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FILED/ACCEPTED

JUL 30 2012

Federal Communications Commission
Office of the Secretary

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July 27, 2012

57029.00008

VIA HAND DELIVERY

Marlene H. Dortch, Secretary, FCC
445 12th Street, SW
TW-A325
Washington, DC 20554

Re: GCI and ACS Public Filing in WT Docket No. 12-187

Dear Ms. Dortch:

On behalf of General Communication, Inc. ("GCI") and Alaska Communications Systems Group, Inc. ("ACS"), enclosed please find two copies of the document being voluntarily submitted for which confidential treatment is not being sought.

Please direct all questions in connection with this submission to the undersigned.

Sincerely,

Carl W. Northrop
of TELECOMMUNICATIONS LAW PROFESSIONALS PLLC

cc: John Nakahata
Karen Brinkmann

Execution Final

ASSET PURCHASE AND CONTRIBUTION AGREEMENT

DATED AS OF JUNE 4, 2012

BY AND AMONG

ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.,

ACS WIRELESS, INC.,

GENERAL COMMUNICATION, INC.,

GCI WIRELESS HOLDINGS, LLC

AND

THE ALASKA WIRELESS NETWORK, LLC

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Note: With respect to Schedules 4.1 through 4.12, ACS and ACS Member and GCI and GCI Member are delivering separate disclosure schedules with Schedule “4A” referring to ACS’s schedules, and Schedule “4B” referring to GCI’s schedules.

ASSET PURCHASE AND CONTRIBUTION AGREEMENT

This ASSET PURCHASE AND CONTRIBUTION AGREEMENT (this "Agreement") is dated as of June 4, 2012, by and among Alaska Communications Systems Group, Inc., a Delaware corporation ("ACS"), ACS Wireless, Inc., an Alaska corporation ("ACS Member"), General Communication, Inc., an Alaska corporation ("GCI"), GCI Wireless Holdings, LLC, an Alaska limited liability company (the "GCI Member") and The Alaska Wireless Network, LLC, a Delaware limited liability company (the "Company"). Capitalized terms used and not otherwise defined in this Agreement have the meanings given such terms in Section 1.

RECITALS:

- A. ACS and its Affiliates are engaged in the ACS Wireless Activities.
- B. GCI and its Affiliates are engaged in the GCI Wireless Activities.
- C. The ACS Contributing Group desires to sell to GCI Member, and GCI Member desires to purchase from the ACS Contributing Group, certain of the ACS Assets, on the terms and conditions hereinafter set forth.
- D. ACS desires to contribute the remainder of the ACS Assets (other than the Purchased Assets) to the Company, and GCI Member and its Affiliates desire to contribute the GCI Assets and the Purchased Assets to the Company, on the terms and conditions hereinafter set forth.
- E. Concurrently with the execution of this Agreement, certain of the Parties are entering into the Pre-Closing Agreements.

AGREEMENTS:

In consideration of the representations, warranties, covenants and agreements contained herein and other consideration the receipt and sufficiency of which are hereby acknowledged, each of ACS, ACS Member, GCI and GCI Member intending to be legally bound do hereby agree as follows:

SECTION 1. DEFINED TERMS

1.1 Terms Defined in this Section. The following terms shall have the following meanings in this Agreement:

"120 Day Consents" means with respect to ACS, the Consents designated in Schedule 4.5A as "120 Day Consents" and, with respect to GCI, the Consents designated in Schedule 4.5B as "120 Day Consents".

"Accounts Receivable" means all rights of any member of a Contributing Group to payment for goods or services provided by such Person in connection with its Activities, including amounts due from customers for services provided by such Person prior to Closing.

“ACS” has the meaning given such term in the Preamble.

“ACS Assets” means the tangible and intangible assets owned, leased or held by ACS or any of its Affiliates (including the Purchased Assets) and used primarily in connection with the conduct of the ACS Wireless Activities, including the assets described in Section 2.2(a) through (k) but excluding the Excluded Assets described in Section 2.4.

“ACS Board” means the board of directors of ACS.

“ACS Contributing Group” means ACS and its Affiliates.

“ACS Member” has the meaning given such term in the Preamble.

“ACS Services Agreement” has the meaning given such term in the Operating Agreement.

“ACS Wireless Activities” means the wireless voice and data services conducted by ACS and its Affiliates, including Wireless Backhaul and Transport, spectrum and Public WiFi related thereto.

“Activities” means with respect to ACS, ACS Contributing Group or ACS Member, the ACS Wireless Activities and with respect to GCI, GCI Contributing Group or GCI Member, the GCI Wireless Activities.

“Additional Capacity Purchase Agreement” means the Additional Capacity Purchase and Contributed Pool Construction Agreement by and among the Company, GCI Communication Corp. and the ACS Member substantially in the form attached hereto as Exhibit K.

“Affiliate” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with such Person, except that the Company shall not be deemed to be an Affiliate of either Member. For purposes of this definition, “control” (including the terms “controlled by,” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities or partnership or other ownership interests, by contract, or otherwise.

“Affiliate Contract” means any Contract between a Party, on one hand, and one or more of such Party’s Affiliate(s), on the other hand.

“Agreement” has the meaning given such term in the Preamble.

“Allocation Schedule” has the meaning given such term in Section 6.16(b).

