

Exhibit II.6

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Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

by and among

WORLDCOM, INC ,

CERTAIN SUBSIDIARIES OF WORLDCOM, INC ,

NEXTEL SPECTRUM ACQUISITION CORP

and

UNRESTRICTED SUBSIDIARY FUNDING COMPANY

Dated as of July 8, 2003

ASSET PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT dated as of July 8, 2003, by and among WorldCom Broadband Solutions, Inc., a Delaware corporation ("WBS"), Wireless One, Inc., a Delaware corporation ("Wireless One"), E.L. Acquisition, Inc., a Delaware corporation ("ELA"), WorldCom, Inc., a Georgia corporation ("WorldCom"), CS Wireless Systems, Inc., a Delaware corporation ("CS Wireless"), CS Wireless Battle Creek, Inc., a Delaware corporation ("Battle Creek"), TruVision Wireless, Inc., a Delaware corporation ("TruVision Wireless"), TruVision-Flippin, Inc., a Delaware corporation ("TruVision Flippin"), Wireless Video Enterprises, Inc., a California corporation ("Wireless Video"), CC Wireless, Inc., a Delaware corporation ("CC Wireless"), Cross Country Wireless, Inc., a Delaware corporation ("Cross Country Wireless"), Southern Wireless Video, Inc., a Delaware corporation ("Southern Wireless"), Cross Country Telecommunications, Inc., a New Jersey corporation ("Cross Country Telecom"), Wireless Video Enhanced Services, a California corporation ("Wireless Video Enhanced"), Wireless Video Services, a California corporation ("WVS," and collectively with WBS, Wireless One, ELA, WorldCom, CS Wireless, Battle Creek, TruVision Wireless, TruVision Flippin, Wireless Video, CC Wireless, Cross Country Wireless, Southern Wireless, Cross Country Telecom, and Wireless Video Enhanced, the "Sellers"), Nextel Spectrum Acquisition Corp. ("Purchaser"), a Delaware corporation, and Unrestricted Subsidiary Funding Company ("USFCo"), a Delaware corporation

RECITALS

WHEREAS, Sellers hold valuable assets, including licenses and leases for ITFS, MMDS and WCS spectrum (as hereinafter defined), that are currently used or are useful for the provision of wireless telecommunications services in the United States (the "Business");

WHEREAS, Sellers commenced cases (the "Bankruptcy Cases") under chapter 11 of title 11 of the United States Code, 11 U.S.C. Sections 101 *et seq.* (the "Bankruptcy Code") on July 21, 2002 and November 8, 2002, by filing voluntary petitions with the United States Bankruptcy Court for the Southern District of New York, jointly administered under Case No. 02-13533 (AJG), and each Seller is a debtor in possession in the Bankruptcy Cases;

WHEREAS, the sale of assets and liabilities of the Business are subject to the requisite approval of the Bankruptcy Court (as hereinafter defined) and the FCC (as hereinafter defined),

WHEREAS, on May 9, 2003, Sellers filed with the Bankruptcy Court a motion (the "Sale Motion") seeking entry of an order, among other things, (i) establishing procedures for Sellers' proposed auction of the assets and liabilities of the Business, and (ii) approving the terms and conditions of the Asset Purchase Agreement, dated as of April 24, 2003, by and among BellSouth Wireless Cable, Inc. and Sellers, subject to higher and better offers;

WHEREAS, on June 3, 2003, the Bankruptcy Court entered an order approving procedures for Sellers' proposed auction of the assets and liabilities of the Business (the "Bidding Procedures Order") In accordance with the Bidding Procedures Order, competing

offers for the assets of the Business were considered and an auction was held on June 26-27, 2003 by Sellers and its representatives,

WHEREAS, following the conclusion of the auction, Sellers determined that Purchaser submitted the highest and best offer for the assets and liabilities of the Business Sellers therefore wish to sell to Purchaser and Purchaser wishes to purchase and assume from Sellers the Acquired Assets (as hereinafter defined) and Assumed Liabilities (as hereinafter defined) pursuant to, inter alia, Sections 363 and 365 of the Bankruptcy Code and the applicable Federal Rules of Bankruptcy Procedure, upon the terms and subject to the conditions hereinafter set forth, and

WHEREAS, simultaneously and in connection with the execution of this Agreement, Nextel Finance Corp (“NFC”) and MCI WORLDCOM Network Services, Inc d/b/a UUNET® (“UUNET”) have entered into Amendment No 5, dated as of the date hereof, to the Telecommunications Services Agreement and Program Enrollment Terms, each dated as of July 6, 2000, as amended, by and between NFC and the predecessor-in-interest to UUNET

NOW, THEREFORE, in consideration of the mutual covenants, representations and warranties herein contained, the parties hereto, intending to be legally bound, hereby agree as follows.

ARTICLE I DEFINITIONS

1 01 Definitions In this Agreement, the following capitalized terms have the meanings set forth below (such meanings being applicable to both the singular and plural forms of the terms defined):

“Affiliate” of any Person means another Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

“Annual FCC Reports” means those reports, filings, notices and regulatory fees required to be filed annually with the FCC by licensees, permittees, conditional licensees and operators, including reports required by Sections 21.11(a), 21.911, 21.307(d) and 21.920 of the FCC Rules, as such reports, filings, notices and regulatory fees may be amended or supplemented from time to time

“Approval Order” means an order or orders of the Bankruptcy Court in form and substance reasonably acceptable to Purchaser and Sellers approving this Agreement and all of the terms and conditions hereof, and approving and authorizing Sellers to consummate the Acquisition and the other transactions contemplated hereby Without limiting the generality of the foregoing, such order shall find and provide, among other things, that (i) the Acquired Assets sold to Purchaser pursuant to this Agreement shall be transferred to Purchaser free and clear of all Liens and claims, such Liens and claims to attach to the Purchase Price, (ii) Purchaser has acted in “good faith” within the meaning of Section 363(m) of the Bankruptcy Code and is

entitled to the protections of that Section, (iii) this Agreement was negotiated, proposed and entered into by the parties without collusion, in good faith and from arm's length bargaining positions, (iv) Purchaser is not acquiring or assuming any of Sellers' or any other Person's Liabilities except as expressly provided in this Agreement, (v) subject to Section 2.07, all Real Property Leases (including Tower Site Leases and Ground Leases), Acquired Spectrum Leases and Assigned Contracts shall be assumed by Sellers and assigned to Purchaser effective as of the Closing Date pursuant to Section 365 of the Bankruptcy Code, and that all Cure Amounts in respect thereof shall be borne 100% by Sellers as contemplated by Section 2.06 and paid by Sellers pursuant to such order, (vi) the Bankruptcy Court shall retain jurisdiction to resolve any controversy or claim arising out of or relating to this Agreement, or the breach hereof as provided in Section 11.11 hereof, and (vii) this Agreement and the transactions contemplated hereby may be specifically enforced against and binding upon, and not subject to rejection or avoidance by, Sellers or any chapter 7 or chapter 11 trustee of any Seller

"Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of New York or any other court having jurisdiction over the Bankruptcy Cases from time to time

"Business Day" means any day that is not a Saturday, a Sunday or other day on which commercial banks are required or authorized by law to be closed in the City of New York

"Code" means the Internal Revenue Code of 1986, as amended

"Contracts" means contracts, bids, proposals, leases, subleases, licenses, agreements, commitments and all other legally binding arrangements, including customer, supplier and subscriber contracts, in each case whether oral or written, but excluding Permits.

"Environmental Law" means any applicable Law in effect on the date hereof relating to the protection, preservation or restoration of the environment (including air, water, vapor, surface water, groundwater, drinking water supply, surface land, subsurface land, plant and animal life or any other natural resource), or to human health or safety as it relates to the environment, including any applicable provisions of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., the Clean Air Act, 33 U.S.C. § 2601 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq., and the Oil Pollution Act of 1990 33 U.S.C. § 2701 et seq., and the regulations promulgated pursuant thereto, and all analogous state or local statutes.

"Escrow Agreement" means the Escrow Agreement dated as of June 23, 2003, by and among Purchaser, WorldCom and Escrow Agent, pursuant to which Purchaser has deposited the sum of \$7,500,000 with Escrow Agent in accordance with the procedures set forth in the Bidding Procedures Order.

“FCC License” means any license, permit, certificate, franchise, consent, waiver, registration or other authorization issued by the FCC

“FCC Rules” means Title 47 of the Code of Federal Regulations, as amended at any time and from time to time, and published FCC decisions issued pursuant to such regulations

“Final Order” means an action by the FCC (i) which action has not been reversed, stayed, enjoined, set aside, annulled or suspended, (ii) in relation to which no request for stay, motion or petition for reconsideration or rehearing, application or request for review, or notice of appeal or other administrative or judicial petition for review (collectively, an “Appeal”) is pending, and (iii) as to which the prescribed time for filing an Appeal, and for the entry of orders staying, reconsidering, or reviewing on the FCC’s or such other regulatory authority’s own motion has expired

“Florida Tower Access Agreement” means any written agreement that has been or is entered into during the period between April 24, 2003 and the Closing Date between any Seller, on the one hand, and the owner of the Transmission Tower located at Ft Walton Beach, Florida (which tower was previously owned by a Seller), on the other hand, that grants such Seller or an Affiliate of such Seller the right to use the aforementioned Transmission Tower

“Governmental Authority” means any (i) federal, state, local, municipal, foreign or other government, (ii) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal), or (iii) body exercising, or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature, including any arbitration tribunal.

“Investments” means all partnership interests or any other equity interest in any corporation, company, limited liability company, partnership, joint venture, trust or other business association set forth on Schedule 1.01(a)

“ITFS” means Instructional Television Fixed Service, a class of microwave frequencies licensed by the FCC pursuant to Part 74 of the FCC Rules

“Knowledge of Purchaser” means the actual knowledge, without any independent investigation or inquiry, of the individuals set forth on Schedule 1.01(b)

“Knowledge of Sellers” means the actual knowledge, without any independent investigation or inquiry, of the individuals set forth on Schedule 1.01(c).

