Execution Copy

Redacted

080529-TP

PURCHASE AGREEMENT

dated as of July 11, 2008

between

SMART CITY FINANCE LLC,

as Seller

and

HARGRAY-SMART CITY ACQUISITION CO., LLC,

as Purchaser

COM ____
ECR ____
GCL ____
OPC ____
RCP 1
SSC ____
SGA ____
ADM ____
CLK ____

Table of Contents

Page

LIST OF SCHEDULES AND EXHIBITS

SCHEDULES

EXHIBITS

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this **"Agreement"**) is dated as of July 11, 2008, by and between SMART CITY FINANCE LLC, a Delaware limited liability company (the **"Seller"**) and HARGRAY-SMART CITY ACQUISITION CO., LLC, a Delaware limited liability company (the **"Purchaser"**).

RECITALS

A. Smart City Telecommunications LLC, a Delaware limited liability company (**"SCT"**), Smart City Solutions, LLC, a Florida limited liability company (**"SCS"**), Smart City Information Services, LLC, a Florida limited liability company (**"SCIS"**), Smart City/mpiNET, LLC, a Florida limited liability company (**"MPI/SCC"**), and Smart City Television LLC, a Delaware limited liability company ("**SCTV**" and, together with SCT, SCS, SCIS and MPI/SC, collectively, the **"Companies"** and, each, individually, a **"Company"**), are engaged in the business of providing certain telecommunications products and services in the States of Florida and California.

B. Seller holds all of the issued and outstanding limited liability company membership interests in each of the Companies, which interests comprise all of the Equity Interests in each of such Companies.

C. Purchaser desires to acquire from Seller all of Seller's limited liability company membership interests in each of the Companies.

D. Concurrently with or prior to the Closing, Seller shall cause SCT and SCS, as applicable, to transfer (the **"OCCC/California Transfer"**) the OCCC/California Businesses (as hereinafter defined) to Smart City Networks, Limited Partnership **("Smart City Networks")** or such other party as Seller may designate (the **"OCCC/California Asset Transferee"**).

E. The parties hereto desire to set forth the terms in accordance with which Purchaser shall acquire all of the limited liability company interests in each of the Companies held by Seller for the consideration and on the terms and conditions set forth in this Agreement.

AGREEMENTS

In consideration of the mutual covenants and promises set forth herein, the parties agree as follows:

Section 1. DEFINITIONS

In addition to terms defined elsewhere in this Agreement, the following capitalized terms or terms otherwise defined in this Section 1 shall have the meanings set forth below:

"Accounts Receivable Reserve". With respect to each account receivable included in the determination of Current Assets, (i) if such account receivable has been outstanding less than 60 days from the first day of the month to which the invoice therefore relates, an amount equal to 0% of the face amount thereof; (ii) if such account receivable has been outstanding 60 days or more, but less than 90 days, from the first day of the month to which the invoice therefore relates, an amount equal to 5% of the face amount thereof; (iii) if such account receivable has been outstanding 90 days or more, but less than 120 days from the first day of the month to which the invoice therefore relates, an amount equal to 10% of the face amount thereof; and (iv) if such account receivable has been outstanding 120 days or more from the first day of the month to which the invoice therefore relates, an amount equal to 100% of the face amount thereof. Notwithstanding the foregoing, there shall be no reserve with respect to the following accounts receivable, regardless of the number of days outstanding as of the Closing Date: (i) any and all accounts receivable as of the Closing Date with respect to any accounts of The Walt Disney Company or an Affiliate thereof (excluding (A) the account receivable relating to the invoice to Vista-United Telecommunications identified on Schedule 1.1(b) and (B) any accounts receivable of the Walt Disney Company or an Affiliate thereof that are being disputed as of the Closing Date and Seller shall update Schedule 1.1(b) as of the Closing Date to identify any such disputed accounts receivable with such disputed accounts receivable being treated under this Agreement like the other matters identified on Schedule 1.1(b)); and (ii) any and all accounts receivable generated through the CABS billing system. Notwithstanding the foregoing, there shall be no reserve with respect to Aid in Contribution Receivables, but Aid in Contribution Receivables shall be included in the determination of Current Assets only in an amount equal to 85% of the cash spent by the Companies with respect to such Aid in Contribution Receivables prior to the Closing Date and not reimbursed by the applicable customer prior to the Closing Date.

"Acquisition Transaction". Any merger, consolidation, or other business combination involving any Company or the acquisition of all or any amount of the assets or the limited liability company membership interests of any Company other than as permitted or contemplated by this Agreement.

"Adjustment Escrow Agreement". The Adjustment Escrow Agreement to be executed and delivered by Purchaser, Seller and the Escrow Agent, substantially in the form of Exhibit 5.11(a) attached hereto.

"Adjustment Escrow Amount". Two Hundred Thousand Dollars ($200,000).

"Adjustment Escrow Fund". The Adjustment Escrow Amount, plus any interest and earnings thereon, held by the Escrow Agent pursuant to the Adjustment Escrow Agreement.

"Affiliate". With respect to any Person, means any other Person controlling, controlled by or under common control with such Person; **"control"** means the ownership, directly or indirectly, of voting securities representing the right generally to elect a majority of the directors (or similar officials) of a Person or the possession, by voting securities, contract or otherwise, of the power to direct or cause the direction of the management, policies and/or decision making of a Person.

"Aid in Contribution Receivables". Accounts receivable representing advances made by the Companies with respect to construction of facilities and generally repayable by a customer over a term of more than one (1) year, with Aid in Contribution Receivables existing, or actively under discussion with a customer, as of the date hereof identified on Schedule 1.1(c).

"Business Day". Any day other than a Saturday, Sunday or a day on which the banking institutions in New York, New York are required or authorized to be closed.

"Closing Time". 11:59P.M., New York, New York time, on the day immediately prior to the Closing Date.

"Code". The U.S. Internal Revenue Code of 1986, as amended.

"Communications Act". The Communications Act of 1934, and the rules and regulations promulgated thereunder, in each case, as amended and in effect from time to time.

"Communications Licenses". The FCC Licenses, the State PUC Licenses or communications Licenses identified on Schedule 1.4 issued by other state or local authorities.

"Consent". Any consent, permit, approval or authorization of any Governmental Authority or other Person necessary to transfer the Purchased Interests to Purchaser (including, without limitation, to which any right of default under or breach of, or right of termination, acceleration, cancellation, penalty or other similar provisions under any License, Contract, Real Property interest or Legal Requirement of any nature, of, binding upon, or applicable to, any Company), and to consummate the other transactions contemplated by this Agreement.

"Contracts". All oral and written contracts, leases, non-governmental licenses and other agreements and undertakings, including all amendments and other modifications thereto, to which any Company is a party or which are binding upon any Company.

"Current Assets". Current Assets of the Companies, on a consolidated basis, determined in accordance with GAAP, consistently applied, including but not limited to cash, cash equivalents, accounts receivable (less a reserve for uncollectible accounts receivable with respect to each account receivable equal to the applicable Accounts Receivable Reserve), insurance claims for damaged property that has been repaired, inventory and prepaid expenses. Notwithstanding the foregoing, (i) any and all amounts related to those certain claims made or actions instituted by any Company against its customers or other persons specifically described in Schedule 1.1(a) **("Customer Receivables")**, (ii) any and all accounts receivable described on Schedule1.1(b); (iii) any and all Current Assets related to the OCCC/California Businesses; (iv) any and all accounts receivable relating to an agreement or arrangement between a Company and a Seller Related Party which accounts receivable have been outstanding 60 days or more or were incurred outside of the Ordinary Course of Business; (v) non-current portions of lease receivables; and (vi) any and all accounts receivable as of the Closing Date with respect to dial-around pay phone service (**"Dial-Around Receivables"**) shall be excluded from Current Assets.

"Current Liabilities". Accounts payable and all other current liabilities of the Companies, on a consolidated basis, determined in accordance with GAAP, consistently applied. Notwithstanding the foregoing, any and all Current Liabilities related to the OCCC/California Businesses shall be excluded from Current Liabilities.

"Customary Industry Practices" means any of the practices, methods and acts engaged in or approved by a significant portion of the Companies' industry. Customary Industry Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the Companies' industry, and, with respect to maintenance of tangible personal property, shall not require installation of the most recent software updates available nor the use of new parts or equipment.

"Disney Aid in Contribution Receivables" means Aid in Contribution Receivables arising between the date hereof and the Closing Date entered into in compliance with the terms of the Company Contracts between the Companies and the Material Customer.

"Encumbrances". Any pledge, claim, mortgage, lien, charge, encumbrance or security interest of any kind or nature whatsoever.

"Environmental Law". Any law, regulation, statute, ordinance or other legally enforceable requirement concerning the protection of the environment, including laws, regulations and statutes relating to emissions, discharges, releases or threatened releases of Hazardous Substances into the environment, air (including both ambient and within buildings and other structures), surface water, ground water or soil or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances.

"Equity Interests". Any and all shares, interests or other equivalent interests (however designated) in the equity of any Person, including capital stock, partnership interests and membership or limited liability company interests, and including any rights, options or warrants with respect thereto.

"ERISA". The Employee Retirement Income Security Act of 1974, and the rules and regulations promulgated thereunder and published interpretations with respect thereto, in each case, as amended and as in effect from time to time.

"ERISA Affiliate". Any trade or business, whether or not incorporated, which together with a Company would be required to be treated as a single employer with such Company pursuant to the requirements of Section 414(b), (c), (m) and (o) of the Code and/or Section 4001(a)(14) or 4001(b) of ERISA.

"Escrow Agent". SunTrust Bank.

"FCC". The Federal Communications Commission.

"FCC Consent". The grant by the FCC of its consent to the assignment or transfer of control of the FCC Licenses in connection with the consummation of the transactions contemplated hereby.

"FCC Licenses". All Licenses issued by the FCC held by any Company, including, without limitation, those listed on Schedule 1.2.

"GAAP". Generally accepted accounting principles as in effect from time to time in the United States of America.

"Governmental Authority". The United States of America, any state, commonwealth, territory or possession of the United States of America and any political subdivision or quasi governmental authority of any of the same, including any court, tribunal, department, commission, board, bureau, agency, county, municipality, province, parish or other instrumentality of any of the foregoing.

"Guarantor". Quadrangle (AIV) Capital Partners II, L.P. and its affiliated investment funds.

"Hazardous Substances". (a) Any **"hazardous waste"** as defined by the Resource Conservation and Recovery Act of 1976 (**"RCRA"**) (42 U.S.C. §§ 6901 et seq.) and the rules and regulations promulgated thereunder, in each case, as amended and in effect from time to time; (b) any **"hazardous substance"** as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.) (**"CERCLA"**) and the rules and regulations promulgated thereunder, in each case, as amended and as in effect from time to time; (c) any substance regulated by the Toxic Substances Control Act (**"TSCA"**) (15 U.S.C. §§ 2601 et seq.), or the Federal Insecticide, Fungicide and Rodenticide Act (**"FIFRA"**) (7 U.S.C. §§ 136 et seq.) and the rules and regulations promulgated thereunder, in each case, as amended and as in effect from time to time; (d) asbestos or asbestos-containing material of any kind or character; (e) polychlorinated biphenyls; (f) mold; (g) petroleum or any component thereof; (h) any substances regulated under the provisions of Subtitle I of RCRA relating to underground storage tanks; and (i) any substance the presence, use, handling, treatment, storage or disposal of which on real property is prohibited or regulated by or could result in liability under any Environmental Law.

"HSR Act". The Hart Scott Rodino Antitrust Improvements Act of 1976 and the rules and regulations promulgated thereunder, in each case, as amended and as in effect from time to time.

"Indemnification Escrow Agreement". The Indemnification Escrow Agreement to be executed and delivered by Purchaser, Seller and the Escrow Agent, substantially in the form of Exhibit 5.11(b) attached hereto.

"Indemnification Escrow Amount". [redacted]

"Indemnification Escrow Fund". The Indemnification Escrow Amount, plus any interest and earnings thereon, held by the Escrow Agent pursuant to the Indemnification Escrow Agreement.

"Judgment". Any judgment, writ, order, injunction, award or decree of any court, judge, justice or magistrate, including any bankruptcy court or judge or the arbitrator in any binding arbitration, and any order of or by any Governmental Authority.

"Legal Requirement". Applicable common law and any statute, ordinance, code or other law, rule, regulation, order, technical or other written standard, requirement, policy or procedure enacted, adopted, promulgated, applied or followed by any Governmental Authority, including any Judgment and all judicial decisions applying common law or interpreting any other Legal Requirement, in each case, as amended and as in effect from time to time.

"License". All licenses, franchises, permits, consents, waivers, registrations, certificates, and other governmental or regulatory permits, authorizations or approvals (together with all amendments and modifications thereto and all applications relating thereto) required to be issued or granted by a Governmental Authority for the operation or conduct of the business of each Company and for the ownership, lease or operation of the Companies' assets, including the Communications Licenses; provided that, the term "License" shall not include the 39 GHz license held by SCIS and referred to on Schedule 1.2.

"Lien". Any security interest, security agreement, financing statement filed with any Governmental Authority, conditional sale or other title retention agreement, any lease, consignment or bailment given for purposes of security, any mortgage, lien, indenture, pledge, option, encumbrance, adverse interest, claim, attachment, defect in title or other ownership interest (including but not limited to easements, rights of way, rights of first refusal, restrictive covenants, leases and licenses) of any kind, which constitutes an interest in or claim against property, whether arising pursuant to any Legal Requirement, License, Contract or otherwise.

"Litigation". Any action, suit, proceeding, arbitration, or hearing.

"Losses". Any claims, losses, liabilities, damages, penalties, reasonable costs and expenses, including interest that may be imposed in connection therewith, reasonable expenses of investigation, reasonable fees and disbursements of counsel and other experts, and the reasonable cost to any Person making a claim or seeking indemnification under this Agreement with respect to funds expended by such Person by reason of the occurrence of any event or the existence of any Liens (other than Permitted Liens) with respect to which indemnification is sought, except Losses incurred by a party or on behalf of such party in asserting any claim for indemnification against the other party to the extent it is ultimately determined (including by agreement of the parties) that such party is not entitled to indemnification from the other party.

"Material Adverse Effect". Any change, event, occurrence, or state of facts that would result in a material adverse effect on (a) the business, assets, properties or condition (financial or otherwise) of the Companies, taken as a whole, provided, that none of the following (or the results thereof) shall be taken into account, either alone or in combination: (i) any actual or

proposed change in any Legal Requirement or accounting standards or interpretations thereof that are of general application (in each case, to the extent not disproportionately affecting the Companies relative to other rural local exchange carriers), and (ii) any change, event, circumstance, occurrence, impairment or delay (A) relating to any general change in United States national, regional or local or industry wide economic or business conditions (including financial and capital market conditions) (to the extent not disproportionately affecting the Companies relative to the destination resort business of other telecommunications companies), (B) relating to conditions affecting Purchaser or its Affiliates, including conditions directly resulting from any violation of the terms of this Agreement by Purchaser, (C) relating to any adverse effect as a result of the execution of this Agreement or any public announcement regarding this Agreement or the transactions contemplated hereby, (D) due to the taking by the Companies or Seller of any action required by this Agreement or (E) due to acts of war (whether or not declared), sabotage or terrorism, military actions or the escalation thereof, (to the extent not disproportionately affecting the Companies relative to the destination resort business of other telecommunications companies), or (b) the ability of Seller to consummate the transactions contemplated by this Agreement.

"OCCC/California Assets". The assets of SCS exclusively used by SCS to provide services to Orange County, a political subdivision of the State of Florida, under contract made as of the 1st day of December 2006, by and between Orange County and SCS and the assets of SCT and SCS exclusively used by SCT or SCS, as the case may be, to provide pay telephone services in the State of California, as well as those used to provide high speed internet access services to hotels, meeting rooms and convention centers in the State of California and the Amended and Restated Pay Telephone Agreement between SCT and Walt Disney World Co. et al., dated October 1, 2006, in so far as it relates to pay telephone services in the State of California, all of which assets are generally described on Schedule 1.1(d).

"OCCC/California Businesses". The OCCC/California Assets and the OCCC/California Liabilities.

"OCCC/California Liabilities". Any and all costs, expenses, fees, taxes, or other liabilities of any kind (including incremental taxes or residual liabilities) in connection with, resulting from or arising out of the OCCC/California Assets or the OCCC/California Transfer.

"Ordinary Course of Business". The usual, regular and ordinary course of business and normal day-to-day operations of the Companies consistent with past custom and practices.

"Organizational Documents". (a) The articles or certificate of incorporation and the bylaws of a corporation; (b) the limited partnership agreement and the certificate of limited partnership of a limited partnership; (c) the limited liability company agreement, operating agreement or regulations and the certificate or articles of organization or formation of a limited liability company; and (d) any charter or other organizational document adopted or filed in connection with the creation, formation, or organization of a Person, in each case, as amended.

"Permitted Lien". Any (a) Lien securing Taxes, assessments and governmental charges not yet delinquent or due, or being contested in good faith for which the Companies have

established reasonable reserves, (b) materialmen's, mechanic's, workmen's, repairmen's or other like Liens arising in the Ordinary Course of Business relating to obligations which are not yet due and payable or the validity of which are being contested in good faith by appropriate proceedings, and for which the Companies have established reasonable reserves and (c) in the case of Real Property, (i) the rights of any lessor in Leased Real Property and (ii) easements, quasi-easements, licenses, covenants, rights-of-way, zoning, building or other similar restrictions or defects in title that do not adversely affect in any material respect the use of such Real Property interest as currently used.

"Person". Any natural person, Governmental Authority, corporation, general or limited partnership, limited liability company, joint venture, trust, association or unincorporated entity of any kind.

"Real Property". All interests in real property, including all improvements thereon, owned by any Company in fee simple (**"Owned Real Property"**) or leased by any Company (**"Leased Real Property"**), in each case, including licenses, easements, rights-of-way and similar authorizations.

"Required Joint Consents". The State PUC Consents and the FCC Consents.

"Required Purchaser Consents". Each Consent listed and marked with an asterisk on Schedule 3.3.

"Required Seller Consents". Each Consent listed and marked with an asterisk on Schedule 4.4.

"Seller Contracts". All oral and written contracts, leases, non-governmental licenses or other agreements or undertakings, including all amendments and other modifications thereto, to which Seller is a party or which are binding upon Seller or its assets.

"Seller's knowledge". The actual knowledge after reasonable internal inquiry of Martin A. Rubin, James D. Pearson, John Cascio, Karen Linder, and James Schumacher, with the reasonable internal inquiry of Martin A. Rubin and James D. Pearson to include inquiry of Dorothy Nieto with respect to matters relating to the Material Customer.

"State PUC". Any state public service or public utilities commission having regulatory authority over the business of any Company, as conducted in any given jurisdiction.

"State PUC Consent". The grant by any State PUC of its consent to the assignment or transfer of control of a State PUC License or any assets associated with such State PUC Licenses, in connection with the consummation of the transactions contemplated hereby, as applicable.

"State PUC Licenses". All Licenses issued or granted by any State PUC held by any Company, including, without limitation, those listed on Schedule 1.4.

"Surviving Representations". The representations and warranties (i) of Seller set forth in Section 4.1, Section 4.2, Section 4.3, the second sentence of Section 4.5, Section 4.13, Section 4.15, Section 4.16, the second sentence of Section 4.7(a) and the third sentence of Section 4.7(b), and (ii) of the Purchaser set forth in Section 3.1, Section 3.2, Section 3.4, and Section 3.5.

"Taxes". All taxes, levies and assessments of any kind or nature imposed by any taxing authority, including all federal, state, local or foreign income, sales, use, ad valorem, value added, franchise, communications services, severance, net or gross receipts, withholding, payroll, employment, excise, property, transfer, license, stamp, occupation, social security (or similar), unemployment, estimated, alternative or add-on minimum taxes, and including any levies or assessments related to unclaimed property and penalties and other assessments imposed on the failure to file Tax Returns, together with any interest thereon and any penalties, additions to tax or additional amounts applicable thereto, and including the liability for the taxes of any other person payable by reason of any contract, assumption, transferee liability, operation of law, Treasury Regulation Section 1.1502-6 (for any predecessor or successor thereof or any analogous or similar provision of Tax Law) or otherwise.

"Tax Return". Any tax return, information return or statement, declaration of estimated tax, tax report or other tax statement, or any other similar filing, including any Schedule or attachment thereto, and including any amendment thereof, required to be submitted to any Governmental Authority with respect to Taxes.

"Third Party". With respect to Purchaser, any Person other than Purchaser and Purchaser's Affiliates and, with respect to Seller, any Person other than Seller and Seller's Affiliates.

"Third Party Claims". Actions, suits, claims or legal, administrative, arbitration, mediation, governmental or other proceedings or investigations brought by a Third Party.