“Ancillary Agreements” means the Arbitration Agreement, the Operating Agreement, the Loan Agreement, the Instruments of Assignment, the Instruments of Assumption, the Facilities and Network Use Agreement, the GCI Services Agreement, the IRU Contribution Agreement, the ACS Services Agreement, the Joint Maintenance Agreement, the Additional

Capacity Purchase Agreement, the Transmission Service Agreement and the other agreements and instruments executed and delivered in connection with this Agreement and the Operating Agreement.

“**Antitrust Division**” has the meaning given such term in Section 6.13(a).

“**Antitrust Law**” means the Sherman Act, the Clayton Act, the HSR Act, the Federal Trade Commission Act, and all other federal, state and foreign statutes, rules, regulations, orders, decrees, administrative and judicial doctrines and other laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition.

“**Arbitration Agreement**” means that certain Arbitration Agreement among ACS, GCI, the Company and the Members substantially in the form attached hereto as Exhibit H.

“**Assets**” means with respect to any member of ACS Contributing Group or ACS Member, the ACS Assets and with respect to any member of GCI Contributing Group or GCI Member, the GCI Assets.

“**Assumed Contracts**” means, with respect to the applicable Contributing Group, (a) all Contracts listed in Schedule 4.2A or Schedule 4.2B hereto and (b) all Contracts in existence on the Closing Date that have been entered into in accordance with Section 5.1(a)(1)(ii) hereof.

“**Assumed Liabilities**” has the meaning given such term in Section 2.5.

“**Bankruptcy Event**” means, with respect to any Person, the commencement or occurrence of any of the following: (a) a voluntary or involuntary case under Title 11 of the U.S. Code (the “**Bankruptcy Code**”), as now constituted or hereafter amended, or under any other applicable federal, state or foreign bankruptcy or insolvency law or other similar law, in which such Person is a debtor; (b) the appointment of (or a proceeding to appoint) a trustee or receiver for a substantial portion of such Person’s property interest, or a custodian (as such term is defined in section 101 of the Bankruptcy Code); (c) an attachment, execution or other judicial seizure of (or a proceeding to attach, execute or seize) a substantial property interest of such Person; (d) a general assignment for the benefit of creditors; (e) the taking of, failure to take, or submission to any action indicating (after reasonable investigation) an inability to meet its obligations as they accrue; or (f) the general failure to pay debts as such debts become due.

“**Basket Exclusions**” has the meaning given such term in Section 10.6(c).

“**Business Day**” means any day (other than a Saturday or Sunday) on which commercial banks are not required or authorized to close in New York City, New York or Anchorage, Alaska.

“**Cell Sites**” means with respect to the ACS Contributing Group or the GCI Contributing Group, as applicable, the assets located at a location that radiates radio frequency signals within one or more of the FCC granted Spectrum licenses held by such Contributing Group or in a band designated for unlicensed use and intended to connect to voice or data bearing devices; for this

purpose the assets located at such a location generally consist of antennas, coax, distributed antenna systems, radio access node electronics, batteries and associated power equipment, power connections and telecommunications network connections and where present a tower or a shelter and used for the Company's Wireless Business.

"CETC Cash Flow" means all revenues from the Universal Service Fund for high cost support (including all support disbursed pursuant to 47 C.F.R. § 54.307 for Wireless services, 47 C.F.R. Subpart L, the FCC's Mobility Fund or Tribal Mobility Fund, or any successor or other provisions created hereafter to provide universal service support for Wireless services in rural, insular or high cost areas, as defined by the FCC) received by a Contributing Group after the Closing with respect to Wireless services provided prior to the Closing, regardless of whether line counts were submitted prior to or after the Closing or were associated with Wireless service provided to end users prior to Closing.

"CETC Claim Deductible" has the meaning given such term in Section 10.6(e).

"CETC Designations" has the meaning given such term in the Facilities and Network Use Agreement.

"Claimant" has the meaning given such term in Section 10.2.

"Clayton Act" means title 15 of the United States Code §§ 12-27 and title 29 of the United States Code §§ 52-53.

"Closing" has the meaning given such term in Section 8.1.

"Closing Date" has the meaning given such term in Section 8.1.

"COBRA" means Section 4980B of the Code and Section 601 *et seq.* of ERISA.

"Code" means the Internal Revenue Code of 1986, as amended from time to time (including corresponding provisions of subsequent revenue laws).

"Company" has the meaning given such term in the Preamble.

"Communications Act" means the Communications Act of 1934, as amended.

"Compensation Arrangement" means any plan or compensation arrangement other than an Employee Plan, whether written or unwritten, which provides to employees, former employees, officers, directors or independent contractors of a Contributing Group, any compensation or other benefits, whether deferred or not, in excess of base salary or wages and excluding overtime pay, including any bonus or incentive plan, stock rights plan, deferred compensation arrangement, life insurance, stock purchase plan, severance pay plan and any other perquisites and employee fringe benefit plan.

"Consents" means all of the consents, permits or approvals of Governmental Authorities and other Third Parties (including shareholders or members of any Party) necessary to transfer a

Contributing Group's or a Member's Assets to the Company or otherwise to consummate the Transactions.

"Contracts" means all contracts, leases, deeds, mortgages, license agreements, instruments, notes, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether written or oral, relating to a Contributing Group's Activities or Assets and to which a member of such Contributing Group is a party or which are binding upon a member of such Contributing Group or affect such Contributing Group's Activities or Assets.

"Contributed Assets" means certain assets of the Members and their Affiliates that are being sold, transferred, or otherwise conveyed to the Company hereunder, as specified in Sections 2.2 and 2.3, as applicable.

"Contributing Group" means ACS Contributing Group or GCI Contributing Group, as the context requires.