“Law” means any federal, state, local or foreign statute, law, ordinance, regulation, rule, code, order, principle of common law, or judgment enacted, promulgated, issued, enforced or entered by any Governmental Authority, or other requirement or rule of law

“Leased FCC Licenses” means FCC Licenses leased by any Seller pursuant to an Acquired Spectrum Lease and all Leased Pending Applications that are granted to any lessor by the FCC during the period from the date of this Agreement to the Closing Date.

“Liabilities” means, as to any Person, all debts, adverse claims, liabilities, commitments, responsibilities, loss contingencies and obligations of any kind or nature whatsoever, direct, indirect, absolute or contingent, of such Person, whether accrued or unaccrued, joint or several, vested or unvested, disputed or undisputed, liquidated or unliquidated, secured or unsecured, due or to become due, whether known or unknown, whether executory, determined, determinable or otherwise and whether or not actually reflected, or required to be reflected, in such Person’s balance sheets or other books and records

“Loss” means any and all claims, losses, Liabilities, costs, penalties, fines and amounts paid or payable or expenses incurred (including reasonable fees for attorneys, accountants, consultants and experts), damages, diminution in value, obligations to third parties, expenditures, judgments, awards or settlements that are imposed upon or otherwise incurred by the relevant Person.

“MMDS” means collectively, Multipoint Distribution Service and Multichannel Multipoint Distribution Service in each case a domestic transmission service licensed by the FCC pursuant to Part 21 of the FCC Rules

“Permitted Liens” means (i) mechanics’, carriers’, workmen’s, repairmen’s or other like Liens arising or incurred in the ordinary course of business, (ii) Liens arising under original purchase price conditional sales contracts or other title retention agreements with third parties entered into in the ordinary course of business, (iii) Liens for Taxes that are not due and payable or that may thereafter be paid without penalty or that are being contested in good faith and for which adequate reserves have been made, and (iv) the Permitted Encumbrances referred to in Section 5.07(c)

“Person” means any individual, firm, corporation, partnership, limited liability company, trust, joint venture, Governmental Authority or other entity or organization.

“Plan Confirmation Hearing Date” means the date upon which the first hearing is held by the Bankruptcy Court to consider the approval of a chapter 11 plan of reorganization of any of Sellers

“Proceeding” means any action, arbitration, audit, hearing, complaint, inquiry, investigation, litigation, or suit (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

“Purchaser Material Adverse Effect” means any change, circumstance or event that has a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or the Ancillary Agreements or on the ability of Purchaser to timely consummate the Acquisition and the other transactions contemplated hereby

“Representative” means, with respect to any Person, such Person’s officers, directors, employees, agents and representatives (including any investment banker, financial advisor, accountant, legal counsel, agent, representative or expert retained by or acting on behalf of such Person or its Subsidiaries)

“Sellers Material Adverse Effect” means any change, circumstance or event with respect to the Acquired Assets or Assumed Liabilities that, individually or together with all other adverse changes, circumstances or events, has, results in, has had, or has resulted in (a) a material adverse effect on the value of the Acquired Assets, taken as a whole, or a material increase in the amount of the Assumed Liabilities, taken as a whole, excluding for purposes of this clause (a) any such change, circumstance or event to the extent resulting from (i) the United States or foreign economies or securities markets in general, or any outbreak of hostility, terrorist activities or war, (ii) the announcement by Sellers of their intention to sell the Business or the Acquired Assets, (iii) the execution and announcement of this Agreement and the pendency of the Acquisition or any other action by Sellers contemplated by or required by this Agreement, (iv) the filing of the Bankruptcy Cases, (v) the conversion or dismissal of any Bankruptcy Case, (vi) the appointment of a chapter 11 trustee or examiner with expanded powers in any Bankruptcy Case, (vii) any changes in general economic, political or regulatory conditions in the United States wireless telecommunications industry, including changes applicable to (A) national, regional or local markets for wireless telecommunications services, and (B) litigation, legislation, rules, regulations or decisions affecting the United States wireless telecommunications industry as a whole, or (viii) a reduction in the number of customers, employees and/or revenues of the Business, irrespective of the size of that reduction in customers, employees and/or revenues, as applicable or (b) a material adverse effect on the ability of any Seller to timely consummate the Acquisition and the other transactions contemplated hereby and satisfy its obligations hereunder in accordance with the terms hereof.

“Subsidiary” of any Person means another Person, an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its board of directors or other governing body (or, if there are no such voting interests, more than 50% of the equity interests of which) is owned directly or indirectly by such first Person or by another Subsidiary of such Person

“Superior Transaction” means one or more written or oral proposals (including such oral proposals made on the record at a hearing before the Bankruptcy Court) made by one or more third parties for one or more Alternative Transactions that represent, alone or in the aggregate, and in WorldCom’s sole discretion, a higher or better offer for the Business or Acquired Assets (or any material portion thereof) than the offer made by Purchaser for the Acquired Assets pursuant to the terms of this Agreement.

“Tax” means any tax, governmental fee or other like assessment or charge of any kind whatsoever (including any tax imposed under Subtitle A of the Code and any net income, alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, license, withholding tax on amounts paid, payroll, employment, excise, severance, stamp, capital stock, occupation, property, environmental, telecommunications or windfall profit tax, premium, custom, duty or other tax), together with

any interest, penalty, addition to tax or additional amount due thereon, imposed by any Governmental Authority (domestic or foreign) responsible for the imposition of any such tax (a "Taxing Authority")

"Third Party Dedicated Equipment" means equipment owned by a Seller that is used solely for the operation of FCC Licenses held by a third party that is not a party to an Acquired Spectrum Lease and not an Affiliate of WorldCom. Such equipment includes, for each such third party's respective FCC License, channel-specific transmitters, channel-specific encoders, studio-to-transmitter link equipment, receive-only antennas located at the third party's premises, downconverters and modulators, *provided, however*, that such Third Party Dedicated Equipment shall not include (i) any equipment used or held for use by Sellers in connection with the operation of the Company FCC Licenses and Leased FCC Licenses or in performing Sellers' obligations under any Acquired Spectrum Lease, Real Property Lease or Tower Sublease, or (ii) any Common Equipment.

"Title Warranties" means the representations and warranties of Sellers set forth in Sections 5.06(a), 5.07(c), 5.07(d)(i) and (ii), 5.09(b)(i), 5.11(b)(i) and (ii), the first two sentences of Section 5.12(b), and Section 5.12(c)(ii).

"Tower Assets" means (i) the Tower Site Leases, (ii) the Ground Leases, (iii) all Transmission Towers, transmission and reception equipment, studio-to-transmitter linking equipment, tower equipment, test equipment, antennas, headend equipment, machinery, and other physical assets (including embedded software and intellectual property rights incorporated therein), buildings, improvements and fixtures, and all appurtenances thereto, in each case located on a site covered by a Tower Site Lease or Ground Lease, as applicable, used by a Seller in connection with the transmission of signals to or from any such site, (iv) any equipment of a kind or nature referred to in the preceding clause (iii) that is not located on a site covered by a Tower Site Lease or Ground Lease, but is owned and used by a Seller in connection with the transmission of signals to or from any such site, and (v) any tangible personal property set forth on Schedule 5.19, including any Third Party Dedicated Equipment set forth on Schedule 5.19, *provided, however*, that the Tower Assets shall not include any (x) Third Party Dedicated Equipment that is not set forth on Schedule 5.19 or (y) any customer premises equipment.

"Transfer Tax" means any federal, state, county, local, foreign and other sales, use, transfer, conveyance, documentary transfer, recording or other similar Tax, fee or charge imposed upon the sale, transfer or assignment of property or any interest therein or the recording thereof, and any penalty, addition to Tax or interest with respect thereto (but excluding any gains and income Taxes).

"Transmission Towers" means any towers or other "antenna structures" as defined by the FCC in Part 17 of the FCC Rules.

"WCS" means Wireless Communications Services, a domestic transmission service licensed by the FCC pursuant to Part 27 of the FCC Rules.

1.02 Other Terms Other capitalized terms may be defined elsewhere in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement. All references to "S" and dollars shall be deemed to refer to United States currency unless otherwise specifically provided herein. All references to "true and complete" copies of specified documents, means true and complete copies of such documents, together with all material amendments, modifications and supplements thereto, and all waivers, consents and estoppels granted or delivered thereunder.

ARTICLE II PURCHASE AND SALE OF ASSETS

2.01 Purchase and Sale On the terms and subject to the conditions of this Agreement, at the Closing, Sellers shall sell, assign, transfer, convey and deliver to Purchaser, and Purchaser shall purchase from Sellers, all of their respective right, title and interest as of the Closing Date in and to the Acquired Assets, free and clear of all Liens (other than Permitted Encumbrances) pursuant to Section 363(f) of the Bankruptcy Code. The purchase and sale of the Acquired Assets and the assumption of the Assumed Liabilities is referred to in this Agreement as the "Acquisition".