"Transaction Documents". The instruments and documents described in Sections 7.1 and 7.2 and any other instruments, documents or agreements which are to be executed and delivered by or on behalf of Purchaser or Seller in connection with this Agreement or the transactions contemplated hereby.

"Transition Services Agreement". The Transition Services, Management and Administrative Services Agreement to be executed and delivered by Smart City Networks and each of the Companies, substantially in the form of Exhibit 2.7 attached hereto.

"Working Capital". The difference (which may be a positive or a negative number) between the Current Assets as of the Closing Time and the Current Liabilities as of the Closing Time; provided, however, that any transactions contemplated to be taken at or immediately prior to the Closing (such as payment of any stay bonuses, payoff of swap liabilities and repayment of debt) shall be reflected in Working Capital as if such transactions had occurred as of the Closing Time.

Other Definitions. The following terms are defined in the Sections or Recitals indicated:

Term	Section or Recital
2007 Financial Statements	4.11(a)
Accounting Firm	2.5(d)
Agreement	Preamble
Antitrust Division	5.5
Break-up Damages	8.2(b)
Break-up Guaranty	8.2(b)
COBRA	4.15(f)
Closing	2.3
Closing Date	2.3
Closing Statement	2.5(b)
Closing Statement Dispute Notice	2.5(c)
Company	Recitals
Company Contracts	4.6(c)
Company Employees	4.14(a)
Compensation Arrangement	4.15(a)
Customer Information	5.7(c)
Customer Receivables	Definition of "Current Assets"
Deductible	9.4(a)
Defense Counsel	9.5(b)
Defense Notice	9.5(b)
Developer Agreement	4.19(b)
Dial-Around Receivables	Definition of "Current Assets"
Direct Claim	9.6
Disney Carrier Agreement	3.8(b)
Employee Plan	4.15(a)
Estimated Amount	5.22
Estimated Working Capital Amount	2.5(a)
Final Working Capital Adjustment	2.5(d)
Financial Statements	4.11(a)
Fixed Purchase Price	2.2(a)(i)
FTC	5.5
Guarantee Liabilities	5.21
Guarantee Liabilities Assumption Agreement	5.21
Indemnified Party	9.4(a)
Indemnifying Party	9.4(a)
Intellectual Property	4.10
Material Customer	4.19(a)
Material Developer	4.19(b)
MPI/SCC	Recitals
Multiemployer Plan	4.15(d)
OCCC/California Asset Transferee	Recitals
OCCC/California Company Employees	5.3(m)
OCCC/California Transfer	Recitals

Outside Closing Date	8.1(b)(iii)
Purchase Price	2.2(a)(i)
Purchased Interests	4.2(a)
Purchaser	Preamble
Purchaser Affiliate	3.8(b)
Purchaser Claims and Losses	5.10(b)(i)
Purchaser Consents	3.3
Purchaser Group Health Plan	5.3(i)
Purchaser Indemnified Parties	9.2
Purchaser Non-Competition Agreement	5.12b)
Purchaser Plans	5.3(a)
Purchaser Related Parties	5.10(b)
Purchaser Released Claims	5.10(b)
Purchaser Released Parties	5.10(a)
Purchaser's Parent	3.8(b)
Purchaser's Working Capital	2.5(b)
Resolution Notice	2.5(d)
Seller	Preamble
Seller Claims and Losses	5.10(a)
Seller Consents	4.4
Seller Indemnified Parties	9.3
Seller Indemnity Guaranty	9.2
Seller Non-Competition Agreement	5.12(a)
Seller Related Parties	5.10(a)
Seller Released Claims	5.10(a)
Seller Released Parties	5.10(b)
SCIS	Recitals
SCS	Recitals
SCT	Recitals
SCTV	Recitals
Smart City Networks	Recitals
Straddle Period	5.6(b)
Telecommunications Services Agreement	6.1(o)

Section 2. SALE AND PURCHASE OF PURCHASED INTERESTS

2.1 Agreement to Sell and Buy Purchased Interests. Subject to the terms and conditions set forth in this Agreement, Seller hereby agrees to sell, transfer, convey and deliver to Purchaser at the Closing, and Purchaser hereby agrees to purchase at the Closing, the Purchased Interests, free and clear of all Encumbrances.

2.2 Purchase Price and Purchase Price Adjustment.

(a) Purchase Price. The aggregate consideration for the Purchased Interests to be purchased and acquired by Purchaser hereunder to be paid by Purchaser to Seller pursuant to this Agreement shall equal the sum of (A) [redacted] (the **"Fixed Purchase Price"**), plus (B) the amount by which

Working Capital is greater than One Million Dollars ($1,000,000), or minus (C) the amount by which Working Capital is less than One Million Dollars ($1,000,000) (the amount obtained pursuant to the foregoing clauses (A) through (C), the **"Purchase Price"**), which shall be paid as provided in Section 2.2(b) and Section 2.5(e).

(b) Payment of Purchase Price at the Closing. At the Closing, Purchaser shall deliver, by wire transfer of immediately available funds to an account or accounts specified by the Seller, an amount equal to (i) the Fixed Purchase Price, plus (ii) the Estimated Working Capital Amount if the Estimated Working Capital Amount is greater than One Million Dollars ($1,000,000), or (iii) minus the Estimated Working Capital Amount if the Estimated Working Capital Amount is less than One Million Dollars ($1,000,000), minus (iv) an amount equal to the Indemnification Escrow Amount, which Purchaser shall deliver, by wire transfer of immediately available funds, to the Escrow Agent to hold pursuant to the Indemnification Escrow Agreement, minus (v) an amount equal to the Adjustment Escrow Amount, which Purchaser shall deliver, by wire transfer of immediately available funds, to the Escrow Agent to hold pursuant to the Adjustment Escrow Agreement. The Adjustment Escrow Amount shall be held by the Escrow Agent, pursuant to the Adjustment Escrow Agreement, solely for the purpose of satisfying Seller's payment obligation, if any, pursuant to Section 2.5(e) hereof and may not be applied to satisfy any other obligation of the Seller.

2.3 The Closing. The closing (the **"Closing"**) shall take place at the offices of Seller's counsel, 875 Third Avenue, New York, New York 10022, commencing at 9:00 a.m. local time on the third Business Day following the satisfaction or waiver of the last of the conditions set forth in Section 6.1 and Section 6.2 (other than conditions that by their nature are to be satisfied at Closing) or such other time or place as Purchaser and Seller may mutually agree (the **"Closing Date"**). Notwithstanding anything to the contrary contained in this Section 2.3, if the conditions set forth in Section 6.1 and Section 6.2 (other than conditions that by their nature are to be satisfied at Closing) are satisfied or waived by the Party entitled to the benefits thereof on or before the Outside Closing Date, but the date scheduled for Closing pursuant to this Section 2.3 is after the Outside Closing Date, the Outside Closing Date shall be extended until one (1) Business Day after the date so scheduled for Closing.

2.4 Deliveries at the Closing. At the Closing, (a) Seller will deliver to the Purchaser an assignment of all of the Purchased Interests, including certificates, if any, representing the Purchased Interests, duly endorsed in blank in proper form for transfer, and the various certificates, instruments, and documents referred to in Section 7.1, (b) the Purchaser will deliver to the Seller the various certificates, instruments, and documents referred to in Section 7.2, and (c) the Purchaser will deliver to the Seller and the Escrow Agent the consideration specified in Section 2.2(b).

2.5 Working Capital Adjustment.

(a) Not less than five (5) Business Days prior to the anticipated Closing Date, the Seller shall deliver to Purchaser a statement setting forth the Seller's good faith estimate of the Working Capital (the **"Estimated Working Capital Amount"**), and the Purchase Price to be paid at the Closing pursuant to Section 2.2(b) together with reasonably detailed supporting documentation for such estimate and calculation. The Seller and its representatives shall use

their respective commercially reasonable efforts to cooperate with the Purchaser and its representatives and provide reasonable access to work papers of the Seller's accountants to the extent reasonably necessary to review and evaluate the Estimated Working Capital Amount. If Purchaser disputes any amounts relating to the Working Capital or the Purchase Price to be paid at the Closing pursuant to Section 2.2(b) set forth in such statement, Purchaser and the Seller shall use commercially reasonable efforts to attempt in good faith to resolve such dispute prior to the Closing, and the Estimated Working Capital Amount, and the Purchase Price to be paid at the Closing pursuant to Section 2.2(b), as determined by the Seller and, if applicable, modified by agreement of Purchaser and Seller prior to the Closing, shall be used for purposes of determining the payment to be made by Purchaser at Closing pursuant to Section 2.2(b) (provided, however, that if Purchaser and the Seller are unable to resolve any such dispute in good faith prior to the Closing, the Estimated Working Capital and the Purchase Price paid at the Closing pursuant to Section 2.2(b), determined by the Seller and set forth in the statement delivered pursuant to this Section 2.5(a) shall be used for purposes of determining the payment to be made by Purchaser at Closing pursuant to Section 2.2(b), absent manifest error). For illustrative purposes only, Schedule 2.5 attached hereto sets forth the calculation of the Working Capital assuming that the Closing had been consummated on April 30, 2008.

(b) No later than 90 days after the Closing Date, Purchaser shall deliver to the Seller a statement setting forth Purchaser's good faith determination of the Working Capital (the **"Purchaser's Working Capital"**), together with reasonably detailed supporting documentation for such determination (the **"Closing Statement"**).

(c) Seller may, by notice given to Purchaser within 30 days after delivery of the Closing Statement, dispute Purchaser's Working Capital (the **"Closing Statement Dispute Notice"**). Such Closing Statement Dispute Notice shall set forth in reasonable detail the Seller's objections to the Purchaser's Working Capital and Seller's reasons therefor and Seller shall be deemed to have agreed with all other items contained in the Closing Statement. If Seller does not deliver such a Closing Statement Dispute Notice to Purchaser within 30 days after delivery of the Closing Statement, the Closing Statement and the Purchaser's Working Capital as set forth therein shall be final and binding on Purchaser and the Seller. If Seller delivers such a Closing Statement Dispute Notice, from the date of delivery of such Closing Statement Dispute Notice until the 30th day after the date of delivery of the Closing Statement Dispute Notice, Purchaser and the Seller shall use their respective commercially reasonable efforts to attempt in good faith to resolve the dispute identified in the Closing Statement Dispute Notice. From the date of delivery of such Closing Statement Dispute Notice until the 30th day after the date of delivery of the Closing Statement Dispute Notice, Purchaser and its representatives shall use their respective commercially reasonable efforts to cooperate with the Seller and its representatives and provide reasonable access to work papers of Purchaser's accountants to the extent reasonably necessary to review the Closing Statement. Purchaser shall provide to the Seller and its representatives access at all reasonable times to Purchaser and its books and records to the extent reasonably necessary for the purposes of preparing the Closing Statement Dispute Notice and resolving any disputes relating to the Closing Statement and the Closing Statement Dispute Notice.

(d) If the Seller has timely delivered a Closing Statement Dispute Notice pursuant to Section 2.5(c), and Purchaser and the Seller do not reach written agreement as to the Working Capital prior to the 30th day after the date of delivery of the Closing Statement Dispute

Notice, then either the Seller or Purchaser may by notice to the other (the **"Resolution Notice"**) submit to Deloitte & Touche LLP (the **"Accounting Firm"**) for determination, in accordance with this Section 2.5(d), the amount of the Working Capital. Notwithstanding the foregoing, if the aggregate difference between the proposed amounts of the Working Capital is less than $20,000, the Working Capital shall be the average of the proposed amounts thereof that are in dispute, and the parties will not engage the Accounting Firm to render any decision. The following shall apply with respect to the use of the Accounting Firm:

(i) Within 15 days after the delivery of the Resolution Notice, Purchaser and the Seller shall each propose an amount of the Working Capital to the Accounting Firm, together with the reasons therefore, in writing. The Working Capital proposed by Purchaser shall not differ from the Purchaser's Working Capital other than for changes agreed to in writing by the Seller, and the Working Capital proposed by the Seller shall not differ from the Seller's proposed amount of the Working Capital set forth in the Closing Statement Dispute Notice, other than for those changes agreed to in writing by Purchaser. Each of Purchaser and the Seller shall furnish to the Accounting Firm such workpapers and other documents and information under its control or available to it and its Affiliates as the Accounting Firm may request for the purposes of determining the Working Capital.

(ii) The amount determined by the Accounting Firm (acting as an expert and not as an arbitrator) shall not be higher than the higher of the proposed amount of Working Capital or lower than the lower of the proposed amount of Working Capital and shall thereupon be the Working Capital. The parties will instruct the Accounting Firm to render its decision no later than 30 days after the submission to the Accounting Firm under this Section 2.5(d).

(iii) At any time after the determination of the Working Capital has been submitted to the Accounting Firm, Purchaser and the Seller may agree on the Working Capital, and direct the Accounting Firm to not render any decision.

Any determination of the Working Capital in accordance with this Section 2.5(d), whether by agreement between Purchaser and the Seller, by operation of the second sentence of this Section 2.5(d), or by the Accounting Firm, shall be conclusive and binding on all parties. The Working Capital determined as set forth in the preceding sentence is hereinafter referred to as the **"Final Working Capital Adjustment."**

(e) Promptly, but in any event not more than five (5) Business Days after the determination of the Final Working Capital Adjustment, (i) if the Purchase Price as determined using the Final Working Capital Adjustment is less than the Purchase Price paid at Closing pursuant to Section 2.2(b), the Seller shall pay the difference between such amounts to Purchaser, and (ii) if the Purchase Price as determined using the Final Working Capital Adjustment is greater than the Purchase Price paid at Closing pursuant to Section 2.2(b), Purchaser shall pay the difference between such amounts to the Seller. All payments made pursuant to this Section 2.5(e) shall be made by wire transfer of immediately available funds to the account of the party entitled to payment notified to the party making such payment; provided, however, any amounts payable by the Seller to the Purchaser pursuant to this Section 2.5(e) shall

first be satisfied from the Adjustment Escrow Fund and, to the extent the Adjustment Escrow Fund is not sufficient, shall then be paid by the Seller.

(f) To the extent the Purchaser at any time after the Closing Date receives any payments and/or proceeds with respect to (i) any of the Customer Receivables, (ii) any accounts receivable identified on Schedule 1.1(b), or (iii) any Dial-Around Receivables applicable to the period prior to the Closing Date, the Purchaser shall promptly, but in any event no later than ten (10) Business Days after receipt thereof, remit any such payments and/or proceeds to the Seller.

(g) The fees and expenses of the Accounting Firm for its services and expenses under this Section 2.5 shall be shared and paid one-half by the Seller and one-half by the Purchaser.

(h) Nothing herein shall be construed to authorize or permit the Accounting Firm to arbitrate or determine any question or matter whatever under or in connection with this Agreement except the specific items in dispute between the parties with respect to the amount of the Working Capital to be determined in accordance with the provisions of this Agreement or require the Accounting Firm to follow the rules of the American Arbitration Association or any other body in making such determination.

2.6 Purchase Price Allocation. Purchaser and Seller hereby agree to allocate the Purchase Price and liabilities of the Companies among the assets of the Companies in the manner required under Section 1060 of the Code as shown on Schedule 2.6 attached hereto. Seller will prepare and provide to Purchaser copies of Form 8594 and any required exhibits thereto, consistent with the allocations of this Section 2.6. The parties agree that, to the extent required, all Tax Returns or other Tax information they may file or cause to be filed with any Governmental Authority shall be prepared and filed consistently with such allocation.

2.7 Transition. At Closing, Purchaser shall, and Seller shall cause Smart City Networks to execute and deliver the Transition Services Agreement.

Section 3. PURCHASER'S REPRESENTATIONS AND WARRANTIES

Purchaser represents and warrants to Seller as follows:

3.1 Organization of Purchaser. Purchaser is duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite limited liability company power and authority to own, lease and use its assets and to conduct its business as it is currently conducted.

3.2 Authority and Validity. Purchaser has all requisite power and authority to execute and deliver, to perform its obligations under, and to consummate the transactions contemplated by, this Agreement and the Transaction Documents to which Purchaser is a party. The execution and delivery by Purchaser, the performance by Purchaser under, and the consummation by Purchaser of the transactions contemplated by, this Agreement and the Transaction Documents to which Purchaser is a party have been duly and validly authorized by all required limited liability company action by or on behalf of Purchaser. This Agreement has been, and when

executed and delivered by Purchaser the Transaction Documents will be, duly and validly executed and delivered by Purchaser and the valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to the enforcement of creditors' rights generally or by principles governing the availability of equitable remedies.

3.3 No Conflict; Purchaser Consents. Except for, and subject to receipt of, the Consents listed on Schedule 3.3 (the "**Purchaser Consents**"), and the Required Joint Consents, and except as otherwise disclosed on Schedule 3.3, the execution and delivery by Purchaser, the performance of Purchaser under, and the consummation by Purchaser of the transactions contemplated by, this Agreement and the Transaction Documents to which Purchaser is a party do not and will not: (a) conflict with or violate any provision of Purchaser's Organizational Documents; (b) violate any provision of any Legal Requirement; (c) require Purchaser to obtain or make any Consent of, or make any filing of any certificate, notice, application, report or other document with, any Governmental Authority or other Person; or (d) (i) conflict with, violate, result in a breach of or constitute a default under (without regard to requirements of notice, lapse of time or elections of other Persons or any combination thereof), (ii) permit or result in the termination, suspension or modification of, or (iii) result in the acceleration of (or give any Person the right to accelerate) the performance of Purchaser under, any other instrument or other agreement to which Purchaser is a party or by which Purchaser or any of its assets is bound or affected, except in the case of clauses (b), (c) and (d) of this Section 3.3, as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or the other Transaction Documents to which it is a party or to consummate the transactions contemplated hereby or thereby.

3.4 Finders and Brokers. Except as otherwise disclosed on Schedule 3.4, Purchaser has not employed any financial advisor, broker or finder or incurred any liability for any financial advisory, brokerage, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement for which Seller could be liable.

3.5 Investment. The Purchaser is not acquiring the Purchased Interests with a view to or for sale in connection with any distribution thereof within the meaning of the Securities Act of 1933, as amended.

3.6 No Outside Reliance. The Purchaser has not relied nor is relying upon any statement or representation of the Seller and the Companies, or any employee, agent, officer, director or Affiliate of the Seller and the Companies that is not contained in this Agreement, the Schedules or the Exhibits hereto or any written agreement entered into concurrent herewith or subsequent to the date hereof between the Purchaser and the Seller in connection with the transactions contemplated hereby. The Purchaser acknowledges and agrees that neither the Seller nor the Companies nor any of their Affiliates have made (and further that the Seller and its Affiliates hereby absolutely disclaim) any promise, guaranty, representation or warranty of any kind or nature whatsoever with respect to the success or failure of the Companies, including, without limitation, the profits to be realized from the Purchaser's operation of the Companies from and after the Closing Date; provided, however, that this shall not be deemed to qualify or

limit the representations and warranties made by Seller in this Agreement or the Schedules and Exhibits hereto.

3.7 Availability of Funds. Purchaser understands and acknowledges that under the terms of this Agreement Purchaser's consummation of the Transactions is not in any way contingent upon or otherwise subject to Purchaser's consummation of any financing arrangements, Purchaser's obtaining of any financing or the availability, grant, provision or extension of any financing to Purchaser. Purchaser has received commitments from sources of equity and debt financing in amounts sufficient to enable Purchaser to consummate such Transactions ("**Financing Commitments**"), and on the Closing Date Purchaser will have available sufficient unrestricted funds to enable it to consummate the Transactions in accordance with the terms hereof. Purchaser has delivered to Seller accurate and complete copies of all Financing Commitments in effect as of the date hereof.

3.8 Purchaser Qualification.

(a) Purchaser has no knowledge of any fact that would, under any Law including any rule or policy of any Government Authority, (i) disqualify Purchaser as a transferee of control over the Communications Licenses, as applicable, or as the owner and operator of the Companies; or (ii) be reasonably likely to cause any Government Authority to fail to approve in a timely fashion any of the applications for Required Purchaser Consents or Required Seller Consents. No waiver of any Law, including, without limitation, any rule or policy of any Government Authority is necessary to be obtained by Purchaser for the grant of the applications for the transfer of control over the Communications Licenses to Purchaser, nor will proceeding pursuant to any exception to a rule of general applicability be requested or required by Purchaser in connection with the consummation of the transactions contemplated hereby. Purchaser has no knowledge of any fact that would, under existing law and the existing rules, regulations, policies and procedures of the FTC or the Department of Justice be reasonably likely to impede or delay the early termination or expiration of the waiting period under the HSR Act with respect to the transactions contemplated hereby.

