

**Financial Proforma**

**GE Capital - ResCom**



GE Capital Rescom  
**Financial Overview**

9/8/95 13:21

Regency Window Companies - Ameritech Portfolio  
 1025 Flamenvine Lane, Suite 1-7  
 Vero Beach, Florida 32963

**Property Data**

Buildings: 20  
 Units: 9695

**Pricing Assumptions**

Penetration	Yr1	Yr2	Yr3	Yr4	Yr5
Centrex	85%	89%	90%	91%	92%
PBX	0.0%	0%	0%	0%	0%
Cable	0%	0%	0%	0%	0%
Other	0.0%	0%	0%	0%	0%

**Owner's Incentive**

Penetration Level	Revenue Sharing
0% - 74%	6%
74% - 80%	7%
80% - 85%	8%
85% - 90%	9%
90% - 95%	10%
95% - 100%	11%
100%	12%

**Additional CF**

\$ 400,093 \$ 567,664 \$ 649,369 \$ 655,834 \$ 659,436

Discount Rate 10.0% Cap Rate 10.0%  
 5 Yr NPV \$ 2,178,296

**REAL ESTATE VALUE CREATION: \$ 4,594,368**



GE Capital Rescom  
**Financial Overview**

9/8/95 13:34

Regency Windsor Companies - Entire Portfolio  
1025 Flamevine Lane, Suite 1-7  
Vero Beach, Florida 32963

**Property Data**

Buildings: 29  
Units: 11879

**Prices Assumptions**

Penetration	Yr1	Yr2	Yr3	Yr4	Yr5
Contract	85%	89%	90%	91%	92%
PBX	0.0%	0%	0%	0%	0%
Cable	0%	0%	0%	0%	0%
Other	0.0%	0%	0%	0%	0%

**Owner's Incentive**

Penetration Level	Revenue Sharing
0% - 74%	6%
74% - 80%	7%
80% - 85%	8%
85% - 90%	9%
90% - 95%	10%
95% - 100%	11%
100%	12%

**Additional CF**

\$ 434,973   \$ 695,542   \$ 795,897   \$ 803,573   \$ 807,987

Discount Rate	10.0%	Cap Rate	10.0%
5 Yr NPV	\$ 2,618,776		

**REAL ESTATE VALUE CREATION: \$ 8,879,872**

# Company Overview

GE Capital - ResCom

GE Capital - ResCom was formed with the specific purpose of becoming the dominant provider of communications services to the multi-family housing market. To achieve that goal a powerful and practical joint venture was formed between GE Capital Services, with assets of \$212 billion, and R&B Realty Group, with over 30 years experience in multi-family property ownership and management.

Partnership Profile	
<p><b><u>GE Capital Services</u></b>                      One of the largest and most diversified corporations in the global finance market, GE Capital Services has assets of \$212 billion, employs over 33,000 people and consists of 24 focused, independent and diversified businesses with a common capital base. The <i>Wall Street Journal</i> said GE Capital "is the driving force that enabled its parent, General Electric Co., to increase its stock market value to \$82.9 billion, the highest of any U.S. Company."</p>	<p><b><u>R&amp;B Realty Group</u></b>                      The developer and operator of Oakwood Apartments, the nationwide chain of upscale corporate apartments, R&amp;B Realty Group initially developed many of the key elements of GE Capital - ResCom's cable, telephones, and security services. As an apartment owner itself, with offices in 30 major markets, R&amp;B contributes an understanding of the marketplace unequalled in the communication services industry.</p>

In addition, few companies know more about communications than General Electric company. Besides owning the NBC television network, General Electric also owns CNBC, one of the largest cable TV program services in the United States, and AMERICOM, a leading satellite telecommunications company. GE also has equity interests in a number of computer-based multi-media and interactive TV ventures. General Electric's role with GE Capital - ResCom goes far beyond helping to develop the hardware and software that will deliver the new consumer services to apartment residents. GE companies will actually provide many of the new consumer services that will be accessed through GE Capital - ResCom systems.

By way of this synergy, GE Capital - ResCom is uniquely positioned to provide apartment owners a partner in the provisioning of revenue producing integrated communications services to residents from coast to coast. As the oldest and largest independent provider of telephone services to the apartment industry, GE Capital - ResCom has a proven track record of implementing and servicing integrated services evidenced by its on-line customers, who generate over 280,000 call record transactions each and every day.

\*Negative: People have a tendency not to want to change phone no. 60% 40% had to change.

20% Survey (Open Negative) at Clark Base San Diego  
 923 units - June 10-12  
 1) Voice Mail  
 2) Call Forwarding  
 3) Call Waiting  
 4) Conf. Calling  
 5) 911 Home Co. Benefit  
 6)

D.C. Favorable July -  
 Pickup the product  
 Block of Nos pick from list  
 for the order (Part)

They are doing better on line

**Exhibit I**

**GE CAPITAL - RESCOM, L.P.**

**TELECOMMUNICATIONS  
SERVICES LEASE**

**EXISTING PROPERTY**

THE PROVISIONS OF THIS PROPOSED LEASE REFLECT THE TERMS ACCEPTABLE TO GE CAPITAL - RESCOM AS OF \_\_\_\_\_ IF  
THIS LEASE IS NOT ENTERED INTO WITHIN THIRTY (30) DAYS OF THIS DATE, GE CAPITAL - RESCOM RESERVES THE RIGHT TO  
MODIFY ANY AND ALL OF THE PROPOSED TERMS OF THIS LEASE.