2.02 Acquired Assets The term "Acquired Assets" means all of the following properties and assets of Sellers unless expressly excluded pursuant to the provisions of the subsections below and other than, and to the extent not included among, the Excluded Assets

(i) all leases, subleases and licenses, and other occupancy agreements under which Sellers use or occupy, or have the right to use or occupy, the real property or improvements or fixtures on real property listed on and located at the addresses (the "Tower Sites") listed on Schedule 2.02(i) (the "Real Property Leases"), including (A) all agreements relating to the use by Sellers of Transmission Towers or other transmission equipment (and the embedded software and intellectual property rights incorporated therein) on such Tower Sites not owned by Sellers but used by Sellers in the operation of the Business and listed in Part A of such schedule (the "Tower Site Leases"), and (B) the ground or other leases for real property not owned by Sellers but containing Transmission Towers owned by Sellers and listed in Part B of such schedule (the "Ground Leases");

(ii) subject to Section 7.26 and other than the Tower Site Leases and Ground Leases, all other Tower Assets, including the Transmission Towers set forth on Schedule 2.02(ii),

(iii) other than Company FCC Licenses, all Permits of Sellers that are primarily used or primarily held for use in the ownership or operation of the Tower Assets or, to the extent any such Permits are not freely transferable by Sellers, all right, title and interest of Sellers in and to such Permits to the full extent such right, title and interest may be transferred (the "Assigned Permits"),

(iv) the FCC Licenses listed on Schedule 2.02(iv), and any Company Pending Applications that are granted and issued by the FCC to any Seller during the

period from the date of this Agreement to the Closing Date (the "Company FCC Licenses"),

(v) the Company Pending Applications listed on Schedule 2.02(v), and those Company Pending Applications filed with the FCC by any Seller during the period from the date of this Agreement to the Closing Date,

(vi) those leases or similar agreements listed on Schedule 2.02(vi) between a third party holder of an FCC License or an applicant therefor, as lessor, and any of Sellers, as lessee, to use MMDS or ITFS spectrum capacity licensed by the FCC to such third party holder or applicant (including in relation to facilities that have not yet been authorized) (the "Acquired Spectrum Leases");

(vii) those Contracts in effect on the date hereof under which a Seller is a lessor, sublessor or licensor of, or makes available for use to any Person, any Tower Site or portion thereof and listed on Schedule 5.08 (the "Tower Subleases");

(viii) the Acquired WCS Agreements other than the agreement listed as item two (2) on Schedule 5.25(a), Interference Coordination Agreements, the Florida Tower Access Agreement (if any), and all Contracts pursuant to which third parties provide services necessary for any Seller to perform any studio to transmitter transport or linking obligations under any Acquired Spectrum Lease (collectively, together with the Tower Subleases, the "Assigned Contracts"),

(ix) subject to Sections 7.23 and 7.24, all credits, prepaid expenses, deferred charges, advance payments, security deposits and prepaid items that relate to any of the Acquired Assets as of the Closing Date;

(x) all rights, claims, causes of action, rights to payment or to enforce payment and credits to the extent relating to the Acquired Assets, including any such items arising under insurance policies and all guarantees, warranties, indemnities and similar rights in favor of any of Sellers in respect of the Acquired Assets, but not to the extent relating to any Excluded Asset or Excluded Liability, as provided in Section 2.03(i);

(xi) copies of the Acquired Spectrum Leases, Real Property Leases, Assigned Contracts and other records, files and documents of Sellers relating predominantly and directly to the ownership or operation of the Acquired Assets or to any Assumed Liability, including service records, delivery records, warranty documents, manuals, and all material lessor and lessee correspondence (in all cases, in any form or medium) (the "Business Records"), and

(xii) if and to the extent acquired by any Seller or any of its Affiliates prior to the Closing, the FCC Licenses held by third parties set forth on Schedule 2.02(xii) (the "Third Party Licenses")

For purposes of this Section 2.02, the term "Sellers" shall not include WorldCom. For the avoidance of doubt, the term "Acquired Assets" shall not include any assets of WorldCom.

2.03 Excluded Assets. As used herein, the term "Excluded Assets" means all the properties, assets, goodwill and rights of any of Sellers of whatever kind and nature, real or personal, tangible or intangible that are owned, leased or licensed by any of Sellers on the Closing Date that are not specifically listed in Section 2.02, including the following:

(i) all cash and cash equivalents of any of Sellers, including any cash received in connection with the winding up and dissolution of Wireless One of North Carolina, LLC (the "North Carolina JV Company");

(ii) all rights, claims, causes of action, rights of set-off, rights to payment or to enforce payment and credits of any of Sellers to the extent relating to any Excluded Asset or any Excluded Liability, including any such items arising under insurance policies and all guarantees, warranties, indemnities and similar rights in favor of any of Sellers in respect of any Excluded Asset or any Excluded Liability;

(iii) all the assets of any pension or other employee benefit plan of any of Sellers;

(iv) all rights of any Seller under this Agreement, the Escrow Agreement, and the other agreements and instruments executed and delivered in connection with this Agreement (the "Ancillary Agreements"),

(v) all records prepared in connection with the sale of the Acquired Assets to Purchaser;

(vi) all financial, tax and other books and records relating to the Business that do not relate exclusively to the Acquired Assets;

(vii) all rights and assets of any Seller under Contracts relating to the Investments or the North Carolina JV Company, except to the extent provided in Section 2.02(xii),

(viii) all Contracts of Sellers other than the Real Property Leases, Acquired Spectrum Leases and Assigned Contracts,

(ix) subject to Section 7.15, any refunds or credits of Taxes for any taxable period (or portion thereof) ending on or prior to the Closing Date,

(x) all the properties, assets, goodwill and rights of any of Sellers of whatever kind and nature, real or personal, tangible or intangible, that are owned, leased or licensed by any of Sellers, unless specifically listed in Section 2.02 or the Schedules referred to therein;

(xi) all capital stock of each Seller;

(xii) without limiting the generality of Section 2.03(xvii), the name "WorldCom", "WorldCom Broadband Solutions", "Wireless One", "CS Wireless" or any variation thereof, and any trademarks, trade names, logo or symbols related thereto,

(xiii) all vehicles and office equipment (including company issued personal computers, cell phones, pagers and similar items) used in the Business,

(xiv) other than embedded software and intellectual property rights included in the Acquired Assets referred to in Section 2.02, all computer software (and the intellectual property rights incorporated therein), owned by any of Sellers and all rights of any of Sellers in or to intellectual property or computer software that any third party has granted to any Seller pursuant to a license, sublicense, agreement or permission,

(xv) all telephone numbers and lock boxes owned or held by any of Sellers,

(xvi) subject to Section 7.23, all accounts receivable of any of Sellers;

(xvii) other than embedded software and intellectual property rights included in the Acquired Assets referred to in Section 2.02, all patents (including all reissues, divisions, continuations and extensions thereof), patent applications, trademarks, trademark registrations, trademark applications, servicemarks, trade names, business names, brand names, logos, corporate names, copyright registrations, designs, design registrations and all rights to any of the foregoing and all copyrights, trade secrets and confidential information (including know how, inventions, formulae, processes, procedures, research records, test information, market surveys and marketing know how), owned or licensed by any of Sellers,

(xviii) all IP addresses and URLs/Internet domain names owned or used by Sellers, and

(xix) all customer premises equipment and all Third Party Dedicated Equipment not set forth on Schedule 5.19

2.04 Assumed Liabilities Subject to Section 7.23 and other than any Excluded Liabilities on the terms and subject to the conditions of this Agreement, Purchaser shall assume, effective as of the Closing, and from and after the Closing, Purchaser shall pay, perform and discharge when due, all Liabilities of Sellers under the Acquired Spectrum Leases, Real Property Leases and Assigned Contracts to be performed under the terms thereof after the Closing Date (the "Assumed Liabilities"); *provided, however*, that any Contract that was required to be listed on Schedule 5.09(a) pursuant to Section 5.09(a)(iii) which is not so listed shall not be an Assumed Liability unless Purchaser shall agree in writing to assume such Contract. Except for the Assumed Liabilities referred to in the preceding sentence, Purchaser shall not assume, or be obligated or liable for, any Liabilities of Sellers, or any of their Affiliates or their respective

predecessors, assignors, or transferors, or the Business (the "Excluded Liabilities"), whether in connection with the Acquisition, the transactions contemplated hereby, or otherwise

2.05 Specifically Excluded Liabilities Notwithstanding Section 2.04, or any other provision of this Agreement or any Ancillary Agreement, the following shall constitute Excluded Liabilities, and Purchaser shall not assume any of the following Liabilities of any of Sellers or any of their Affiliates or their respective predecessors, assignors or transferors, all of which shall be retained and paid, performed and discharged when due by Sellers or one of their respective Affiliates

(i) except as specifically set forth in Section 2.04, any Liability relating to or arising out of the Business or any Acquired Asset, whether express or implied, liquidated, absolute, accrued, contingent or otherwise, or known or unknown, and based upon, arising out of or resulting from any fact, circumstance, occurrence, condition, act or omission existing on or occurring on or prior to the Closing Date,

(ii) any Liability that relates primarily to, or that arises primarily out of, any Excluded Asset, or that arises out of the distribution to, or ownership by, any of Sellers of the Excluded Assets or associated with the realization of the benefits of any Excluded Asset;

(iii) except as expressly provided in Section 7.15, any Liability for Taxes, whether or not accrued, assessed or currently due and payable, (A) of any of Sellers or their Affiliates, or (B) of any other party for which a Seller or their Affiliates may be liable, or to which any Acquired Asset may be subject, whether under a tax sharing or other agreement, or (C) relating to the operation or ownership of the Business or any of the Acquired Assets, for any Tax period (or portion thereof) ending on or prior to the Closing Date,

(iv) any Liability of any Seller or any Affiliate of any Seller relating to any present or former employee or employees, including under any compensation, retirement or other employee benefit plan or arrangement and whether incurred before or after the Closing Date,

(v) any Liability of any Seller to any other Seller or to any Affiliate of such Person (including any Affiliates of WorldCom that are not Sellers),

(vi) any Liability resulting from any default, breach, forfeitures, fines, nonperformance, misfeasance, malfeasance, violation of Law, or nonfeasance by or on behalf of any Seller or its Affiliates,

(vii) subject to Section 7.23, any Liability under an Acquired Spectrum Lease, Real Property Lease or Assigned Contract accrued, incurred or arising on or prior to the Closing Date, and

(viii) any Liability resulting from any Proceeding, pending or threatened, arising from or relating to activities of Sellers or their Affiliates, including Proceedings identified on Schedule 5.15(a)

2.06 Assumed Contracts Payment of Cure Amounts Subject to Section 2.07, on the Closing Date and pursuant to Section 365 of the Bankruptcy Code, Sellers shall assume and assign to Purchaser the Real Property Leases, Acquired Spectrum Leases and the Assigned Contracts. In furtherance of such assumption and assignment, on the Closing Date, Sellers shall pay by check or wire transfer 100% of the cure amounts not in dispute or as determined by the Bankruptcy Court, if any, necessary to cure all defaults, if any, and to pay all actual or pecuniary losses that have resulted from such defaults under the Real Property Leases, Acquired Spectrum Leases and the Assigned Contracts (collectively, the "Cure Amounts") Subject to Section 2.07(d), if a dispute arises in relation to the Cure Amounts payable in relation to a Real Property Lease, Acquired Spectrum Lease or Assigned Contract which is not resolved prior to the Closing, then (i) Sellers shall be responsible for payment of 100% of such Cure Amounts as and when the dispute is resolved, and (ii) if Sellers deem it practicable, Sellers shall pay the undisputed portion of such disputed Cure Amounts at the Closing.