"Damages" has the meaning given such term in Section 10.3(a).

"Deductible" has the meaning given such term in Section 10.6(c).

"Effective Time" means 11:59 p.m., Alaska time, on the Closing Date.

"Employee Plan" means any pension, retirement, profit-sharing, deferred compensation, vacation, severance, bonus, incentive, medical, vision, dental, disability, life insurance or any other employee benefit plan as defined in Section 3(3) of ERISA to which a member of the Contributing Group or an ERISA Affiliate contributes, or which such Member or any of its ERISA Affiliates sponsor or maintain, or by which such member of the Contributing Group or any of its ERISA Affiliates is otherwise bound.

"Enforceability Exceptions" means the exceptions or limitations to the enforcement of contract terms arising in the instance of bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally, and the application of general principles of equity.

"Environmental Claim" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity, any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority, or any lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, release of, or exposure to, any Hazardous Substance; or (b) any actual or alleged non-compliance with any Environmental Law.

“Environmental Law” means any statute, code or law (including common law) pertaining to land use, air, soil, surface water, groundwater (including the protection, cleanup, removal, remediation or damage thereof), the use, handling, storage, disposal or exposure to any Hazardous Substance, or any other environmental matter, including the following statutes as the same may be amended from time to time: (a) Clean Air Act (42 U.S.C. § 7401, et seq.); (b) Clean Water Act (33 U.S.C. § 1251, et seq.); (c) Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.); (d) Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601, et seq.); (e) Safe Drinking Water Act (42 U.S.C. 300f, et seq.); (f) Toxic Substance Control Act (15 U.S.C. § 2601, et seq.); and (g) Occupational Safety and Health Act (29 U.S.C. § 651, et seq.) and including any rule, regulation, order, permit or other standard request or procedure enacted, adopted, promulgated or applied by any Governmental Authority with respect to such matters.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder, as in effect from time to time.

“ERISA Affiliate” means a trade or business affiliated within the meaning of Sections 414(b), (c) or (m) of the Code.

“ETC Designation” means the designation by RCA as an Eligible Telecommunications Carrier for Wireless services within the State of Alaska.

“Exchange Act” means the Securities Exchange Act of 1934, and the regulations thereunder, as in effect from time to time.

“Excluded Assets” means certain assets of the Members and their Affiliates that are not being sold, transferred, or otherwise conveyed to the Company hereunder, as specified in Section 2.4 and includes, whether so specified or not, any assets used by any member of either Contributing Group primarily to provide local exchange services under the Communications Act.

“Excluded Liabilities” has the meaning given such term in Section 2.6.

“Existing NDA” means that certain Mutual Nondisclosure Agreement dated July 27, 2011, by and between ACS and GCI Communication Corp., as amended.

“FAA” means the Federal Aviation Administration.

“Facilities and Network Use Agreement” has the meaning given such term in the Operating Agreement.

“FCC” means the Federal Communications Commission.

“Federal Trade Commission Act” means title 15 of the United States Code §§ 41-58.

“Fine” has the meaning given such term in Section 10.3(d).

“First Year Budgets” has the meaning given such term in the Operating Agreement.

"FTC" has the meaning given such term in Section 6.13(a).

"GCI" has the meaning given such term in the Preamble.

"GCI Assets" means all the tangible and intangible assets owned, leased or held by GCI or any of its Affiliates and used primarily in connection with the GCI Wireless Activities, including the assets described in Section 2.3(a) through (k) but excluding the Purchased Assets and the Excluded Assets described in Section 2.4.

"GCI Contributing Group" means GCI and its Affiliates.

"GCI Member" has the meaning given such term in the Preamble.

"GCI Services Agreement" has the meaning given such term in the Operating Agreement.

"GCI Wireless Activities" means the wireless voice and data services conducted by GCI and its Affiliates, including Wireless Backhaul and Transport spectrum and Public WiFi related thereto.

"Governmental Authority" any government or any arbitrator, tribunal or court of competent jurisdiction, administrative agency, board, department or commission, legislative body or other governmental authority or instrumentality (in each case whether Federal, state, local, foreign, international or multinational) or entity which lawfully assumes the powers and functions of the same (including any taxing or other revenue collecting authority or other body).

"Governmental Consents" means all Consents of the FCC and any other Material Consents of Governmental Authorities required for the Transactions, as well as the declaratory ruling, or its functional equivalent, of the Federal Communications Commission specified in Section 6.1(e).

"Hazardous Substance" means any pollutant, contaminant, hazardous or toxic substance, material, constituent or waste that is defined, labeled or regulated as such by any Governmental Authority, or for which liability or standards of care are imposed, pursuant to an Environmental Law and includes asbestos and asbestos-containing materials and any material or substance that is: (a) designated as a "hazardous substance" pursuant to 33 U.S.C. § 1317; (b) defined as a "hazardous waste" pursuant to 42 U.S.C. § 6903; (c) defined as a "hazardous substance" pursuant to Section 101 of CERCLA; or (d) is so designated or defined under any other applicable Legal Requirements.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"ICA Order" means an order issued by the SEC either (i) pursuant to Section 3(b)(2) of the Investment Company Act of 1940, as amended, (the "Investment Company Act"), declaring that as a result of and after giving effect to the Transactions, ACS is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities, or,

alternatively, (ii) pursuant to Section 6(c) of the Investment Company Act granting ACS an exemption from all provisions of the Investment Company Act.

"Indemnifier" has the meaning given such term in Section 10.2.

"Information" has the meaning given such term in Section 6.10.

