Network over a 20 year period in exchange for 20% (post-issuance) of PSINet common stock. In addition, if the value of the PSINet common stock received by the Company is less than \$240 million at the earlier of one year after the final delivery of the transmission capacity (scheduled for late-1999) or four years after closing, PSINet will pay the Company cash or, at PSINet's option, deliver additional PSINet common stock to bring the value of the Company's investment to \$240 million. Upon delivery of the transmission capacity to PSINet, the Company will also receive a maintenance fee which, when all the capacity has been delivered, will be approximately \$11.5 million per year. The Company expects to consummate the transactions contemplated by the PSINet agreements upon the satisfaction of certain conditions, including receipt of approval of PSINet stockholders. There can be no assurance that such conditions will be satisfied or that the PSINet transaction will be consummated.

The preceding forward-looking statements regarding the Company's sources of cash are based on certain assumptions as to future events, many of which are not

within the Company's control. Important factors that could adversely affect the Company's ability to generate cash as discussed above include (i) delays or cost overruns with respect to the network expansion, (ii) delays by the Company's contractors and partners in cost-saving arrangements in fulfilling their obligations; (iii) delays or higher than-expected costs in obtaining rights-of-way; (iv) delays in the completion of the routes of the network expansion scheduled for completion in 1997; (v) an inability by the Company to continue to increase traffic on its switched network, in particular, higher margin traffic; (vi) an inability by the Company to successfully provide service for its switched services.



business on a cost-effective basis (including the provision of billing information in an accurate and timely manner) for volumes that it has not previously handled, (vii) the loss of one or more large customers, (viii) an inability to decrease expenses, (ix) decreases in the Company's rates caused by competitive pressures, among other unknown factors and (x) an inability to successfully complete the Chicago-Los Angeles Fiber Sale or the New York-Los Angeles Fiber Sale. The ability of the Company to supplement cash through financing activities is subject to the ability of the Company to find willing buyers of debt or equity instruments on terms acceptable to the Company, market conditions generally, and, with respect to debt instruments, the Company's ability to obtain any required consents from the Company's existing bondholders.

#### Uses of Cash

The Company anticipates the following uses for its available cash: (i) the network fiber and optronic expansion and other capital expenditures (including those related to the PSINet transactions), (ii) debt service, (iii) lease payments, (iv) funding its joint venture in Mexico and (v) working capital.

The Company anticipates 1997 capital expenditures will be approximately \$400 million, of which \$202.5 million has been spent through September 30, 1997. The 1997 projected spending level encompasses the addition of additional fiber route miles, as well as network upgrades and capacity expansion of the existing fiber route. The preceding forward-looking statement regarding capital expenditures for 1997 are based on certain assumptions as to future events, many of which are not under the Company's control. Important factors which could increase or decrease the amount of the capital expenditures include construction delays or construction cost overruns, delays or higher than expected costs in obtaining rights-of-way, or changes in the scope of the network expansion and increased demands for capacity by the Company's customers. The Company expects to continue to make substantial capital expenditures during the remainder of 1997 and thereafter. The Company currently anticipates that 1998 capital expenditures will be in the mid-\$400 million range. The Company frequently revises its estimates of capital expenditures because of the rapid growth of the Company's business and because the large, ongoing network expansion is subject to changes in timing, design, route and capacity, and variances from expected costs.

The Company is required to make interest payments in the amount of \$35.6 million on the Senior Notes each year. The Company's EBITDA is currently insufficient to cover these debt service requirements. At November 1, 1997, the aggregate liquidation preference of the Company's 10% Junior Series 3 Cumulative Redeemable Preferred Stock (the "Series 3 Preferred Stock") was approximately \$.7 million, including accrued and unpaid dividends, after giving effect to the consummation of the Company's offer to exchange shares of its common stock for all of its outstanding shares of Series 3 Preferred Stock. Such dividends accrue at an annual rate of 10% (based on the liquidation preference) plus interest. The Company is also required (except in certain limited circumstances) to pay quarterly cash dividends on the Convertible Preferred Stock at an annual rate of 7 1/4% beginning with the dividend payment required to be made on June 30, 1999 (prior to such time these dividends may at the Company's option be paid in cash or additional shares of Convertible Preferred Stock). Payment of cash dividends on the Series 3 Preferred Stock, the Convertible Preferred Stock and the Exchangeable Preferred Stock is not currently permitted under the terms of the indenture (the "Indenture") for the Senior Notes until certain financial conditions have been met. Additionally, cash dividends cannot be paid on the Convertible Preferred Stock until all current and accrued dividends have been paid in cash on the Series 3 Preferred Stock. During September 1997, the Company issued 18,451 additional shares of Convertible Preferred Stock in satisfaction of its dividend requirements. During September 1997, the Company accrued \$4.2 million of in-kind dividends relating to the Exchangeable Preferred Stock.

In October 1997, the Company formed a joint venture with Telenor AS, the Norwegian national telephone company, to provide telecommunication services to

carriers and resellers in nine European countries. The joint venture will be owned 40 percent by the Company, 40 percent by Telesor Global Services AS and 20 percent by Clarion Resources Communications Corporation, a U.S. based telecommunications company in which Telesor owns a controlling interest. Under the terms of the agreement, the Company will have two seats on the joint venture's board. Although the Company cannot accurately predict the capital that

will be required to implement the Telecom joint venture. It estimates that the funding of \$6 million will be sufficient for the remainder of 1997 and 1998.

The Company is indirectly participating in the development of a long distance network to engage in the telecommunications business in Mexico by Marca-Tel S.A. de C.V. ("Marca-Tel"). The Company indirectly owns 24.5% of Marca-Tel through its ownership of 50% of Progress International LLC ("Progress International"), which owns 49% of Marca Tel. The remaining 51% of Marca Tel is owned by a Mexican individual and Fomento Radio Beep, S.A. de C.V. The other 50% of Progress International is owned by Westel International, Inc. ("Westel").