2.07 Right to Exclude Certain Assets.

(a) Subject to Section 2.07(b), during the period from the date of this Agreement to the Exclusion Date, Purchaser, in its sole discretion and at its option, by written notice to Sellers, may remove any Real Property Lease, Acquired Spectrum Lease, Assigned Contract or other Acquired Asset from the Acquired Assets, and such removed Acquired Asset shall cease to be an Acquired Asset under this Agreement for any purpose (including for purposes of the definitions of Real Property Lease, Acquired Spectrum Lease or Assigned Contract, as applicable) and shall thereafter be an Excluded Asset. All Liabilities relating to or arising under any Real Property Lease, Acquired Spectrum Lease, Assigned Contract or other Acquired Asset removed pursuant to the preceding sentence that would otherwise constitute an Assumed Liability shall become an Excluded Liability upon such removal. Removal of any Acquired Asset pursuant to this Section 2.07(a) will not reduce the Purchase Price. Purchaser may only exercise its right to exclude an Acquired Asset from the Acquisition pursuant to this Section 2.07(a) if Purchaser delivers written notice of such exclusion to Sellers before the Exclusion Date for the applicable asset that Purchaser elects to exclude. For the avoidance of doubt, Purchaser may deliver more than one written notice of exclusion to Sellers with respect to different assets pursuant to this Section 2.07(a). Notwithstanding anything to the contrary in this Section 2.07(a), Purchaser shall not have the right to remove any Short Term Lease from the Acquired Assets if Sellers obtain an amendment or renewal of such Short Term Lease as contemplated by Section 7.22.

(b) If Purchaser exercises its right to exclude any Real Property Leases, Tower Assets or Tower Subleases pursuant to Section 2.07(a), then (i) a Tower Site Lease and the Tower Assets located on the property covered thereby shall not be separated from each other by reason of such exclusion, and (ii) a Ground Lease, the Tower Assets located on the property covered thereby and any Tower Subleases of space upon the Transmission Tower located on the property covered thereby shall not be separated from each other by reason of such exclusion.

Accordingly, if Purchaser exercises its right to exclude any of the Acquired Assets referred to in clauses (i) or (ii) above from the Acquisition, then Purchaser may only do so by excluding all other assets referred to in the same clause. Furthermore, for the avoidance of doubt, Purchaser may only exercise its right to exclude the Acquired Assets referred to in clauses (i) or (ii) from the Acquisition (x) before the Exclusion Date for the Tower Site Lease, in the case of the assets referred to in clause (i), or (y) before the Exclusion Date for the Ground Lease, in the case of the assets referred to in clause (ii). The exclusion or deemed exclusion of additional Acquired Assets from the Acquisition pursuant to this Section 2.07(b) shall not reduce the Purchase Price. For the avoidance of doubt, Purchaser may exclude any Real Property Leases, Tower Assets or Tower Subleases from the Acquired Assets without excluding any related Company FCC Licenses, Company Pending Applications, Acquired Spectrum Leases, Third Party Licenses or other FCC Licenses.

(c) For purposes of this Agreement, "Exclusion Date" means (i) in the case of a Real Property Lease, Acquired Spectrum Lease or Assigned Contract, a date that is the earlier of five (5) Business Days prior to (x) the Plan Confirmation Hearing Date (or, as to any such lease or contract for which the Bankruptcy Court extends the deadline for assumption or rejection beyond the deadline set forth in 11 U.S.C. § 365(d)(2), the date to which extended) or (y) the Closing Date, and (ii) in the case of any other Acquired Asset, means a date that is ten (10) Business Days prior to the Closing Date. If the Plan Confirmation Hearing Date is rescheduled from August 25, 2003, Sellers shall provide Purchaser with written notice of the rescheduled Plan Confirmation Hearing Date promptly after such rescheduled date is set.

(d) If a dispute arises between any Seller and a third party in relation to the Cure Amount payable in relation to an Acquired Spectrum Lease, Real Property Lease or Assigned Contract which is not resolved prior to the Closing, then the rights and obligations of Purchaser and Sellers with respect to such Acquired Asset and the Cure Amount payable in relation thereto shall be governed by the provisions of Schedule 2.07(d).

(e) Purchaser undertakes and agrees to notify Sellers of any decision to remove an asset from the Acquired Assets pursuant to its rights under Section 2.07(a) promptly after such decision is made, irrespective of the reasons for making such decision.

2.08 Risk of Loss Prior to the Closing, any loss of or damage to any of the physical Acquired Assets from fire, casualty, condemnation or any other occurrence not covered by insurance payable to Purchaser shall be the sole responsibility of Sellers. Such risk of loss with respect to the physical Acquired Assets shall transfer, with the Acquired Assets, from Sellers to Purchaser at the Closing. If any loss or damage is so substantial as to prevent (i) the operation of, or constitute a loss of, any portion of the physical Acquired Assets having a fair market value in excess of \$2,500,000 or (ii) the replacement or restoration of the lost or damaged property within 60 days after the occurrence of the event resulting in such loss or damage, Sellers will promptly and in any event not later than ten (10) Business Days prior to the Closing notify Purchaser of that fact and Purchaser, at any time within five (5) Business Days after receipt of such notice, may elect by written notice to Sellers to either (x) waive such defect or (y) terminate this Agreement pursuant to Article IX hereof. If Purchaser elects to so terminate this Agreement, Purchaser and Sellers will be discharged of any and all obligations hereunder.

subject to Article IX hereof. If, on the other hand, Purchaser elects to waive such defect notwithstanding such loss or damage, there will be no adjustment to the Purchase Price on account of such loss or damage, but upon the consummation of the Acquisition and the transactions contemplated hereby, all insurance or condemnation proceeds payable to Sellers as a result of the occurrence of the event resulting in such loss or damage (other than insurance proceeds in relation to "business interruption" damages based upon lost profits or business opportunities in respect of the period prior to the Closing) will be delivered by Sellers to Purchaser, or the rights to, or the rights to seek, such proceeds will be assigned by Sellers to Purchaser if not yet received by Sellers, and Sellers shall use commercially reasonable efforts (as defined herein) to obtain any such proceeds.

ARTICLE III PURCHASE PRICE

3.01 Purchase Price Subject to Schedule 2.07(d), Section 3.03 and Schedule 7.26, in consideration of the conveyance to Purchaser of the right, title and interest of Sellers as of the Closing in and to the Acquired Assets, Purchaser shall:

(a) pay Sellers an amount equal to One Hundred Forty-Four Million Dollars (\$144,000,000) (the "Purchase Price"), and

(b) assume, effective as of the Closing, and thereafter pay, perform and discharge when due, the Assumed Liabilities

3.02 Purchase Price Deposit Pursuant to the Bidding Procedures Order and the Escrow Agreement, Purchaser has deposited with Wilmington Trust Company, in its capacity as escrow agent (the "Escrow Agent") the sum of Seven Million Five Hundred Thousand Dollars (\$7,500,000) in cash or other form of immediately available U.S. funds (the "Escrowed Funds"), to be released by the Escrow Agent and delivered to either Purchaser or Sellers, in accordance with the provisions of the Escrow Agreement and this Section 3.02. Subject to the provisions of the Escrow Agreement, the Escrowed Funds (together with any investment income earned thereon) shall be distributed as follows:

(a) if the Closing shall occur, the Escrowed Funds shall be applied towards the Purchase Price payable by Purchaser to Sellers pursuant to Section 4.03(a) hereof, and any investment income earned thereon shall be delivered to Purchaser at the Closing;

(b) if this Agreement is terminated by Sellers pursuant to Section 9.01(g), the Escrowed Funds (together with any investment income earned thereon) shall be delivered to Sellers, or

(c) if this Agreement is terminated for any reason other than as stated in Sections 3.02(a) or (b), the Escrowed Funds (together with any investment income earned thereon) shall in each case be delivered to Purchaser.

3.03 Closing Adjustment If any of the Company FCC Licenses set forth on Schedule 3.03 (the "Principal Licenses") are not assigned to Purchaser at the Closing because the approval of the FCC with respect to the FCC Assignment Applications related thereto shall not have been obtained by Final Order (unless waived by Purchaser), or has been obtained with modifications or conditions adverse to Purchaser, then the Purchase Price shall be adjusted in the manner contemplated in Schedule 3.03

3.04 Payments and Computations Each party shall make each payment due to the other parties hereunder as soon as practicable on the day when due in U.S. dollars by wire transfer in immediately available funds. All payments by Purchaser hereunder shall be made to a single account to be specified by WorldCom within thirty (30) days after the date of this Agreement, and payment to such account shall constitute payment to any or all of Sellers as may be required hereunder. Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest. If no time is otherwise specified herein for any settlement between the parties for amounts paid or incurred by a party for which another party is responsible hereunder, such settlement shall be made by payment by the responsible party to the paying or incurring party within ten (10) Business Days of demand therefor.