(b) Purchaser, or a person or entity with the power to control, either directly or indirectly, the Purchaser, together with the Purchaser's or such person's or entity's subsidiaries ("**Purchaser's Parent**"), as applicable, meets all of the following qualifications: (i) Purchaser or Purchaser's Parent has at least three (3) years experience as an incumbent local exchange company, or competitive local exchange carrier, a cable television company, a provider of voice over the internet, or reasonable equivalent; (ii) Purchaser or Purchaser's Parent has had net revenues of at least One Hundred Million Dollars ($100,000,000) per year for each of the last three (3) years; (iii) Purchaser or Purchaser's Parent has either (x) a net worth of at least One Hundred Million Dollars ($100,000,000) or (y) a market capitalization or, market value (provided that there has been, within the previous two (2) years, a valuation event such as an investment in the company by an unrelated third party, a sale of shares or interests in the company at fair market value or grant of options at fair market value determining such market value and further provided that there has been no intervening event or events materially adversely affecting such market value) of at least Two Hundred Million Dollars ($200,000,000); (iv) Purchaser or the Purchaser's Parent has an aggregate of at least twenty thousand (20,000) telephone numbers; (v) neither Purchaser nor Purchaser's Parent nor any person or entity owned

by, under common control with, or controlled, directly or indirectly, by Purchaser (a "**Purchaser Affiliate**") has, within the past five (5) years, been criminally convicted as a result of acts involving fraud, perjury or bribery, or is under an indictment or investigation for fraud, perjury or bribery; (vi) neither Purchaser nor any Purchaser Affiliate has within the past five (5) years a pattern or practice of engaging in unfair or deceptive trade practices, violations of local, state or federal consumer practices laws, violations of state, local or federal environmental laws or acts involving dishonesty, deceit or unethical business practices; (vii) neither Purchaser nor any Purchaser Affiliate has a public identity or public perception inconsistent with the overall theme, concept, atmosphere, quality and family-oriented environment associated with the Walt Disney World® Resort; (viii) neither Purchaser nor any Purchaser Affiliate has ever been involved in the production, manufacture, sale or distribution of pornography provided that ownership of a network on which pornography may be transmitted shall not be deemed to be the production, manufacture, sale or distribution of pornography; (ix) Purchaser or Purchaser Parent is financially solvent based upon financial information or statements submitted to Seller as well as other data as may be reasonably requested by Seller; (x) Purchaser or Purchaser's Parent has the financial and technical capability to enable it to satisfy SCT's obligations under the Amended and Restated Carrier Services Agreement, dated as of October 1, 2006 (the "**Disney Carrier Agreement**") between Walt Disney World Co., et al. and SCT for the remainder of the term of the Disney Carrier Agreement; and (xi) neither Purchaser nor any Purchaser Affiliate has in the previous two (2) years been in material default under any material, written agreement with any direct or indirect subsidiary (wholly or partially owned) of The Walt Disney Company.

Section 4. SELLER'S REPRESENTATIONS AND WARRANTIES

Seller represents and warrants to Purchaser as follows:

4.1 Organization and Qualification of Seller and the Companies. Each of the Companies and Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the state indicated on Schedule 4.1 and has all requisite limited liability company power and authority to own, lease and use its assets owned, leased or used by it and to conduct its business as it is currently conducted. Each of the Companies and Seller is duly qualified to do business and is in good standing under the laws of each jurisdiction where such qualification is required, except where the lack of such qualification would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Seller has delivered to Purchaser true and correct copies of each Company's Organizational Documents.

4.2 Capitalization and the Purchased Interests.

(a) Seller, is, and on the Closing Date will be, the sole record and beneficial owner of 100% of the limited liability company membership interests in each of the Companies (all of such limited liability company membership interests, collectively, the **"Purchased Interests"**), free and clear of all Encumbrances except as set forth on Schedule 4.2(a), and the Purchased Interests constitute all the issued and outstanding Equity Interests in the Companies. Schedule 4.2(a) sets forth a description of the Equity Interests constituting the Purchased Interest in each Company. Upon consummation of the transactions contemplated by this Agreement, Seller will transfer to Purchaser good and valid title to the Purchased Interests, free and clear of all Encumbrances, and the Purchased Interests will be fully paid and nonassessable. There is no

class or series of Equity Interests authorized under any of the Companies' Organizational Documents, other than the Purchased Interests. No Person has any right to require any Company to create any class or series of Equity Interests not currently authorized under such Company's Organizational Documents.

(b) There are no subscription rights, options, warrants, calls, commitments, preemptive rights or other rights of any kind to acquire from Seller or any of the Companies, and no obligation of any kind of Seller or any of the Companies to issue or sell, any Equity Interest or other voting securities of any of the Companies, or any securities of the Companies convertible into or exchangeable for such Equity Interests or voting securities of any of the Companies. There are no equity equivalents, interests in the ownership or earnings of, or equity appreciation, phantom equity or other similar rights of, or with respect to, any of the Companies. There is no liability for, or obligation with respect to, any dividends, distributions or similar participation interests declared or accumulated but unpaid with respect to any of the Purchased Interests.

(c) All of the Purchased Interests were validly issued and are fully paid and non-assessable, were not issued in violation of any preemptive rights created by statute, any of the Companies' Organizational Documents or any contract and are not subject to any such preemptive right. Each of the Purchased Interests has been issued in compliance with all applicable laws, including all federal and state limited liability company and securities laws.

(d) There are no outstanding obligations (contractual or otherwise) of Seller or any Company to repurchase, redeem or otherwise acquire any of the Purchased Interests or any other securities of the type described in this Section 4.2, if any. Except for restrictions or requirements of Governmental Authorities applicable to utilities set forth on Schedule 4.2(d), the Seller Consents and as disclosed on Schedule 4.4, there is no restriction upon the voting or transfer of any of the Purchased Interests pursuant to any of the Companies' Organizational Documents or any agreement or other instrument to which any Company is a party or by which Seller or any Company is bound. There is no outstanding vote, plan or pending proposal for any redemption of the Purchased Interests, or the merger or consolidation of any Company with or into any other Person.

(e) No Company, directly or indirectly, owns of record or beneficially, any outstanding Equity Interests or other interest in any Person or has the right or obligation to acquire any Equity Interests or other interest in any Person.

4.3 Authority and Validity. Seller has all requisite limited liability company power and authority to execute and deliver, to perform its obligations under, and to consummate the transactions contemplated by, this Agreement and the Transaction Documents to which it is a party. The execution and delivery by Seller, the performance by Seller under, and the consummation by Seller of the transactions contemplated by, this Agreement and the Transaction Documents to which it is a party have been duly and validly authorized by all required limited liability company action by and on behalf of Seller. This Agreement has been, and when executed and delivered by Seller, the Transaction Documents will be, duly and validly executed and delivered by Seller and the valid and binding obligations of Seller, enforceable against Seller in accordance with their terms, except as the same may be limited by applicable bankruptcy,

insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to the enforcement of creditors' rights generally or by principles governing the availability of equitable remedies.

4.4 No Conflict; Seller Consents. Except for, and subject to receipt of, the Consents on Schedule 4.4 (the "**Seller Consents**"), the Required Joint Consents, and except as otherwise disclosed on Schedule 4.4, the execution and delivery by Seller, the performance of Seller under, and the consummation of the transactions contemplated by, this Agreement and the Transaction Documents to which it is a party do not and will not: (a) conflict with or violate any provision of any Organizational Documents of Seller or any Company; (b) violate any provision of any Legal Requirement; (c) require Seller or any Company to obtain or make any Consent of, or make any filing of any certificate, notice, application, report or other document with, any Governmental Authority or other Person; or (d) (i) conflict with, violate, result in a breach of or constitute a default under (without regard to requirements of notice, lapse of time or elections of other Persons or any combination thereof), (ii) permit or result in the termination, suspension or modification of, (iii) result in the acceleration of (or give any Person the right to accelerate) the performance of Seller or any Company under, (iv) result in the creation or imposition of any Lien under, any Communications License, Contract, Real Property or other instrument evidencing any of the Companies' assets or any of the Seller Contracts, except, in the case of clauses (b), (c) and (d) of this Section 4.4, where any such violation, conflict, breach, default, acceleration, termination, modification, suspension, cancellation, failure to give notice or Lien would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.5 Tangible Personal Property; Title to Assets. Except as disclosed on Schedule 4.5, all material items of each Company's tangible personal property which are used or held for use in the operation of the business of the Companies have been maintained by the Companies in accordance with Customary Industry Practices, and are in operating condition and repair for the purposes for which they are used (ordinary wear and tear excepted). Except as disclosed on Schedule 4.5, each Company has good title to, or a valid leasehold interest in or other right to use, and/or rights of access to, all material assets necessary in the conduct of its business, free and clear of all Liens, except for (x) Liens described on Schedule 4.5, all of which Liens will be released or discharged at or prior to Closing and (y) Permitted Liens.

4.6 Licenses, Tariffs and Company Contracts.

(a) Schedules 1.2, 1.4 and 4.6 contain a true and correct list of all the material Licenses. Complete and correct copies of the Licenses have been delivered by Seller to Purchaser. Each of the Licenses is currently in full force and effect and is valid and enforceable under all applicable Legal Requirements according to its terms. There is no legal action, governmental proceeding or, to Seller's knowledge, investigation pending or, to Seller's knowledge threatened, to terminate, suspend or modify any License and, except as set forth on Schedule 4.6(a), each Company is in compliance, in all material respects, with the terms and conditions of all the Licenses and with other applicable requirements of all Governmental Authorities relating to the Licenses.

(b) The regulatory tariffs filed by each Company are in full force and effect in accordance with all terms, and neither Seller nor any Company has received notice of any outstanding investigation or notice of cancellation or termination of a regulatory tariff nor, to Seller's knowledge, is there any threatened investigation, cancellation or termination of a regulatory tariff in connection therewith, nor is any Company subject to any restrictions or conditions applicable to its regulatory tariffs that limit or would limit the operation or conduct of such Company's business (other than restrictions or conditions generally applicable to tariffs of that type). Each such tariff has been duly and validly approved or, if applicable, permitted to take effect, by the regulatory agency with jurisdiction over the services contained in the subject tariff. No Company is in default in any material respect under the terms and conditions of any such tariff. Except as disclosed on Schedule 4.6(b), there are no applications by any Company or, complaints or petitions by others or proceedings pending or, to Seller's knowledge, threatened before any State PUC relating to any Company's business or its operations or the regulatory tariffs, other than customary subscriber or third party complaints filed with the State PUC against telephony providers in the Ordinary Course of Business that are not in the aggregate materially adverse to the business of any Company. Except as set forth on Schedule 4.6(b), to Seller's knowledge, there are no material violations by customers or others under any such tariff. A true and correct copy of each tariff applicable to each Company's business has been delivered or made available to Purchaser.

(c) Schedule 4.6(c) sets forth a true and complete list of all of the following Contracts as of the date hereof (together, the **"Company Contracts"**):

(a) any lease of personal property which provides for annual rentals of $50,000 or more or is required to be reflected as a capital lease under GAAP;

(b) any Contract for the purchase of materials, supplies, goods, services, equipment or other assets that requires either (i) annual payments by any Company of $50,000 or more or (ii) aggregate future payments by any Company of $250,000 or more, and, in each case is not terminable by such Company on 30 days' or less notice without penalty;

(c) any sales, distribution or other similar Contact providing for the sale by any Company of materials, supplies, goods, services, equipment or other assets (but not including purchases made under tariff) that requires either (i) annual payments to any Company of $50,000 or more or (ii) aggregate future payments over the next two years to any Company of $250,000 or more, and, in each case is not terminable by such Company on 30 days' or less notice without penalty;

(d) any partnership, joint venture or any other similar Contract, including, without limitation, any Contract evidencing a minority investment in or a capital call obligation to any corporation, partnership, joint venture or other entity or enterprise;

(e) any Contract (i) granting or obtaining any right to use any material Intellectual Property of any Company (excluding any "off the shelf" or other standard computer software) or (ii) restricting the rights of any Company, or permitting other Persons, to use or register any material Intellectual Property of any Company;

(f) any Contract entered into since December 31, 2007 relating to the acquisition or disposition of any assets with an aggregate value in excess of $50,000 (whether by merger, sale of stock, sale of assets or otherwise), other than acquisitions or dispositions of inventory or capital assets in the Ordinary Course of Business;

(g) any Contract relating to indebtedness for borrowed money or the deferred purchase price of property other than ordinary course trade payables (in either case, whether incurred, assumed, guaranteed or secured by any asset);

(h) any agency, dealer, sales representative, marketing or other similar Contract either (i) requiring annual payments of $50,000 or more or (ii) binding any Company for a period in excess of 2 years and not terminable by such Company on 30 days' or less notice without penalty;

(i) any noncompetition or similar Contract restricting the business or activities of any Company anywhere in the world (including without limitation any restriction on operating in any line of business or in any geographic area);

(j) any Contract which provides for earn-outs or similar contingent obligations;

(k) any Contract which provides for termination, acceleration or other similar rights or any other consideration of any kind with respect to any direct or indirect change of control of any Company;

(l) any other Contract involving payments by or to any Company exceeding $50,000 per Contract per year or an aggregate of $250,000 over the term of any such Contract; and

(m) any Contract with the Material Customer and any Developer Agreement; and

(n) any other Contract not made in the Ordinary Course of Business that is material to any Company.

Seller has made available to Purchaser complete and correct copies of all Company Contracts (as amended to date), other than any Company Contract which is an oral Contract, in which case, Seller has provided to Purchaser a written summary of the terms of such oral Company Contract. Except as set forth on Schedule 4.6(c), each Company Contract is in full force and effect and constitutes the valid, legal, binding and enforceable obligation of the Company which is a party thereto and, to Seller's knowledge, the other party or parties thereto, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to the enforcement of creditors' rights generally or by principles governing the availability of equitable remedies. Except as set forth on Schedule 4.6(c), the Company that is a party to any Company Contract is not, and to Seller's knowledge each other party to such Contract is not, in breach or default of any terms or conditions thereunder, and no event has occurred which with notice or lapse of time or both would constitute a breach or default under any terms or conditions of any Company Contract or permit termination, modification or acceleration thereof, or reduce the benefits thereunder except where any such breach, default, termination, modification, acceleration, failure to give notice or reduction in benefits would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 4.6(c), since June 30, 2007, neither Seller nor any Company has received written notice that any party to any Company Contract has terminated any Company Contract or repudiated any provision thereof other than where such termination or repudiation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.7 Real Property.

(a) Schedule 4.7 sets forth a true and complete list, by street address (if applicable) or other location information, of all Owned Real Property and identifies the Company which is the owner of such Owned Real Property. Each Company has good, marketable, and insurable fee simple title to each parcel of Owned Real Property which is identified as owned by it on Schedule 4.7, free and clear of any Lien, other than Permitted Liens and Liens described on Schedule 4.7, all of which Liens described on Schedule 4.7 will be discharged and released of record or discharged, if not recorded, at or prior to Closing. No Company which owns Owned Real Property is a party to any leases, subleases, licenses, concessions, or other Contracts granting to any Person or Persons the right of use or occupancy of any portion of any such parcel of Owned Real Property, except for those listed on Schedule 4.7 and any other Permitted Liens. Seller has delivered or otherwise made available to Purchaser true and complete copies of all deeds, title reports, exception documents and related documents and information and surveys for the Owned Real Property in the possession of Seller and each Company.

(b) Schedule 4.7 sets forth a true and complete list, by street address or other location information, of all Leased Real Property leased or subleased to any Company, as lessee or sublessee, as the case may be. Seller has delivered or otherwise made available to Purchaser true and complete copies of all Real Property leases. Each Company has a valid and enforceable leasehold interest under each of the leases for the Leased Real Property to which it is a party, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to the enforcement of creditors' rights generally or by principles governing the availability of equitable remedies. Each

Company has performed all material obligations under all Leased Real Property leases and subleases, and neither any Company nor, to Seller's knowledge, any lessor has received notice of breach or default under any such Leased Real Property lease or sublease.

(c) Except for routine easements, rights of way, and other similar real estate interests, the Owned Real Property and Leased Real Property constitute interests in real property currently used in connection with the business of the Companies. Each of the Companies owns, leases or has the right to use in the Ordinary Course of Business all easements, rights of entry and rights-of-way which are material to the conduct of its business as currently conducted. All of the Owned Real Property and Leased Real Property, buildings, fixtures and improvements thereon owned or leased by each Company (i) are in operating condition, (ii) are available to Purchaser for immediate use in the conduct of the business or operations of such Company, and (iii) comply in all material respects with all applicable building or zoning codes and the regulations of any Governmental Authority having jurisdiction. Except as otherwise set forth in Schedule 4.7, there does not exist any actual or, to Seller's knowledge, threatened condemnation or eminent domain proceedings that affect any Owned Real Property or Leased Real Property or any part thereof, and neither Seller nor any Company has received any written notice of the intention of any Governmental Authority or other Person to take or use all or any part thereof. Furthermore, except as set forth on Schedule 4.7: (i) the Owned Real Property and, to Seller's knowledge, the Leased Real Property is in compliance in all material respects with all Legal Requirements, and Seller has not received written notice of any material complaint from any Governmental Authority or other Person as to the condition of any of the Real Property; (ii) the utility services currently available to each Real Property are adequate for the present use of such property and are being supplied by utility companies and, to Seller's knowledge, there is no condition, individually or in the aggregate, which will result in the termination of the present access from such Real Property to such utility services; and (iii) Seller has obtained all easements and rights-of-way that are necessary to provide vehicular and pedestrian ingress and egress to and from the Real Property. No action is pending or, to Seller's knowledge, threatened or event existing which, individually or in the aggregate, would have the effect of terminating or limiting the foregoing easements and rights-of-way.

4.8 Environmental Matters. Except as set forth on Schedule 4.8, the Companies are in material compliance with all Environmental Laws. Seller and each Company has obtained and currently maintains, and is in material compliance with, all permits, licenses, registrations and other approvals and has made all reports and notifications required under any Environmental Laws. Except as described on Schedule 4.8, neither Seller nor any Company has received any written notice of, nor is any Company the subject of any pending action, cause of action, claim, proceeding, demand, allegation, assertion or notice by any Person alleging liability under or non-compliance with any Environmental Law. Except as set forth on Schedule 4.8, Seller and the Companies have not either directly or indirectly (i) generated, stored, used, treated, handled, discharged, released or disposed of any Hazardous Substances at, on, under, in or about, to or from or in any other manner affecting, any Real Property, (ii) transported any Hazardous Substances to or from any Real Property or (iii) undertaken or caused to be undertaken any other activities relating to any Real Property, in each case, which could reasonably be expected to give rise to any material liability under any Environmental Law. Except as described on Schedule 4.8, to Seller's knowledge, there are no conditions caused by Seller or any Company affecting any Real Property currently or formerly owned, operated or leased by Seller or any Company or

any property to which Seller or any Company arranged for the disposal or treatment of Hazardous Substances, including, but not limited to, the presence or release of Hazardous Substances, that could reasonably be expected to result in Seller or any Company incurring material liabilities under Environmental Laws. Seller has provided or made available to Purchaser with true and complete copies of all environmental, health and safety assessments, investigations, audits or documentation relating to the Companies or any Real Property currently or formerly owned, operated or leased by any Company or Seller, including, without limitation, any Phase I Environmental Assessments, Phase II Environmental Assessments, UST closure reports and asbestos surveys, to the extent in the possession, custody or control of Seller or any of the Companies. This Section 4.8 contains the sole and exclusive representations and warranties of the Seller with respect to any environmental matters, including without limitation any arising under any Environmental Laws.

4.9 Compliance with Legal Requirements. Except as set forth on Schedule 4.9, each Company's ownership, leasing and use of its assets and operation and conduct of its business do not violate or infringe, in any material respect, any Legal Requirements. Except as set forth on Schedule 4.9, neither Seller nor any Company has received written notice of any material violation by any such Company of any Legal Requirement applicable to the operation and conduct of its business and, to Seller's knowledge, there is no existing fact, circumstance or condition that could reasonably form the basis for a finding by any Governmental Authority of any such material violation.

4.10 Patents, Trademarks and Copyrights. Except as set forth in Schedule 4.10, each Company owns or has the right to use all intellectual property used by it in connection with, and necessary for, the operation of its business as currently conducted, including patents, patent applications, trademarks, trade names, service marks, service names, logos, trade secrets, copyrights, domain names, databases, licenses (other than licenses issued by Governmental Authorities), and similar intangible property rights and the goodwill associated with any of the foregoing (collectively, the **"Intellectual Property"**). All material Intellectual Property used in the business of any Company is identified or described on Schedule 4.10 (excluding any **"off the shelf"** or other standard computer software). Except as set forth on Schedule 4.10, no Company is required, obligated, or under any liability whatsoever to make any payments by way of royalties, fees or otherwise to any owner, licensor of, or other claimant to such Intellectual Property, or other third party in connection with the operation of its business as currently conducted. Except as set forth on Schedule 4.10, neither Seller nor any Company has received written notice of infringement of any patent, trademark, trade name, service mark, service name, logo, trade secret, or copyright or any written instrument which challenges or questions its right to utilize any other Intellectual Property in connection with the conduct of its business. To Seller's knowledge, no Person is infringing, violating, misusing or misappropriating any Intellectual Property of any Company. No present or former employee of any Company has any right, title or interest, directly or indirectly, in whole or in part, in any Intellectual Property owned or used by any Company.