**GE CAPITAL - RESCOM, L.P.**

**Exhibit I**

**Lease**

This lease ("Lease") is entered into as of \_\_\_\_\_, 1995, by and between GE Capital - ResCom, L.P., a Delaware limited partnership ("Tenant"), and \_\_\_\_\_ a [State] \_\_\_\_\_ [Entity] \_\_\_\_\_ ("Landlord"). Capitalized terms used in this Lease are either defined within the terms of the Lease or in attached Exhibit "A".

In consideration of the rights, obligations and interests included under this Lease, Landlord and Tenant agree as follows:

1. **Premises, Rent and Service Fee.** Landlord leases the Premises to Tenant. Tenant shall pay for all costs and expenses to keep the Premises in good condition and repair. Tenant shall repair any damage to the Property that is caused by installation, operation or removal of Tenant's equipment. For each month during the Rental Period, Tenant shall pay rent ("Rent") to the Landlord and pay a service fee ("Service Fee") to the Property Management Company, both as set forth on attached Exhibit "B".

2. **Term.** The term of this Lease will start on the date Telecommunications Services to the Property begin and end \_\_\_\_\_ ( ) years after such date, unless terminated earlier under the terms of this Lease.

3. **Insurance.** Tenant shall (a) provide commercial general liability insurance covering personal injury and property damage that may be caused to person(s), the Property or its contents, by Tenant's employees or agents; (b) name Landlord as an additional insured on such policies; and (c) provide Landlord with a certificate of insurance for such policies. Landlord and Tenant each waive any right of recovery against the other for any claims that may be brought for any loss upon or relating to the Property or Tenant's property that is covered by insurance.

4. **Grant.** Landlord grants Tenant, to the fullest extent permitted by law, (a) the sole and exclusive right to provide Telephone Services and Telecommunications Services to residents of the Property; (b) the sole and exclusive right to use Property personnel and Property Management Company to market and sell telecommunications services at the Property; (c) a non-exclusive easement, which runs with the land, strictly for the purposes contained under this Lease; and (d) a right of first refusal to provide exclusive cable television services to the Property, on commercially competitive terms, upon the expiration of any existing cable television contract relating to the Property. In consideration of the expense incurred by Tenant in connection with its provision of Telecommunications Services, Landlord agrees that it will not permit any other person or entity access to the Property for the purpose of similarly providing Telecommunications Services. This exclusivity provision does not deny [Insert name] \_\_\_\_\_, the current Local Exchange Carrier, or its successor ("LEC") the right to serve residents of the Property.

5. **Commencement of Services.** Telephone Services to the Property will commence by \_\_\_\_\_ unless delayed by the LEC or any applicable regulatory agency.

6. **Service to Residents.**

a) Tenant shall provide central office-based Centrex Telephone Services and other available Telecommunications Services to each resident requesting them. Services are provided on condition that the resident pays service charges and meets other reasonable requirements set by Tenant. Each resident shall be charged a connection fee, and billed for continuing services at standard rates set by Tenant from time to time. Tenant shall be solely responsible for all billing and collections from residents.

b) A representative at Tenant's Customer Service Center shall be available to receive service requests or inquiries from Landlord, the Property Management Company and residents of the Property. Re...

maintenance service will be performed by Tenant during its normal working hours. If required, a technician shall arrive at the Property to perform maintenance service promptly after a request for such service and Landlord agrees to provide such technician with appropriate rights of entry and access to the Property to perform such repairs. Tenant shall obtain any required consents from residents and the Property Management Company prior to starting repair and maintenance service in dwelling units. No further consent from Landlord shall be required in connection with the performance of such repair and maintenance services in dwelling units.

7. **Additional Obligations of Landlord.** Landlord shall (or shall cause Property Management Company to):
- a) provide Tenant with reasonable access to the Premises;
  - b) use reasonable efforts to promote the use of Telecommunications Services to residents and prospective residents. Tenant shall provide Landlord or Property Management Company all marketing materials and training on an as-needed basis. Landlord consents to Tenant's use of incentive programs with Property personnel or Property Management Company for the purpose of promoting the Telecommunications Services;
  - c) provide the use of Property personnel or Property Management Company to perform (at the request and instruction of Tenant) tasks such as assigning telephone numbers and promptly sending to Tenant signed GE Capital - ResCom Service Agreements;
  - d) promptly provide to Tenant an initial, current list of residents and (on a monthly basis) other specific information regarding resident transactions, such as rentals, move-ins, move-outs, transfers, intents to vacate, and the entering into or termination of leases and other information necessary to provide Telecommunications Services or to comply with governmental or Utility Commission rules;
  - e) cooperate with Tenant in obtaining consents, licenses and any other requirements that may be necessary for Tenant to furnish Telecommunications Services, and Tenant shall pay all reasonable out-of-pocket costs incurred by Landlord in such cooperation; and
  - f) execute a Memorandum of Lease and Grant of Easement in the form attached as Exhibit "C" at the same time as this Lease is signed. The Memorandum of Lease and Grant of Easement shall be recorded by Landlord in the appropriate real estate recording office of the county or state where the Property is located.