"Initial Four Year Plan" has the meaning given such term in the Operating Agreement.

"Instrument of Assignment" means the Instrument of Assignment substantially in the form of Exhibit C.

"Instrument of Assumption" means the Instrument of Assumption substantially in the form of Exhibit D.

"Intellectual Property" means all rights and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including copyrights, copyright licenses, patents, patent licenses, patent applications, proprietary information, know-how and processes of a member of the applicable Contributing Group and primarily used in the conduct of such Contributing Group's Activities.

"IRU" means an indefeasible right of use.

"IRU Contribution Agreement" means the Fiber, Facilities, and Capacity Contribution IRU Agreement by and among ACS, the Company and GCI Communication Corp. substantially in the form attached hereto as Exhibit G.

"Joint Maintenance Agreement" means the Joint Maintenance Agreement by and among ACS, the Company and GCI Communication Corp. substantially in the form attached hereto as Exhibit I.

"Knowledge" when used with respect to (i) ACS, means the actual knowledge of any fact, circumstance or condition of those officers of ACS set forth on Exhibit E and (ii) GCI, means the actual knowledge of any fact, circumstance or condition of those officers of GCI set forth on Exhibit F, and, in each case, the knowledge that such officers would have had if such officers had conducted a reasonable inquiry.

"Legal Requirements" means applicable common law and any applicable statute, ordinance, code or other law, rule, regulation, order, technical or other standard, requirement or procedure enacted, adopted, promulgated or applied by any Governmental Authority, including any applicable order, decree or judgment which may have been handed down, adopted or imposed by any Governmental Authority.

"Licenses" means all domestic wireless, business radio and other FCC licenses, and any pending applications therefor granted to a member of the applicable Contributing Group by the FCC in connection with such Contributing Group's Activities, and all other licenses, authorizations and permits and any pending applications therefor, issued to such Person or any of its Affiliates by any Governmental Authority that are primarily used in the conduct of such

Contributing Group's Activities, other than FCC licenses and other licenses, authorizations and permits and any pending applications therefor related to IRU or capacity purchases.

"**Liens**" means all claims, charges, restrictions, mortgages, pledges, security interests, liens or other encumbrances of any nature whatsoever (whether absolute, accrued, contingent or otherwise).

"**Loan Agreement**" means the Loan Agreement to be entered into between the Company and GCI Holdings, Inc. in the form attached hereto as Exhibit B.

"**Material Consents**" means, with respect to ACS, the Consents designated in Schedule 4.5A as "Material Consents," and, with respect to GCI, the Consents designated in Schedule 4.5B as "Material Consents."

"**Member**" means either the ACS Member or the GCI Member or the ACS Member and the GCI Member, as the context requires.

"**Network Assets**" means with respect to the ACS Contributing Group or the GCI Contributing Group, as applicable, the assets to be contributed by such Contributing Group to the Company pursuant to the IRU Contribution Agreement.

"**Network Capacity**" means dark fiber capacity and IRU capacity.

"**Operating Agreement**" means the First Amended and Restated Operating Agreement of the Company to be entered into by ACS, the ACS Member, GCI, the GCI Member and the Company in the form attached hereto as Exhibit A.

"**Outside Date**" has the meaning given such term in Section 9.1(g).

"**Parent**" means either ACS or GCI as the context requires and references to the other Parent mean, with respect to ACS, ACS Member or ACS Contributing Group, GCI, and with respect to GCI, GCI Member or GCI Contributing Group, ACS.

"**Parties**" means ACS, ACS Member, GCI, GCI Member and the Company and a "Party" means any such Person.

"**Permitted Liens**" means:

- (a) Liens for Taxes not yet due and payable;
- (b) Mechanics', carriers', workmen's, warehousemen's, landlord's, repairmen's or other like Liens arising or incurred in the ordinary course of business consistent with past practice that secure obligations not yet due;
- (c) (A) easements, rights of way, zoning ordinances, building and other similar restrictions of record and Liens affecting Real Property and any conditions that may be shown by a current, accurate survey or physical inspection made before the Closing, (B) Liens that have been placed by any developer, landlord or other Third Party on property over which

easement rights have been granted or on any leased property and subordination or similar agreements relating thereto and (C) unrecorded easements, covenants, rights-of-way and other similar restrictions, in each case that are not, individually or in the aggregate, material to the Activities or the Assets, which do not prohibit or interfere with the current operation of any Real Property and which do not render title to any Real Property unmarketable;

(d) Deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business to the extent such deposits constitute Assets contributed to the Company;

(e) Pledges and deposits made in the ordinary course of business in compliance with any Legal Requirements and Liens arising by statute in connection with worker's compensation, unemployment insurance, old age benefits, social security obligations, taxes, assessments, statutory obligations or other similar charges, good faith cash deposits in connection with tenders, contracts or leases to which such Person is a party or other cash deposits in any such foregoing case that is required to be made in the ordinary course of business, *provided* in each case that the obligation is not for borrowed money and that the obligation secured is not overdue or, if overdue, is being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest and adequate reserves have been established therefor;

(f) Purchase money security interests for goods purchased in the ordinary course to the extent that the obligations secured by such security interests constitute Assumed Contracts; and

(g) imperfections of title or encumbrances that, individually or in the aggregate, do not impair materially, and would not reasonably be expected to impair materially, the continued use and operation of the Assets to which they relate in the conduct of the Activities as presently conducted.

“**Person**” means any natural person, corporation, general or limited partnership, limited liability company, joint venture, trust, association, unincorporated entity of any kind, or a Governmental Authority.