4.11 Financial Statements; Income Statements and Statements of Cash Flow for Seller and Its Subsidiaries; Absence of Certain Changes or Events.

(a) Seller has delivered true and complete copies of audited balance sheets, income statements and statements of cash flow for Seller and its subsidiaries for the years ended December 31, 2004, 2005, 2006 and 2007 and unaudited balance sheets, income statements and statements of cash flow for Seller and its subsidiaries for the quarters ended March 31, 2007 and 2008 (all of such financial statements and notes being hereinafter referred to collectively as the **"Financial Statements"**, and such December 31, 2007 audited financial statements being referred to as the **"2007 Financial Statements"**). The Financial Statements are in accordance in all material respects with the books and records of each of the Companies to which they relate, were prepared in accordance with GAAP, applied on a consistent basis throughout the periods covered and present fairly the consolidated financial condition and results of operations of the Seller and its consolidated subsidiaries at the dates and for the periods indicated, subject only to the exclusions noted above. Except as (i) disclosed, reflected or reserved against on the face of the audited balance sheet as of December 31, 2007 included in the Financial Statements, (ii) incurred in the Ordinary Course of the Business after December 31, 2007 or (iii) disclosed on Schedule 4.11(a), the Companies do not have any other liabilities, claims, indebtedness or other obligations, whether accrued, contingent, deferred, absolute, determined, determinable or otherwise, that would be required by GAAP to have an amount set forth on a balance sheet or reflected in footnotes to a balance sheet prepared in accordance with GAAP applied on a consistent basis.

(b) Since December 31, 2007, except as set forth on Schedule 4.11(b):

(i) no event, change or circumstance has occurred which has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(ii) each Company has operated in the Ordinary Course of Business;

(iii) there has not been any damage, destruction or loss, whether or not covered by insurance, with respect to the property and assets of any Company having a replacement cost of more than $25,000 for any single loss or $100,000 for all such losses where such property or asset has not been repaired or replaced;

(iv) no Company has awarded or paid any bonuses to employees of such Company, except to the extent consistent with past practices, or entered into any employment agreement (other than routine "at will" oral employment arrangements that do not commit the Company to make payments upon termination of employment), deferred compensation agreement, severance agreement or similar agreement (nor amended any such agreement), or agreed to increase the compensation payable or to become payable by it to any of the directors, officers, employees, agents or representatives of any of the Companies, except for annual increases and merit increases in the Ordinary Course of Business or agreed to increase the coverage or benefits available under any severance pay, termination pay, vacation pay, company awards, salary continuation for disability, sick leave, deferred compensation, bonus or other incentive compensation, insurance, pension or other employee benefit plan, payment or arrangement made to, for or with such directors, officers, employees, agents or representatives of such Company, except as required pursuant to the terms thereof or applicable Legal Requirements;

(v) there has not been any change by Seller or any Company in accounting or Tax reporting principles, methods or policies, except as required by applicable Legal Requirements;

(vi) no Company has made or rescinded any election relating to Taxes, or settled or compromised any claim relating to Taxes;

(vii) no Company has entered into any Contract other than in the Ordinary Course of Business;

(viii) no Company has failed to pay and discharge current liabilities in the Ordinary Course of Business, other than those the validity of which are being contested in good faith for which the Companies have established reasonable reserves;

(ix) no Company has made any loans (in excess of $10,000), advances (in excess of $10,000) or capital contributions to, or investments in, any Person or paid any fees or expenses to any director, officer, partner, stockholder or Affiliate of any Company, except for compensation in the Ordinary Course of Business and the advancement of expenses to officers and employees in the Ordinary Course of Business;

(x) no Company has mortgaged, pledged or subjected to any Lien any of its assets, other than Permitted Liens or Liens to be satisfied at Closing, or acquired any assets or sold, assigned, transferred, conveyed, leased or otherwise disposed of any of its assets, except for assets acquired or sold, assigned, transferred, conveyed, leased or otherwise disposed of in the Ordinary Course of Business;

(xi) no Company has discharged or satisfied any Lien, or paid any obligation or liability (fixed or contingent), except in the Ordinary Course of Business;

(xii) no Company has canceled or compromised any debt or claim or amended, canceled, terminated, relinquished, waived or released any Company Contract, except in the Ordinary Course of Business;

(xiii) no Company has instituted or settled any legal proceedings except for business complaints in the Ordinary Course of Business;

(xiv) no Company has amended any provision of its Organizational Documents;

(xv) except as provided in any Company Contract listed on Schedule 4.6(c), no Company has made any commitment which relates to any period after the Closing Date to expend capital in excess of $250,000, individually or in the aggregate, unless such expenditure or commitment was in the Ordinary Course of Business or consistent with the capital expenditures budget previously delivered to the Purchaser; and

(xvi) neither the Seller nor any Company has agreed, committed, arranged or entered into any understanding to do anything set forth in this Section 4.11.

4.12 Litigation. Except as set forth on Schedule 4.12: (a) there is no material Litigation or investigation pending or, to Seller's knowledge, threatened, by or before any Governmental Authority or private arbitration tribunal against any of the Companies; and (b) there is not in existence any Judgment with respect to the Companies, or to which any of the Companies or their respective assets are subject or by which any of them are bound or affected.

4.13 Tax Matters.

(a) Each of the Seller and the Companies has been throughout its entire existence, and will continue through Closing to be, classified for federal and state income Tax purposes as a business entity that is disregarded as an entity separate from its owner pursuant to Treasury Regulations Section 301.7701-3(b). No entity has ever merged with or into any of the Companies.

(b) Each Company has duly filed with the appropriate taxing authorities all federal, state, local and foreign Tax Returns that it was required to file, all such Tax Returns are correct and complete in all material respects, and each Company has paid all Taxes that have become due and payable.

(c) The Financial Statements reflect reasonable reserves in accordance with GAAP for all unpaid Taxes payable by the Companies with respect to all Tax periods and portions thereof through the date of such Financial Statements. All unpaid Taxes of the Companies for all Tax periods ending before the Closing Date shall be included as Current Liabilities in the computation of Working Capital to the extent such unpaid Taxes are not reflected in the Financial Statements.

(d) Except as set forth in Schedule 4.13(d), there are no pending audits, examinations or similar proceedings of any of the Companies, and neither Seller nor any Company has received written notice of any deficiency, assessment or audit, or proposed deficiency, assessment or audit from any taxing authority. All deficiencies for Taxes related to audits, examinations or similar proceedings of the Companies that are completed have been fully paid.

(e) None of the Companies has executed any waiver or extension of any statute of limitations on the assessment or collection of any Tax or with respect to any liability arising therefrom.

(f) There are no Liens for Taxes on the assets of any of the Companies other than Permitted Liens.

4.14 Employees.

(a) Schedule 4.14(a) contains a true and complete list of the names and positions of all full-time employees employed at each of the Companies (the **"Company Employees"**), other than the OCCC/California Company Employees, as of the date of this Agreement, the employer and work location of such Company Employee, the original hire date, which with respect to employees who had been employed by Vista-United Telecommunications, The Walt Disney Company or an Affiliate, or Duro Communications immediately prior to any

Company, shall be the date hired by Vista-United Telecommunications, The Walt Disney Company or an Affiliate or Duro Communications. Each Company has complied in all material respects with all applicable Legal Requirements relating to the employment and safety of labor, continuation coverage requirements with respect to group health plans and those relating to wages, hours, collective bargaining, unemployment insurance, worker's compensation, equal employment opportunity, age, sex, race and disability discrimination, occupational safety, immigration control and the payment and withholding of Taxes.

(b) No Company Employees are presently members of any collective bargaining unit with respect to their employment with any Company. There are no collective bargaining agreements and no contracts or agreements with labor unions relating to, involving or affecting any Company Employee to which any Company is a party or by which any Company is bound. None of the Companies currently are, nor during the past three (3) years have been, the subject of any union certification or decertification drive, and, to the Seller's knowledge, no such organizing activity is threatened. No union or other collective bargaining representative has been certified as representing, has requested that any of the Companies recognize such union or collective bargaining representative as representing, or, to Seller's knowledge, claims to represent, any Company Employee for collective bargaining purposes. None of the Companies has agreed to bargain with any labor organization with respect to the wages, hours or other terms and conditions of employment of any Company Employee. There are not pending any unfair labor practice charges against Seller or any of Seller's Affiliates, including the Companies, with respect to any Company Employee, any demand for recognition or any other effort of or request or demand from, a labor organization for representative status with respect to any Person employed by any Company in connection with the business of the Companies now or within the last three (3) years. There are not currently pending or, to Seller's knowledge, threatened, nor have there been within the last three (3) years any strikes, picketing, work slow downs or other labor disputes (other than those relating to routine employment matters) involving or relating to Company Employees.

(c) Except as set forth on Schedule 4.14(c), none of the Companies have any employment Contracts, either written or oral except for oral contracts terminable at will without penalty, with any Company Employee.

4.15 Employee Benefits.

(a) Each Employee Plan (as hereinafter defined) and Compensation Arrangement (as hereinafter defined) is listed and described in Schedule 4.15(a), and true and complete copies of (including any amendments to) any such written Employee Plan (or related insurance policies) and Compensation Arrangement, or written descriptions thereof, for any unwritten Employee Plan or Compensation Arrangement, have been made available to Purchaser, along with copies of any employee handbooks or similar documents describing such Employee Plans. Except as disclosed in Schedule 4.15(a), none of the Companies is a party to or has in effect or to become effective after the date of this Agreement any plan, arrangement or other scheme which would be or become an Employee Plan or Compensation Arrangement, or any amendment to an Employee Plan or Compensation Arrangement. For purposes of this Agreement, **"Employee Plan"** means any **"employee benefit plan"** as defined in Section 3(3) of ERISA which is contributed to, maintained or sponsored by any Company or ERISA Affiliate

or pursuant to which any Company or any ERISA Affiliate may have any liability (contingent or otherwise). For purposes of this Agreement, **"Compensation Arrangement"** means any compensation arrangement which is contributed to, maintained or sponsored by any Company or pursuant to which any Company may have any liability (contingent or otherwise) and which is not an Employee Plan, whether written or unwritten, which provides any compensation or other benefits, whether deferred or not, including but not limited to bonus or incentive plans, deferred compensation arrangements, change of control arrangements, severance and any other employee fringe benefits.

(b) No Employee Plan is sponsored by any Company. No Company has any material liability, and after the Closing no Company will have any material liability, with respect to any Employee Plan or Compensation Arrangement, including, without limitation, whether as a result of delinquent contributions by a Company or ERISA Affiliate, terminations of one or more Employee Plans subject to Title IV of ERISA, fraudulent transfers, failure by a Company or ERISA Affiliate to pay premiums to the Pension Benefit Guaranty Corporation, multiemployer plan withdrawal liability or otherwise. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereunder, will result in any obligation of Purchaser or any of Purchaser's ERISA Affiliates, including after the Closing any Company to, under or otherwise relating to any Employee Plan or Compensation Arrangement other than the Purchaser's agreement to cause plan loan repayments to be effected through automatic payroll deductions as described in Section 5.3(e).

(c) In all material respects, each Employee Plan and Compensation Arrangement (i) has been administered in compliance with its own terms and (ii) is, in form and operation, in compliance (to the extent applicable) with the provisions of ERISA, the Code, the Age Discrimination in Employment Act and any other applicable Legal Requirements.

(d) None of the Companies nor any ERISA Affiliate is contributing to, is required to contribute to, or has contributed within the last seven years to, or has any liability with respect to, any Multiemployer Plan (as hereinafter defined), and none of the Companies nor any ERISA Affiliate has incurred within the last seven years, or will incur, or have any liability with respect to any **"withdrawal liability,"** as defined under Section 4201 et seq. of ERISA. None of the Companies nor any ERISA Affiliate has contributed to or been required to contribute to or terminated within the last seven years an employee pension benefit plan, as defined under Section 3(2) of ERISA, which was subject to Title IV of ERISA, other than a termination pursuant to a **"standard termination"** under Section 4041(b) of ERISA. No Company nor any ERISA Affiliate has engaged in a transaction to evade liability, as described under Section 4069 of ERISA. For purposes of this Agreement, **"Multiemployer Plan"** means a plan, as defined in Section 3(37) or 4001(a)(3) of ERISA or Section 414(f) of the Code, to which any Company or any ERISA Affiliate has contributed, is contributing or is required to contribute or has any liability with respect thereto.

(e) There is no pending governmental inspection, investigation, audit or examination of any Employee Plan or Compensation Arrangement and, to Seller's knowledge, there are no facts which would lead Seller to believe that any such governmental inspection, investigation, audit or examination is threatened, which could reasonably be expected to cause any of the Companies to incur any material liability (directly or indirectly) in connection

therewith. There exists no action, suit or claim (other than routine claims for benefits in the usual course) with respect to any Employee Plan pending or, to the Seller's knowledge, threatened against any such Employee Plan, and there are no facts which could give rise to any such action, suit or claim, in either case, which could reasonably be expected to cause any of the Companies to incur any material liability in connection therewith.

(f) Except as described in Schedule 4.15(f), (to the extent applicable): (i) each Employee Plan that is intended to be tax-qualified has received a favorable determination letter covering the current form of the Employee Plan (except to the extent a determination letter covering the current form of the Employee Plan has not yet been received in reliance upon an unexpired remedial amendment period), and no plan amendment that is not the subject of a favorable determination letter could reasonably be expected to adversely affect the validity of the Employee Plan's favorable determination letter (disregarding for this purpose the availability of any correction program); (ii) no condition or event exists or could reasonably be expected to occur that could reasonably be expected to subject, directly or indirectly, any of the Companies to any material liability, contingent or otherwise, or the imposition of any Lien on the assets of any of the Companies under Section 412 of the Code or Title IV of ERISA, whether to the Pension Benefit Guaranty Corporation, the Internal Revenue Service, or any other person; (iii) no Employee Plan is subject to Section 302 or Title IV of ERISA or Section 412 of the Code; (iv) no non-exempt **"prohibited transaction"** (within the meaning of Section 4975 of the Code or Section 406 of ERISA) has occurred with respect to any Employee Plan which would subject any of the Companies to any material liability; and (v) each Employee Plan which is a **"group health plan,"** as defined under Section 601 et seq. of ERISA and Section 4980B of the Code (**"COBRA"**), has complied in all material respects with COBRA, HIPAA and any other Legal Requirements.

(g) Except as set forth on Schedule 4.15(g) and except stay bonuses which are the Seller's responsibility, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (i) as a result of any Employee Plan or Compensation Arrangement or any action taken by Seller, or any Company on or prior to Closing, result in any payment (including, without limitation, severance, or unemployment compensation) becoming due to any employee of the Companies; (ii) result in the acceleration of vesting or payment under any Employee Plan or Compensation Arrangement; or (iii) increase any benefits otherwise payable under any Employee Plan or Compensation Arrangement; and all such payments and benefits are fully deductible under the Code, including but not limited to Sections 162, 280G and 404 of the Code.

4.16 Finders and Brokers. Except as described on Schedule 4.16, neither Seller nor any Company has employed any financial advisor, broker or finder or incurred any liability for any financial advisory, brokerage, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement for which Purchaser or any Company could be liable.

4.17 Transactions With Affiliates. Except to the extent set forth on Schedule 4.17, no Affiliate of any of the Companies or Seller or any of their respective directors, officers, partners, members, stockholders or Affiliates of any such Person is currently or has been party to any business arrangement or relationship with any Company within the 24 months prior to the date of

this Agreement or is a participant in any transaction to which any Company is a party, and no Affiliate of any of the Companies or Seller or any of their respective directors, officers, partners, members, stockholders or Affiliates of any such Person owns or possesses any asset, property or right (whether tangible or intangible) which is used or held for use in the business of any Company (including the business operations reflected in the Financial Statements). Each Company Contract or arrangement between any Company, on the one hand, and any Affiliate of any Company or Seller or any of their respective directors, officers, partners, members, stockholders or Affiliates of any such Person, on the other hand, all of which are set forth on Schedule 4.17, is on commercially reasonable terms no more favorable to such Affiliate, director, officer, or employee than what any third party negotiating on an arms'-length basis would expect.

4.18 Insurance Matters. Schedule 4.18 sets forth a list and description of each material insurance policy that provides coverage with respect to the assets, business, operations, employees, officers or directors of any Company. The Seller has made available to Purchaser true and complete copies of such insurance policies. Except as noted on Schedule 4.18, (a) such insurance policies or substantially similar policies have been in effect since December 31, 2007, and there has been no gap in coverage during this time period; (b) there are no material claims by any Company pending under any such insurance policy as to which coverage has been questioned, denied or disputed by the underwriters of such insurance policies or in respect of which such underwriters have reserved their rights; (c) all premiums payable under all such insurance policies have been timely paid and the Companies have otherwise complied with the terms and conditions of all such insurance policies; (d) as of the date hereof, the Seller has no knowledge of any threatened termination of, premium increase with respect to, or material alteration of coverage under, any of such insurance policies; (e) any pending claims by any Company are not expected to exceed coverage limitations under any such insurance policies; and (f) the Companies shall immediately after the Closing continue to have coverage under such policies for events occurring prior to the Closing.

4.19 Customer and Developer Relationships.

(a) Except as set forth on Schedule 4.19(a), (A) nothing has occurred that would reasonably be expected to result in (i) a significant change in the Companies' business relationship with The Walt Disney Company and its Affiliates (the **"Material Customer"**) or (ii) a significant change in the manner in which the Companies conduct business with the Material Customer; (B) the Material Customer has not threatened or otherwise indicated to any Company since June 30, 2007 that the Material Customer intends to terminate, propose a material change to the terms of (other than changes incorporated into a Contract disclosed on Schedule 4.6(c)) or otherwise materially alter its relationship or any Contract with any Company; (C) there has been no significant dispute with the Material Customer since June 30, 2007; (D) neither any Company, on the one hand, nor the Material Customer, on the other hand, is withholding or has threatened in writing to withhold payments or revenues due to the other, other than in connection with routine disagreements in the Ordinary Course of Business; (E) since June 30, 2007, the Material Customer has not requested or instituted a corrective plan with any Company or otherwise alleged that any Company is not performing in any material respect under the terms of any Contract among the parties; and (F) to Seller's knowledge, no other event has

occurred that would reasonably be expected to have a material and adverse effect on any Company's relationship with the Material Customer.

(b) Except as set forth on Schedule 4.19(b), (A) nothing has occurred that would reasonably be expected to result in (i) a significant change in the Companies' business relationship with any Person or any Affiliate thereof with whom any Company has entered into a Developer Agreement (each, a **"Material Developer"**) or (ii) a significant change in the manner in which the Companies conduct business with any Material Developer; (B) no Material Developer has threatened or otherwise indicated to any Company since June 30, 2007 that such Material Developer intends to terminate, propose a material change to the terms of (other than changes incorporated into a Contract disclosed on Schedule 4.6(c) or otherwise materially alter its relationship or any Developer Agreement with any Company; (C) there has been no significant dispute with any Material Developer since June 30, 2007; (D) neither any Company, on the one hand, nor any Material Developer, on the other hand, is withholding or has threatened in writing to withhold payments or revenues due to the other, other than in connection with routine disagreements in the Ordinary Course of Business; (E) since June 30, 2007, no Material Developer has requested or instituted a corrective plan with any Company or otherwise alleged that any Company is not performing in any material respect under the terms of any Developer Agreement; and (F) to Seller's knowledge, no other event has occurred that would reasonably be expected to have a material and adverse effect on any Company's relationship with any Material Developer. For the purposes of this Agreement, **"Developer Agreement"** means any Contract between any Company and a developer or a builder of private residential communities or a homeowners association that provides such Company with special arrangements for preferred marketing, pricing or bulk billing with respect to one or more services offered by the Company, which Contracts are identified on Schedule 4.19(b).

Section 5. ADDITIONAL COVENANTS

5.1 Access to Premises and Records.

(a) Between the date of this Agreement and the Closing Date, upon reasonable notice from Purchaser, Seller will give, and will cause each Company to give, to Purchaser and its representatives, reasonable access, during normal business hours to all the premises and books and records of each Company, as the case may be, and to all their respective assets and senior management and will make available to Purchaser and its representatives all such documents, financial information and other information in the possession or under the control of Seller or any Company regarding each Company and its assets as Purchaser from time to time reasonably may request. Such right of access shall also include the right of Purchaser to ask questions of, and receive responses thereto from, senior management of Seller and the Companies, with respect to any matter reviewed by Purchaser and its representatives pursuant to the exercise of the foregoing right of access. Seller will keep Purchaser advised of all material developments relevant to the Companies' business and the consummation of the transactions contemplated hereby.