3.05 Purchase Price Allocation As soon as practicable following the Closing, Sellers and Purchaser shall mutually agree on an allocation of the Purchase Price and Assumed Liabilities among the Acquired Assets according to the relative fair market values of such assets on the Closing Date and consistent with Section 1060 of the Code. If Sellers and Purchaser are unable to agree on such fair market values within ninety (90) days after the Closing, Sellers and Purchaser shall elect an independent appraisal firm to determine such values. The conclusions of such appraisal firm shall be conclusive and binding. The fees and expenses of such appraisal firm shall be borne 50% by Sellers and 50% by Purchaser. Following the Closing Date, Sellers and Purchaser in connection with their respective U.S. Federal, state and local income tax returns (including amended tax returns and claims for refunds) and other filings, shall not take (and shall cause their Affiliates not to take) any position inconsistent with the allocation determined pursuant to this Section 3.05. Purchaser and Sellers shall cooperate in the filing of any forms (including Form 8594) with respect to such allocation, including any amendments to such forms required with respect to any adjustment to the Purchase Price pursuant to this Agreement, whether pursuant to Schedule 2.07(d), Section 3.03, Section 3.07, Schedule 7.26 or otherwise.

3.06 Contingent Consideration

(a) If (1) prior to the first anniversary of the Closing Date, the FCC adopts rules relocating the MDS-1 and MDS-2/2A spectrum acquired by Purchaser hereunder (the "MDS Assets") to provide for 10-12 MHz of paired spectrum in the 1910-1920 MHz and 1990-2000 MHz band and (2) after the date of adoption of such rules, Purchaser consummates one or more Qualifying Cash Sales (as defined below) then, upon the consummation of each Qualifying Cash Sale, Sellers shall have the right to receive from Purchaser an amount ("Contingent Consideration") equal to five percent (5%) of the amount of the aggregate cash consideration received by Purchaser through the date of consummation of that Qualifying Cash Sale with

respect to that Qualifying Cash Sale. For purposes hereof, (A) "Non-cash Proceeds" means any non-cash sale proceeds (including promissory notes) received upon any sale of MDS Assets to an unaffiliated third party that is consummated before the second anniversary of the Closing Date, and (B) "Qualifying Cash Sale" means any one or more of the following

(i) any sale by Purchaser for cash of one or more MDS Assets to an unaffiliated third-party that is consummated before the second anniversary of the Closing Date or is consummated after such second anniversary pursuant to an agreement entered into before such second anniversary; or

(ii) any sale by Purchaser for cash to an unaffiliated third-party of any Non-cash Proceeds, which sale is consummated before the third anniversary of the Closing Date, or

(iii) any receipt by Purchaser of cash representing a payment of principal or interest on any promissory note received as Non-cash Proceeds, which payment is received before the third anniversary of the Closing Date. The date of any such receipt of a payment under this clause (iii) shall be deemed to be the date of consummation of a Qualifying Cash Sale in the amount so received

(b) The amount of any Contingent Consideration due in connection with any Qualifying Cash Sale shall be paid by Purchaser to Agent for the benefit of Sellers within thirty (30) days following the date of the consummation of that Qualifying Cash Sale. For the avoidance of doubt, no Contingent Consideration shall be payable (i) under any circumstances based on any sale of MDS Assets or Non-cash Proceeds or collection of payments on promissory note Non-cash Proceeds to the extent the proceeds of such sale or collection are not received by Purchaser in cash, or (ii) based on any sale or collection that is not consummated strictly within and in accordance with all applicable time periods referred to in this Section 3.06, and nothing contained in this Section 3.06 shall affect or be binding on any purchaser of MDS Assets or Non-cash Proceeds from Purchaser

(c) For the avoidance of doubt, cash received by Purchaser pursuant to one or more sales of its assets will only be deemed to be cash received from a Qualifying Cash Sale to the extent that such cash received relates to MDS Assets. Purchaser will not be required to pay Sellers any Contingent Consideration for non-MDS Assets sold by Purchaser. In connection with the foregoing, Purchaser agrees that if MDS Assets and non-MDS Assets are collectively sold or otherwise conveyed in a transaction or series of related transactions then (i) the purchase price received for the assets will be allocated by Purchaser according to the relative fair market value of the MDS Assets and non-MDS Assets on the closing date of such sale, and (ii) any cash proceeds received from such sale shall be allocated among the MDS Assets and non-MDS Assets on a pro rata basis. For example, if the total purchase price for such a sale is \$100 million, the cash portion of such purchase price is \$60 million, the fair market value assigned to the MDS Assets is \$25 million and the fair market value assigned to the non-MDS Assets is \$75 million, then \$15 million of the cash proceeds will be allocated to the MDS Assets.

(d) Notwithstanding anything to the contrary in the foregoing provisions of this Section 3.06, Purchaser will not be required to pay any Contingent Consideration to Sellers if (i) MDS Assets are sold or otherwise conveyed to any party through a transaction or series of related transactions that involve the sale, transfer or disposition of substantial assets or businesses of Nextel Communications, Inc. and its subsidiaries, taken as a whole, whether through merger, stock sale, asset sale, lease or other disposition, or (ii) MDS Assets are sold or otherwise conveyed to Nextel Partners, Inc. or one or more of its subsidiaries.

3.07 Post-Closing Adjustment If the Closing occurs, then Sellers shall pay to Purchaser the amount, if any, required to be paid to Purchaser as determined in accordance with Schedule 3.07, within the time frame specified in Schedule 3.07.

ARTICLE IV THE CLOSING

4.01 Closing Date The closing of the Acquisition (the "Closing") shall take place at the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York, at 10:00 a.m., local time, on a date mutually agreed to by Purchaser and Sellers, which date shall be as soon as practicable but in no event later than five (5) Business Days following the satisfaction or waiver of the conditions set forth in Article VIII (other than those conditions that by their nature cannot be satisfied until the time of Closing). The date on which the Closing occurs is referred to herein as the "Closing Date".

4.02 Deliveries by Sellers At the Closing, Sellers shall deliver to Purchaser

(a) duly executed deeds, bills of sale, assignments and other documents and instruments of transfer, in form and substance reasonably acceptable to Purchaser and its counsel, as may be necessary to sell, assign, transfer, convey and deliver good and valid title to the Acquired Assets to Purchaser, free and clear of all Liens pursuant to Section 363(f) of the Bankruptcy Code,

(b) if applicable, any payment required to be made pursuant to the terms of Section 7.23, by wire transfer of immediately available funds to a bank account designated in writing by Purchaser (such designation to be made at least three (3) Business Days prior to the Closing Date),

(c) a certified copy of the Approval Order, and

(d) the officer's certificate required to be delivered pursuant to Section 8.02(c)

4.03 Deliveries by Purchaser At the Closing, Purchaser shall deliver to Sellers

(a) payment in cash, by wire transfer of immediately available funds to a single bank account designated in writing by Agent (such designation to be made at least three (3) Business Days prior to the Closing Date), in an amount equal to

(i) the Purchase Price (as adjusted pursuant to Schedule 2.07(d), Section 3.03 and Schedule 7.26, if applicable), minus any Escrowed Funds available for delivery to Sellers (which funds shall be delivered by the Escrow Agent to Sellers at the Closing pursuant to this Agreement and the provisions of the Escrow Agreement), plus

(ii) if and to the extent that the FCC has approved the assignment by Final Order of any of the Third Party Licenses from Sellers to Purchaser as of the Closing, the amounts set forth on Schedule 4.03(a)(ii) in relation to the Third Party Licenses actually delivered at the Closing, plus

(iii) if applicable, any payment required to be made pursuant to the terms of Section 7.23, plus

(iv) if applicable, any payment required to be made pursuant to the terms of Section 7.24, plus

(v) if applicable, the pro-rata portion of any monthly payment required to be made pursuant to the terms of Section 7.25 that is then due and payable,

(b) duly executed assumption agreements and other instruments of assumption, in form and substance reasonably acceptable to Sellers and their counsel, providing for the assumption of the Assumed Liabilities by Purchaser; and

(c) the officer's certificate required to be delivered pursuant to Section 8.03(c)

4.04 Joint Delivery At or immediately prior to the Closing, Purchaser and Sellers shall deliver to the Escrow Agent a joint written instruction signed by Purchaser and Sellers informing the Escrow Agent that the Closing will occur and directing the Escrow Agent to deliver the Escrowed Funds to Sellers and to deliver all investment income earned on the Escrowed Funds to Purchaser as soon as practicable

ARTICLE V REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers hereby, jointly and severally, represent and warrant to Purchaser as follows

5.01 Organization, Standing and Power. Each Seller is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and, subject to the limitations imposed on each Seller as a result of having filed a petition for relief under the Bankruptcy Code, each Seller has the requisite corporate power and authority to own, lease or otherwise hold its properties and assets and to conduct the Business as presently conducted.