8. **Future Services.** Tenant will offer, when available (and Landlord or Property Management Company may develop or suggest), additional services to be marketed by Tenant to residents of the Property, such as wireless Personal Communication Systems, cellular telephones, interactive shopping and other technologies yet to be developed, as well as other non-telecommunications services, such as credit cards and insurance ("Future Services"). Tenant shall offer a program at that time which shall allow a revenue participation for these Future Services, once the incremental capital expense and potential on-going incremental expense associated with providing these Future Services is recovered by Tenant. At this time, the percentage of revenue participation for these Future Services cannot be determined; however, Tenant agrees that if the amount of additional Rent and Service Fees cannot be mutually agreed upon, Tenant may not provide such Future Services to the Property or its residents.

9. **Termination of the Lease.**

- a) This Lease may be terminated by either party if there has been a material breach of the terms of this Lease by the other party and within sixty (60) days after receiving written notice of such breach from the party seeking to terminate, such breach has not been cured, (unless a party's failure to cure is for a reason beyond such party's control, in which case such period shall be extended so long as such party is in good faith attempting to cure such breach). For purposes of this Lease, a material breach by Tenant shall consist of (i) a failure to pay the Rent or Service Fee in accordance with Section 1; or (ii) a continuing material failure to provide Telecommunications Services pursuant to this Lease.

b) Tenant may terminate this Lease, or discontinue the provision of any Telecommunications Services if, in the sole discretion of Tenant, it becomes infeasible for legal or regulatory reasons to provide Telecommunications Services to the Property; provided that Tenant provides thirty (30) days written notice to Landlord.

c) Any termination under this Lease shall be effective as of the date of termination, but Tenant shall continue to provide Telecommunications Services until the earlier of (i) all Tenant's customers at the Property are provided telephone service from another source; or (ii) thirty (30) days from the date of such termination. The provisions under this Lease necessary for such continued services shall remain effective during such period.

10. **Assignment of the Lease.** This Lease may be assigned by Tenant to any affiliate or party acquiring all or substantially all of the assets of Tenant. Tenant may also assign this Lease to any party providing financing to Tenant, provided that such transfer shall not relieve Tenant from its obligations under this Lease. In case of a sale or disposition of the Property, Landlord shall require any subsequent owner of the Property to assume this Lease and all the rights and obligations under this Lease. This Lease shall be binding upon and shall inure to the benefit of the successors and assigns of Landlord and Tenant.

11. **Landlord Warranties.** Landlord warrants that (a) it has full power and authority to grant the rights granted under this Lease; (b) no party holds any rights or interests with respect to the Property that conflict with any rights or interests that Landlord grants to Tenant under this Lease; (c) the Property is not presently part of a bankruptcy proceeding, foreclosure action, or deed in lieu of foreclosure transaction; (d) Landlord is not in default of any mortgages or any other liens on the Property; and (e) no contracts for the sale of the Property presently exist.

12. **Tenant Warranties.** TENANT WARRANTS THAT THE TELEPHONE SERVICES TO BE PROVIDED BY TENANT WILL BE OF THE SAME QUALITY OR BETTER THAN SIMILAR SERVICES PROVIDED BY THE LEC. EXCEPT AS EXPRESSLY STATED IN THIS LEASE, TENANT MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE PROVISION OF TELECOMMUNICATIONS SERVICES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

13. **Limitation of Remedies.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS LEASE, NEITHER TENANT NOR LANDLORD SHALL BE LIABLE FOR ANY REASON TO THE OTHER OR TO ANY OTHER PERSON FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, OF ANY NATURE WHATSOEVER, OR FOR THE CONDITION OR REPAIR OF ANY TELEPHONE INSTRUMENT OR ANY PERSONAL PROPERTY OF TENANT'S CUSTOMERS.

14. **Indemnification.** Subject to Section 13 above, Tenant agrees to indemnify, defend and hold Landlord (and Landlord's officers, directors, owners, employees and agents) harmless from and against all claims, losses and liabilities of Landlord ("Losses") resulting from the delivery of Telecommunications Services under this Lease to the extent such Losses are not caused by the LEC. Landlord agrees to indemnify, defend and hold harmless Tenant for Losses caused by the gross negligence or willful misconduct of Landlord, Landlord's employees or Property Management Company.

15. **Arbitration of Disputes.** Any controversy, dispute, or claim of whatever nature arising out of, in connection with, or in relation to this Lease shall be decided by final and binding arbitration before a single arbitrator administered by and in accordance with the then existing rules of practice and procedure of the American Arbitration Association at a location in Los Angeles, California determined by the arbitrator. Judgment upon any award rendered by the arbitrator may be entered by any state or federal court having jurisdiction thereof. Both parties acknowledge that they are giving up their right to have any such claim decided in a court of law before

a judge or jury, and hereby waive all rights to discovery and appeal.

16. **Forcé Majeure.** If the performance of any obligation under this Lease is interfered with by any reason or any circumstances beyond the reasonable control of the parties, including, but not limited to, strikes, slowdowns, picketing or boycotts, then the parties shall be excused from performance on a day-by-day basis to the extent of such interference.