(b) As soon as practicable after the date hereof, Seller and Purchaser shall create a joint integration planning committee (the **"Integration Planning Committee"**)

consisting of not less than three representatives from each of the parties hereto. The Seller and Purchaser shall mutually agree on the persons who will be the members of the Integration Planning Committee, provided, however, that the parties hereby agree that Martin Rubin will be a member of the Integration Planning Committee representing the Seller. The responsibilities of the Integration Planning Committee shall include:

(i) organizing and developing a transition plan for the prompt and efficient integration of the business organizations of Purchaser and the Companies following the Closing;

(ii) evaluating the appropriate manner in which to organize and manage the businesses, operations and assets of the Companies following the Closing;

(iii) developing corporate organizational and management plans, workforce combination proposals and such other matters as the Integration Planning Committee deems appropriate; and

(iv) planning for the OCCC/California Transfer.

Seller shall reasonably cooperate with and promptly respond to all reasonable requests for information of the Integration Planning Committee arising out of or related to the Integration Planning Committees' responsibilities as set forth in (i) through (iv) above. From the date of this Agreement to the earlier of the Closing and the termination of this Agreement in accordance with its terms, Seller shall provide, at least ten (10) business days prior to the execution of any such agreement by any of the Companies, a copy of any agreement or amendment to an agreement with the Material Customer or any Material Developer which Seller or any of the Companies contemplates executing to each member of the Integration Planning Committee. Unless otherwise agreed by the members of the Integration Planning Committee, the Integration Planning Committee shall meet two times per month and such meetings may occur telephonically or in person. The Integration Planning Committee shall report all of its findings and make non-binding recommendations to each of Seller and Purchaser with respect to those matters which the Integration Planning Committee deems appropriate to consider. For the avoidance of doubt, the Integration Planning Committee shall have no power to manage the affairs and business of Seller or any of the Companies prior to the Closing and in no event may the meetings or other proceedings or activities of the Integration Planning Committee unreasonably interfere with the business or operations of the Companies or the Seller or the time necessary for the members thereof to devote to the Companies or the Seller. The Integration Planning Committee shall dissolve at the Closing.

5.2 Continuity and Maintenance of Operations; Certain Deliveries and Notices.

(a) Affirmative Covenants. Between the date of this Agreement and the Closing, Seller will (with respect to the business of each Company) and will cause each of the Companies, other than with the prior written consent of the Purchaser, which consent shall not be unreasonably withheld or delayed, to:

(i) conduct and operate its business only in the Ordinary Course of Business, and, to the extent consistent with such conduct and operation, will use its commercially reasonable efforts to (A) keep available the services of employees and agents providing services in connection with its business as necessary to conduct and operate such business in the Ordinary Course of Business; and (B) preserve all such Company's tariffs, certificates, Licenses and other authorizations and other material rights issued by any Governmental Authority which are necessary for its operation of its business or its assets;

(ii) maintain (A) capital expenditures in the Ordinary Course of Business and consistent with the capital expenditures budget for the period between the date hereof and the Closing Date set forth on Schedule 5.2(a)(ii), (B) its assets in operating condition and repair for the purposes for which they are used, ordinary wear and tear excepted, consistent with past practices, (C) equipment and inventory at levels consistent with past practices, (D) in full force and effect policies of insurance with respect to its business consistent with past practices, and (E) its books, records and accounts in the usual, regular and ordinary manner on a basis consistent with past practices;

(iii) promptly after completion, between the date of the Agreement and the Closing, deliver to Purchaser copies of monthly balance sheets, income statements and statements of cash flow of the Companies;

(iv) promptly after completion, but in no event later than thirty (30) days after the end of each calendar month between the date of the Agreement and the Closing, deliver to Purchaser copies of the management reports customarily prepared with respect to the Companies (which management reports shall contain operating information, statistics and other relevant information with respect to the Companies);

(v) except in the Ordinary Course of Business maintain the validity of the Licenses and comply in all material respects with the requirements of the Licenses, tariffs and the rules and regulations of the FCC and State PUCs;

(vi) comply in all material respects with other applicable Legal Requirements;

(vii) with respect to the Communications Licenses, make all filings and reports and pay all fees necessary for the continued operation of its business, as and when such filings, or reports or payments are required; and

(viii) continue to collect accounts receivable and pay accounts payable utilizing the Companies' historical working capital practices and without discounting or accelerating payments and collections, other than in the Ordinary Course of Business.

(b) Negative Covenants. Except as necessary to comply with all applicable Legal Requirements or as expressly required or permitted by this Agreement, from the date of this Agreement until the Closing, Seller (with respect to the business of each Company) shall not, and shall cause each of the Companies not to, without the prior written consent of the Purchaser, which consent shall not be unreasonably withheld or delayed, undertake any of the following actions :

(i) amend, extend, modify, terminate, renew or suspend any Real Property lease or Company Contract or enter into any lease or Contract that if entered into prior to the date hereof would constitute a Real Property lease or a Company Contract, except in the Ordinary Course of Business following not less than five business days' notice to Purchaser;

(ii) enter into any Contract containing covenants that would limit the freedom of Purchaser or its Affiliates to compete or participate in any line of telephony business or activities in any geographic area;

(iii) enter into any business or arrangement or otherwise take any action with respect to the business of any of the Companies or the Purchased Interests that would reasonably be expected to have a material adverse impact on the ability of Seller and Purchaser to obtain any consents of Governmental Authorities (including the FCC Consents and the State PUC Consents) necessary in connection with this Agreement;

(iv) take any action which could reasonably be expected to result in the revocation, surrender or any adverse modification of, forfeiture of, or failure to renew, any of the Communications Licenses;

(v) materially adversely modify or terminate, or suspend any material License;

(vi) modify pricing for products or services or institute any proceeding with respect to, or otherwise change, amend or supplement any of its tariffs or make any other filings with the State PUCs, except modifications, institutions, changes, amendments, supplements or filings of an immaterial nature made in the Ordinary Course of Business, and except for regulatory fees, recoupments or pass-through charges to the extent allowable by the applicable Governmental Authority;

(vii) waive, release, grant, transfer or permit to lapse (other than in accordance of their terms) any rights of material value without receipt of fair consideration with respect thereto;

(viii) sell, transfer or assign any portion of its assets other than assets sold or disposed of in the Ordinary Course of Business or due to non-use or that are replaced by other assets of comparable utility and value, or permit the creation of a Lien, other than a Permitted Lien, on any of its assets;

(ix) engage in any hiring or employee compensation practices (including increasing salary or benefits available under Plans, including severance plans or

policies) that are inconsistent with past practices except for stay bonuses which shall be the obligation of the Seller;

(x) amend, modify, restate or otherwise change the Organizational Documents of any Company;

(xi) make any change in any method of accounting or accounting practice or policy other than those required by GAAP;

(xii) adopt a plan of liquidation, dissolution, merger, consolidation, restructuring, recapitalization or reorganization relating to any Company;

(xiii) acquire (including by merger, consolidation or acquisition of stock or assets) any corporation, partnership, or other business organization or any division thereof or any material amount of assets, except for acquisitions of inventory and the purchase of raw materials, supplies and equipment in the Ordinary Course of Business;

(xiv) issue, grant, sell, pledge, deliver, dispose of, encumber, split, consolidate, combine, reclassify, repurchase, redeem or acquire any Equity Interest of any Company;

(xv) make an expenditure, authorize or commit for any capital expenditure (including for this purpose any expenditure, authorization or commitment related to an Aid in Contribution Receivable which, individually, is in excess of $100,000, or, in the aggregate, is in excess of $250,000, unless such expenditure, authorization or commitment is (A) made consistent with the capital expenditures budget set forth on Schedule 5.2(a)(ii), (B) required for a Company to comply with a Legal Requirement, (C) required to repair damaged equipment or infrastructure in an emergency situation or (D) is a Disney Aid in Contribution Receivable the terms of which are negotiated with the Material Customer in conformance with the terms of the Company Contracts between the Companies and the Material Customer (provided that Seller has disclosed to Purchaser prior to agreeing to such construction project the existence of discussions with Material Customer regarding such Disney Aid in Contribution Receivable);

(xvi) loan or otherwise advance any amount to any Person, except for non-material advances to employees or officers of a Company for expenses incurred in the Ordinary Course of Business and for capital leases provided to customers in Ordinary Course of Business;

(xvii) enter into any partnership, joint venture, agreement or arrangement providing for a minority interest, capital call obligation or other similar agreement or arrangement;

(xviii) incur any indebtedness for borrowed money in excess of $1,000,000; or

(xix) make any commitment to take any actions prohibited by the provisions of this Section 5.2(b).

(c) Exception for OCCC/California Businesses. Notwithstanding anything to the contrary in this Agreement, the covenants contained in Sections 5.2(a) and 5.2(b) above shall not apply with respect to matters exclusively affecting the OCCC/California Businesses.

5.3 Employees; Benefits.

(a) Purchaser shall provide each Company Employee employed by the Companies immediately prior to the Closing, on the Closing and for six months thereafter, with not less than the same base salary and bonus opportunities as of the Closing, and with the same employee benefits as to similarly-situated employees of the Purchaser under benefit plans, agreements, programs, policies and arrangements of Purchaser or of an Affiliate of Purchaser ("**Purchaser Plans**"). Should the employment of any Company Employee be terminated by the Company other than for cause within six months following the Closing, such individual shall receive a severance benefit from Purchaser which is not less than the severance benefit such individual would have received pursuant to the terms of Seller's severance plan or arrangement applicable to such individual immediately prior to the Closing, which plan or arrangement is set forth in a letter agreement dated the date hereof between Seller and Purchaser. For the avoidance of doubt, Purchaser may terminate the employment of any Company Employee at any time following the Closing, with or without cause, but shall be solely responsible for all liabilities and obligations to provide severance benefits to any Company Employee whose employment is terminated by the Company (other than for cause) within the six-month period after the Closing. Seller shall be solely responsible for all liabilities and obligations to provide severance benefits to any Company Employee or other employee or independent contractor whose employment or service is terminated before the Closing or at the direction of Seller on the Closing. Nothing herein shall be construed to obligate Purchaser to continue any of the Company Employees in its employ for any specified period of time following the Closing on any specified terms or in any specific position or location.

(b) Seller and its Affiliates shall retain responsibility for and continue to pay all medical, life insurance, disability and other welfare plan expenses and benefits for each Company Employee with respect to claims incurred by such Company Employee or his or her covered dependents prior to the Closing to the extent such claims are covered under the terms of the employee benefit plans maintained by Seller and its Affiliates. Without limitation of the foregoing sentence, Seller shall retain the right to receive any and all refunds or distributions from or with respect to the employee benefit plans maintained by Seller and its Affiliates, and the Companies shall have no right to any such refunds or distributions. Purchaser shall be responsible for all expenses and benefits with respect to claims incurred by Company Employees or their covered dependents from and after the Closing to the extent covered under the terms of the Purchaser Plans. For purposes of this Section 5.3(b), a claim is deemed incurred: in the case of medical or dental benefits, when the services that are the subject of the claim are performed; in the case of life insurance, when the death occurs; in the case of disability benefits, when the Employee becomes disabled; and in the case of workers compensation benefits, when the event giving rise to the benefits occurs. Except as required by applicable law, as of the Closing the Company Employees shall cease to accrue further benefits under the Employee Plans and Compensation Arrangements and shall commence participation in the Purchaser Plans in which similarly-situated employees of Purchaser participate, including Purchaser Plans that are welfare plans or pension or retirement plans pursuant to and in accordance with the terms of the

Purchaser Plans. Seller agrees to take appropriate steps to terminate the Companies' and the Company Employees' participation in the Employee Plans and Compensation Arrangements effective as of the Closing Date except to the extent the Company Employee's participation after the Closing Date results solely from the Company Employee's plan account established prior to the Closing Date remaining in such Employee Plans after the Closing Date).

(c) With respect to any Purchaser Plan that is a "welfare benefit plan" (as defined in Section 3(1) of ERISA), or any other plan maintained by Purchaser that would be a "welfare benefit plan" (as defined in Section 3(1) of ERISA) if it were subject to ERISA, Purchaser shall (i) provide coverage on the same basis as similarly-situated employees for Company Employees effective immediately following the Closing, (ii) cause to be waived any pre-existing policies or practices to the extent required by applicable Legal Requirements and the terms of the Purchaser Plans and (iii) cause all such Purchaser Plans to count all expenses incurred by the Company Employees and their beneficiaries under similar plans of Seller and its Affiliates during the portion of the calendar year in which the Closing occurs for purposes of satisfying applicable deductible, co-insurance and maximum out-of-pocket expenses thereunder to the extent Purchaser can reasonably document such expenses having been paid.

(d) Company Employees shall be given credit for all purposes, except as would result in duplication of benefits or benefit accrual, including, without limitation, for purposes of eligibility, and vesting, but not benefit accrual, for all service (including service with Seller and any of its Affiliates and predecessor owners or operators of Seller and its Affiliates to the same extent credited under Seller's Employee Plans) for which such Company Employees were credited for such purposes under the similar Employee Plan.

(e) Purchaser shall take all actions reasonably necessary to permit, beginning as soon as practicable following the Closing, each Company Employee to effect a rollover (including a direct rollover) from Seller's or its applicable Affiliate's 401(k) plan (including, to the extent permitted by the NTCA Savings Plan, notes evidencing any outstanding plan loans from Seller's or its applicable Affiliate's 401(k) plan) to an account under Purchaser's NTCA Savings Plan; provided that if the NTCA Savings Plan does not permit a Company Employee to effect a rollover from Seller's or its applicable Affiliate's 401(k) plan that includes an outstanding plan loan from such 401(k) plan, then Seller shall, in accordance with the loan procedures and applicable provisions of the Seller's or its applicable Affiliate's 401(k) plan, take all actions reasonably necessary (including but not limited to amending such loan procedures or plan, as applicable) to cause such 401(k) plan to retain such Company Employee's 401(k) account and related outstanding plan loan for up to 12 months following the Closing Date (provided that the Company Employee does not request distribution of such 401(k) account and continues repayments to such 401(k) plan with respect to the outstanding plan loan so as to prevent any default of such plan loan and provided further that Purchaser causes any such loan repayments to be effected through automatic payroll deductions if such Company Employee authorizes such automatic payroll deductions).

(f) Purchaser agrees that it shall indemnify, defend and hold harmless Seller Indemnified Parties from and against any Losses imposed on any such Person directly or indirectly after the Closing Date relating to or arising out of: (i) the termination of employment or the wrongful discharge (including constructive discharge) by Purchaser or its Affiliates of any

Company Employee after the Closing Date, or (ii) the violation of any Law or agreement (including employee contracts but not including any Compensation Arrangement), after the Closing Date, with respect to any Company Employee, including any liability arising under any federal or state discrimination laws or WARN. Seller agrees that it shall indemnify, defend and hold harmless the Purchaser Indemnified Parties from and against any Losses imposed on any such Person directly or indirectly after the Closing Date relating to or arising out of: (i) the termination of employment or wrongful discharge (including constructive discharge) by Seller or its Affiliates of any Company Employee on or before the Closing Date or (ii) the violation of any Law or agreement (including employee contracts and any Employee Plan or Compensation Arrangement), on or before the Closing Date, with respect to any Company Employee, including any liability arising under any federal or state discrimination laws or WARN.

(g) Purchaser shall be responsible for providing or discharging any and all notifications, benefits and liabilities to Company Employees and governmental authorities required by WARN relating to (i) plant closings, (ii) mass layoffs or (iii) notice or pay in lieu of notice that is required to be provided under WARN after the Closing, as a result of the transaction contemplated by this Agreement. Seller shall be responsible for providing or discharging any and all notifications, benefits and liabilities to Company Employees and governmental authorities required by WARN relating to (i) plant closings, (ii) mass layoffs or (iii) notice or pay in lieu of notice that is required to be provided under WARN, on or prior to the Closing, as a result of the transaction contemplated by this Agreement. Purchaser shall indemnify and hold harmless Seller in the event any action taken by Purchaser after the Closing results in a Loss to Seller for failure to provide required notice under WARN to Company Employees who were terminated prior to Closing; provided that Seller was not required to provide a WARN notice with respect to such terminations prior to Closing. At Closing Seller shall provide to Purchaser a list of Company Employees who experienced a "loss of employment" within the meaning of WARN during the six months prior to the Closing.

(h) In accordance with Treasury Regulation §54.4980B-9, Q&A 8, Seller and its Affiliates shall be and are primarily responsible for COBRA Coverage for all M&A qualified beneficiaries (determined in accordance with Treasury Regulation §54.4980B-9, Q&A4) (as such terms are defined below). Purchaser shall be solely responsible for offering and providing any COBRA Coverage required with respect to any Company Employee (or other qualified beneficiary) who becomes covered by a group health plan sponsored or contributed to by Purchaser or an Affiliate of Purchaser (a "**Purchaser Group Health Plan**") and who experiences a qualifying event following the Closing while covered under a Purchaser Group Health Plan. For purposes hereof, each of "qualified beneficiary," "M&A qualified beneficiaries," "group health plan" and "qualifying event" shall have the meanings ascribed hereto in Section 4980B of the Code. "COBRA Coverage" means continuation coverage required under Section 4980B of the Code and Part 6 of Title I or ERISA. Purchaser shall offer no inducement to any person to elect COBRA Coverage with respect to any of Seller's or Seller's Affiliate's "group health plan."

(i) Notwithstanding anything to the contrary in this Section 5.3, the parties expressly acknowledge and agree that nothing in this Agreement shall be deemed or construed to require Purchaser or Seller or any of their Affiliates to continue to employ any particular Company Employee for any period after the Closing and, unless otherwise explicitly stated

herein, nothing in this Agreement shall modify or amend any Employee Plan, Purchaser Plan or other agreement, plan, program or document.

(j) No current, former or future employee (including any Employee), or beneficiary or dependent thereof, of Seller or any of its Affiliates or any of the heirs, representatives or assigns of any of the foregoing shall have any third party beneficiary rights or rights to any specific levels of compensation or benefits or rights to continued employment as a result of the application of this Section 5.3 or any other provision of this Agreement.

(k) For purposes of clarification, Seller and its Affiliates shall have no responsibility whatsoever with respect to any of the Purchaser Plans, and Purchaser and its Affiliates, including each Company on and after the Closing, shall have no liability or responsibility whatsoever with respect to any of the Employee Plans or Compensation Arrangements.

(l) Notwithstanding anything to the contrary in this Agreement, Seller shall cause SCT and SCS to transfer to the OCCC/California Asset Transferee the Company Employees identified on Schedule 5.3(l) and any additional full-time Company Employees who work solely at the OCCC or in California (other than as a result of reassignment from another position with the Companies) (the **"OCCC/California Company Employees"**) and Purchaser shall have no liability or responsibility for such OCCC/California Company Employees.

5.4 Seller Consents; Purchaser Consents; FCC Applications/State PUC Applications.

(a) Seller will use its commercially reasonable efforts to obtain in writing as promptly as practicable and at its expense, all of the Seller Consents, substantially in the form attached hereto as Exhibit 5.4(a), and will deliver to Purchaser copies of such Seller Consents promptly after they are obtained by Seller; provided, however, that Seller will afford Purchaser the opportunity to review and comment on any material changes in such form which are proposed by third parties. Purchaser, at its expense, will cooperate with Seller in its efforts to obtain the Seller Consents. Purchaser will use its commercially reasonable efforts to obtain in writing as promptly as practicable and at its expense, all of the Purchaser Consents, in the form reasonably agreed to by the parties and will deliver to Seller copies of such Purchaser Consents promptly after they are obtained by Purchaser; provided, however, that Purchaser will afford Seller the opportunity to review and comment on any material changes in such form which are proposed by third parties. Seller, at its expense, will cooperate with Purchaser in its efforts to obtain the Purchaser Consents.

(b) As promptly as practicable but in no event later than fifteen (15) Business Days after the date of this Agreement, Seller and Purchaser shall prepare and file, or cause to be prepared and filed, the necessary application or applications with the FCC and the State PUCs seeking the FCC Consents and the State PUC Consents. Each party shall provide the other party with all information necessary for the preparation of such applications on a timely basis, including those portions of such applications which are required to be completed by the first party. In addition, Seller and Purchaser shall cooperate to make any customer notifications and notice filings required in connection with the transactions contemplated by this Agreement on a timely basis.

(c) Seller and Purchaser shall each bear its own expenses in connection with the preparation and prosecution of the FCC applications, the State PUC applications, and the Required Joint Consents. Subject to the terms and conditions of this Agreement, each of Seller and Purchaser shall use its commercially reasonable efforts to prosecute the FCC applications, the State PUC applications, and to obtain the Required Joint Consents, the Seller Consents and the Required Purchaser Consents, in all cases, in good faith and with due diligence before the FCC, the State PUCs and other applicable Governmental Authorities and from applicable Persons and in connection therewith shall take such action or actions as may be necessary or reasonably required in connection therewith, including furnishing of any documents, materials, or other information reasonably requested in order to obtain such approvals as expeditiously as practicable.