“**Personal Property**” means all of the equipment, leasehold improvements, plant, spare parts inventory that are owned or leased by a member of the applicable Contributing Group and primarily used in the conduct of such Contributing Group's Activities, other than equipment, leasehold improvements, plant and spare parts inventory related to IRU or capacity purchases.

“**Pre-Closing Agreements**” means (a) HSPA Services Agreement dated as of June 4, 2012 by and between ACS Member and GCI Communication Corp., (b) Bilateral IRU Agreement made as of June 4, 2012 by and between ACS Cable Systems, Inc. and GCI Communication Corp., (c) Network Access Agreement made as of June 4, 2012 by and between ACS Member and GCI Communication Corp., (d) ACS to GCI Master License Agreement for Wireless Tower Space and Power Agreement dated as of May 18, 2012 by and between GCI Communication Corp. and ACS Member, and (e) GCI to ACS Master License Agreement for

Wireless Tower Space and Power Agreement dated as of May 18, 2012 by and between GCI Communication Corp. and ACS Member.

"Prepays" has the meaning given such term in Section 2.10.

"Proceeding" means any suit, action, proceeding, arbitration, audit, hearing, or investigation (in each case, whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority.

"Provider" has the meaning given such term in Section 6.10.

"Public WiFi" means any WiFi service established and owned by a Contributing Group that is provided for use by its customers on a Wireless device, and is password protected or has other secure authentication protocols established and managed by such Contributing Group.

"Purchase Price" has the meaning given such term in Section 2.1(b).

"Purchased Assets" has the meaning given such term in Section 2.1(a).

"RCA" means the Regulatory Commission of Alaska.

"Real Property" means all of the fee estates and buildings and other improvements thereon, leasehold interests, easements, licenses, rights to access, rights-of-way and other real property interests which are owned or leased by a member of the applicable Contributing Group and primarily used in the conduct of such Contributing Group's Activities.

"Receiver" has the meaning given such term in Section 6.10.

"SEC" means the U.S. Securities and Exchange Commission.

"Sherman Act" means title 15 of the United States Code §§ 1-7.

"Spectrum" means all Wireless spectrum that is owned, leased, licensed or otherwise made available or allocated to a member of the applicable Contributing Group.

"Superior Proposal" means, with respect to a Parent, any offer or proposal by any Person concerning any (i) merger, consolidation, other business combination or similar transaction involving such Parent or its Activities, (ii) sale, lease, license or other disposition directly or indirectly by merger, consolidation, business combination, share exchange, joint venture or otherwise, of assets representing a majority of the consolidated assets, revenues or net income of such Parent or its Activities, (iii) issuance, sale or other disposition (including by way of merger, consolidation, business combination, share exchange, joint venture or similar transaction) of equity interests representing a majority of the voting power of such Parent or an Affiliate of such Parent that owns a significant portion of its Activities, (iv) transaction or series of transactions in which any Person (or the stockholders of such Person) would acquire beneficial ownership or the right to acquire beneficial ownership of equity interests representing a majority of the voting power of such Parent or an Affiliate of such Parent that owns a

significant portion of its Activities or (v) any combination of the foregoing, in each case that such Parent's board or directors determines in good faith to be more favorable to the holders of such Parent's common stock than the transactions contemplated by this Agreement.

"Superior Proposal Fee" has the meaning given such term in Section 9.2(b).

"Tax Benefit" has the meaning given such term in Section 10.6(b).

"Tax Return" means, with respect to a Person, any federal, state, local or foreign tax return, report, declaration of estimated Tax payments, statement, information return or statement, or other similar filing, including any related or supporting information with respect to any of the foregoing and any amendment thereof, filed or to be filed by such Person with any Taxing Authority in connection with the determination, assessment, collection or administration of any Taxes.

"Tax Savings" has the meaning given such term in Section 10.6(b).

"Taxes" means (a) all Federal, state, county, local, municipal, foreign and other taxes, assessments, duties fees, regulatory impositions, price support impositions or similar charges of any kind whatsoever, including all franchise, capital, income, sales, use, ad valorem, receipts, value added, profits, license, withholding, payroll, employment, excise, premium, property, customs, net worth, capital gains, transfer, stamp, documentary, social security, environmental, alternative minimum, occupation, recapture gross receipts, universal service, recovery and other taxes and levies, and including all interest, penalties and additions imposed with respect to such amounts, and (b) any liability for any amounts described in clause (a) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local, or foreign Law), or as a transferee or co-vendor, agent, responsible person, by contract, by operation of law or otherwise.

"Third Party" has the meaning specified in the Operating Agreement.

"Transaction Opinion" means an opinion from a nationally recognized valuation or investment banking firm approved by each Parent in its reasonable discretion, addressed to each Parent opining that (i) the Purchase Price to be received by the selling ACS Affiliates as consideration for the Purchased Assets as set forth in Section 2.1 of this Agreement, as of the date of transfer of the Purchased Assets, represents at least reasonably equivalent value for the Purchased Assets and (ii) as set forth in Section 2.7 of this Agreement, and in accordance with the terms of the Operating Agreement, the membership interest in the Company to be received by ACS Member as consideration for transferring and delivering to the Company all of the ACS Assets (other than the Purchased Assets), as of the date of transfer of such ACS Assets, represents at least reasonably equivalent value for such assets.

"Transmission Service Agreement" means the Transmission Service Agreement by and among the Company, the ACS Member and GCI Communication Corp. substantially in the form attached hereto as Exhibit J.