Each Seller is duly qualified to do business as a foreign corporation in each jurisdiction where the nature of the Acquired Assets held by it or the nature of the business conducted by it make such qualification necessary, except where the failure to be so qualified, individually or in the aggregate, could not reasonably be expected to have a Sellers Material Adverse Effect

5.02 Authority, Execution and Delivery, Enforceability Each Seller has the requisite corporate power and authority to (i) execute this Agreement and any Ancillary Agreement to which it is, or is specified to be, a party and (ii) subject to entry of the Approval Order, consummate the Acquisition and the other transactions contemplated hereby and thereby. The execution and delivery by each Seller of this Agreement and any Ancillary Agreement to which it is, or is specified to be, a party and the consummation by each Seller of the Acquisition and the other transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of each Seller. Each Seller has duly executed and delivered this Agreement and prior to the Closing each Seller will have duly executed and delivered each Ancillary Agreement to which it is, or is specified to be, a party. This Agreement constitutes, and each Ancillary Agreement to which each Seller is, or is specified to be, a party will, after the Closing, constitute its legal, valid and binding obligation, enforceable against it in accordance with its terms (assuming in each case due authorization, execution and delivery thereof by the other parties thereto which are not a Seller or an Affiliate thereof, and the entry of the Approval Order) subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity (collectively, the "Enforceability Exceptions")

5.03 No Conflicts. Except as set forth on Schedule 5.03, the execution and delivery by Sellers of this Agreement do not, the execution and delivery by Sellers of each Ancillary Agreement to which they are, or are specified to be, parties will not, and the consummation of the Acquisition and the other transactions contemplated hereby and thereby and compliance by Sellers with the terms hereof and thereof will not, conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any Lien upon any of the Acquired Assets of Sellers under, any provision of (i) the certificate of incorporation, articles of incorporation or by-laws of any Seller, (ii) subject to entry of the Approval Order, any Acquired Spectrum Lease, Real Property Lease, or any material Assigned Contract to which any Seller is a party or any Contract by which any of the Acquired Assets are bound or (iii) subject to (x) entry of the Approval Order, and (y) the governmental filings and other matters referred to in Section 5.04, any judgment, order or decree ("Judgment") or Law applicable to any Acquired Asset or any Seller

5.04 Governmental Filings, Consents. Except as set forth on Schedule 5.04, no material consent, approval, license, permit, order or authorization ("Consent") of, or registration declaration or filing with, any Governmental Authority or third party is required to be obtained or made by or with respect to any Seller in connection with the execution, delivery and performance by Sellers of this Agreement or any Ancillary Agreement or the consummation of the Acquisition or the other transactions contemplated hereby and thereby, other than (i) compliance with and filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976

(the "HSR Act") and similar foreign competition regulations, (ii) compliance with and filings, if any, under Section 13(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), (iii) filings with and approvals of the Federal Communications Commission (the "FCC") as required under the Communications Act of 1934 (the "Communications Act") and the FCC Rules, (iv) entry of the Approval Order, or (v) those that may be required solely by reason of the participation of Purchaser or its Subsidiaries (as opposed to any other third party) in the Acquisition and the other transactions contemplated hereby and by the Ancillary Agreements

5 05 Transactions with Affiliates Except as set forth on Schedule 5 05, there are no material Contracts pursuant to which any goods, services, materials or supplies are provided by WorldCom or any of its Affiliates (other than Sellers), on the one hand, to Sellers (other than WorldCom), on the other hand, in relation to the use or operation of the Acquired Assets

5 06 Title to and Condition of Acquired Assets.

(a) Except as set forth on Schedule 5 06(a), Sellers have good and valid title to all of the tangible personal property constituting Acquired Assets, in each case free and clear of any mortgage, pledge, hypothecation, security interest, encumbrance, right of offset, claim (including as defined in 11 U S C § 101(5)), easement, lease, sublease, covenant, right of way, option, restriction on use, lien or charge of any kind, or any rights or claims of ownership of others, however evidenced or created (including any agreement to grant any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature thereof, and the filing of or agreement to file any financing statement under the lien notice records or other similar legislation of any jurisdiction) (collectively, "Liens"), other than Permitted Liens. For the avoidance of doubt, the foregoing sentence of this Section 5.06(a) does not apply to Sellers' rights, titles and interests under (i) the Real Property Leases, which are instead addressed in Section 5 07 or (ii) FCC Licenses, which are instead addressed in Sections 5 11, 5 12 and 5.13 Except as set forth on Schedule 5 06(a), neither WorldCom, nor any Affiliates of WorldCom, other than Sellers (excluding WorldCom), owns or holds any rights, titles or interests in (including any Lien on) any of the tangible or intangible Acquired Assets

(b) Except as set forth on Schedule 5 06(b), all of the buildings, improvements, fixtures, machinery, equipment and other tangible assets included in the Acquired Assets having an original purchase price, or if leased, having aggregate annual lease payments, of at least \$50,000 are in good operating condition and repair, except for ordinary wear and tear and are useable in the ordinary course of business

5 07 Real Property

(a) Sellers do not own any real property that is necessary for, or is primarily used or held for use in, the Business

(b) Schedule 2 02(i) sets forth a true and complete list as of the date of this Agreement of the following information in relation to each of the Real Property Leases (i) the market in which the lease is used, (ii) the expiration date of the lease, (iii) the name of the lessor,

(iv) the address or location of the leased premises or tower site, and (v) the monthly, quarterly or annual rent, as applicable, payable under such lease. To the extent in the possession of Sellers, Sellers have made available to Purchaser and have delivered to Purchaser, or within ten (10) Business Days after the date of execution of this Agreement will deliver to Purchaser, true and complete copies of the Real Property Leases. The Real Property Leases set forth on Schedule 2.02(1) are all of the real property leases that are necessary to use the equipment on the Tower Sites and to access such equipment in connection with such use.

(c) Except as set forth on Schedule 5.07(c), subject to entry of the Approval Order, at the Closing, Sellers will hold, and will transfer to Purchaser, the leasehold estate under or other similar interest in each Real Property Lease free and clear of all Liens, except (i) leases, subleases and similar agreements set forth on Schedule 5.09(a), (ii) easements, covenants, rights-of-way and other similar restrictions of record, (iii) any conditions that may be shown by a current, accurate survey or physical inspection of the applicable Tower Site made prior to Closing, and (iv) (x) zoning, building, subdivision, environmental and other similar restrictions, (y) Liens that have been placed by any developer or landlord on property over which Sellers have easement rights or on any of the Tower Sites and subordination or similar agreements relating thereto and (z) unrecorded easements, covenants, rights-of-way and other similar restrictions (collectively, the "Permitted Encumbrances"). None of the Permitted Encumbrances, individually or in the aggregate, materially impairs the continued use and operation of the Tower Site to which they relate in the conduct of the Business as presently conducted.

(d) Except as set forth on Schedule 5.07(d) and assuming payment of the applicable Cure Amounts, (i) subject to entry of the Approval Order, each of the Real Property Leases is valid, binding and in full force and effect, enforceable by Sellers in accordance with its terms (subject to the Enforceability Exceptions), except where the failure to be valid, binding and in full force and effect, individually or in the aggregate, could not reasonably be expected to have a Sellers Material Adverse Effect, (ii) none of Sellers has assigned, pledged, transferred, or otherwise disposed of or granted any Lien on its rights, titles and interests under any of the Real Property Leases to any other Person, nor, to the Knowledge of Sellers, has any other party to the Real Property Leases so assigned, pledged, transferred, granted any Lien on, or otherwise disposed of any of its rights, title and interests thereunder; (iii) neither Sellers nor, to the Knowledge of Sellers, any other party to any of the Real Property Leases has failed to comply with or is in breach or default thereunder, except in each case for such noncompliance, breaches and defaults that, individually or in the aggregate, could not reasonably be expected to have a Sellers Material Adverse Effect; and (iv) to the Knowledge of Sellers, no condition exists or event has occurred which, with or without the lapse of time or the giving of notice, or both, would constitute a default by any party under any Real Property Lease, except where the occurrence of any such event or existence of any such condition could not reasonably be expected to have a Sellers Material Adverse Effect.

(e) As of the Closing Date, all of the Transmission Towers owned by Sellers located on the Tower Sites are obstruction-marked and lighted to the extent required by, and in accordance with, the rules and regulations of the Federal Aviation Administration (the "FAA") and the FCC Rules. Appropriate notification to the FAA and registration with the FCC has been made or, prior to the Closing, will be made, for each Transmission Tower located on the Tower

Sites and owned, leased or used by Sellers where required by the rules and regulations of the FAA or the FCC Rules, as applicable

5.08 Tower Subleases. Schedule 5.08 sets forth a true and complete list as of the date of this Agreement of the following information in relation to each of the Tower Subleases (i) the expiration date of such Tower Sublease, (ii) the name of the lessee or other counterparty to such Tower Sublease, (iii) the address or location of the leased premises or tower site, and (iv) the monthly, quarterly or annual rent, as applicable, payable under such Tower Sublease. Sellers have made available to Purchaser and have delivered to Purchaser, or within ten (10) Business Days after the date of execution of this Agreement will deliver to Purchaser, true and complete copies of the Tower Subleases

5.09 Contracts

(a) Except as set forth on Schedule 5.09(a), and except for any Contracts which are Excluded Assets, as of the date of this Agreement, Sellers are not party to or bound by any Contract that is primarily used or primarily held for use in, or that arises primarily out of the operation of any Acquired Asset that is or includes or provides for

(i) a covenant not to compete in any geographical area or in any line of business that would apply to any of the Acquired Assets after the Closing;

(ii) a lease, sublease or similar Contract with any Person under which any of Sellers is a lessor, sublessor or licensor of, or makes available for use to any Person, any owned Transmission Tower, or any other Tower Assets;

(iii) a maintenance agreement or similar Contract providing for maintenance, repair, servicing or similar obligations of third parties with respect to the Tower Assets or any portion thereof that has an aggregate future liability to Sellers in excess of \$250,000 or is not terminable by Sellers by notice of not more than 90 days for a cost of less than \$250,000; or

(iv) a Contract for the sale of any Acquired Asset or any right, title or interest therein or the grant of any preferential rights (including options and rights of first refusal) to purchase any Acquired Asset or requiring the consent of any third party to the transfer thereof.

To the extent in the possession of Sellers, Sellers have made available to Purchaser and have delivered to Purchaser, or within ten (10) Business Days after the date of execution of this Agreement will deliver to Purchaser, true and complete copies of any Assigned Contracts set forth on Schedule 5.09(a)

(b) Except as set forth on Schedule 5.09(b) and assuming payment of the applicable Cure Amounts, (1) subject to entry of the Approval Order, all Assigned Contracts are valid, binding and in full force and effect and are enforceable by Sellers, as applicable, in accordance with their terms (subject to the Enforceability Exceptions), except where the failure

to be valid, binding and in full force and effect, individually or in the aggregate, could not reasonably be expected to have a Sellers Material Adverse Effect; (ii) neither Sellers nor, to the Knowledge of Sellers, any other party to any of the Assigned Contracts has failed to comply or is in breach or default in any respect thereunder, except in each case for such noncompliance, breaches and defaults that, individually or in the aggregate, could not reasonably be expected to have a Sellers Material Adverse Effect, and (iii) to the Knowledge of Sellers, no condition exists or event has occurred which, with or without the lapse of time or the giving of notice, or both, would constitute a default by any party under any Assigned Contract, except where the occurrence of any such event or existence of any such condition could not reasonably be expected to have a Sellers Material Adverse Effect. This Section 5.09(b) does not apply to Real Property Leases, which are instead addressed in Section 5.07, or Acquired Spectrum Leases, which are instead addressed in Section 5.12.