(d) Notwithstanding anything to the contrary contained herein, in connection with obtaining any Required Joint Consents, Seller Consents or Purchaser Consents, Purchaser will not be required to accept or agree or accede to any condition or to change or transfer of control of any material asset of Purchaser or the Companies, or to accept or agree or accede to any modifications or amendments to change or transfer control of any material asset, any of the Communications Licenses, any material Company Contracts or any other instrument evidencing any material asset of any of the Companies or to obtain any Consent; provided, however, that Purchaser or the applicable Company shall agree to any such modifications or amendments of Company Contracts as long as the effects thereof would not make, or would not reasonably be likely to make, such Company Contract materially more onerous in any respect or would not materially reduce, or would not reasonably be likely to materially reduce, the benefits available under the Company Contract to which the Consent relates.

(e) Seller and Purchaser shall each use their respective commercially reasonable efforts to (i) promptly notify each other of any communication to that party from the FCC or any State PUC with respect to any such applications, as applicable, (ii) permit the other party to attend and participate in meetings (telephonic or otherwise) with the FCC or any State PUC and (iii) permit the other party to review in advance, as reasonable, any proposed written communication to the FCC or any State PUC with respect to such applications.

(f) Without limiting the foregoing, neither Seller nor Purchaser shall knowingly take, or fail to take, any action if the intent or reasonably anticipated consequence of such action or failure to act is, or would be, to cause the FCC or any State PUC not to grant approval of any FCC application, approval of any State PUC application, or other License or Consent, or materially delay any such Consent or License.

5.5 HSR Notification. As soon as practicable after the execution of this Agreement, but in any event no later than fifteen (15) Business Days after such execution, the parties will each complete and file, or cause to be completed and filed, any notification and report required to be filed under the HSR Act; and each such filing shall request early termination of the waiting period imposed by the HSR Act. The parties shall use commercially reasonable efforts to respond as promptly as reasonably practicable to any inquiries received from the Federal Trade Commission (the **"FTC"**) and the Antitrust Division of the Department of Justice (the **"Antitrust Division"**) for additional information or documentation and to respond as promptly as reasonably practicable to all inquiries and requests received from any other Governmental

Authority in connection with antitrust matters. The parties shall use commercially reasonable efforts to overcome any objections which may be raised by the FTC, the Antitrust Division or any other Governmental Authority having jurisdiction over antitrust matters; provided, however, the Purchaser shall not be required to take any action in connection with, or agree to, any sale, divestiture or disposition of any businesses, assets, properties or product lines of any Company or the Purchaser, or the imposition of any material limitation on the ability of any Company or the Purchaser to conduct its respective business or to own or exercise control of its respective business or assets following the Closing.

5.6 Tax Matters.

(a) Tax Periods Ending Before the Closing Date. Seller shall prepare or cause to be prepared, and file or cause to be filed, all Tax Returns for the Companies (i) that are due before the Closing Date, and (ii) that relate to Tax periods ending before the Closing Date but are required to be filed on or after the Closing Date, and to the extent such Taxes have been reflected in Current Liabilities, the Companies or Purchaser shall pay the Taxes shown to be due on such Tax Returns. Such Tax Returns shall be prepared in accordance with each Company's past custom and practice to the extent in accordance with Legal Requirements. In preparing each Company's Tax Returns, Seller shall consult with Purchaser in good faith and shall provide Purchaser with drafts of such Tax Returns (together with the relevant back-up information) for review as promptly as practicable prior to filing.

(b) Tax Periods Ending On or After the Closing Date. Purchaser shall prepare or cause to be prepared, and file or cause to be filed, any Tax Returns for the Companies that relate to Tax periods ending on or after the Closing Date (including Tax Returns for Tax periods that begin before the Closing Date and end on or after the Closing Date, referred to herein as a "**Straddle Period**"). All Tax Returns for Straddle Periods shall be prepared in accordance with each Company's past custom and practice to the extent in accordance with Legal Requirements. In preparing each Straddle Period Tax Return, Purchaser shall consult Seller in good faith and shall provide Seller with drafts of such Tax Returns (together with relevant back-up information) for review as promptly as practicable prior to filing.

(c) Allocation of Taxes. For purposes of preparing Tax Returns of the Companies, and the allocation for the payment of the Taxes related to taxable periods that begin before and end on or after the Closing Date, (i) all real property taxes, personal property taxes and similar ad valorem obligations levied with respect to the Companies shall be apportioned between Seller and Purchaser based on the number of calendar days of the portion of the taxable period ending on the day immediately preceding the Closing Date and the number of calendar days of the portion of the taxable period beginning on the Closing Date, and (ii) all other taxes shall be determined as if the books of the Companies were **"closed"** on the Closing Date.

(d) Refunds. Except to the extent taken into account in Working Capital, Purchaser shall promptly pay or cause to be paid to Seller all refunds of Taxes, interest and penalties thereon received by Purchaser, any Affiliate of Purchaser, or any Company attributable to Taxes paid by Seller or any Company with respect to any taxable period ending before the Closing Date. Seller shall promptly pay or cause to be paid to Purchaser all refunds of Taxes,

interest and penalties thereon received by Seller or any Affiliate of Seller attributable to Taxes paid by Purchaser with respect to any taxable period ending on or after the Closing Date.

(e) Cooperation. Seller and Purchaser shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with the filing of Tax Returns pursuant to this Section 5.6 and any audit, litigation, or other proceeding with respect to Taxes (including an audit of Taxes of Seller or any Affiliate of Seller). Such cooperation shall include, upon the other party's request, the provision of records and information which are reasonably relevant to any such Tax Return of the Companies, Seller or any Affiliate of Seller, audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Seller and Purchaser agree (i) to retain all books and records with respect to Tax matters pertinent to the Companies relating to any taxable period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by Seller or Purchaser, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority, and (ii) to give the other party reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other party so requests within ten (10) Business Days of such notice, Seller or Purchaser, as the case may be, shall allow the other party to take possession of such books and records to the extent they would otherwise be destroyed or discarded. Upon receipt of any notice related to an audit, investigation or other contest regarding Taxes of any Company, Seller shall promptly deliver such notice to the Purchaser.

(f) Transfer Taxes. All transfer, documentary, sales, use, stamp, registration and other such Taxes and fees (including any penalties and interest) arising from or payable by reason of the transfer of any of the Purchased Interests shall be shared equally by Purchaser and Seller. Seller and Purchaser will cooperate in all reasonable respects to prepare and file all necessary Tax Returns and other documentation with respect to all such transfer, documentary, sales, use, stamp, registration and other Taxes and fees.

5.7 Confidentiality and Publicity.

(a) The non-disclosure letter agreement dated November 1, 2007 from Smart City Holdings, LLC to Quadrangle Advisors II LLC is hereby terminated, and the provisions of this Section 5.7 shall govern the parties' obligations to keep information confidential. No party will disclose any non public information that such party may obtain from the other in connection with this Agreement (it being understood and agreed that all proprietary information of the Companies shall become the proprietary information of Purchaser at Closing). Each party will cause its employees, consultants, advisors and agents not to disclose any such information to any other Person (other than its directors, officers and employees and its advisors and lenders whose knowledge thereof is necessary in order to facilitate the consummation of the transactions contemplated hereby) or use, and will cause its employees, consultants, advisors and agents not to use, such information to the detriment of the other; provided that (i) such party may use and disclose any such information once it has been publicly disclosed (other than by such party in breach of its obligations under this Section); (ii) to the extent that such party may, in the reasonable opinion of its counsel, be compelled by Legal Requirements to disclose any of such information, such party may disclose such information if it will have used reasonable efforts, and

will have afforded the other party the opportunity, to obtain an appropriate protective order or other satisfactory assurance of confidential treatment, for the information compelled to be disclosed; and (iii) such party may use and disclose such information to the extent necessary to enforce its rights hereunder. In the event of termination of this Agreement, each party will use all reasonable efforts to cause to be delivered to the other, and retain no copies of, any documents, work papers and other materials obtained by such party or on its behalf from the other, whether so obtained before or after the execution hereof.

(b) Neither Purchaser nor Seller will issue any press release or make any other public announcement or any oral or written statement to the other party's employees concerning this Agreement and the transactions contemplated hereby, except as required by applicable Legal Requirements, without the prior written consent and approval of the other, which consent and approval may not be unreasonably withheld or delayed.

(c) Seller and Purchaser acknowledge that information about customers (**"Customer Information"**) may be exchanged between the parties and may be subject to legal restrictions on use or disclosure, including, without limitation, laws relating to customer proprietary network information, as defined in 47 U.S.C. § 222 and implementing regulations of the FCC. Seller and Purchaser may only obtain and use Customer Information in accordance with any applicable Legal Requirement. Seller and Purchaser each agree to use Customer Information only for the purposes for which it was disclosed and not to further use or disseminate or disclose Customer Information to other Third Parties, without written approval from the other party or otherwise in accordance with Legal Requirement, unless such disclosure is necessary for such party to meet its contractual obligations and the Third Party to whom the disclosure is made is bound by the same standards in its handling of Customer Information. Seller and Purchaser will cooperate with each other to provide any customer notification and/or obtain any customer consents relating to Customer Information required in accordance any applicable Legal Requirement.

5.8 Further Assurances. At, and after the Closing, each of Purchaser and Seller at the request of the other, will promptly execute and deliver, or cause to be executed and delivered, to the other all such documents and instruments, in addition to those otherwise required by this Agreement, in form and substance reasonably satisfactory to the other as the other may reasonably request in order to carry out the terms of this Agreement. Seller shall cause each Company to have custody of the books and records of such Company, including all records in its possession necessary for the lawful operation of its business, including, without limitation, all call detail records with respect to the business of such Company, as of the Closing.

5.9 Satisfaction of Conditions. Subject to the other provisions of this Agreement, each party shall cooperate with each other and their respective counsel, accountants, agents and other representatives in all commercially reasonable respects in connection with any actions required to be taken as part of their respective obligations under this Agreement, and otherwise, will use its commercially reasonable efforts to satisfy, or to cause to be satisfied, as soon as reasonably practicable, the conditions to the obligations of the other party to consummate the transactions contemplated by this Agreement, as set forth in Section 6, and fulfill its obligations hereunder as expeditiously as practicable. In furtherance of the foregoing, to the extent reasonably requested by Seller, Purchaser's cooperation shall include, but not be limited to,

provision of information relating to the Purchaser and its Affiliates (including with respect to the Purchaser Plans) to, and participation in meetings with and other communications to, Company Employees and other Third Parties.

5.10 Mutual Release.

(a) Seller Release. As of the Closing, Seller, in its individual capacity and on behalf of all of its Affiliates and, to the extent Seller has the authority, all members, stockholders, officers and directors of any of the foregoing and all other persons claiming by, through, for or under Seller or on behalf of Seller (such other persons hereinafter referred to collectively as the **"Seller Related Parties"**) hereby irrevocably and unconditionally releases, settles, cancels, discharges and acknowledges to be fully and finally satisfied any and all claims, demands, rights, actions, causes of action, debts, accounts, covenants, contracts, agreements, promises, damages, costs, reimbursements, compensation, liabilities and expenses, including attorneys' fees, of any and every kind, nature or description whatsoever, known or unknown, at law or in equity other than those arising under this Agreement (collectively, **"Seller Claims and Losses"**), which Seller or any of the Seller Related Parties may have had or may now have or assert against any of the Companies (collectively, the **"Purchaser Released Parties"**), which are on account of any matter whatsoever attributable to the period, or arising during the period, from the beginning of time through and including the Closing, other than the obligations owed to Seller or any of the Seller Related Parties that are in the Ordinary Course of Business and which have been outstanding for 60 days or less prior to the Closing Date (all Seller Claims and Losses released in this Section 5.10(a) being referred to as the **"Seller Released Claims"**).

(i) Seller agrees that neither Seller nor the Seller Related Parties, or any of them, nor anyone claiming under, through or for them or on their behalf will bring, file, institute, prosecute, maintain, participate in, or recover upon, either directly or indirectly, or encourage or benefit from the institution of, any suit, charge, administrative proceeding, investigation, or action at law or in equity against the Purchaser Released Parties, or any of them, in or before any court, agency or forum, state or federal, or otherwise, for or relating to any of the Seller Released Claims. Seller agrees that this release may be pleaded by the Purchaser Released Parties as a counterclaim or cross-claim to or as a defense in bar or abatement of any Seller Released Claim.

(ii) Following the Closing, the Seller Related Parties shall have no right of contribution against any of the Companies for any indemnification payment made by any Seller Related Parties hereunder, and the Seller Related Parties hereby waive any and all rights of contribution that they may have against any of the Companies. Following the Closing, none of the Companies nor Purchaser shall have any right of contribution against the Seller Related Parties for any indemnification payment made by Purchaser or the Companies hereunder and each of them hereby waives any and all rights of contribution that it may have against the Seller Related Parties.

(b) Purchaser Release.

As of the Closing, Purchaser, in its individual capacity and on behalf of all of its Affiliates and, to the extent Purchaser has the authority, all members, stockholders, officers and directors of any of the foregoing, including the Companies, and all other persons claiming by, through, for or under Purchaser or on behalf of Purchaser (such other persons hereinafter referred to collectively as the **"Purchaser Related Parties"**) hereby irrevocably and unconditionally releases, settles, cancels, discharges and acknowledges to be fully and finally satisfied any and all claims, demands, rights, actions, causes of action, debts, accounts, covenants, contracts, agreements, promises, damages, costs, reimbursements, compensation, liabilities and expenses, including attorneys' fees, of any and every kind, nature or description whatsoever, known or unknown, at law or in equity other than those arising under this Agreement (collectively, **"Purchaser Claims and Losses"**), which Purchaser or any of the Purchaser Related Parties may have had or may now have or assert against the Seller or any Affiliate thereof (collectively, the **"Seller Released Parties"**), which on account of any matter whatsoever attributable to the period, or arising during the period, from the beginning of time through and including the Closing other than obligations owed to Purchaser or any of the Purchaser Related Parties arising in the ordinary course of business operations (all Purchaser Claims and Losses released in this Section 5.10(a) being referred to as the **"Purchaser Released Claims"**). Notwithstanding the foregoing, nothing in this Section 5.10(b) shall constitute a release by Purchaser or any Purchaser Related Parties of any of the Seller Related Parties with respect to obligations owed by any such Seller Released Parties in connection with accounts payable included as a Current Liability hereunder.

(i) Purchaser agrees that neither Purchaser nor the Purchaser Related Parties, or any of them, nor anyone claiming under, through or for them or on their behalf will bring, file, institute, prosecute, maintain, participate in, or recover upon, either directly or indirectly, or encourage or benefit from the institution of, any suit, charge, administrative proceeding, investigation, or action at law or in equity against the Seller Released Parties, or any of them, in or before any court, agency or forum, state or federal, or otherwise, for or relating to any of the Purchaser Released Claims. Purchaser agrees that this release may be pleaded by the Seller Released Parties as a counterclaim or cross-claim to or as a defense in bar or abatement of any Purchaser Released Claim.

5.11 Escrow Agreements. At the Closing, Purchaser and Seller shall each execute and deliver counterparts of each of the Adjustment Escrow Agreement and the Indemnification Escrow Agreement, and shall use commercially reasonable efforts to cause the Escrow Agent to execute and deliver each of the Adjustment Escrow Agreement and the Indemnification Escrow Agreement.

5.12 Non-Competition Agreements.

(a) Seller shall, and shall cause the Persons set forth on Schedule 5.12(a) to, execute and deliver a Non-Competition and Non-Solicitation Agreement, substantially in the form of Exhibit 5.12(a) (the **"Seller Non-Competition Agreement"**), and such Seller Non-Competition Agreements shall be delivered by Seller to Purchaser at the Closing.

(b) Purchaser shall execute and deliver a Non-Competition and Non-Solicitation Agreement, substantially in the form of Exhibit 5.12(b) (the **"Purchaser Non-Competition Agreement"**), and such Purchaser Non-Competition Agreement shall be delivered by Purchaser to Seller at the Closing.

5.13 Use of the "Smart City" and Other Trade Names. Purchaser acknowledges that after the Closing, Seller shall have the absolute and exclusive proprietary right to the Smart City trade name and trademark as well as those trade names and trademarks listed on Schedule 5.13 and all other trade names and trademarks used by the Companies that incorporate such names or terms or are otherwise derivatives of such names or terms, (collectively, the **"Business Names"**), including all trade names incorporating any such Business Name by itself or in combination with any other Business Name, and that none of the rights thereto are being transferred hereby or in connection herewith or are intended to be included in the assets of any of the Companies and that any rights thereto may be distributed to Seller at or before Closing. Notwithstanding the foregoing, for a period of up to nine (9) months after the Closing, Purchaser and its Affiliates may continue to operate the Companies using such Business Names, including each domain name used by the Companies and each e-mail address issued to a customer of the Companies. From and after nine (9) months after the Closing, Purchaser and its Affiliates shall discontinue using and shall dispose of all items of literature, sales materials, products or signage that contain such Business Names; provided, that nothing in this Section 5.13 shall require Purchaser to remove or discontinue using any Business Name that is affixed to items located in customer homes or properties, or that are used in a similar fashion or otherwise in the possession of a Third Party, making such removal or discontinuation impractical. Within five Business Days after the Closing, Purchaser shall cause the corporate name of each Company to be changed to a name that does not include, and is not likely to be confused with, the name "Smart City" or any Business Name.

5.14 Indebtedness for Borrowed Money. The Seller shall take all necessary action so that, as of the Closing, the Companies shall have no indebtedness for borrowed money and shall not be guarantors, sureties or otherwise obligated in respect of any indebtedness for borrowed money, including, without limitation, indebtedness for borrowed money of any other Person.

5.15 Exclusivity. Until the Closing or the termination of this Agreement pursuant to Section 8 hereof, Seller shall not, directly or indirectly, through any Affiliate or any of their consultants, counsel, accountants, investment bankers or other representatives (i) initiate, solicit, pursue, discuss or encourage any inquiries or the making of any proposal or offer with respect to an Acquisition Transaction, (ii) continue or engage in negotiations or discussions concerning, or provide any information to any Person relating to, any Acquisition Transaction, or (iii) agree to, approve or recommend, or otherwise enter into any Contract with respect to, any Acquisition Transaction. The Seller agrees to notify the Purchaser immediately if any Person makes any oral or written inquiry, proposal or offer with respect to an Acquisition Transaction.

5.16 Cooperation with Financing. At Purchaser's request, Seller shall use its reasonable efforts to provide, and to cause the Companies and their officers and employees to provide, reasonable cooperation with Purchaser in connection with the arrangement of, and the negotiation of agreements with respect to, the financing contemplated by the Financing Commitments, including, without limitation, (a) upon reasonable prior notice, participation in

meetings with potential lenders, in person or telephonically (except that no Company officer or employee shall be required to travel more than 30 miles to participate in person), (b) furnishing the Purchaser with financial and other information regarding the Companies as may be reasonably requested by the Purchaser or its lenders and (c) reasonably assisting the Purchaser and its representatives with their efforts to obtain legal opinions, appraisals, surveys, engineering reports, title insurance and other documentation and items relating to the financing.

5.17 OCCC/California Transfer. The Seller will cause SCT and SCS to consummate the OCCC/California Transfer concurrent with or prior to the Closing on terms and conditions satisfactory to Purchaser; provided, that notwithstanding anything to the contrary in this Agreement, (i) in no event shall Purchaser or its Affiliates or, following the Closing, the Companies be liable for any OCCC/California Liabilities, (ii) Seller expressly assumes all the OCCC/California Liabilities, (iii) the Seller and SCT and SCS shall be obligated to (a) finalize and execute the agreements providing for the OCCC/California Transfer and (b) satisfy all conditions precedent contained therein with respect to the OCCC/California Transfer, and (iv) the Seller and SCT and SCS shall be obligated to consummate the OCCC/California Transfer prior to the Closing. The definitive agreement or agreements providing for the OCCC/California Transfer shall contain the terms and conditions set forth in clauses (i) to (iv) above. From the date of this Agreement until the earlier of the Closing and the termination of this Agreement in accordance with its terms, Seller and Purchaser shall cooperate and consult with each other in preparation of documentation relating to the OCCC/California Transfer, including any agreement to be entered into between Seller, SCT and SCS, on the one hand, and the OCCC/California Asset Transferee, on the other hand; provided, that, in any event, Seller hereby agrees that (1) Purchaser shall have an opportunity to review and comment on any such documentation and (2) the Seller shall consider in good faith including the comments reasonably proposed by Purchaser in such documentation.