17. **Miscellaneous.**

a) **Authority.** Each individual signing this Lease on behalf of a corporation or partnership represents that he or she has the necessary authority to execute this Lease on behalf of such entity and that, in the case of a corporation, all necessary corporate action has been taken approving the execution of this Lease.

b) **Waiver.** The failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Lease shall not affect any subsequent breach or the right to require performance or to claim a subsequent breach.

c) **Governing Law.** This Lease shall be governed in all respects by the laws of the State of California.

d) **Notices.** Any notice to be given by either party to the other shall be in writing and either personally delivered or sent by mail, return receipt requested, or by fax, to the addresses of Landlord and Tenant provided on the signature page hereof. Notices shall be deemed given when received or refused. Each party may change the address for where it would like notice to be sent by giving notice in the manner required by this provision.

e) **Validity.** If any part of this Lease is found to be invalid or unenforceable, then that part of the Lease shall not affect the validity or enforceability of the remainder of this Lease in any way, unless the invalidity significantly affects the ability of either party to perform as contemplated under this Lease.

f) **Attorneys' Fees and Costs.** If any legal action, arbitration or other proceeding is brought to enforce or interpret this Lease, the substantially prevailing party shall be entitled to recover reasonable attorneys' fees and other incurred costs from the other party, in addition to any other award to which the substantially prevailing party may be entitled.

g) **Representations.** In connection with the negotiation and signing of this Lease, each party has been advised by its own counsel and tax advisors regarding this Lease and any tax consequences that may arise from the Lease. The parties further agree that this Lease was fully negotiated by the parties and, therefore, no part of this Lease shall be interpreted against the party that drafted it.

h) **Further Assurances.** Upon the request of a party, the other party shall promptly and at the requesting party's expense execute and deliver any additional documents or take such action as may be reasonably necessary for the purpose of evidencing or perfecting any rights or interest arising under this Lease or under documents executed in accordance with this Lease, including without limitation, any financing statement, or other document or notice necessary or convenient to evidence Tenant's rights under this Lease.

i) **Confidentiality.** Each of the parties agrees to keep the substantive terms of this Lease, and all information and related agreements provided by the other party in connection with this Lease, confidential and shall not disclose such terms or information to any other party except on a need-to-know basis in order to carry out the terms of this Lease, except as may be required by law.

j) **Entire Lease.** This Lease and its exhibits and addenda contain the entire agreement between the

parties and may not be modified, amended or changed except by written instrument signed by authorized representatives of both parties and designated as an amendment. Each exhibit referred to in this Lease is incorporated into and made a part of this Lease.

This Lease has been executed and delivered as of the above date.

GE Capital - ResCom, L.P.,  
a Delaware limited partnership

[LANDLORD],  
a [STATE] \_\_\_\_\_ [ENTITY] \_\_\_\_\_

By: ResCom, Inc., a California corporation,  
its General Partner

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

GE Capital - ResCom, L.P.  
5757 W. Century Blvd., Suite 400  
Los Angeles, CA 90045  
Telephone: (310) 410-7307  
Telecopy: (310) 410-7450  
Attn: Ms. Sheri Jensen

\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Telecopy: \_\_\_\_\_  
Attn: \_\_\_\_\_

EXHIBIT A

DEFINITIONS

"Premises" means an adequate and secure space with electricity to house Tenant's marketing equipment, which meets Tenant's reasonable specifications.

2. "Property" means the multiple dwelling unit residential complex commonly known as [Name] \_\_\_\_\_ [Address] \_\_\_\_\_ which consists of [Number] \_\_\_\_\_ dwelling units.
3. "Property Management Company" collectively means the Property's Property Management Company and its personnel.
4. "Rental Period" starts the date Telephone Services to the Property begin and ends on the termination of this Lease.
5. "Telephone Services" means two-way voice service and ancillary features.
6. "Telecommunications Services" means data communications services, video on demand, audio on demand, and other means of two-way communication distribution, whether now existing or hereafter developed, to the extent delivered through the Property's telephone delivery medium, which shall include, without limitation, copper wire, fiber optics or other telephone cable. "Telecommunications Services" shall also include Telephone Services.

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EXHIBIT B

Payment Procedures:

Property Penetration is the total telephone numbers issued to residents on the last day of the calendar month, divided by the total number of dwelling units at the Property. If a resident has more than one telephone number, the Property is credited as though each telephone number is a separate customer.

Gross Monthly Receipts are the total monthly receipts for Telephone and Telecommunications Services (including installation charges and other ancillary fees) collected during a calendar month, without deduction.

Rent and Service Fee Tracking Report calculates Rent Percentage and Service Fee Percentage earned during each calendar month. Each month a Rent and Service Fee Tracking Report will be sent to Landlord and Property Management Company within thirty (30) days after the end of the previous calendar month.

Payment Due Date as to all monies owing is thirty (30) days after the last day of the previous calendar month. The check(s) will be issued and mailed on each Payment Due Date.

Rent and Service Fee Percentage Income is calculated by multiplying the Gross Monthly Receipts by the appropriate percentage for each category.

Percentage Income:

(Based on Property Penetration Percentage)

Total Paid Percentage	Property Penetration	Landlord's Rent Percentage	Service Fee Percentage
6%	00% to 74.99%	___%	___%
7%	75% to 79.99%	___%	___%
8%	80% to 84.99%	___%	___%
9%	85% to 89.99%	___%	___%
10%	90% to 94.99%	___%	___%
11%	95% to 99.99%	___%	___%
12%	100% and over	___%	___%

EXHIBIT C

SPECIMEN - DO NOT EXECUTE

Recording requested by and  
when recorded return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMORANDUM OF LEASE AND GRANT OF EASEMENT

This Memorandum of Lease and Grant of Easement is executed this \_\_\_\_\_ day of \_\_\_\_\_, 1995 by and between \_\_\_\_\_ ("Landlord") and GE CAPITAL - RESCOM, L.P., a Delaware limited partnership ("Tenant"). Landlord owns the multiple dwelling unit residential complex commonly known as [NAME] \_\_\_\_\_ [ADDRESS] \_\_\_\_\_ (the "Property"). A legal description of the Property is made a part hereof as Attachment 1.