Progress International has provided all the capital required from Marca Tel shareholders in order to finance Marca Tel. The Company and Westel have agreed to jointly contribute funds to Progress International. From inception to September 30, 1997, the Company has provided approximately \$25.0 million of the \$36.6 million contributed or loaned to Progress International. Substantially all of the funding of Progress International has been contributed to Marca Tel. The Company is recognizing its share of the Progress International losses in line with its pro rata share of the contributions to Progress International.

Although the Company cannot accurately predict the capital that will be required to implement the Marca-Tel business plan, it estimates that an additional \$30.0 million (and possibly significantly more) will be required by Marca-Tel from its stockholders during the remainder of 1997 and 1998. The Company and Westel have pursued and are continuing to pursue selling equity interests in Progress International to one or more third parties who could assist Progress International with the funding of Marca Tel. However, there can be no assurance that any such funding will be available on satisfactory terms or at all. The Company is currently, and may remain, the primary source of funds available to Progress International for investment in Marca Tel. Since the ownership interests of the Company and Westel in Progress International are to be proportional to their respective capital contributions, the Company's percentage ownership of Progress International, and therefore its indirect ownership interest in Marca-Tel, could increase if it continues to make additional capital contributions which are not matched by Westel. The Indenture contains significant limitations on the amount the Company may invest in Progress International and other non-majority owned entities. Marca Tel has deployed three switching centers, and is constructing a fiber optic route linking Mexico's three major cities (Mexico City, Monterrey and Guadalajara), with interconnection to the Company's U.S. network at its border crossing at Reynosa/McAllen. Marca-Tel has entered into a turn key contract with a major international supplier of telecommunications equipment for a portion of this build that provides for interim vendor financing for the equipment and fiber purchases as well as a portion of the construction work. The Company anticipates that Marca-Tel may be able to obtain additional funding through some combination of the following: (i) offerings of debt or equity securities, (ii) other incurrences of debt; (iii) joint venture arrangements with third parties, and (iv) additional vendor financing of equipment purchases. Initially, such sources of capital likely will not be adequate to meet the needs of Marca-Tel, and the Company anticipates that, until such sources are adequate to enable Marca Tel to continue to pursue its business plan, it may be necessary for Progress International to fund the shortfall. The Company is not obligated to continue to fund Progress International, however, if the Company does not fund Progress International, or if Progress International does not fund Marca Tel's needs, the Company's interest in Progress International, and thus its indirect interest in Marca-Tel, may be diluted or lost entirely. No assurance can be given that adequate funding sources will be available from Progress International or from third parties to implement Marca-Tel's business plan or, if implemented, that such business plan will be successful.

The forward-looking statements set forth above with respect to the funding of Marca-Tel and the successful completion and operation of Marca Tel's fiber optic system in Mexico are based on certain assumptions as to future events. Important factors that could adversely affect Marca Tel's ability to achieve the

results discussed above include that (i) there will be no significant delays or cost overruns with respect to the network expansion, (ii) the Company's contractors and partners in cost-saving arrangements will perform their obligations; (iii) rights-of-way can be obtained in a timely, cost-effective basis, (iv) the routes of the network expansion are substantially completed on schedule, (v) Marca-Tel can successfully operate its switched services business on a cost effective basis (including the provision of billing information in an accurate and timely manner) for volumes that it has not previously handled, and (vi) Marca-Tel can

obtain sufficient funds from the debt or equity offerings, joint venture arrangements, accounts, additional vendor financing, or otherwise.

#### Year 2000 Compliance

The Company has reviewed its software for Year 2000 compliance. In conjunction with that review, the Company has determined that its current software is either Year 2000 compliant, or there are projects planned to either upgrade or replace the existing software prior to 2000. The projected costs associated with a Year 2000 compliance portion of such upgrades have not yet been identified, because they are part of a general system upgrade. In accordance with the Emerging Issues Task Force of the Financial Accounting Standards Board, the costs associated with upgrading or revising the Company's software to be Year 2000 compliant will be recorded as an expense of the period rather than capitalized. The Company currently estimates that the costs associated with such upgrade projects will not be material to its operating results.

#### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISKS

Not Applicable.

## PART II. OTHER INFORMATION

## ITEM 1. LEGAL PROCEEDINGS

On April 4, 1997 Tel-Central Communications, Inc. ("Tel-Central") filed a complaint against IXC Long Distance, Inc., one of the Company's subsidiaries, in the United States District Court in the Western District of Missouri, after the Company terminated service to Tel-Central for failure to pay for services. On May 23, 1997, Tel-Central filed a voluntary Chapter 11 petition in bankruptcy. The Tel-Central action was stayed as a result of the Tel-Central's Chapter 11 bankruptcy proceeding until August 1997, when Tel-Central dismissed the action against IXC Long Distance, Inc.

From time to time the Company is involved in various legal proceedings arising in the ordinary course of business, some of which are covered by insurance. In the opinion of the Company's management, none of the claims relating to such proceedings will have a material effect on the financial condition or results of operations of the Company.

## ITEM 2. CHANGES IN SECURITIES

On August 20, 1997, the Company issued and sold 300,000 shares of the Exchangeable Preferred Stock in a private placement at a purchase price of \$1,000 per share to three initial purchasers who subsequently sold the shares to "qualified institutional buyers" (as defined in the Securities Act of 1933, as amended (the "Act"). Dividends on the Exchangeable Preferred Stock accrue from the date of issuance and are payable quarterly in arrears on February 15, May 15, August 15 and November 15 of each year (each a "Dividend Payment Date"), at a rate per annum of 12 1/2% of the liquidation preference of \$1,000 per share. Dividends payable on or prior to February 15, 2001 may be paid, at the Company's option, in cash or by the issuance of additional shares of Exchangeable Preferred Stock (including fractional shares) having an aggregate liquidation preference equal to the amount of such dividends. On any scheduled Dividend Payment Date, the Company may, at its option, exchange all, but not less than all, of the shares of Exchangeable Preferred Stock then outstanding for the Company's 12 1/2% Subordinated Exchange Debentures Due 2009 (the "Exchange Debentures"). The Exchange Debentures will bear interest at a rate of 12 1/2% per annum, payable semiannually on February 15 and August 15 of each year.