5.18 Cooperation Regarding Litigation. From and after the Closing, at Seller's out-of-pocket expense, Purchaser shall and shall cause the Companies to reasonably cooperate with Seller and its Affiliates with respect to the matters set forth on Schedule 5.18, including, without limitation, furnishing such information and making employees of the Companies available, as may be reasonably requested by the Seller or its Affiliates.

5.19 Collection of Receivables.

(a) From and after the Closing, Purchaser agrees to cause each Company to use its commercially reasonable efforts to collect or assist Seller in collecting the Dial Around Receivables owed to such Company, provided, that, Company shall not be required to use greater efforts than made by the Companies to collect such receivables prior to the Closing; further provided that upon Seller's request following the Closing, Purchaser shall cause the Companies to assign the Dial Around Receivables to Seller.

(b) At Closing, Purchaser shall cause the Companies to assign to Seller (i) the rights to any amounts collected by any Company after Closing with respect to the first two Customer Receivables listed on Schedule 1.1(a), (ii) the potential claim listed as the third Customer Receivable on Schedule 1.1(a) and (iii) the accounts receivable set forth on Schedule 1.1(b).

5.20 Related Party Obligations. Prior to the Closing Date Seller and the Companies, respectively, shall pay, or cause to be paid, all obligations owed to the Companies and any Seller Related Party, respectively, which obligations have been outstanding for more than 60 days prior to the Closing Date or which were incurred prior to the Closing Date outside of the Ordinary Course of Business.

5.21 Guarantee Liabilities. Seller and Purchaser shall use their commercially reasonable efforts to cause the release and discharge of Seller and any of its Affiliates (other than the Companies) from their obligations that would result from or arise out of the guarantee or other credit support agreements listed on Schedule 5.21(a) following the Closing Date (the "**Guarantee Liabilities**"). To the extent that Seller or any such Affiliate of Seller is not fully released and discharged from its obligations under the Guarantee Liabilities, Purchaser shall indemnify, defend and hold harmless Seller and any such Affiliates of Seller from and against any and all Losses asserted against or suffered by Seller or any such Affiliates of Seller relating to or arising out of the Guarantee Liabilities as provided in Section 9.3, and at the Closing, Purchaser shall deliver to Seller an Assumption Agreement substantially in the form attached hereto as Exhibit 5.21(b) (the "**Guarantee Liabilities Assumption Agreement**") pursuant to which Purchaser shall assume and agree to discharge when due the Guarantee Liabilities.

5.22 Update of Seller Representations and Warranties and Schedules. Seller shall have the right from time to time and at any time within five Business Days prior to the Closing to supplement or amend Seller's Schedules with respect to any matter(s) (a) relating to the Companies' business relationship with the Material Customer, (b) discovered by Seller after the date hereof to have existed prior to the date hereof, (c) for which Seller has provided a reasonable estimate of the amount of the Losses that would be incurred as a result of such matter(s) (the "**Estimated Amount**"), and (d) for which Seller has acknowledged that Purchaser has the right to terminate this Agreement pursuant to Section 8.1(b)(ii) due to the fact that Seller is unable to satisfy the closing conditions in either Section 6.1(a) or 6.1(m) hereof; provided, however, that in the event Purchaser elects to waive its right to terminate the Agreement as a result of such updated Schedules and the Closing otherwise occurs, Purchaser shall not be entitled to bring a claim for indemnification with respect to any Losses arising out of any such new matters reflected in the updated Schedule.

5.23 Shared Circuit Agreements. Each of Seller and Purchaser acknowledge that (a) Seller and certain of its Affiliates (other than the Companies) may be parties to certain master agreements and circuit agreements or leases under which bandwidth or circuits are provided by a third party (a "Bandwidth Provider") to one or more of the Companies and (b) one or more of the Companies may be parties to certain master agreements and circuit agreements or leases under which bandwidth or circuits are provided by a Bandwidth Provider to Seller or its Affiliates (other than the Companies) (each such master agreement, circuit agreement or lease referred to in clause (a) and (b) is referred to herein as a "Shared Circuit Agreement"). Seller and Purchaser each agrees to use its commercially reasonable efforts to modify, amend and/or replace each such Shared Circuit Agreement prior to the Closing on terms and conditions no less favorable than the existing Shared Circuit Agreement such that the applicable Company or Seller Affiliate (other than the Companies) is the sole party to the agreement under which bandwidth or circuits are provided to them; provided, however, that if any Shared Circuit Agreement is not so

modified, amended or replaced prior to the Closing, (i) Seller and Purchaser agree to use commercially reasonable efforts to cause such Shared Circuit Agreement to be so modified, amended or replaced as promptly as practicable following Closing and (ii) until such Shared Circuit Agreement is so modified, amended or replaced, (A) the Seller shall reimburse the Purchaser for all costs incurred by any Company in connection with the circuits and/or bandwidth used by Seller or its Affiliates and (B) the Purchaser shall reimburse the Seller for all costs incurred by the Seller or its Affiliates in connection with the circuits and/or bandwidth used by the Companies. Seller and Purchaser agree that the changes contemplated in this Section 5.23, if implemented in prior periods, would not have altered the 2007 Financial Statements.

Section 6. CONDITIONS PRECEDENT

6.1 Conditions to Purchaser's Obligations. The obligations of Purchaser to consummate the transactions contemplated by this Agreement are subject to the satisfaction at or before the Closing of the following conditions, any of which may be waived by Purchaser in its sole discretion (to the extent permitted by applicable Legal Requirements).

(a) Accuracy of Representations and Warranties. The representations and warranties of Seller in this Agreement shall be true and correct when made and as of the Closing Date with the same effect as if made as of and on the Closing Date (except for those representations and warranties which are expressly stated to be made solely as of the date of this Agreement or another specified date, which shall be true and correct solely as of the date of this Agreement or such other specified date, as applicable), except where the failure of such representations and warranties to be true and correct as aforesaid does not, and could not reasonably be expected to, either individually or in the aggregate, have a Material Adverse Effect.

(b) Performance of Agreements. Seller shall have performed in all material respects its obligations and agreements and complied in all material respects with its covenants in this Agreement and in any Transaction Document to be performed and complied with by it at or before the Closing.

(c) Deliveries. Seller shall have delivered the items and documents required to be delivered by it pursuant to this Agreement, including those required under Section 7.1.

(d) Legal Proceedings. No action, suit or proceeding shall be pending by or before any Governmental Authority and no Legal Requirement shall have been enacted, promulgated or issued or become or deemed applicable to any of the transactions contemplated by this Agreement by any Governmental Authority, which would (i) prohibit Purchaser's ownership of the Purchased Interests or operation of all or a material portion of the business or the assets of the Companies taken as a whole, (ii) compel Purchaser to dispose of all or a material portion of the Purchased Interests or the business or the assets of the Companies taken as a whole, as a result of any of the transactions contemplated by this Agreement, (iii) if determined adversely to Purchaser's interest, materially impair the ability of Purchaser to realize the benefits of the transactions contemplated by this Agreement, or (iv) prevent or make illegal the consummation of any transactions contemplated by this Agreement.

(e) Required Consents. Purchaser shall have received evidence that the Required Seller Consents and the Required Joint Consents (including the FCC Consents and the State PUC Consents), have been obtained and are in full force and effect without the imposition of any condition, modification or amendment that in either case makes, or is reasonably likely to make, the underlying instrument materially more onerous in any respect or reduces in any material respect, or is reasonably likely to reduce in any material respect, the benefits available under the instrument to which the Consent relates.

(f) Purchased Interests. Purchaser shall have received an assignment agreement providing for the assignment of the Purchased Interests by Seller to Purchaser, duly executed by Seller, in form and substance reasonably satisfactory to Purchaser.

(g) Escrow Agreements. Purchaser shall have received the Adjustment Escrow Agreement and the Indemnification Escrow Agreement, each duly executed by Seller and the Escrow Agent.

(h) HSR Act. The requisite waiting period under the HSR Act shall have expired or been terminated, without the FTC or the Antitrust Division, as applicable, taking any action which has not been terminated or resolved.

(i) Resignations. Purchaser shall have received written resignations and releases effective as of the Closing from all directors and advisory board members of each Company or persons holding equivalent positions with each Company.

(j) Lien Releases. Purchaser shall have received evidence reasonably satisfactory to Purchaser that all Liens (other than Permitted Liens) affecting or encumbering the assets of each Company, and all Encumbrances affecting or encumbering the Purchased Interests, have been or concurrently with the Closing, will be, terminated, released or waived, as appropriate, or original, executed instruments in form reasonably satisfactory to Purchaser effecting such terminations, releases or waivers.

(k) Termination of Intercompany Agreements. The Purchaser shall have received evidence satisfactory to the Purchaser that all Contracts or arrangements between any Company, on the one hand, and the Seller or any of its Affiliates (other than the Companies), on the other hand, have been terminated without any further liability to any Company or the Purchaser.

(l) Transition Services Agreement. Purchaser and Smart City Networks shall have executed the Transition Services Agreement.

(m) Material Customer. Neither Seller nor any of the Companies shall have received written notice that the Material Customer has terminated or intends to terminate or otherwise materially and adversely alter its relationship or any material Contract with any Company (other than expirations at the end of a Contract's scheduled term), and no event shall have occurred that has had, or would reasonably be expected to have, a material and adverse effect on any Company's relationship with the Material Customer.

(n) OCCC/California Transfer. The OCCC/California Transfer shall have been consummated in accordance with Section 5.17.

(o) Telecommunications Services Agreement. SCS (or other entity designated by Purchaser) and the OCCC/California Asset Transferee shall have entered into the telecommunications services agreement substantially in the form of Exhibit 6.1(o) attached hereto (the "**Telecommunications Services Agreement**").

6.2 Conditions to Seller's Obligations. The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction at or before the Closing of the following conditions, any of which may be waived by Seller (to the extent permitted by applicable Legal Requirements).

(a) Accuracy of Representations and Warranties. The representations and warranties of Purchaser in this Agreement shall be true and correct when made and as of the Closing Date with the same effect as if made as of and on the Closing Date (except for those representations and warranties which are expressly stated to be made solely as of the date of this Agreement or another specified date, which shall be true and correct solely as of the date of this Agreement or such other specified date, as applicable), except where the failure of such representations and warranties to be true and correct as aforesaid does not, and could not reasonably be expected to, either individually or in the aggregate, have a material adverse effect on the ability of the Purchaser to perform its obligations under this Agreement or any of the other Transaction Documents to which it is a party or to consummate the transactions contemplated hereby or thereby.

(b) Performance of Agreements. Purchaser shall have performed in all material respects its obligations and agreements and complied in all material respects with its covenants in this Agreement and in any Transaction Document to be performed and complied with by it at or before the Closing.

(c) Deliveries. Purchaser shall have delivered the items and documents required to be delivered by it pursuant to this Agreement, including those required under Section 7.2.

(d) Legal Proceedings. No action, suit or proceeding shall be pending by or before any Governmental Authority and no Legal Requirement has been enacted, promulgated or issued or become or deemed applicable to any of the transactions contemplated by this Agreement by any Governmental Authority, which would prevent or make illegal the consummation of any transactions contemplated by this Agreement or, if determined adversely to Seller's interest, would materially impair the ability of Seller to realize the benefits of the transaction contemplated by this Agreement.

(e) Required Consents. Seller shall have received evidence, in form and substance reasonably satisfactory to it, that the Required Purchaser Consents and the Required Joint Consents have been obtained and are in full force and effect.

(f) HSR Act. The requisite waiting period under the HSR Act shall have expired or been terminated, without the FTC or the Antitrust Division, as applicable, taking any action which has not been terminated or resolved.

(g) Transition Services Agreement. Purchaser and Smart City Networks shall have executed the Transition Services Agreement.

(h) Telecommunications Services Agreement. SCS (or other entity designated by Purchaser) and the OCCC/California Asset Transferee shall have entered into the Telecommunications Services Agreement.

Section 7. DELIVERIES

7.1 Seller's Delivery Obligations. At the Closing, Seller will deliver or cause to be delivered to Purchaser the following.

(a) Evidence of Authorization of Actions. Evidence reasonably satisfactory to Purchaser that Seller has taken all limited liability company action necessary to authorize the execution and delivery of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby and the incumbency and signatures of each officer executing this Agreement and the Transaction Documents.

(b) Organizational Documents. Copies of the certificates of formation of each Company, each certified as a recent date by the Secretary of State of its state of organization, and true and correct copies of the operating agreement, as amended to date, of each Company, certified by the Secretary of such Company, and any other organizational or authority documents as reasonably required by the Purchaser's title company, in each case, relating to Seller or any Company.

(c) Officer's Certificate. A certificate from Seller executed by an executive officer of Seller, dated the Closing Date, reasonably satisfactory in form and substance to Purchaser, certifying that the conditions specified in Sections 6.1(a) and 6.1(b) have been satisfied.

(d) Consents. Copies of the Required Seller Consents and, if received by Seller but not Purchaser, Required Joint Consents.

(e) Seller Non-Competition Agreement. The Seller Non-Competition Agreement executed by each of the Persons identified on Schedule 5.12(a).

(f) Tax Certificates. (i) A certification of non-foreign status of Seller or, if Seller is a disregarded entity, then the direct or indirect owners of Seller that are not disregarded entities, in accordance with Treasury Regulations Section 1.1445-2(b), and (ii) duly executed Tax clearance certificates for each Company from each state in which it is subject to sales/use taxes..

(g) Escrow Agreements. The executed Indemnification Escrow Agreement and the Adjustment Escrow Agreement.

(h) Seller Indemnity Guaranty. The Seller Indemnity Guaranty executed by Smart City Holdings, LLC.

7.2 Purchaser's Delivery Obligations. At the Closing, Purchaser will deliver or cause to be delivered to Seller the following.

(a) Purchase Price. The Purchase Price in accordance with Section 2.2(b).

(b) Evidence of Authorization Actions. Evidence reasonably satisfactory to Seller that Purchaser has taken all limited liability company action necessary to authorize the execution and delivery of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby and the incumbency and signatures of each officer executing this Agreement and the Transaction Documents.

(c) Officer's Certificates. A certificate executed by an executive officer of Purchaser dated as of the Closing Date, reasonably satisfactory in form and substance to Seller certifying that the conditions specified in Sections 6.2(a) and 6.2(b) have been satisfied.

(d) Consents. Copies of the Required Purchaser Consents, and to the extent received by Purchaser but not Seller, the Required Joint Consents.

(e) Purchaser Non-Competition Agreement. The executed Purchaser Non-Competition Agreement.

(f) Escrow Agreements. The executed Indemnification Escrow Agreement and the Adjustment Escrow Agreement.

Section 8. TERMINATION AND DEFAULT

8.1 Termination Events. This Agreement may be terminated and the transactions contemplated hereby may be abandoned prior to the Closing:

(a) at any time by the mutual agreement of Purchaser and Seller;

(b) by Purchaser at any time prior to the Closing, by giving written notice to Seller, upon the occurrence of any of the following:

(i) Anytime after the date determined for the Closing in accordance with Section 2.3 if each condition set forth in Section 6.2 has been satisfied (or will be satisfied by the delivery of documents at the Closing) or waived in writing by Seller on such date and Seller has nonetheless refused to consummate the Closing; provided, however, that any condition set forth in Section 6.2 shall be deemed satisfied for purposes of this Section 8.1(b) if the failure of any said condition to be satisfied was principally caused by Seller's failure to act in good faith

or a breach or default by Seller of any of its representations, warranties, covenants or agreements contained in this Agreement.

(ii) Upon a breach or default of any representation, warranty, covenant or agreement of Seller set forth in this Agreement, in any case, such that the condition set forth in Section 6.1(a) or 6.1(b) would not be satisfied as a result of such breach or default if the Closing Date were the date of any such determination of such breach or default; provided that such breach or default has not been cured by Seller within fifteen (15) days after Seller receives written notice of such breach or default from Purchaser. Notwithstanding the foregoing, Purchaser may not terminate this Agreement pursuant to the preceding sentence if Purchaser is, at the time, in breach or default of any of its representations, warranties, covenants or agreements contained in this Agreement, such that the conditions set forth in Section 6.2(a) or 6.2(b) would not be satisfied as a result of such breach or default if the Closing Date were the date of such determination of breach or default.

(iii) If the Closing shall not have occurred on or prior to the six (6) month anniversary of the date of this Agreement (the **"Outside Closing Date"**), unless the failure of the Closing to occur was principally caused by Purchaser's failure to act in good faith or a breach or default by Purchaser of any of its representations, warranties, covenants or agreements contained in this Agreement.

(c) By Seller at any time prior to the Closing, by giving written notice to Purchaser, upon the occurrence of any of the following:

(i) Anytime after the date determined for the Closing in accordance with Section 2.3 if each condition set forth in Section 6.1 has been satisfied (or will be satisfied by the delivery of documents at the Closing) or waived in writing by Purchaser on such date Purchaser has nonetheless refused to consummate the Closing; provided, however, that any condition set forth in Section 6.1 shall be deemed satisfied for purposes of this Section 8.1(c) if the failure of any said condition to be satisfied was principally caused by Purchaser's failure to act in good faith or a breach or default by Purchaser of any of its representations, warranties, covenants or agreements contained in this Agreement.

(ii) Upon a breach or default of any representation, warranty, covenant or agreement of Purchaser set forth in this Agreement, in any case, such that the condition set forth in Section 6.2(a) or 6.2(b) would not be satisfied as a result of such breach or default if the Closing Date were the date of any such determination of such breach or default; provided that such breach or default has not been cured by Purchaser within fifteen (15) days after Purchaser receives written notice of such breach or default from Seller. Notwithstanding the foregoing, Seller may not terminate this Agreement pursuant to the preceding sentence if Seller is, at the time, in breach or default of any of its representations, warranties, covenants or agreements contained in this Agreement, such that the conditions set forth in Section 6.1(a) or 6.1(b) would not be satisfied as a result of such breach or default if the Closing Date were the date of such determination of breach or default.

(iii) If the Closing shall not have occurred on or prior to the Outside Closing Date, unless the failure of the Closing to occur was principally caused by Seller's failure

to act in good faith or a breach or default by Seller of any of its representations, warranties, covenants or agreements contained in this Agreement.

8.2 Effect of Termination.

(a) If this Agreement is terminated pursuant to Section 8.1, all obligations of the parties under this Agreement will terminate and be of no further force and effect with no liability on the part of any party hereto (or of any of its directors, officers, employees, agents, legal and financial advisors or other representatives), except for the obligations set forth in Section 5.7(which obligations shall survive for one (1) year following the termination) Section 10 and this Section 8.2.

(b) If this Agreement is terminated by Seller in accordance with Section 8.1(c)(ii), then and in that event Purchaser shall pay Seller an amount equal to [redacted] (the **"Break-up Damages"**), which amount shall be paid by wire transfer of immediately available funds within five (5) business days after Purchaser's receipt of notice of such termination. On the date hereof, Purchaser will cause to be delivered to the Seller a guaranty agreement, in substantially the form attached hereto as Exhibit 8.2, executed by the Guarantor, pursuant to which the Guarantor has guaranteed the payment and performance obligations of Purchaser for the Break-up Damages (the **"Break-up Guaranty"**). If Purchaser pays the Break-up Damages in full by the time required, then Seller shall simultaneously terminate the Break-up Guaranty. If Purchaser does not pay the Break-up Damages in full by the time required, then Seller may enforce its rights to receive payment of the Break-up Damages under the Break-up Guaranty. Each of Purchaser and Seller acknowledges that the payment covenant provided for in this Section 8.2(b) is an integral part of this Agreement and constitutes liquidated damages (and not a penalty) which is based on the parties' estimate of the damages Seller will suffer or incur as a result of the event giving rise to Seller's termination of this Agreement and the resultant payment because the actual amount of such damages would be difficult if not impossible to measure accurately, and that, without such covenant, neither party would have entered into this Agreement. Each of Purchaser and Guarantor irrevocably waives any right it may have to raise as a defense that any such liquidated damages are excessive or punitive. In the event that the Closing does not occur, the right to receive payment of Break-Up Damages as contemplated by this Section 8.2(b) shall be the sole, exclusive and absolute remedy for Seller and each of the Companies in respect of any liabilities or obligation of Purchaser or any of its Affiliates arising under, or in connection with, this Agreement or the transactions contemplated hereby. Seller, on its behalf and on behalf of the Seller Related Parties, hereby waives any other remedy which any of them may have at law or in equity with respect thereto. In the event that the Closing does not occur, in no event shall the liability of Purchaser or any Affiliate of Purchaser, including, without limitation that of Guarantor and any Affiliate thereof, under this Agreement exceed the amount payable, if any, pursuant to this Section 8.2(b). Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered contemporaneously herewith (other than the Break-up Guaranty), by its acceptance of the benefits of this Section 8.2(b), the Seller acknowledges and agrees that in the event the Closing does not occur it has no right of recovery against, and no liability shall attach to, Purchaser or any Affiliate of Purchaser, including, without limitation, Guarantor and any Affiliate thereof, or any agent, heir, successor or any entity controlled by Purchaser or any former, current or future director, officer, employee, agent,

general or limited partner, manager, member, stockholder, affiliate or assignee of any of the foregoing, through Purchaser or otherwise, whether by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or applicable law, or otherwise, except for its rights to recover from Purchaser under and to the extent provided for in this Section 8.2(b) and subject to the limitations described herein and the right to recover from Guarantor under the terms of the Break-up Guaranty.