5.10 Permits (i) Sellers have all licenses, permits, certificates, approvals, registrations and other authorizations required in connection with the ownership and operation of the Acquired Assets as currently conducted (collectively, "Permits"), (ii) none of Sellers is in material violation of any Permit, and (iii) no Proceedings are pending or, to the Knowledge of Sellers, threatened that could reasonably be expected to result in the revocation, cancellation, adverse modification or non-renewal of any Permit. This Section 5.10 does not apply to FCC Licenses, which are instead addressed in Sections 5.11, 5.12 and 5.13.

5.11 Company FCC Licenses

(a) Schedule 2.02(iv) sets forth a true and complete list as of the date of this Agreement of all FCC Licenses held by Sellers and any of their Affiliates that are used or held for use in the Business. For each such FCC License, Schedule 2.02(iv) sets forth the (i) name of the licensee, (ii) FCC call sign, (iii) authorized channel(s) (if MMDS) or frequency block (if WCS), and (iv) market where the facilities are authorized ("Acquired Market").

(b) Except for the Company FCC Licenses set forth on Schedule 5.11(b) and disregarding any Company Pending Applications that may become Company FCC Licenses after the date hereof (i) to the Knowledge of Sellers, the grant, renewal or assignment of the Company FCC Licenses to the existing licensee thereof was approved by the FCC by Final Order; and (ii) the Company FCC Licenses are validly issued and in full force and effect. Except for the Company FCC Licenses set forth on Schedule 5.11(b) and disregarding any Company Pending Applications that may become Company FCC Licenses after the date hereof, there is no Proceeding pending before the FCC or, to the Knowledge of Sellers, threatened, which, if determined as requested by the moving party or as indicated in any document initiating such Proceeding, could result in the revocation, modification, restriction, cancellation, termination or non-renewal of the Company FCC Licenses or other action which is adverse to any of Sellers, or the imposition of a monetary fine. Sellers have made on a timely basis all payments to the United States Government for those of the Company FCC Licenses that are Basic Trading Area ("BTA") authorizations ("Acquired BTA Licenses").

(c) Schedule 2.02(v) sets forth a true and complete list of all applications pending with the FCC as of the date hereof for new MMDS station authorizations, assignments

or transfers of MMDS station authorizations, modifications of MMDS station authorizations, extensions of time to construct Protected Service Area ("PSA") stations and renewals of MMDS station authorizations filed by any Seller (collectively, the "Company Pending Applications"), *provided, however* that applications to which any Seller is a party with regard to Third Party Licenses shall not be deemed Company Pending Applications, but shall instead be deemed Third Party Pending Applications. Schedule 2 02(v) includes a true and complete list for each Company Pending Application of (i) the name of the applicant, (ii) the FCC file number, (iii) the proposed channel(s), and (iv) the general purposes of such applications

(d) Except as set forth on Schedule 5 11(d), no Company Pending Application (i) is subject to any objection or petition to deny, which objection or petition to deny has been filed with the FCC, or (ii) to the Knowledge of Sellers, proposes facilities that the FCC has advised a Seller are predicted to cause impermissible interference as determined by Parts 21 and 74 of the FCC Rules

(e) Except as set forth on Schedule 5 11(b) and Schedule 5 11(e), (i) the facilities subject to a Company FCC License for which a certification or notification of completion of construction has been filed with the FCC ("Constructed Facilities") are operating and at all times since January 1, 2003 have been operating in material compliance with the FCC authorization therefor, the Communications Act and FCC Rules, and (ii) Sellers are not transmitting from or otherwise operating any facility that is not the subject of an FCC authorization. Except as set forth on Schedule 5.11(e): (i) none of the facilities subject to a Company FCC License (x) disregarding any Company Pending Application that may become a Company FCC License after the date hereof, is authorized pursuant to an authorization which is subject to challenge before the United States Court of Appeals, or (y) is subject to any lease, sub-lease or any agreement to make it available to a third party; (ii) no Company FCC License (disregarding any Company Pending Application that may become a Company FCC License after the date hereof) is subject to (x) a revocation proceeding or (y) a pending request for waiver of Section 21.303 of the FCC Rules, and (iii) no Constructed Facilities are operating pursuant to special temporary or developmental authority

(f) Since January 1, 2001, all Annual FCC Reports required to be filed by each Seller with the FCC with respect to the Company FCC Licenses have been timely filed. Except as set forth on Schedule 5 11(e), to the Knowledge of Sellers, all Annual FCC Reports filed for calendar year 2002 are complete and accurate

(g) Sellers have delivered to Purchaser, or within ten (10) Business Days after the date of execution of this Agreement will deliver to Purchaser, true and complete copies of the FCC Licenses set forth on Schedule 2 02(iv), the Company Pending Applications and all documents filed in any Proceeding pending at the FCC relating to the aforementioned FCC Licenses and Company Pending Applications

(h) Notwithstanding anything to the contrary in this Section 5.11, the representations and warranties of Sellers set forth in Sections 5.11(b), 5 11(e), 5.11(f) and 5 11(g) regarding the Company FCC Licenses apply only to Sellers' MMDS and WCS licenses

(excluding MMDS booster station or hub station authorizations) and the Required Secondary Licenses (as defined below), and do not apply to any other FCC Licenses held by Sellers.

(i) Schedule 5.11(i) sets forth a true and complete list of all OFS, CARS and receive-only earth stations that are licensed to Sellers and are currently used, or have been used since January 1, 2003, to transmit programming on any MMDS and ITFS FCC Licenses that are Acquired Assets (excluding MMDS booster and hub stations)(collectively, the "Required Secondary Licenses").

5.12 Acquired Spectrum Leases, Leased FCC Licenses

(a) For each Acquired Spectrum Lease, Schedule 2.02(vi) sets forth (i) the name of the third-party lessor, (ii) the name of the Seller entity that is the lessee, (iii) the FCC call sign or file number covering the Acquired Spectrum Lease, (iv) the channels and Acquired Market in which the Acquired Spectrum Lease is used or useful, and (v) the expiration date of the Acquired Spectrum Lease. To the extent in the possession of Sellers, Sellers have made available to Purchaser and have delivered to Purchaser, or within ten (10) Business Days after the date of execution of this Agreement will deliver to Purchaser, true and complete copies of the Acquired Spectrum Leases.

(b) Except as set forth on Schedule 5.12(b), each Acquired Spectrum Lease is valid, binding and in full force and effect, meets all requirements of Law, and is enforceable in accordance with its terms subject to the Enforceability Exceptions. Except as described in the Acquired Spectrum Leases, a Seller is the lessee under the Acquired Spectrum Lease (by entry into the Acquired Spectrum Lease, assignment of such lease, transfer of rights or other means) and has the sole right (subject to FCC Rules that may limit the right to use excess ITFS spectrum capacity) to use the spectrum under each Acquired Spectrum Lease as required to conduct its business as currently conducted or for the purposes contemplated in the Acquired Spectrum Lease. To the Knowledge of Sellers, other than the terms of each Acquired Spectrum Lease and the FCC Rules limiting the duration of such Acquired Spectrum Leases, there are no facts or circumstances that might (whether with or without notice, lapse of time or the occurrence of any other event) preclude the renewal or extension of such Acquired Spectrum Leases in the ordinary course. Except as set forth on Schedule 5.12(b), and assuming payment of the applicable Cure Amounts, to the Knowledge of Sellers: (i) neither Sellers nor any other party to any of the Acquired Spectrum Leases has (x) failed to comply or is in breach or default thereunder or (y) claimed in any written statement that the counterparty has failed to comply or is in breach or default thereunder, and (ii) the consummation of the Acquisition and the transactions contemplated by this Agreement, subject to the entry of the Approval Order, will not cause any violation, breach or default of any Acquired Spectrum Lease or require the consent of the lessor thereunder. Except as set forth on Schedule 5.12(b), and assuming payment of the applicable Cure Amounts, no party to any Acquired Spectrum Lease has claimed, and to the Knowledge of Sellers, no party has threatened, in any written statement to any of Sellers that such party has a right to terminate the Acquired Spectrum Lease prior to or at the Closing or to seek damages against any of Sellers for the violation, breach or default by any of Sellers of such Acquired Spectrum Lease.

(c) Except as set forth on Schedule 5.12(c) and disregarding any Leased Pending Applications that may become Leased FCC Licenses after the date hereof, to the Knowledge of Sellers (i) the grant, renewal or assignment of the Leased FCC Licenses to the existing licensee thereof was approved by the FCC by Final Order, (ii) the Leased FCC Licenses are validly issued and in full force and effect, and (iii) there is no Proceeding pending before the FCC or threatened, which, if determined as requested by the moving party or as indicated in any document initiating such Proceeding, could result in the revocation, modification, restriction, cancellation, termination or non-renewal of the Leased FCC Licenses or other action which is adverse to the licensee or any of Sellers.

(d) Schedule 5.12(d) sets forth, to the Knowledge of Sellers, a true and complete list of all pending applications as of the date hereof for new MMDS or ITFS station authorizations, assignments or transfers of MMDS or ITFS station authorizations, modifications of MMDS or ITFS station authorizations, extensions of time to construct PSA stations and renewals of MMDS or ITFS authorizations filed by a lessor of any Acquired Spectrum Lease (collectively, the "Leased Pending Applications")

(e) Except as set forth on Schedule 5.12(e), to the Knowledge of Sellers, no Leased Pending Application (i) is subject to any informal objection or petition to deny; or (ii) proposes facilities that the FCC has advised the applicant are predicted to cause impermissible interference as determined by Parts 21 and 74 of the FCC Rules.