The registration rights agreement entered into between the Company and the initial purchasers of the Exchangeable Preferred Stock requires that the Company file an exchange offer registration statement (the "Exchange Offer Registration Statement") with the Securities and Exchange Commission (the "Commission") for the benefit of the holders of the Exchangeable Preferred Stock, with respect to a registered offer (the "Registered Exchange Offer") to exchange the Exchangeable Preferred Stock, or if the Exchangeable Preferred Stock has been exchanged for Exchange Debentures, the Exchange Debentures, for a new series of Exchangeable Preferred Stock or new Exchange Debentures, as the case may be, of the Company. Under certain conditions, the Company is required to file a shelf registration statement covering issues of the Exchangeable Preferred Stock or Exchange Debentures, as the case may be. The Company filed the Exchange Offer Registration Statement with the Commission on October 3, 1997. If by January 19, 1998, the Registered Exchange Offer has not been consummated, and/or a shelf registration statement has not been declared effective with respect to the Exchangeable Preferred Stock, additional dividends or interest, as the case may be, will accrue at the rate of 0.50% per annum pursuant to the terms of the registration rights agreement. Payment of cash dividends on the Exchangeable Preferred Stock is not currently permitted under the Company's 12 1/2% Senior Notes due 2005 until certain financial conditions have been met. The Exchangeable Preferred Stock ranks junior to the Series 3 Preferred Stock, senior to the Common Stock and, subject to certain conditions, on a parity with the Company's 7 1/4% Junior Convertible Preferred Stock Due 2007, with respect to payment of dividends and rights upon liquidation, winding up and dissolution.

In October 1997, the Company consummated its offer to exchange shares of its Common Stock for the 12,550 the outstanding shares of its Series 3 Preferred Stock. Each holder that tendered shares of Series 3 Preferred Stock prior to the expiration date of the tender offer (October 31, 1997) received approximately 49.85 shares of Common Stock for each share of Series 3 Preferred Stock. The number of shares of Common

Stock issued for each share of Series 3 Preferred Stock was calculated by dividing the aggregate per share liquidation preference, including accrued and unpaid dividends, of one share of Series 3 Preferred Stock as of October 31, 1997 by \$33.00, the last reported sale price of the Company's Common Stock on the Nasdaq National Market at that date. The aggregate liquidation preference, including accrued and unpaid dividends, of the Series 3 Preferred Stock at the tender date was approximately \$20.6 million (\$1.645 per share for the 12,550 shares outstanding). Over 95% of the shares of Series 3 Preferred Stock were tendered prior to the expiration of the exchange offer.

### ITEM 3. DEFERRED MATTERS UPON SENIOR SECURITIES

Not applicable

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

The Company furnished an Information Statement (the "EPS Information Statement") to stockholders of the Company pursuant to Rule 14c-2 under the Securities Exchange Act of 1934 (the "Exchange Act"), in connection with an amendment (the "Amendment") to the Restated Certificate of Incorporation, as amended (the "Certificate of Incorporation") of the Company to permit payment of dividends on the Exchangeable Preferred Stock with additional shares of Exchangeable Preferred Stock. The Amendment was approved by the Board as required by the Delaware General Corporation Law (the "DGCL") and the Certificate of Incorporation, the Amendment was approved by the holders of a majority of the outstanding shares of Common Stock and Series 3 Preferred Stock, voting as a class, and three-quarters (3/4ths) of the outstanding shares of Series 3 Preferred Stock, voting as a class, by written consent in lieu of a meeting pursuant to Section 228(a) of the DGCL. The Amendment became effective upon the filing of a Certificate of Amendment of the Certificate of Incorporation with the Secretary of State of Delaware which, pursuant to Rule 14c-2 under the Exchange Act, did not take place until a date at least 20 days following the date on which the EPS Information Statement was mailed to the stockholders of the Company. The EPS Information Statement also served as notice to stockholders of an action taken by less than unanimous written consent as required by Section 228(d) of the DGCL. The EPS Information Statement was mailed on or about October 1, 1997 to persons who were stockholders of record on September 19, 1997.

The Company also furnished an Information Statement (the "1997 Plan Information Statement") to stockholders of the Company pursuant to Rule 14c-2 under the Exchange Act in connection with the adoption and approval of the Company's 1997 Special Executive Stock Plan (the "1997 Plan"). The 1997 Plan was approved by the Board and was approved by the holders of a majority of the outstanding shares of Common Stock and Series 3 Preferred Stock, voting as a class, by written consent in lieu of a meeting pursuant to Section 228(a) of the DGCL. The adoption and approval by the stockholders will become effective November 17, 1997, which, pursuant to Rule 14c-2 under the Exchange Act, cannot take place until a date at least 20 days following the date on which the 1997 Plan Information Statement was mailed to the stockholders of the Company. The 1997 Plan Information Statement also served as notice to stockholders of an action taken by less than unanimous written consent as required by Section 228(d) of the DGCL. The 1997 Plan Information Statement was mailed on or about October 24, 1997 to persons who were stockholders of record on September 19, 1997.

### ITEM 5. OTHER INFORMATION

In September 1997, the Company entered into an agreement with LCI International, Inc. to sell dark fiber installed on the Company's 709 mile route from Cleveland to New York for approximately \$20 million.

In July 1997, the Company consummated its acquisition of Telecom One, Inc., a switchless reseller serving commercial and residential customers in 32 states.