1. Grant. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, a portion of the Property for the purpose of providing telecommunications services to Landlord, on the terms more specifically set forth in the Lease.
2. Term. The term of the Lease shall be for \_\_\_\_\_ (\_\_\_\_) years, unless sooner terminated in accordance with the provisions of the Lease.
3. Easement. During the term of the Lease, Landlord hereby grants Tenant an easement for entry onto the Property for the purpose of installing, servicing and replacing Tenant's telecommunications equipment, on the terms more specifically set forth in the Lease.
4. Effect. If there is any conflict between the terms of this Memorandum and the Lease, the Lease shall control.

LANDLORD:

[NOTARIAL ACKNOWLEDGMENT]

\_\_\_\_\_ a {STATE} \_\_\_\_\_ {ENTITY} \_\_\_\_\_

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

TENANT:

[NOTARIAL ACKNOWLEDGMENT]

GE CAPITAL - RESCOM, L.P., a Delaware limited partnership

By: ResCom, Inc., a California corporation,  
its general partner

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

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

ATTACHMENT 1  
(TO MEMORANDUM OF LEASE AND GRANT OF EASEMENT)

LEGAL DESCRIPTION OF PROPERTY

**Exhibit II**

**GE CAPITAL - RESCOM, L.P.**

**TELECOMMUNICATIONS  
SERVICES LEASE**

**EXISTING PROPERTY • CONTINGENCY**

THE PROVISIONS OF THIS PROPOSED LEASE REFLECT THE TERMS ACCEPTABLE TO GE CAPITAL - RESCOM AS OF \_\_\_\_\_  
IF THIS LEASE IS NOT ENTERED INTO WITHIN THIRTY (30) DAYS OF THIS DATE, GE CAPITAL - RESCOM RESERVES THE  
RIGHT TO MODIFY ANY AND ALL OF THE PROPOSED TERMS OF THIS LEASE.

## Exhibit II

**DRAFT**

### GE CAPITAL - RESCOM, L.P.

#### Lease

This lease ("Lease") is entered into as of \_\_\_\_\_, 199\_\_\_, by and between GE Capital - ResCom, L.P., a Delaware limited partnership ("Tenant"), and \_\_\_\_\_ a [State] \_\_\_\_\_ [Entity] \_\_\_\_\_ ("Landlord"). Capitalized terms used in this Lease are either defined within the terms of the Lease or in attached Exhibit "A".

In consideration of the rights, obligations and interests included under this Lease, Landlord and Tenant agree as follows:

1. **Premises, Rent and Service Fee.** Landlord leases the Premises to Tenant. Tenant shall pay for all costs and expenses to keep the Premises in good condition and repair. Tenant shall repair any damage to the Property that is caused by installation, operation or removal of Tenant's equipment. For each month during the Rental Period, Tenant shall pay rent ("Rent") to the Landlord and pay a service fee ("Service Fee") to the Property Management Company, both as set forth on attached Exhibit "B".
2. **Term.** The term of this Lease will start on the date Telecommunications Services to the Property begin and end \_\_\_\_\_ (\_\_\_) years after such date, unless terminated earlier under the terms of this Lease.
3. **Insurance.** Tenant shall (a) provide commercial general liability insurance covering personal injury and property damage that may be caused to person(s), the Property or its contents, by Tenant's employees or agents; (b) name Landlord as an additional insured on such policies; and (c) provide Landlord with a certificate of insurance for such policies. Landlord and Tenant each waive any right or recovery against the other for any claims that may be brought for any loss upon or relating to the Property or Tenant's property that is covered by insurance.
4. **Grant.** Landlord grants Tenant, to the fullest extent permitted by law, (a) the sole and exclusive right to provide Telephone Services and Telecommunications Services to residents of the Property; (b) the sole and exclusive right to use Property personnel and Property Management Company to market and sell telecommunications services at the Property; (c) a non-exclusive easement, which runs with the land, strictly for the purposes contained under this Lease; and (d) a right of first refusal to provide exclusive cable television services to the Property, on commercially competitive terms, upon the expiration of any existing cable television contract relating to the Property. In consideration of the expense incurred by Tenant in connection with its provision of Telecommunications Services, Landlord agrees that it will not permit any other person or entity access to the Property for the purpose of similarly providing Telecommunications Services. This exclusivity provision does not deny [Insert name] \_\_\_\_\_, the current Local Exchange Carrier, or its successor ("LEC"), the right to serve residents of the Property.
5. **Commencement of Services.** Telephone Services to the Property will commence by \_\_\_\_\_ 199\_\_\_, unless delayed by the LEC.
6. **Service to Residents.**
  - a) Tenant shall provide central office-based Centrax Telephone Services and other available Telecommunications Services to each resident requesting them. Services are provided on condition that the resident pays service charges and meets other reasonable requirements set by Tenant. Each resident shall be charged a connection fee, and billed for continuing services at standard rates set by Tenant from time to time. Tenant shall be solely responsible for all billing and collections from residents.

b) A representative at Tenant's Customer Service Center shall be available to receive service requests or inquiries from Landlord, the Property Management Company and residents of the Property. Routine maintenance service will be performed by Tenant during its normal working hours. If required, a technician shall arrive at the Property to perform maintenance service promptly after a request for such service and Landlord agrees to provide such technician with appropriate rights of entry and access to the Property to perform such repairs. Tenant shall obtain any required consents from residents and the Property Management Company prior to starting repair and maintenance service in dwelling units. No further consent from Landlord shall be required in connection with the performance of such repair and maintenance services in dwelling units.