(c) If this Agreement is terminated by Purchaser in accordance with Section 8.1(b)(ii), or the Closing does not otherwise occur, then and in that event Purchaser shall have the right to pursue all remedies available hereunder or at law or equity, including, without limitation, the right to seek specific performance and/or monetary damages, provided that the maximum aggregate monetary liability of the Seller shall in no event exceed [redacted].

Section 9. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION

9.1 Survival of Representations and Warranties. All representations, warranties, covenants, and agreements contained in this Agreement shall survive the execution and delivery of this Agreement and the Closing hereunder; provided, that, except as provided in the next sentence, the representations and warranties and covenants to be performed in full prior to the Closing shall expire on, and any claim for indemnification with respect thereto must be brought before, the date which is fifteen (15) months after the Closing Date; provided, further, that notwithstanding the foregoing, each covenant or agreement contained in this Agreement to be performed in whole or in part after the Closing shall survive until the expiration of the applicable statutes of limitations. Notwithstanding the foregoing, claims for indemnification with respect to a breach of a Surviving Representation may be brought at any time until the expiration of the applicable statute of limitations. Notwithstanding the foregoing, to the extent that any claim for indemnification in respect of a breach of any representation, warranty or covenant contained in this Agreement is made on or before the last date until which such representation, warranty or covenant survives pursuant to this Section 9.1, such representation, warranty or covenant, as the case may, shall survive until the resolution of such claim. The representations and warranties of each party contained in this Agreement or in any certificate or other document delivered by such party prior to or at the Closing and the rights to indemnification set forth in Section 9 will not be deemed waived or otherwise affected by any knowledge of or investigation made by another party to this Agreement.

9.2 Indemnification by Seller. From and after the Closing, Seller will indemnify, defend and hold harmless Purchaser and its Affiliates, and the directors, officers, employees, agents, members, partners and, shareholders of each of them (the **"Purchaser Indemnified Parties"**), as the case may be, from and against any and all Losses arising out of or resulting from (a) any breach of any representation or warranty made by Seller in this Agreement, or any certificates delivered on the part of Seller in connection with this Agreement, (b) any breach of any covenant, agreement or obligation of Seller contained in this Agreement and any liability under any of the Employee Plans or Compensation Arrangements, or (c) any Losses incurred by the Companies related to the matters set forth on Schedule 4.6(a) which Losses relate to the period prior to the Closing Date. In determining whether any breach of any representation or

warranty made by Seller in this Agreement or any certificates delivered on the part of Seller in connection with this Agreement has occurred, the terms "material," "Material Adverse Effect" and other express qualifications based upon materiality shall be disregarded and given no effect, except for: (i) the term "material" in Section 4.5 as applied to items of tangible personal property that are manufacturer discontinued items, (ii) the term material in the first sentence of Section 4.6(a); (iii) the term "materially" in the fourth sentence of Section 4.6(b); (iv) the term "material" in Section 4.6(c)(n); (v) the term "materially" in Section 4.19(a)(B); (vi) the term "materially" in Section 4.19(b)(B); (vii) the phrase "material and" in Section 4.19(a)(F); and (viii) the phrase "material and" in Section 4.19(b)(F). On the Closing Date, Seller will cause to be delivered to Purchaser a guaranty agreement, in substantially the form attached hereto as Exhibit 9.2, executed by Smart City Holdings, LLC, pursuant to which Smart City Holdings will guaranty the payment and performance obligations of Seller set forth in this Section 9.2, subject to the limitations set forth in Section 9.4, to the extent that Purchaser's indemnifiable Losses exceed the Indemnification Escrow Amount (the **"Seller Indemnity Guaranty"**). For the avoidance of doubt, no Losses may be claimed by any Purchaser Indemnified Party with respect to the matters set forth in Section 9.2(b) if such Losses may also be claimed under Section 9.2(a), in which event the such Purchaser Indemnified Party shall only be permitted to make a claim for such Losses under Section 9.2(a).

9.3 Indemnification by Purchaser. From and after the Closing, Purchaser will indemnify, defend and hold harmless Seller and Seller's Affiliates and the directors, officers, employees, agents, members, partners, and shareholders of each of them (the **"Seller Indemnified Parties"**), as the case may be, from and against any and all Losses arising out of or resulting from (a) any breach of any representation or warranty made by Purchaser in this Agreement, (b) any breach of any covenant, agreement or obligation of Purchaser contained in this Agreement, (c) any Current Liability taken into account in the calculation of the Final Working Capital Adjustment, and (d) the Guarantee Liabilities.

9.4 Limitation on Indemnification; Exclusive Remedy.

(a) Notwithstanding any provision of this Agreement, the Seller shall not be liable to Purchaser for any Losses pursuant to Section 9.2(a) above with respect to breaches of representations and warranties unless the Losses therefrom exceed an aggregate dollar amount of [redacted] (the **"Deductible"**) and then only for Losses in excess of the Deductible up to a maximum aggregate amount equal to [redacted] of the Purchase Price with respect to breaches of representations and warranties other than the Surviving Representations and up to a maximum aggregate amount equal to the Purchase Price with respect to breaches of the Surviving Representations (it being understood that Losses with respect to breaches of the Surviving Representations shall be aggregated with Losses with respect to breaches of representations and warranties other than the Surviving Representations for purposes of the Purchase Price cap). Notwithstanding the foregoing, the limitations set forth in this Section 9.4(a) will not apply to claims asserted by Purchaser arising from an intentional or willful misrepresentation by Seller or to Losses related to the OCCC/California Businesses, the OCCC/California Liabilities or the OCCC/California Transfer.

(b) Each of the Seller Indemnified Parties and the Purchaser Indemnified Parties claiming indemnification (each, an **"Indemnified Party"**) shall use commercially

reasonable efforts to mitigate any Losses and shall reasonably consult with the party from whom indemnification is claimed (the **"Indemnifying Party"**) with the intention of reasonably mitigating any Losses in conjunction with any claims for which the Indemnified Party seeks indemnification pursuant to this Section 9.

(c) After any indemnification payment is made to the Indemnified Party pursuant to this Section 9, the Indemnifying Party shall, to the extent of such payment, be subrogated to all rights (if any) of the Indemnified Party against any third party in connection with the Losses to which such payment relates. Without limiting the generality of the foregoing, any Indemnified Party receiving an indemnification payment pursuant to the preceding sentence shall execute, upon written request of the Indemnifying Party, any instrument reasonably necessary to evidence such subrogation rights.

(d) The amount payable by an Indemnifying Party with respect to Section 9 shall be reduced by (i) the amount of any insurance proceeds received by the Indemnified Party with respect to Losses from insurance policies maintained by such Indemnified Party and (ii) any amounts such Indemnified Party collects from third parties in connection with any Losses for which indemnification is sought. The Indemnified Party hereby agrees to use commercially reasonable efforts to mitigate any Losses, including commercially reasonable efforts to collect any and all such insurance proceeds to which it may be entitled in respect of any such Losses and, at the expense of the Indemnifying Party, to cooperate in the pursuit of third party claims that may reduce or eliminate any applicable Losses. To the extent that such insurance proceeds or other third party proceeds are received after payment has been made by the Indemnifying Party, the Indemnified Party shall promptly pay an amount equal to such proceeds to the Indemnifying Party.

(e) From and after the Closing, the rights and remedies of Seller and Purchaser under this Section 9 are exclusive and in lieu of any and all other rights and remedies that Seller and Purchaser may have under this Agreement or otherwise against each other with respect to the transactions contemplated herein for monetary relief with respect to any breach of any representation or warranty or any failure to perform any covenant or agreement contained in this Agreement, other than those that are intentional or willful.

(f) In no event shall the Indemnified Party be entitled to recover any Losses with respect to any matter to the extent included or reflected to such Indemnified Party's favor in the calculation of the adjustments to the Purchase Price in accordance with Section 2.2.

(g) Notwithstanding anything to the contrary contained in this Agreement, no Person shall be liable under this Section 9 or otherwise for any punitive, incidental, consequential, special or indirect damages, including business interruption, loss of future revenue, profits or income, or loss of business reputation or opportunity, except to the extent awarded by a court of competent jurisdiction in connection with a Third Party Claim.

9.5 Indemnification Procedure.

(a) If, subsequent to the Closing, the Indemnified Party asserts a claim for indemnification for or receives notice of the assertion or commencement of any Third Party

Claim as to which such Indemnified Party intends to seek indemnification under this Agreement, such Indemnified Party shall give reasonably prompt written notice of such claim to the Indemnifying Party specifying (i) the factual basis for such claim and (ii) to the extent reasonably practicable the estimated amount of the claim. The Indemnifying Party shall have the right, upon written notice to the Indemnified Party (the **"Defense Notice"**) within 15 days after receipt from the Indemnified Party of notice of such claim, by which notice the Indemnifying Party shall specify the counsel (which counsel must be reasonably satisfactory to the Indemnified Party) it will appoint to defend such claim (**"Defense Counsel"**), to conduct at its expense the defense against such Third Party Claim in its own name, or if necessary in the name of the Indemnified Party. The parties hereto agree to cooperate fully with each other in connection with the defense, negotiation or settlement of any Third Party Claim. If the Indemnifying Party delivers a Defense Notice to the Indemnified Party, the Indemnified Party will cooperate with and make available to the Indemnifying Party such assistance and materials as may be reasonably requested by the Indemnifying Party, all at the expense of the Indemnifying Party.

(b) If the Indemnifying Party shall fail to give a Defense Notice, it shall be deemed to have elected not to conduct the defense of the subject Third Party Claim, and in such event the Indemnified Party shall have the right to conduct such defense in good faith. If the Indemnified Party defends any Third Party Claim, then the Indemnifying Party shall reimburse the Indemnified Party for the reasonable costs and expenses of defending such Third Party Claim upon submission of periodic bills. If the Indemnifying Party elects to conduct the defense of the subject Third Party Claim, the Indemnified Party may participate, at his or its own expense, in the defense of such Third Party Claim; provided, however, that such Indemnified Party shall be entitled to participate in any such defense with separate counsel at the expense of the Indemnifying Party if (i) so requested by the Indemnifying Party to participate or (ii) in the reasonable opinion of counsel to the Indemnified Party, a conflict or potential conflict exists between the Indemnified Party and the Indemnifying Party that would make such separate representation advisable; and provided, further, that the Indemnifying Party shall not be required to pay for more than one counsel for all Indemnified Parties in connection with any Third Party Claim.

(c) Regardless of which party defends a Third Party Claim, the other party shall have the right at its expense to participate in the defense of such Third Party Claim, assisted by counsel of its own choosing. The Indemnified Party shall not compromise, settle, default on, or admit liability with respect to a Third Party Claim without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed, and, if the Indemnified Party settles, compromises, defaults on, or admits liability with respect to a Third Party Claim except in compliance with the foregoing, the Indemnified Party will be liable for all costs, expenses, settlement amounts, or other adverse consequences paid or incurred in connection therewith and the Indemnifying Party shall have no obligation to indemnify the Indemnified Party with respect thereto. The Indemnifying Party shall not compromise or settle a Third Party Claim without the consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed, unless such compromise or settlement includes as a term thereof an unconditional release of the Indemnified Party and such compromise or release does not impose any non-monetary obligations on the Indemnified Party (and all monetary obligations are subject to the indemnification provisions of this Agreement) in which case the consent of the Indemnified Party shall not be required.

(d) After any final decision, judgment or award shall have been rendered by a Governmental Entity of competent jurisdiction and the expiration of the time in which to appeal therefrom, or a settlement shall have been consummated, or the Indemnified Party and the Indemnifying Party shall have arrived at a mutually binding agreement with respect to a Third Party Claim hereunder, the Indemnified Party shall deliver to the Indemnifying Party notice of any sums due and owing by the Indemnifying Party pursuant to this Agreement with respect to such matter and the Indemnifying Party shall be required to pay all of the sums so due and owing to the Indemnified Party by wire transfer of immediately available funds within ten (10) Business Days after the date of such notice.

9.6 Direct Claims. It is the intent of the parties that all direct claims by an Indemnified Party against a party not arising out of Third Party Claims shall be subject to and benefit from the terms of this Section 9. Any claim under this Section 9 by an Indemnified Party for indemnification other than indemnification against a Third Party Claim (a **"Direct Claim"**) will be asserted by giving the Indemnifying Party reasonably prompt written notice thereof, which notice will specify (i) the factual basis for such claim and (ii) to the extent practicable, the estimated amount of such claim and the Indemnifying Party will have a period of 20 days within which to satisfy such Direct Claim. If the Indemnifying Party does not so respond within such 20 day period, the Indemnifying Party will be deemed to have rejected such claim, in which event the Indemnified Party will be free to pursue such remedies as may be available to the Indemnified Party under this Section 9.

9.7 Failure to Give Timely Notice. A failure by an Indemnified Party to give timely, complete, or accurate notice as provided in Section 9.5 or Section 9.6 shall not affect the rights or obligations of either party hereunder except to the extent that, as a result of such failure, any party entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise materially adversely affected or damaged as a result of such failure to give timely, complete, and accurate notice.

9.8 Indemnification Escrow Fund. The Indemnification Escrow Fund shall serve as a source for payment of any indemnification claims made by Purchaser pursuant to Section 9.2 of this Agreement, and Purchaser shall first make a claim against the Indemnification Escrow Fund before making a claim for payment directly from Seller, but the Indemnification Escrow Fund shall not constitute a limit on the right of Purchaser to make a claim for indemnification hereunder.

9.9 Indemnification for Net Losses. In calculating amounts payable to an Indemnified Party, the amount of the indemnified Losses shall not be duplicative of any other Loss for which an indemnification claim has been made.

9.10 Characterization of Indemnification Payments. All payments made by the Indemnifying Party to the Indemnified Party in respect of any claim pursuant to Section 9.2 or 9.3 hereof shall be treated as adjustments to the Purchase Price for Tax purposes.

Section 10. MISCELLANEOUS PROVISIONS

10.1 Parties Obligated and Benefited. Subject to the limitations set forth below, this Agreement will be binding upon the parties and their respective assigns and successors in interest and will inure solely to the benefit of the parties and their respective assigns and successors in interest, and no other Person (other than an Indemnified Party) will be entitled to any of the benefits conferred by this Agreement. Without the prior written consent of the other parties, no party may assign any of its rights under this Agreement or delegate any of its duties under this Agreement; provided, however, that the Purchaser may transfer or assign, in whole or from time to time in part, its rights and obligations under the terms hereof to one or more of its Affiliates, as long as (a) Purchaser's Parent is a person or entity with the power to control, either directly or indirectly, any such Affiliate and any such Affiliate or Purchaser's Parent, as applicable, satisfies all of the qualifications set forth in Section 3.8(b) and (b) such transfer or assignment does not delay the Closing; provided, further, however, that in no event shall any such transfer or assignment relieve the Purchaser of its obligations hereunder.

10.2 Notices. Any notice, request, demand, waiver or other communication required or permitted to be given under this Agreement will be in writing and will be deemed to have been duly given only if delivered in person or by first class, prepaid, registered or certified mail, or sent by courier or, if receipt is confirmed, by telecopier:

To Seller at:

c/o Smart City Networks, Limited Partnership
28 West Grand Avenue
Montvale, New Jersey 07645
Attention: James D. Pearson
Facsimile: 201-930-9704

With a copy to:

Thelen Reid Brown Raysman & Steiner LLP
875 Third Avenue
New York, New York 10022
Attention: Stanley E. Bloch
Facsimile: 212-812-3352

To Purchaser at:

c/o Hargray Holdings, LLC
856 William Hilton Parkway, Bldg. C
P.O. Box 5986
Hilton Head Island, SC 29938
Facsimile: 843-686-1139
Attention: David Armistead

With a copy to:

Quadrangle Capital Partners
375 Park Avenue
New York, NY 10152
Facsimile: 212-418-1701
Attention: Michael Bertisch

and

Troutman Sanders LLP
1001 Haxall Point
Richmond, Virginia 23219
Attention: David M. Carter
R. Mason Bayler, Jr.
Facsimile: 804-697-1339

Any party may change the address to which notices are required to be sent by giving notice of such change in the manner provided in this Section. All notices will be deemed to have been received on the date of delivery, which in the case of deliveries by telecopier will be the date of the sender's confirmation.

10.3 Waiver. This Agreement or any of its provisions may not be waived except in writing. The failure of any party to enforce any right arising under this Agreement on one or more occasions will not operate as a waiver of that or any other right on that or any other occasion.

10.4 Captions. The Section and other captions of this Agreement are for convenience only and do not constitute a part of this Agreement.

10.5 Choice of Law; Waiver of Jury Trial. THIS AGREEMENT AND THE RIGHTS OF THE PARTIES UNDER IT WILL BE GOVERNED BY AND CONSTRUED IN ALL RESPECTS IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICTS OF LAWS RULES OF NEW YORK. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) EACH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D)

EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.5.

10.6 Time. If the last day permitted for the giving of any notice or the performance of any act required or permitted under this Agreement falls on a day which is not a Business Day, the time for the giving of such notice or the performance of such act will be extended to the next succeeding Business Day.

10.7 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original.

10.8 Entire Agreement. This Agreement (including the Transaction Documents and the Schedules and Exhibits referred to in this Agreement, which are incorporated in and constitute a part of this Agreement) contains the entire agreement of the parties and supersedes all prior oral or written agreements and understandings with respect to the subject matter. This Agreement may not be amended or modified except by a writing signed by all the parties.

10.9 Severability. Any term or provision of this Agreement which is invalid or unenforceable will be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining rights of the Person intended to be benefited by such provision or any other provisions of this Agreement.

10.10 Interpretation. Where the context or construction requires, all words applied in the plural shall be deemed to have been used in the singular, and vice versa; the masculine shall include the feminine and neuter, and vice versa; and the present tense shall include the past and future tense, and vice versa. The Section and paragraph headings of this Agreement are for convenience of reference only and do not form a part of this Agreement and do not in any way modify, interpret or construe the intentions of the parties. As used herein, unless the context otherwise requires: references to **"Section"** are to a Section hereof; **"include," "includes"** and **"including"** are deemed to be followed by **"without limitation"** whether or not they are in fact followed by such words or words of like import; **"hereof," "herein," "hereunder"** and comparable terms refer to the entirety of this Agreement and not to any particular article, Section or other subdivision hereof or attachment hereto; except where a particular date is specified, references to an agreement or other instrument or law, statute or regulation are referred to as amended and supplemented from time to time (and, in the case of a statute or regulation, to any successor provision) and all regulations, rulings and interpretations promulgated pursuant thereto. References to any party hereto or any other agreement or document shall include such party's successors and permitted assigns. This Agreement has been negotiated by the parties and their respective legal counsel, and legal or equitable principles that might require the construction of this Agreement or any provision of this Agreement against the party drafting this Agreement will not apply in any construction or interpretation of this Agreement. The Recitals and Preamble to this Agreement are specifically incorporated into this Agreement.

10.11 Expenses. Except as otherwise expressly provided in this Agreement (which expenses the parties shall pay as so provided), each party will pay all of its expenses, including attorneys' and accountants' fees, in connection with the negotiation of this Agreement, the

performance of its obligations and the consummation of the transactions contemplated by this Agreement; provided, however, that the filings fees required under the HSR Act shall be paid one-half by the Seller and one-half by the Purchaser.

10.12 Commercially Reasonable Efforts. For purposes of this Agreement, unless a different standard is expressly provided with respect to any particular matter, **"commercially reasonable efforts"** will not be deemed to require a party to undertake extraordinary measures, including the payment of amounts in excess of normal and usual filing fees and processing fees, if any.

10.13 Non-Recourse. No past, present or future director, officer, employee, incorporator, member, partner, stockholder, Affiliate, agent, attorney or representative of either party hereto or any Affiliate thereof shall have any liability for any obligations or liabilities of such party under this Agreement or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby, except to the extent any such Person has a specific liability or obligation hereunder or is party to a Contract providing for any obligation or liability on the part of such Person to a party to this Agreement.

[Remainder of page intentionally left blank]

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

SMART CITY FINANCE LLC

By:_____
James D. Pearson
Vice President and Secretary

HARGRAY-SMART CITY ACQUISITION CO., LLC

By:_____
Michael Gottdenker
Chief Executive Officer

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

SMART CITY FINANCE LLC

By: _____
James D. Pearson
Vice President and Secretary

HARGRAY-SMART CITY ACQUISITION CO., LLC

By: _____
Michael Gottdenker
Chief Executive Officer