"Transactions" means the transactions contemplated by this Agreement and the Ancillary Agreements.

“**Treasury Regulations**” means the Treasury regulations promulgated under the Code.

“**Union**” has the meaning given such term in Section 4.11.

“**WARN Act**” has the meaning given such term in Section 6.5(c).

“**Wireless**” means (a) Commercial Mobile Radio Services (as defined by the Communications Act and the rules and regulations thereunder), (b) Public WiFi and (c) any additional mobile voice, text messaging and data products and services provided over wireless spectrum licensed or authorized for use by the FCC other than, in the case of clause (c), any such products or services provided by satellite directly to Wireless devices.

“**Wireless Backhaul and Transport**” has the meaning given such term in the Operating Agreement.

1.2 Clarifications. Words used in this Agreement, regardless of the gender and number specifically used, shall be deemed and construed to include any other gender and any other number as the context requires. As used in this Agreement, the word “including” shall be deemed to be followed by the words “without limiting the generality of the foregoing”, and the word “or” has the inclusive meaning of “and/or”. Except as specifically otherwise provided in this Agreement in a particular instance, a reference to a Section, Exhibit or Schedule is a reference to a Section of this Agreement or an Exhibit or Schedule hereto, and the terms “hereof,” “herein,” and other like terms refer to this Agreement as a whole, including the Exhibits and Schedules to this Agreement, and not solely to any particular part of this Agreement. The descriptive headings in this Agreement are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted.

SECTION 2. CONTRIBUTION OF ASSETS BY THE MEMBERS

2.1 Agreement to Purchase and Sell.

(a) Subject to the terms and conditions set forth in this Agreement, at the Closing, ACS shall cause one or more of its Affiliates to sell, assign, transfer, convey and deliver to GCI Member, and GCI Member shall purchase from such ACS Affiliate, the assets identified in Schedule 2.1 hereto (the “**Purchased Assets**”), free and clear of any Liens (except for Permitted Liens) and without the creation of any successor or derivative liability by operation of law or otherwise, such sale, assignment, transfer conveyance and delivery to be effected by execution and delivery of an Instrument of Assignment. The final form of Schedule 2.1 will be delivered to GCI Member by ACS Member no later than five months from the date hereof and the assets identified thereon will be identified by the categories set forth on Schedule 2.1 as of the date hereof, such list to be reasonably acceptable to the Parties. Notwithstanding the provisions of this Section 2.1 or any other provision in this Agreement, GCI Member shall not assume and shall not be responsible to pay, perform or discharge any liabilities, obligations or commitments of such ACS Affiliate of any kind or nature whatsoever, asserted or unasserted,

known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise, provided that the GCI Member shall not take any action or fail to take any action during the period it owns the Purchased Assets that would be a violation of this Agreement if such action was taken or failed to be taken by ACS or the Company from and after the Closing.

(b) The aggregate purchase price for the Purchased Assets shall be \$100 million (the "Purchase Price"). Each of the selling ACS Affiliates will be paid its portion of the Purchase Price on the Closing Date by wire transfer of immediately available funds to an account of such ACS Affiliate designated no later than three Business Days prior to the Closing Date.

2.2 ACS Agreement to Contribute. Subject to the terms and conditions set forth in this Agreement, at the Closing (immediately following the transaction set forth in Section 2.1), ACS Member shall transfer and deliver or cause to be transferred and delivered to the Company all of the ACS Assets (other than the Purchased Assets), free and clear of any Liens (except for Permitted Liens) and without the creation of any successor or derivative liability by operation of law or otherwise, such transfer and delivery to be evidenced by execution and delivery of an Instrument of Assignment, including:

- (a) All Personal Property of the ACS Wireless Activities other than the Purchased Assets;
- (b) All Real Property of the ACS Wireless Activities other than the Purchased Assets;
- (c) All Licenses of the ACS Wireless Activities;
- (d) All Assumed Contracts of the ACS Wireless Activities;
- (e) All Spectrum of the ACS Wireless Activities;
- (f) All Intellectual Property of the ACS Wireless Activities;
- (g) All CETC Cash Flow received by or as a result of an Alaska Communications Systems Holding, Inc.'s designation as a Competitive Eligible Telecommunications Carrier within the State of Alaska;
- (h) The Network Assets of the ACS Wireless Activities;
- (i) The Cell Sites of the ACS Wireless Activities;
- (j) All Tax Returns regarding real property, personal property and ad valorem Taxes imposed on the ACS Assets, to the extent each relates solely to the ACS Assets; and
- (k) All books and records relating to the foregoing (except as expressly excluded by Section 2.4(c)), including executed copies of the Licenses and Assumed Contracts, and all filings made with or records required to be kept by the FCC; *provided, however* that ACS Member may retain copies of any such books, records, Contracts and filings.