## ITEM 6. EXHIBITS AND REPORTS ON FORM 8-A

(a) Exhibits

EXHIBIT  
NUMBER

## DESCRIPTION

- 3 1<sup>st</sup> Restated Certificate of Incorporation of IXC Communications, Inc. as amended
- 3 2<sup>nd</sup> Bylaws of IXC Communications, Inc. as amended
- 4 1 Specimen certificate representing shares of Common Stock of IXC Communications, Inc. as incorporated by reference to Exhibit 4.1 of IXC Communications, Inc. Registr. Statement on Form S-1 filed with the Commission on May 27, 1996 as amended (File No. 333-4061) (the "S-1")
- 4 2 Indenture dated as of October 3, 1995 by and among IXC Communications, Inc. on its behalf and as successor in interest to I-Line Holdings, Inc. and IXC Carrier Group, Inc., each of IXC Carrier, Inc. on its behalf and as successor in interest to I-Line, Inc., ITT Instruments, Inc., Texas Microwave, Inc., and BSM Microwave, Inc., Atlantic States Microwave Transmission Company, Centex, Arpaes Microwave Transmission Company, Telcom Engineering, Inc. on its behalf and as successor in interest to AWT Company and Microwave Networks, Inc., Tower Communications Systems Corp., West Texas Microwave Company, Western States Microwave Transmission Company, Rio Grande Transmission, Inc., ILS Long Distance, Inc., ILS Net International, Inc. collectively, the "Guarantors", and IBJ Schroder Bank & Trust Company as trustee with respect to the 12 1/2% Series A and Series B Senior Notes due 2005 (incorporated by reference to Exhibit 4.1 of IXC Communications, Inc.'s and each of the Guarantors' Registration Statement on Form S-4 filed with the Commission on April 1, 1996 as amended (File No. 333-7416) (the "S-4"))
- 4 3 Purchase Agreement dated October 3, 1995 by and among IXC Communications, Inc. and the Purchasers named therein (incorporated by reference to Exhibit 4.2 of the S-4)
- 4 4 A/B Exchange Registration Rights Agreement dated as of October 3, 1995 by and among IXC Communications, Inc., the Guarantors and the Purchasers named therein (incorporated by reference to Exhibit 4.3 of the S-4)
- 4 5 Escrow Account and Disbursement Agreement dated as of October 3, 1995 by and among IXC Communications, Inc., IBJ Schroder Bank & Trust Company as Escrow Agent, and IBJ Schroder Bank & Trust Company as Collateral Agent (incorporated by reference to Exhibit 4.4 of the S-4)
- 4 6 Escrow Account Security Agreement dated as of October 3, 1995 by and between IXC Communications, Inc. and IBJ Schroder Bank & Trust Company (incorporated by reference to Exhibit 4.5 of the S-4)
- 4 7 Form of 12 1/2% Series A Senior Notes due 2005 (incorporated by reference to Exhibit 4.6 of the S-4)
- 4 8 Form of 12 1/2% Series B Senior Notes due 2005 and Subordinated Guarantee (incorporated by reference to Exhibit 4.7 of the S-4)
- 4 9 Amendment No. 1 to Indenture and Subordinated Guarantee dated as of June 4, 1996 by and among IXC Communications, Inc., the Guarantors and the Trustee (incorporated by reference to Exhibit 4.11 of the S-1)
- 4 10 Stock Exchange Agreement dated as of June 10, 1996 by and between IXC Communications, Inc. and Trustees of General Electric Pension Trust ("GEPT") (incorporated by reference to Exhibit 4.12 of the S-1)
- 4 11 Registration Rights Agreement dated as of June 10, 1996 by and among IXC Communications, Inc., GEPT and certain stockholders of IXC Communications, Inc. (incorporated by reference to Exhibit 4.13 of the S-1)

EXHIBIT  
NUMBER

## DESCRIPTION

- 4 12 Purchase Agreement dated as of March 25, 1997 by and among ITC Communications, Inc., Credit Suisse Pizet Boston Corporation, 145 Park Street, and Dillon Read & Co. Inc. ("Dillon Read") (incorporated by reference to Exhibit 4.12 of ITC Communications, Inc. Quarterly Report on Form 10-Q for the quarter ended March 31, 1997 (the "March 31, 1997 10-Q"))
- 4 13 Registration Rights Agreement dated as of March 25, 1997 by and among ITC Communications, Inc., CI Pizet Boston and Dillon Read (incorporated by reference to Exhibit 4.13 of the March 31, 1997 10-Q)
- 4 14 Amendment to Registration Rights Agreement dated as of March 25, 1997 between ITC Communications, Inc. and CEPT (incorporated by reference to Exhibit 4.14 of the March 31, 1997 10-Q)
- 4 15 Registration Rights Agreement dated as of July 8, 1997 among ITC Communications, Inc. and each of William G. Rods, Gordon Hutchins, Jr. and William F. Linsmeier (incorporated by reference to Exhibit 4.15 of ITC Communications, Inc. Quarterly Report on Form 10-Q for the quarter ended June 30, 1997 as amended by June 30, 1997 10-Q)
- 4 16 Registration Rights Agreement dated as of July 8, 1997 among ITC Communications, Inc. and each of William G. Rods, Gordon Hutchins, Jr. and William F. Linsmeier (incorporated by reference to Exhibit 4.16 of the June 30, 1997 10-Q)
- 4 17 Purchase Agreement dated as of August 14, 1997 by and among ITC Communications, Inc. and the initial purchasers named in Schedule A therein (incorporated by reference to Exhibit 4.17 of ITC Communications, Inc. Current Report on Form S-8 dated August 20, 1997 and filed with the Commission on August 26, 1997 (the "S-8"))
- 4 18 Indenture dated as of August 15, 1997 between ITC Communications, Inc. and the Bank of New York (incorporated by reference to Exhibit 4.18 of the S-8)
- 4 19 Registration Rights Agreement dated as of August 14, 1997 by and among ITC Communications, Inc. and the purchasers named therein (incorporated by reference to Exhibit 4.19 of the S-8)
- 10 1 Office Lease dated June 21, 1989 with USAA Real Estate Company as landlord (incorporated by reference to Exhibit 10.1 of the S-4)
- 10 2 Equipment Lease dated as of December 1, 1994 by and between ITC Finance Corporation and Switched Services Communications, L.L.C. Assignment Agreement dated as of December 1, 1994 by and between Switched Services Communications, L.L.C. and DSC Finance Corporation, and Guaranty dated December 1, 1994 made in favor of DSC Finance Corporation by ITC Communications, Inc. (incorporated by reference to Exhibit 10.2 of the S-4)
- 10 3 Amended and Restated 1994 Stock Plan of ITC Communications, Inc. as amended (incorporated by reference to Exhibit 10.3 of the June 30, 1997 10-Q)
- 10 4 Form of Non-Qualified Stock Option Agreement under the 1994 Stock Plan of ITC Communications, Inc. (incorporated by reference to Exhibit 10.4 of the S-4)
- 10 5 Form of ITC Communications, Inc. Restricted Stock Agreement (incorporated by reference to Exhibit 10.5 of the S-4)
- 10 6 Form of ITC Communications, Inc. Restricted Stock Agreement (incorporated by reference to Exhibit 10.6 of the S-4)
- 10 7 Amended and Restated Development Agreement by and between Intertech Management Group, Inc. and ITC Long Distance, Inc. (incorporated by reference to Exhibit 10.7 of the S-4)