5.13 Third Party Licenses

(a) Schedule 2.02(xii) sets forth a true and complete list of certain agreements in force with respect to Sellers' acquisition of the Third Party Licenses (collectively, the "License Acquisition Agreements") Schedule 2.02(xiii) sets forth for each License Acquisition Agreement: (i) the name of the counterparties thereto, (ii) the name of the Seller entity that is the proposed acquirer of the Third Party Licenses, (iii) the FCC call sign or file number for each Third Party License, and (iv) the channels and Acquired Market in which the Third Party License is used or useful. Sellers have delivered to Purchaser or, within ten (10) Business Days after the date of execution of this Agreement will deliver to Purchaser, true and complete copies of the License Acquisition Agreements.

(b) Except as set forth on Schedule 5.13(b), to the Knowledge of Sellers, there is no Proceeding pending before the FCC or threatened, which, if determined as requested by the moving party or as indicated in any document initiating such Proceeding, could result in the revocation, modification, restriction, cancellation, termination or non-renewal of the Third Party Licenses or other action which is adverse to the licensee or any of Sellers.

(c) Schedule 5.13(c) sets forth as of the date hereof, to the Knowledge of Sellers, a true and complete list of all pending applications for new MMDS or ITFS station authorizations, assignments or transfers of MMDS or ITFS station authorizations, modifications of MMDS or ITFS station authorizations, extensions of time to construct PSA channels and renewals of MMDS or ITFS authorizations filed by the licensee of the Third Party Licenses (collectively, the "Third Party Pending Applications")

(d) Except as set forth on Schedule 5.13(d), to the Knowledge of Sellers, no Third Party Pending Application (i) is subject to any informal objection or petition to deny, or (ii) proposes facilities that the FCC has advised the applicant are predicted to cause impermissible interference as determined by Parts 21 and 74 of the FCC Rules

5.14 Taxes. Except as set forth on Schedule 5.14 and except as shall be extinguished by the Approval Order (i) no Tax Liens have been filed or otherwise exist affecting any Acquired Assets and no claims are being asserted in writing with respect to any Taxes, (ii) no Seller is a "foreign person" within the meaning of Section 1445 of the Code, (iii) none of the Acquired Assets secures any indebtedness, the interest on which is tax-exempt under Section 103(a) of the Code, and (iv) none of the Acquired Assets is "tax-exempt use property" within the meaning of Section 168(h) of the Code

5.15 Proceedings Schedule 5.15(a) sets forth a true and complete list of each pending or, to the Knowledge of Sellers, threatened Proceeding against or relating to or involving any Acquired Asset or Assumed Liability Except as set forth on Schedule 5.15(b), Sellers are not a party or subject to or in default under any Judgment applicable or relating to or involving any of the Acquired Assets or Assumed Liabilities This Section 5.15 does not apply to FCC Licenses, which are instead addressed in Sections 5.11, 5.12 and 5.13

5.16 Compliance with Applicable Laws The use and operation of the Acquired Assets by Sellers complies with all Laws, except for instances of noncompliance that, individually or in the aggregate, could not reasonably be expected to have a Sellers Material Adverse Effect Except as set forth on Schedule 5.16, Sellers have not received any written communication from a Governmental Authority that alleges that Sellers' use or operation of the Acquired Assets is not in compliance in any material respect with any Law, nor to the Knowledge of Sellers has any Seller received any oral communication to such effect. This Section 5.16 does not relate to matters with respect to (i) FCC Licenses, which are instead addressed in Sections 5.11, 5.12 and 5.13; (ii) Taxes, which are instead addressed in Section 5.14, or (iii) environmental matters, which are instead addressed in Section 5.17

5.17 Environmental Matters The use or operation of the Acquired Assets is in compliance with all applicable Environmental Laws in all material respects There are no pending or, to the Knowledge of Sellers, threatened Proceedings by or before any Governmental Authority alleging that the use or operation of the Acquired Assets is not in compliance with applicable Environmental Laws Sellers possess and are in compliance, in all material respects, with all permits, licenses and authorizations necessary under Environmental Laws for the operation of the Acquired Assets. The surface land and subsurface land the subject of the Ground Leases are in compliance with all applicable Environmental Laws in all material respects, and there are no pending or, to the Knowledge of Sellers, threatened Proceedings by or before any Governmental Authority alleging that the land referred to in this sentence, or any portion thereof, is not in compliance with applicable Environmental Laws in all material respects

5.18 Absence of Certain Changes. Except as set forth on Schedule 5.18, since September 30, 2002 until the date hereof, the Acquired Assets have been operated and

maintained in the ordinary course, and there has not occurred any Sellers Material Adverse Effect

5.19 Network Equipment Schedule 5.19 sets forth a true and complete list as of the date of this Agreement of all material physical assets owned and used by Sellers in connection with the operation of (i) the Company FCC Licenses (disregarding any Company Pending Applications that may become Company FCC Licenses after the date hereof) and (ii) the Leased FCC Licenses (disregarding any Leased Pending Applications that may become Leased FCC Licenses after the date hereof), in each case located on a site covered by a Tower Site Lease or Ground Lease, as applicable, used by Sellers in connection with the transmission of signals to or from any such site. For the avoidance of doubt, no classification or categorization of the items of equipment set forth on Schedule 5.19 shall be deemed to affect in any way the representations and warranties of Sellers set forth in this Section 5.19.

5.20 Intentionally Omitted

5.21 Brokers or Finders Except for the fees and expenses of Lazard Frères & Co. LLC, which will be paid by Sellers, Sellers have no liability to any agent, broker, investment banker or other firm or Person for any broker's or finder's fee or any other commission or similar fee in connection with the Acquisition or the other transactions contemplated hereby for which Purchaser could become liable or obligated.

5.22 Interference Coordination Agreements Schedule 5.22 sets forth, to the Knowledge of Sellers, a true and complete list of all material agreements (the "Interference Coordination Agreements") regarding the Company FCC Licenses between any of Sellers and any other MMDS or ITFS licensee, applicant, lessor or operator with respect to (i) interference to or from adjacent markets or spectrum within any market affecting the Business as conducted using any Acquired Asset, (ii) the coordination of adjacent market or in-market spectrum use, or (iii) other matters concerned with the operation of channels in adjacent markets or in the same market or agreements for the partitioning of any BTA that is the subject of an Acquired BTA License. Sellers have delivered to Purchaser, or within ten (10) Business Days after the date of execution of this Agreement will deliver to Purchaser, true and complete copies of the Interference Coordination Agreements.

5.23 Copyright. Except as set forth on Schedule 5.23, to the Knowledge of Sellers, Sellers are not liable to any Person for copyright infringement under the U.S. Copyright Act, 17 U.S.C. § 101 et seq., as a result of the operation of the Acquired Assets. There have been no unresolved inquiries received from the U.S. Copyright Office or any other party which questioned such statements of account or any copyright royalty payments made by any Seller and no claim, demand or Proceeding for copyright infringement or for non-payment of royalties is pending or, to the Knowledge of Seller, threatened.

5.24 Cable Systems. None of the Acquired Assets is used in a "cable system" as that term is defined in 47 U.S.C. § 522(7), or has a relationship with a "cable system" that is prohibited by the FCC Rules.

5.25 Acquired WCS Agreements Schedule 5.25(a) sets forth a true and complete list of all WCS partition or disaggregation agreements entered into by Sellers ("Acquired WCS Agreements") Except as set forth on Schedule 5.25(b), each Acquired WCS Agreement is valid, binding and in full force and effect, meets all requirements of Law, and is enforceable in accordance with its terms subject to the Enforceability Exceptions. Sellers have delivered to Purchaser, or within ten (10) Business Days after the date of execution of this Agreement will deliver to Purchaser, true and complete copies of the Acquired WCS Agreements

ARTICLE VI.

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to each Seller as follows

6.01 Organization; Standing and Power Purchaser is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has the requisite corporate power and authority to own, lease or otherwise hold its properties and assets and to carry on its business as presently conducted.

6.02 Authority, Execution and Delivery; Enforceability Purchaser has the requisite corporate power and authority to execute this Agreement and the Ancillary Agreements to which it is, or is specified to be, a party and to consummate the Acquisition and the other transactions contemplated hereby and thereby The execution and delivery by Purchaser of this Agreement and the Ancillary Agreements to which it is, or is specified to be, a party and the consummation by Purchaser of the Acquisition and the other transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of Purchaser. Purchaser has duly executed and delivered this Agreement and prior to the Closing will have duly executed and delivered each Ancillary Agreement to which Purchaser is, or is specified to be, a party This Agreement constitutes, and each Ancillary Agreement to which Purchaser is, or is specified to be, a party will after the Closing constitute, its legal, valid and binding obligation, enforceable against it in accordance with its terms (assuming in each case due authorization, execution and delivery thereof by the other parties thereto), subject to the Enforceability Exceptions

6.03 No Conflicts The execution and delivery by Purchaser of this Agreement do not, the execution and delivery by Purchaser of each Ancillary Agreement to which it is, or is specified to be, a party will not, and the consummation of the Acquisition and the other transactions contemplated hereby and thereby and compliance by Purchaser with the terms hereof and thereof will not, conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any Lien upon any of the properties or assets of Purchaser or any of its Subsidiaries under, any provision of (i) the certificate of incorporation or by-laws of Purchaser or any of its Subsidiaries, (ii) any material Contract to which Purchaser or any of its Subsidiaries is a party or by which any of their respective properties or assets is bound or (iii) any Judgment or Law applicable to Purchaser or any of its Subsidiaries or their respective properties or assets, other than, in the case