2.3 GCI Agreement to Contribute. Subject to the terms and conditions set forth in this Agreement, at the Closing (immediately following the transaction set forth in Section 2.1), GCI Member shall transfer and deliver to the Company all of the GCI Assets and all of the Purchased Assets, in each case, free and clear of any Liens (except for Permitted Liens) and without the creation of any successor or derivative liability by operation of law or otherwise, such transfer and delivery to be effected by execution and delivery of an Instrument of Assignment, including:

- (a) All Personal Property of the GCI Wireless Activities;
- (b) All Real Property of the GCI Wireless Activities;
- (c) All Licenses of the GCI Wireless Activities;
- (d) All Assumed Contracts of the GCI Wireless Activities;
- (e) All Spectrum of the GCI Wireless Activities;
- (f) All Intellectual Property of the GCI Wireless Activities;
- (g) All CETC Cash Flow received by or as a result of a GCI Communication Corp.'s designation as a Competitive Eligible Telecommunications Carrier within the State of Alaska;
- (h) The Network Assets of the GCI Wireless Activities;
- (i) The Cell Sites of the GCI Wireless Activities;
- (j) All Tax Returns regarding real property, personal property and ad valorem Taxes imposed on the GCI Assets, to the extent each relates solely to the GCI Assets; and
- (k) All books and records relating to the foregoing (except as expressly excluded by Section 2.4(c)), including executed copies of the Licenses and Assumed Contracts, and all filings made with or records required to be kept by the FCC; *provided, however* that GCI Member may retain copies of any such books, records, Contracts and filings.

2.4 Excluded Assets. The Assets being contributed to the Company shall exclude the following assets:

- (a) Each Contributing Group's cash on hand as of the Closing Date and all other cash and cash equivalents in any member of such Contributing Group's bank, savings or other depository accounts; any and all letters of credit or other similar items; and any stocks, bonds, certificates of deposit and similar investments;
- (b) Any Contracts other than the Assumed Contracts;
- (c) Any books and records each Member is required by any Legal Requirement to retain (subject to the right of the Company to access and to copy for a period of

three years after the Closing Date), and such Member's corporate minute books and other books and records related to internal corporate matters;

(d) Any claims, rights and interest in and to any refunds of federal, state or local income or other Taxes, fees or assessments for periods (or portions thereof) ending on or prior to the Closing Date or otherwise relating to the other Excluded Assets or Excluded Liabilities;

(e) All judgments, choses in action or Proceedings of each Contributing Group relating to the ownership or operation of such Contributing Group's Assets or conduct of such Contributing Group's Activities prior to the Closing Date;

(f) All Employee Plans, Compensation Arrangements and employment agreements unless any such Employee Plan, Compensation Arrangement or employment agreement is expressly included in the Assumed Contracts;

(g) The account books of original entry, general ledgers, and financial records;

(h) Medical records and personnel records to the extent required by Legal Requirements;

(i) Insurance policies and rights and claims thereunder;

(j) Contracts for the provision of wireless services to subscribers, Lifeline subscriber agreements and agreements with Lifeline agents;

(k) Accounts Receivable;

(l) All Tax Returns and all supporting documentation for such Tax Returns, except to the extent specifically identified in Section 2.2(h) and Section 2.3(h); and

(m) The assets set forth in Schedule 2.4A and 2.4B (which Schedules may be amended prior to Closing; provided that any such amendment does not materially reduce the aggregate value of the Assets being contributed by the applicable Contributing Group and provided further that the other Contributing Group agrees in its reasonable discretion to such amendment).

2.5 Assumed Liabilities. Upon the terms and subject to the conditions of this Agreement, the Company shall assume, effective as of the Closing, and from and after the Closing the Company shall pay, perform and discharge when due, all the following liabilities, obligations and commitments of the ACS Contributing Group and the ACS Member, or the GCI Contributing Group and the GCI Member, as applicable (the "Assumed Liabilities"), such assumption to be evidenced where appropriate by execution and delivery of an Instrument of Assumption, other than any Excluded Liabilities:

(a) All post-closing liabilities, obligations and commitments under the Assumed Contracts; and

(b) All other liabilities, obligations and commitments of any member of the GCI Contributing Group or the ACS Contributing Group set forth on Schedule 2.5.

2.6 Excluded Liabilities. The Company shall not assume or be obligated to pay, perform or otherwise discharge any liability or obligation of the ACS Contributing Group or the ACS Member, or the GCI Contributing Group or the GCI Member, whether direct or indirect, known or unknown, absolute or contingent, not expressly assumed by the Company pursuant to Section 2.5 (all such liabilities and obligations not being assumed being herein called the "Excluded Liabilities") and, notwithstanding anything to the contrary in Section 2.5 or by operation of law or otherwise, none of the following shall be Assumed Liabilities for purposes of this Agreement:

(a) Any liabilities in respect of Taxes for which the ACS Member, the GCI Member or any of their respective Affiliates is liable for periods ending as of the effectiveness of the transactions contemplated by Section 2.1, 2.2, or 2.3 hereof or otherwise, except to the extent provided in Section 6.3;

(b) Any accounts payable owed by or to the ACS Member or the GCI Member (as applicable) or any of their respective Affiliates other than those accounts payable that are expressly assumed by the Company pursuant to Section 2.5;

(c) Any other liabilities, obligations or commitments owed by or to the ACS Member or the GCI Member (as applicable) or any of their respective Affiliates other than those expressly assumed by the Company pursuant to Section 2.5;

(d) Any costs and expenses incurred by the ACS Contributing Group or the ACS Member, or the GCI Contributing Group or the GCI Member, in connection with its negotiation and preparation of this Agreement, the Ancillary Agreements and the Pre-Closing Agreements and its performance and compliance with the agreements and conditions contained herein and therein;

(e) Any liabilities, obligations or commitments in respect of any Excluded Assets;

(f) Any liabilities, obligations or commitments in respect of any Proceedings to which the ACS Contributing Group or the ACS Member, or the GCI Contributing Group or the GCI Member, is a party prior to the Closing;

(g) Any liabilities, obligations or commitments in respect of employees of the GCI Wireless Activities or the ACS Wireless Activities;

(h) Any liabilities, obligations or commitments resulting from any Environmental Claims (regardless of whether any representation or warranty contained in Section 4.8 is incorrect) related to the ownership or operation of Real Property prior to the Effective Time; and

(i) Any liabilities, obligations or commitments with respect to any universal service support received from the federal or Alaska Universal Service Funds received prior to the Closing.