7. **Additional Obligations of Landlord.** Landlord shall (or shall cause Property Management Company to):

- a) provide Tenant with reasonable access to the Premises;
- b) use reasonable efforts to promote the use of Telecommunications Services to residents and prospective residents. Tenant shall provide Landlord or Property Management Company all marketing materials and training on an as-needed basis. Landlord consents to Tenant's use of incentive programs with Property personnel or Property Management Company for the purpose of promoting the Telecommunications Services;
- c) provide the use of Property personnel or Property Management Company to perform (at the request and instruction of Tenant) tasks such as assigning telephone numbers and promptly sending to Tenant signed GE Capital - ResCom Service Agreements;
- d) promptly provide to Tenant an initial, current list of residents and (on a monthly basis) other specific information regarding resident transactions, such as rentals, move-ins, move-outs, transfers, intents to vacate, and the entering into or termination of leases and other information necessary to provide Telecommunications Services or to comply with governmental or Utility Commission rules;
- e) cooperate with Tenant in obtaining consents, licenses and any other requirements that may be necessary for Tenant to furnish Telecommunications Services, and Tenant shall pay all reasonable out-of-pocket costs incurred by Landlord in such cooperation; and
- f) execute a Memorandum of Lease and Grant of Easement in the form attached as Exhibit "C" at the same time as this Lease is signed. The Memorandum of Lease and Grant of Easement shall be recorded by Landlord in the appropriate real estate recording office of the county or state where the Property is located.

8. **Future Services.** Tenant will offer, when available (and Landlord or Property Management Company may develop or suggest), additional services to be marketed by Tenant to residents of the Property, such as wireless Personal Communication Systems, cellular telephones, interactive shopping and other technologies yet to be developed, as well as other non-telecommunications services, such as credit cards and insurance ("Future Services"). Tenant shall offer a program at that time which shall allow a revenue participation for these Future Services, once the incremental capital expense and potential on-going incremental expense associated with providing these Future Services is recovered by Tenant. At this time, the percentage of revenue participation for these Future Services cannot be determined; however, Tenant agrees that if the amount of additional Rent and Service Fees cannot be mutually agreed upon, Tenant may not provide such Future Services to the Property or its residents.

9. **Termination of the Lease.**

- a) This Lease may be terminated by either party if there has been a material breach of the terms of this Lease by the other party and within sixty (60) days after receiving written notice of such breach from the party seeking to terminate, such breach has not been cured, (unless a party's failure to cure is for a reason beyond such party's control, in which case such period shall be extended so long as such party is in good faith attempting to cure such breach). For purposes of this Lease, a material breach by Tenant shall consist of (i) a failure to pay Rent or Service Fee in accordance with Section 1; or (ii) a continuing material failure to provide Telecommunications Services pursuant to this Lease.

b) Tenant may terminate this Lease, or discontinue the provision of any Telecommunications Services if, in the sole discretion of Tenant, it becomes infeasible for legal or regulatory reasons to provide Telecommunications Services to the Property; provided that Tenant provides thirty (30) days written notice to Landlord.

c) This Lease may be terminated by Landlord or Tenant if Tenant has not provided Telephone Services to the Property within twelve (12) months after the date of execution of this Lease, in which case neither party shall have any further rights or obligations hereunder.

d) Any termination under this Lease shall be effective as of the date of termination, but Tenant shall continue to provide Telecommunications Services until the earlier of (i) all Tenant's customers at the Property are provided telephone service from another source; or (ii) thirty (30) days from the date of such termination. The provisions under this Lease necessary for such continued services shall remain effective during such period.

#### 10. Assignment of the Lease.

a) This Lease may be assigned by Tenant to any affiliate or party acquiring all or substantially all of the assets of Tenant. Tenant may also assign this Lease to any party providing financing to Tenant, provided that such transfer shall not relieve Tenant from its obligations under this Lease. In case of a sale or disposition of the Property, Landlord shall require any subsequent owner of the Property to assume this Lease and all the rights and obligations under this Lease. This Lease shall be binding upon and shall inure to the benefit of the successors and assigns of Landlord and Tenant.

11. **Landlord Warranties.** Landlord warrants that (a) it has full power and authority to grant the rights granted under this Lease; (b) no party holds any rights or interests with respect to the Property that conflict with any rights or interests that Landlord grants to Tenant under this Lease; (c) the Property is not presently part of a bankruptcy proceeding, foreclosure action, or deed in lieu of foreclosure transaction; (d) Landlord is not in default of any mortgages or any other liens on the Property; and (e) no contracts for the sale of the Property presently exist.