EXHIBIT NUMBER	DESCRIPTION
10 8	Second Amended and Restated Service Agreement dated as of January 1, 1994 by and between Switched Services Communications L.L.C. and Excel Telecommunications, Inc. (incorporated by reference to Exhibit 10 8 of the S-4)
10 9	Equipment Purchase Agreement dated as of January 10, 1994 by and between Inacor Corporation and IRC Carrier, Inc. (incorporated by reference to Exhibit 10 9 of the S-4)
10 10	1996 \$1 Plan of IRC Communications, Inc. as amended (incorporated by reference to Exhibit 10 10 of IRC Communications, Inc. Annual Report on Form 10-K for the year ended December 31, 1996 (the "10-K"))
10 11	TRU Agreement dated as of November 1995 between WorldCom, Inc. and IRC Carrier, Inc. (incorporated by reference to Exhibit 10 11 of the S-4)
10 12	Outside Directors' Phantom Stock Plan of IRC Communications, Inc. as amended (incorporated by reference to Exhibit 10 12 of the 10-K)
10 13	Business Consultant and Management Agreement dated as of March 1, 1997 by and between IRC Communications, Inc. and Gulf Communications Associates (incorporated by reference to Exhibit 10 13 of IRC Communications, Inc. Registration Statement on Form S-6 filed with the Commission on October 1, 1997 (File No. 333-7151) (the "1997 S-6"))
10 14	Employment Agreement dated December 28, 1994 by and between IRC Communications, Inc. and James P. Guthrie (incorporated by reference to Exhibit 10 14 of the S-1)
10 15	Employment Agreement dated August 28, 1995 by and between IRC Communications, Inc. and David J. Thomas (incorporated by reference to Exhibit 10 15 of the S-1)
10 16	Special Stock Plan of IRC Communications, Inc. (incorporated by reference to Exhibit 10 16 of the 10-K)
10 17	Lease dated as of June 4, 1997 between IRC Communications, Inc. and Laramerie Realty L.P. (incorporated by reference to Exhibit 10 17 of the June 30, 1997 10-Q)
10 18	Loan and Security Agreement dated as of July 18, 1997 among IRC Communications, Inc., IRC Carrier, Inc. and RITC Capital Corporation (incorporated by reference to Exhibit 10 18 of the June 30, 1997 10-Q)
10 19	TRU and Stock Purchase Agreement dated as of July 22, 1997 between IRC Internet Services, Inc. and PSINet, Inc. (incorporated by reference to Exhibit 10 19 of the June 30, 1997 10-Q)
10 20	Joint Marketing and Services Agreement dated on July 22, 1997 between IRC Internet Services, Inc. and PSINet, Inc. (incorporated by reference to Exhibit 10 20 of the June 30, 1997 10-Q)
10 21	Employment Agreement dated as of September 9, 1997 between Benjamin L. Scott and IRC Communications, Inc. (incorporated by reference to Exhibit 10 21 of the EPS S-4)
10 22	IRC Communications, Inc. 1997 Special Executive Stock Plan (incorporated by reference to Exhibit 10 22 of the EPS S-4)
15 1*	Statement of Computation of Earnings per Share
27 1*	Financial Data Schedule

\* Filed herewith

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

1. Form 8-K dated July 3, 1997 and filed with the Commission on July 22, 1997 with respect to a press release reporting on the status of the Company's private line business and its switched service business.
2. Form 8-K dated July 23, 1997 and filed with the Commission on July 29, 1997 with respect to a press release announcing agreements between the Company and PSINet.
3. Form 8-K dated August 5, 1997 and filed with the Commission on August 6, 1997 pursuant to Rule 135(c) of the Act with respect to the Company's notice of offering of unregistered securities.
4. Form 8-K dated August 18, 1997 and filed with the Commission on August 18, 1997 pursuant to Rule 135(c) of the Act with respect to the Company's notice of pricing of its offering of unregistered securities.
5. Form 8-K dated August 20, 1997 and filed with the Commission on August 21, 1997 pursuant to Rule 135(c) of the Act with respect to the Company's notice of offering of unregistered securities with respect to the sale of the Exchangeable Preferred Stock, which occurred on August 20, 1997.
6. Form 8-K dated August 20, 1997 and filed with the Commission on August 28, 1997 describing the terms and conditions of the Company's Exchangeable Preferred Stock sold in a private placement on August 20, 1997.
7. Form 8-K dated September 17, 1997 and filed with the Commission on September 19, 1997 with respect to a press release announcing an agreement with LCI International, Inc. ("LCI") pursuant to which the Company will sell dark fiber to LCI.

## SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized

IXC Communications, Inc.,  
a Delaware corporation

November 13, 1997

By /s/ JAMES F. GUTHRIE

James F. Guthrie  
Executive Vice President and  
Chief Financial Officer  
(Duly Authorized Officer and  
Principal Financial Officer)

**EXHIBIT C**  
**Network Financial Information**

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-Q

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

For the quarterly period ended September 30, 1997

OR

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

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

Commission File Number: 0-24172

**NETWORK LONG DISTANCE, INC.**

.....  
(Exact Name of Registrant as Specified in its Charter)

DELAWARE

77-1122018

.....  
(State or Other Jurisdiction of  
Incorporation or Organization)

(I.R.S. Employer Identifi-  
cation Number)

11817 CANNON BLVD., SUITE 600  
NEWPORT NEWS, VIRGINIA 23606

.....  
Address of Principal Executive Offices, Including Zip Code

757 873 1040

.....  
(Registrant's Telephone Number, Including Area Code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter periods that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

There were 13,145,600 shares of the Registrant's \$ 0.001 par value common stock issued and outstanding as of October 31, 1997.



NETWORK LONG DISTANCE, INC. AND SUBSIDIARIES

INDEX TO FORM 10-Q

FOR THE QUARTER ENDED SEPTEMBER 30, 1997

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**NETWORK LONG DISTANCE, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**

	Revised Sept. 30, 1997	March 31, 1997
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$ 1,887,011	\$ 1,902,216
Marketable securities	10,899	788,124
Accounts receivable, net of allowance for doubtful accounts of \$3,198,780 and \$1,377,000 at September 30, 1997 and March 31, 1997 respectively	11,992,661	11,314,585
Other receivables	928,215	369,565
Deferred income tax asset	54,369	157,466
Other current assets	645,791	1,040,792
<b>Total current assets</b>	<b>15,118,946</b>	<b>15,612,748</b>
<b>Property and equipment</b>		
Land	17,822	15,110
Building and improvement	598,896	562,121
Telecommunications equipment	5,769,894	4,127,588
Furniture & fixtures	2,908,133	1,782,252
	9,294,745	6,487,071
Less accumulated depreciation	4,321,113	3,768,812
<b>Total Property &amp; Equipment, net</b>	<b>4,973,632</b>	<b>2,718,259</b>
Customer acquisition costs, net	8,601,214	5,645,236
Goodwill, net	967,917	439,176
Other intangibles, net	1,611,414	264,211
Other assets	985,857	1,134,402
<b>Total assets</b>	<b>\$ 27,152,182</b>	<b>\$ 26,362,799</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>Current liabilities</b>		
Accounts payable	\$ 11,218,715	\$ 967,945
Accrued transmission cost	5,810,211	7,535,155
Accrued merger and other related charges	654,215	26,450
Other accrued liabilities	1,449,114	2,789,241
Customer deposits	144,717	128,569
Current maturities of long term debt and capital lease obligations	2,111,811	2,244,196
<b>Total Current Liabilities</b>	<b>21,388,783</b>	<b>12,226,499</b>
Deferred income tax liability	484,814	81,866
Long term debt and capital lease obligation	1,112,684	2,053,437
<b>Stockholders' equity</b>		

Common Stock - \$ 0001 par value; 20,000,000 shares authorized

13,149,600 and 9,837,372 shares outstanding at September 30, 1997 and March 31, 1997, respectively	1,315	984
Additional Paid-in Capital	18,759,111	14,847,728
Retained Earnings	(4,017,578)	(2,941,914)
Treasury Stock	(92,290)	92,290
Unrealized holding gain (loss) on marketable securities	1,365	(1,041)
Total Stockholders' Equity	\$ 14,001,673	\$ 11,801,967
Total liabilities and stockholders' equity	\$ 57,191,193	\$ 20,362,909

The accompanying notes are an integral part of these financial statements.

NETWORK LONG DISTANCE, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF INCOME  
(Unaudited)

	For the three months ended September 30		For the six months ended September 30	
	1997	1996	1997	1996
Revenues (including excise taxes of \$2,815,000 and \$2,203,000 for the six months ended Sept. 30, 1997 and 1996 respectively and \$1,447,000 and \$1,153,000 for the three months ended Sept. 30, 1997 and 1996 respectively)	\$ 21,390,554	\$ 21,714,264	\$ 42,378,444	\$ 42,924,138
Operating Expenses				
Transmission costs	16,839,569	16,840,366	32,748,482	32,984,156
Selling, general and administrative	3,711,296	5,555,255	14,081,695	10,884,983
Depreciation and amortization	1,295,247	988,529	2,429,315	1,964,911
Provision for losses on accounts receivable	96,897	98,451	1,649,889	681,794
Merger expenses and other related charges			2,275,067	
Stock compensation related to merger			2,168,000	
Total operating expenses	22,045,809	23,522,606	53,063,348	46,645,844
Operating income (loss)	1,344,745	1,191,658	11,405,244	1,878,672
Interest (income) expense, net	(110)	(192,146)	(231,938)	(313,999)
Other (income) expense	11,931	(19,029)	31,536	(18,879)
Income (loss) before income taxes	1,233,566	880,483	11,144,842	1,545,794
Provision (benefit) for income taxes	746,096	515,521	62,000	649,611
Net income (loss) applicable to common shareholders	487,470	364,962	11,122,842	896,183
Pro forma adjustment				
Income tax provision				4,700
Pro forma net income applicable to common shareholders	\$ 487,470	\$ 364,962	\$ 11,122,842	\$ 900,883
Net income (loss) per share	\$ 0.07	\$ 0.07	\$ 0.14	\$ 0.09
Pro forma net income (loss) per share	\$ 0.07	\$ 0.07	\$ 0.14	\$ 0.09