2.7 Issuance of Membership Interests. In consideration for the contributions to the Company by the ACS Contributing Group, the ACS Member shall receive at Closing a membership interest in the Company as set forth in, and in accordance with the terms of, the Operating Agreement. In consideration for the contributions to the Company by the GCI Contributing Group, the GCI Member shall receive at Closing a membership interest in the Company as set forth in, and in accordance with the terms of, the Operating Agreement.

2.8 Working Capital Loan. In accordance with the terms of the Operating Agreement, GCI Holdings, Inc. and the Company will enter into the Loan Agreement.

2.9 Business Process Licenses. Subject to the terms and conditions set forth in this Agreement, from and after the Closing, the members of each Contributing Group hereby grant to the Company a perpetual, royalty-free, non-exclusive license to use the business processes used by such member in connection with the Contributed Assets. The business processes and any information provided to the Company in connection therewith shall be subject to the confidentiality restrictions set forth in Section 16.20 of the Operating Agreement. The Company may not sub-license any license granted to it pursuant to this Section 2.9 without the prior written consent of the Parent of the applicable Contributing Group, other than to a wholly-owned subsidiary of the Company.

2.10 Prepaid Costs and Expenses. Any deposits or prepayments made by either Contributing Group under the Assumed Contracts or otherwise relating to the Assets or Assumed Liabilities that inure to the benefit of the Company (the "Prepays") shall be prorated as of the Closing Date. As promptly as practicable, but in any event within 90 days following the Closing Date, each Parent shall deliver to the Company a statement, reasonably acceptable to the other Parent, setting forth the amount of its Contributing Group's Prepays to the extent related to the post-Closing period and upon receipt thereof the Company shall, within 30 days reimburse the applicable Parent for the amount of its Prepays.

2.11 Effectiveness of Transactions. All of the transactions in Sections 2.1 through 2.9 shall be effected at Closing in the order set forth in this Section 2, except that those transactions in Sections 2.2 and 2.3 shall occur simultaneously, and none of such transactions shall be effective unless all such transactions are effected.

SECTION 3. REPRESENTATIONS AND WARRANTIES REGARDING THE PARTIES

In this Section 3, any particular reference to a "Schedule 3" shall be understood (i) in the case of ACS, to refer to the corresponding "Schedule 3A", and (ii) in the case of GCI, to refer to the corresponding "Schedule 3B." Each of ACS and ACS Member, jointly and severally, represents and warrants to GCI and GCI Member, and each of GCI and GCI Member, jointly and severally, represents and warrants to ACS and ACS Member, as of the date hereof and as of the

Closing Date except insofar as such representations and warranties are made as of the date hereof or any other specified date (in which case as of such date), as follows:

3.1 Organization, Standing and Authority. Such Person is a corporation or limited liability company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and such Person is duly qualified to conduct business in all such foreign jurisdictions in which such qualification is necessary for its conduct of its Activities. Such Person and its Affiliates have all requisite power (i) to own, lease, and use its Assets as presently owned, leased, and used, (ii) to conduct its Activities as presently conducted, and (iii) to execute, deliver, and perform this Agreement and the documents contemplated hereby according to their respective terms. Neither such Person nor any of its Affiliates is a participant in any joint venture or partnership with any other Person with respect to any part of its Activities or its Assets.

3.2 Authorization and Binding Obligation. The execution, delivery and performance of this Agreement and the Ancillary Agreements by such Person have been duly authorized by all necessary corporate or limited liability company action on the part of such Person. No approval or consent from any of its shareholders or members is required for such Person to execute, deliver or perform this Agreement or the Ancillary Agreements or to consummate the Transactions. This Agreement has been duly executed and delivered by such Person and constitutes its legal, valid, and binding obligation, enforceable against it in accordance with its terms, except to the extent such enforceability may be limited by the Enforceability Exceptions.

3.3 Absence of Conflicting Agreements. Subject to obtaining the Consents, the execution, delivery and performance of this Agreement and the Ancillary Agreements (with or without the giving of notice, the lapse of time, or both): (i) does not require the consent of any Third Party; (ii) will not conflict with any provision of the organizational documents of such Person; (iii) will not conflict with, result in a breach of, or constitute a default under, any Legal Requirements, (iv) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any material agreement, instrument, license or permit to which such Member is a party or by which such Member may be bound; and (v) will not create any Lien upon such Member's Assets.

3.4 Claims and Legal Actions. Except as set forth in Schedule 3.4, there is no material claim, legal action, arbitration, governmental investigation or other legal, administrative or Tax proceeding, nor any order, decree or judgment, in progress or pending, or to the Knowledge of such Person, threatened, against or relating to such Person or any of its Affiliates relating to its Assets or Activities, or to such Person's performance of its obligations under this Agreement or the consummation of the Transactions. To the best of such Person's Knowledge there are no pending written complaints by customers or other users of such Person's or any of its Affiliates' services that, individually or in the aggregate, would reasonably be expected to materially and adversely affect the Assets of such Person's Contributing Group or the financial condition of its Activities. Other than requests described in Schedule 3.4, no written requests have been received by such Person or any of its Affiliates during the preceding two year period from the FCC, any state regulatory authority or other Governmental Authority or any other