12. **Tenant Warranties.** TENANT WARRANTS THAT THE TELEPHONE SERVICES TO BE PROVIDED BY TENANT WILL BE OF THE SAME QUALITY OR BETTER THAN SIMILAR SERVICES PROVIDED BY THE LEC. EXCEPT AS EXPRESSLY STATED IN THIS LEASE, TENANT MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE PROVISION OF TELECOMMUNICATIONS SERVICES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

13. **Limitation of Remedies.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS LEASE, NEITHER TENANT NOR LANDLORD SHALL BE LIABLE FOR ANY REASON TO THE OTHER OR TO ANY OTHER PERSON FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, OF ANY NATURE WHATSOEVER, OR FOR THE CONDITION OR REPAIR OF ANY TELEPHONE INSTRUMENT OR ANY PERSONAL PROPERTY OF TENANT'S CUSTOMERS.

14. **Indemnification.** Subject to Section 13 above, Tenant agrees to indemnify, defend and hold Landlord (and Landlord's officers, directors, owners, employees and agents) harmless from and against all claims, losses and liabilities of Landlord ("Losses") resulting from the delivery of Telecommunications Services under this Lease, to the extent such Losses are not caused by the LEC. Landlord agrees to indemnify, defend and hold harmless Tenant for Losses caused by the gross negligence or willful misconduct of Landlord, Landlord's employees or Property Management Company.

15. **Arbitration of Disputes.** Any controversy, dispute, or claim of whatever nature arising out of, in connection with, or in relation to this Lease shall be decided by final and binding arbitration before a single arbitrator administered by and in accordance with the then existing rules of practice and procedure of the American Arbitration Association at a location in Los Angeles, California determined by the arbitrator. Judgment upon any award rendered by the arbitrator may be entered by any state or federal court having jurisdiction thereof. Both

parties acknowledge that they are giving up their right to have any such claim decided in a court of law before a judge or jury, and hereby waive all rights to discovery and appeal.

16. **Force Majeure.** If the performance of any obligation under this Lease is interfered with by any reason or any circumstances beyond the reasonable control of the parties, including, but not limited to, strikes, slowdowns, picketing or boycotts, then the parties shall be excused from performance on a day-by-day basis to the extent of such interference.

17. **Miscellaneous.**

a) **Authority.** Each individual signing this Lease on behalf of a corporation or partnership represents that he or she has the necessary authority to execute this Lease on behalf of such entity and that, in the case of a corporation, all necessary corporate action has been taken approving the execution of this Lease.

b) **Waiver.** The failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Lease shall not affect any subsequent breach or ~~the right to require~~ performance or to claim a subsequent breach.

c) **Governing Law.** This Lease shall be governed in all respects by the laws of the State of California.

d) **Notices.** Any notice to be given by either party to the other shall be in writing and either personally delivered or sent by mail, return receipt requested, or by fax, to the addresses of Landlord and Tenant provided on the signature page hereof. Notices shall be deemed given when received or refused. Each party may change the address for where it would like notice to be sent by giving notice in the manner required by this provision.

e) **Validity.** If any part of this Lease is found to be invalid or unenforceable, then that part of the Lease shall not affect the validity or enforceability of the remainder of this Lease in any way, unless the invalidity significantly affects the ability of either party to perform as contemplated under this Lease.

f) **Attorneys' Fees and Costs.** If any legal action, arbitration or other proceeding is brought to enforce or interpret this Lease, the substantially prevailing party shall be entitled to recover reasonable attorneys' fees and other incurred costs from the other party, in addition to any other award to which the substantially prevailing party may be entitled.

g) **Representations.** In connection with the negotiation and signing of this Lease, each party has been advised by its own counsel and tax advisors regarding this Lease and any tax consequences that may arise from the Lease. The parties further agree that this Lease was fully negotiated by the parties and, therefore, no part of this Lease shall be interpreted against the party that drafted it.

h) **Further Assurances.** Upon the request of a party, the other party shall promptly and at the requesting party's expense execute and deliver any additional documents or take such action as may be reasonably necessary for the purpose of evidencing or perfecting any rights or interest arising under this Lease or under documents executed in accordance with this Lease, including without limitation, any financing statement or other document or notice necessary or convenient to evidence Tenant's rights under this Lease.

i) **Confidentiality.** Each of the parties agrees to keep the substantive terms of this Lease, and all information and related agreements provided by the other party in connection with this Lease, confidential and shall not disclose such terms or information to any other party except on a need-to-know basis in order to carry out the terms of this Lease, except as may be required by law.

j) **Entire Lease.** This Lease and its exhibits and addenda contain the entire agreement between the parties and may not be modified, amended or changed except by written instrument signed by authorized representatives of both parties and designated as an amendment. Each exhibit referred to in this Lease is incorporated into and made a part of this Lease.

This Lease has been executed and delivered as of the above date.