The accompanying notes are an integral part of these financial statements

NETSCRE LONG DISTANCE, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF CASH FLOW  
(Unaudited)

For the six months ended September 30,

	1997	1996
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income (Loss)	\$ 1,711,664	\$ 886,183
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities		
Depreciation	1,114,254	474,947
Amortization	184,647	618,976
Provision for losses on accounts receivable	8,774	681,764
Provision for deferred income taxes		174,826
Provision (benefit) for employee stock incentive plan	12,016	25,314
Compensation expense related to exercise of stock options	48,749	
Gain (Loss) on sale of assets	(17,760)	
Change in assets and liabilities, net of effect of business combinations		
(Increase) Decrease in accounts receivable	(1,155,414)	(111,561)
(Increase) Decrease in other current assets	411,461	130,152
(Increase) Decrease in other assets	611,741	774,211
Increase (Decrease) in accrued merger costs	765,771	
Increase (Decrease) in accrued transmission costs	1,637,515	157,744
Increase (Decrease) in accounts payable	8,698,811	1,811,122
Increase (Decrease) in accrued liabilities	(1,711,924)	1,797,224
Net cash provided by (used in) operating activities	4,364,178	1,659,354
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Capital expenditures	6,150	421,736
Sale of short-term investments, net	62,981	
Acquisition and related costs	(1,154,717)	(1,801,054)
Decrease (Increase) in other intangible assets	14,528	15,365
Disposal of equipment	174	764,363
Net cash used in investing activities	(1,073)	1,447,414
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Net borrowings (repayments) under line of credit	1,438	30,111
Principal payments on debt	(45,698)	(1,551,656)
Proceeds from issuance of debt		
Decrease in capital lease obligation	18,247	
Common stock issued pursuant to employee stock plan	2,112	
Equity issued pursuant to conversion of stock options	27,877	
Net cash used in financing activities	(45,114)	(1,621,894)
Net increase in cash and cash equivalents	3,241	816,144
Effect of change in fiscal year-end		134,586
Cash and cash equivalents at beginning of period	46,117	1,460,232

Cash and cash equivalents at end of period

\$ 1,887,111

\$ 1,810,970

The accompanying notes are an integral part of these financial statements.

NETWORK LONG DISTANCE, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 - MERGERS

In May 1997, Network Long Distance Inc. (the "Company") merged with Eastern Telecom International Corporation (ETI), a provider of long distance telecommunication services, in a transaction accounted for as a purchase. The merger was consummated with the issuance of 3,633,272 shares of the Company's common stock and cash payments of \$1,500,000. Of the 3,633,272 shares issued, 63,492 shares are held in escrow pending resolution of purchase price contingencies. The transaction resulted in an intangible asset of approximately \$24,795,000 of which \$3,815,000 and \$20,980,000 have been allocated to customer base and goodwill, respectively. The Company is amortizing the customer base over a useful life of 6 years and the goodwill over a useful life of 20 years. The following represents the proforma results of operations of the Company and ETI for the six months ended September 30, 1997 and 1996 as if the acquisition had occurred as of the earliest date presented.

	For the six months ended September 30, 1997	1996
Revenues	\$54,973,590	\$53,944,680
Net (loss) income	(2,986,053)	497,279
Net income per share	\$ (0.23)	\$ 0.04

NOTE 2 - BASIS OF PRESENTATION

The financial statements included herein are unaudited and have been prepared in accordance with generally accepted accounting principles for interim financial reporting and Securities and Exchange Commission regulations. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to such rules and regulations. In the opinion of management, the financial statements reflect all adjustments (of a normal and recurring nature) which are necessary to present fairly the financial position, results of operations and cash flows for the interim periods.



**NOTE 3 - NET INCOME (LOSS) PER SHARE**

Net income (loss) per share was calculated based on the following number of common and common equivalent shares outstanding: 13,166,474 and 9,544,234 for the three months ended September 30, 1997 and 1996, respectively, 12,188,526 and 9,458,594 and for the six months ended September 30, 1997 and 1996, respectively.

**NOTE 4 - SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION**

For the six months ended September 30, 1997 and 1996, interest paid amounted to \$328,000 and \$255,000, respectively. Income taxes paid by the Company during the six months ended September, 1997 and 1996 were \$62,000 and \$228,000, respectively.

**MANAGEMENT'S DISCUSSION & ANALYSIS  
OF FINANCIAL CONDITION  
& RESULTS OF OPERATIONS**

The following is a discussion of the consolidated financial condition and results of operations of the Company for the three and six months ended September 30, 1997 and 1996. The information should be read in conjunction with the Company's Consolidated Financial Statements and the Notes thereto.

Certain statements set forth in Management's Discussion and Analysis of Financial Condition and Results of Operations, which are not historical facts, are forward-looking statements under the Private Securities Litigation Reform Act of 1995 that are subject to risks and uncertainties that could cause actual results to differ materially from those set forth in the forward looking statements. Among the factors that could cause actual future results to differ materially are competitive pressures, the timing and technique used in marketing by third-party distributors and the market acceptance of certain services.

**RESULTS OF OPERATIONS**

The Company has expanded rapidly as an ongoing result of its dual focus on internal sales growth complemented by the addition of calling volume generated through mergers and acquisitions. As a consequence, revenues, which are principally derived from the number of minutes of use billed by the Company, have increased.

For the second fiscal quarter of 1998, revenues, inclusive of excise taxes and fees, were \$27,390,554, compared to \$21,714,264 for the second fiscal quarter of 1997, an increase of 26.1%. For the six month periods ended September 30, 1997 and 1996, revenues, inclusive of excise taxes and fees were \$52,378,444 and \$42,524,138, respectively. This represents a 23.2% increase. The increase in revenues is primarily the result of the company's acquisition of FTI in May of 1997.