GE Capital - ResCom, L.P.,  
a Delaware limited partnership

[LANDLORD],  
a [STATE] \_\_\_\_\_ [ENTITY] \_\_\_\_\_

By: ResCom, Inc., a California corporation,  
its General Partner

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

GE Capital - ResCom, L.P.  
5757 W. Century Blvd., Suite 400  
Los Angeles, CA 90045  
Telephone: (310) 410-7307  
Telecopy: (310) 410-7450  
Attn: Ms. Sheri Jensen

\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Telecopy: \_\_\_\_\_  
Attn: \_\_\_\_\_

EXHIBIT A

DEFINITIONS

1. "Premises" means an adequate and secure space with electricity to house Tenant's marketing equipment, which meets Tenant's reasonable specifications.
2. "Property" means the multiple dwelling unit residential complex commonly known as [Name] \_\_\_\_\_ [Address] \_\_\_\_\_ which consists of [Number] \_\_\_\_\_ dwelling units.
3. "Property Management Company" collectively means the Property's Property Management Company and its personnel.
4. "Rental Period" starts the date Telephone Services to the Property begin and ends on the termination of this Lease.
5. "Telephone Services" means two-way voice service and ancillary features.
6. "Telecommunications Services" means data communications services, video on demand, audio on demand, and other means of two-way communication distribution, whether now existing or hereafter developed, to the extent delivered through the Property's telephone delivery medium, which shall include, without limitation, copper wire, fiber optics or other telephone cable. "Telecommunications Services" shall also include Telephone Services.

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EXHIBIT B

Payment Procedures:

Property Penetration is the total telephone numbers issued to residents on the last day of the calendar month, divided by the total number of dwelling units at the Property. If a resident has more than one telephone number, the Property is credited as though each telephone number is a separate customer.

Gross Monthly Receipts are the total monthly receipts for Telephone and Telecommunications Services (including installation charges and other ancillary fees) collected during a calendar month, without deduction.

Rent and Service Fee Tracking Report calculates Rent Percentage and Service Fee Percentage earned during each calendar month. Each month a Rent and Service Fee Tracking Report will be sent to Landlord and Property Management Company within thirty (30) days after the end of the previous calendar month.

Payment Due Date as to all monies owing is thirty (30) days after the last day of the previous calendar month. The check(s) will be issued and mailed on each Payment Due Date.

Rent and Service Fee Percentage Income is calculated by multiplying the Gross Monthly Receipts by the appropriate percentage for each category.

Percentage Income:

(Based on Property Penetration Percentage)

<u>Total Paid Percentage</u>	<u>Property Penetration</u>	<u>Landlord's Rent Percentage</u>	<u>Service Fee Percentage</u>
6%	00% to 74.99%	___%	___%
7%	75% to 79.99%	___%	___%
8%	80% to 84.99%	___%	___%
9%	85% to 89.99%	___%	___%
10%	90% to 94.99%	___%	___%
11%	95% to 99.99%	___%	___%
12%	100% and over	___%	___%

EXHIBIT C

SPECIMEN - DO NOT EXECUTE

Recording requested by and when recorded return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMORANDUM OF LEASE AND GRANT OF EASEMENT

This Memorandum of Lease and Grant of Easement is executed this \_\_\_\_\_ day of \_\_\_\_\_, 1995 by and between \_\_\_\_\_ ("Landlord") and GE CAPITAL - RESCOM, L.P., a Delaware limited partnership ("Tenant"). Landlord owns the multiple dwelling unit residential complex commonly known as [NAME] \_\_\_\_\_ [ADDRESS] \_\_\_\_\_ (the "Property"). A legal description of the Property is made a part hereof as Attachment 1.

1. **Grant.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, a portion of the Property for the purpose of providing telecommunications services to Landlord, on the terms more specifically set forth in the Lease.

2. **Term.** The term of the Lease shall be for \_\_\_\_\_ (\_\_\_\_) years, unless sooner terminated in accordance with the provisions of the Lease.

3. **Easement.** During the term of the Lease, Landlord hereby grants to Tenant an easement for entry onto the Property for the purpose of installing, servicing and replacing Tenant's telecommunications equipment, on the terms more specifically set forth in the Lease.

4. **Effect.** If there is any conflict between the terms of this Memorandum and the Lease, the Lease shall control.

LANDLORD:

[NOTARIAL ACKNOWLEDGMENT]

\_\_\_\_\_ a [STATE] \_\_\_\_\_ [ENTITY] \_\_\_\_\_

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

TENANT:

[NOTARIAL ACKNOWLEDGMENT]

GE CAPITAL - RESCOM, L.P., a Delaware limited partnership

By: ResCom, Inc., a California corporation, its general partner

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

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

ATTACHMENT 1  
(TO MEMORANDUM OF LEASE AND GRANT OF EASEMENT)

LEGAL DESCRIPTION OF PROPERTY

**"I finally found a company who backs up their dedicated lines with dedicated people."**



**"I knew I could choose my long distance carrier. I didn't know I could choose my local carrier, too."**

"It's nice to have an option in local private line service. Especially when that option is Teleport Communications Group (TCG). They're the ones who deliver."

**"Fast installation, 99.99% availability, customer service in minutes instead of hours or days, and people who treat me like I'm special. What more could I ask?"**

"Every way you measure private line performance, TCG measures up. And after years of settling for what I could get, I'm finally getting what I want. Why didn't I think of this sooner?"

**You'll be important to us. Make us prove it.**

Call 1-800-969-5686 ext. 110 for a free network evaluation without any obligation. Or fax us this coupon at 1-800-899-9155 for literature and more information.

Name \_\_\_\_\_ Title \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Type of business \_\_\_\_\_ # of employees at this location \_\_\_\_\_

Do you play a role in your company's telecommunications decisions? \_\_\_\_\_

Tel ( ) \_\_\_\_\_

Fax ( ) \_\_\_\_\_



**TCG**