The acquisition of ETI was accounted for as a purchase and therefore its results are not included in the three and six month periods ended September 30, 1996.

Cost for telecommunications for the three months ended September 30, 1997 and 1996 were \$16,839,509 and \$13,830,000, respectively. This represented approximately 61.5% of revenues for the three month period ended September 30, 1997 and 63.7% for the same period in 1996. For the six months ended September 30, 1997 and 1996, cost of telecommunications was \$32,748,482 and \$27,983,750, respectively. This represented approximately 62.5% of revenues for the six months ended September 30, 1997 and 65.8% for the same period in 1996. The reduction in telecommunication costs as a percent of revenues is associated with the Company's consolidation of its facilities and from the increased calling volume related to its acquisitions of NTI and ETI during the six months ended September 30, 1997.

Selling, general and administrative expenses were \$7,213,206 and \$5,525,225 for the three months ended September 30, 1997 and 1996, respectively. This represented approximately 26.3% of revenues for the three months ended September 30, 1997 and 25.4% of revenues for the same period in 1996. For the six months ended September 30, 1997 and 1996, SG&A expenses were \$14,001,695 and 10,884,983 or approximately 26.7% and 23.6% of revenues, respectively. The increases in SG&A are primarily due to increases in personnel costs, commissions, taxes, and professional fees associated with the Company's continued growth and expanded mergers and acquisitions program.

Depreciation and amortization expense for the three months ended September 30, 1997 was \$1,195,237 or 4.4% of revenues. This compared to \$588,968 or 2.7% of revenues for the same period in 1996. For the six month period ended September 30, 1997, depreciation and amortization was \$2,129,435 or 4.1% of revenues compared to \$1,094,933 or 2.6% of revenues for the same period in 1996. These increases are primarily associated with the amortization of the customer base and goodwill resulting from the Company's acquisition of ETI in May of 1997.

The provision for losses on accounts receivable for the three month period ended September 30, 1997 was \$992,897 or 3.6% of revenues. This compared to \$1,491 or 1.8% of revenues for the same period in 1996. For the six month period ended September 30, 1997, the provision for losses on accounts receivable was \$1,639,009 or 3.1% of revenues compared to \$681,794 or 1.6% of revenues for the same period in 1996. These increases are associated with the Company's continued growth in revenues and accounts receivable.

Merger expenses and other related charges for the six month period ended September 30, 1997 were \$2,225,067 or 4.2% of revenues for that same period. These expenses consisted of \$505,000 related to severance payments to former officers and various other employees of the Company, \$340,000 related to integration, relocation and facilities related charges, \$340,000 related to certain legal

and regulatory matters and contingencies, \$1,040,000 related to financial advisory, legal, accounting and other professional services incurred in connection with consummating the ETI and NTL acquisitions

Non-recurring stock compensation expense related to the NTL merger was \$1,100,000 or 2.1% of revenues for the six month period ended September 30, 1997. This was a non-cash charge related to the exercise of stock options by an officer of NTL.

Net income for the three months ended September 30, 1997 was \$911,526, compared to \$6,624 for same period in 1996. For the six month period ended September 30, 1997, the Company had a net loss of \$(1,727,606) compared to net income of \$886,183 for the same period in 1996. The increase in net income for the three months ended September 30, 1997 as compared to the same period in 1996 is primarily attributable to the decrease in telecommunication costs as a percent of revenues. The decrease in net income for the six month period ended September 30, 1997 as compared to the same period in 1996 is due to the merger expenses and other related charges and the stock compensation charge both of which were taken during the first fiscal quarter of 1998.

#### LIQUIDITY AND CAPITAL RESOURCES

For the six months ended September 30, 1997, the Company's cash flow provided by operating activities was \$4,363,178 compared to cash flow provided by operating activities of \$1,659,354 for the six months ended September 30, 1996. For the six months ended September 30, 1997, the Company's cash used in investing activities was \$2,017,911, compared to \$3,445,012 of cash used in investing activities for the six months ended September 30, 1996. The primary use of cash in investing activities during both the six months ended September 30, 1997 and 1996 was related to the Company's acquisition program. During the six months ended September 30, 1997, the Company merged with ETI and NTL and during the six months ended September 30, 1996, the Company acquired a customer base from Universal Network Services. Net cash used in financing activities during the six months ended September 30, 1997 were \$2,420,471 compared to net cash provided by financing activities during the same period of 1996 of \$2,601,807. During the six months ended September 30, 1997, the Company paid off the remaining balance owed under a term loan entered into during May of 1996.

In May 1996, the Company entered into a \$14,250,000 credit facility with a bank which includes a revolving credit facility and term loan facility. Borrowings under the revolving credit portion of the facility may not exceed the lesser of \$11,000,000 minus any reserves the lender may deem eligible or 75% of eligible receivables. Borrowings under the revolver will bear interest at the prime rate plus 0.75%. Borrowings and unpaid interest on the revolving facility are repayable in full at maturity of the facility on June 1, 1999. The Company was allowed to borrow \$3,250,000 under the term loan facility. The term loan was repayable in 36 equal

monthly installments of \$90,278 plus accrued interest. The term loan bore interest at the prime rate plus 5%. During the three months ended September 30, 1997, the Company repaid the remaining balance due under the term loan. Substantially all of the assets of the Company are pledged as collateral under the credit facility.

PART II

OTHER INFORMATION

Item 1: LEGAL PROCEEDINGS

None

Item 2: CHANGES IN SECURITIES

None

Item 3: DEFAULT UPON SENIOR SECURITIES

None

Item 4: SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None

Item 5: OTHER INFORMATION

None

Item 6: EXHIBITS AND CURRENT REPORTS ON FORM 8-K

(a) Exhibits - None.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized

NETWORK LONG DISTANCE, INC.

Dated November 13, 1997

By /s/ Thomas G. Keele

Chief Financial Officer

**EXHIBIT C**  
**Copy of the Proposed Agreement**