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FILED/ACCEPTED

JUL 30 2012

Federal Communications Commission
Office of the Secretary

REDACTED – FOR PUBLIC INSPECTION

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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 Confidential 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 the documents being voluntarily submitted under the *Protective Order* in WT Docket No. 12-187, DA 12-1061, released July 3, 2012 for which the parties seek “Confidential Treatment,” along with two copies of those same documents with all Confidential Information redacted.

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

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EXECUTION COPY

FIRST AMENDED AND RESTATED OPERATING AGREEMENT

OF

THE ALASKA WIRELESS NETWORK, LLC

_____, 201__

THE OWNERSHIP INTERESTS IN THIS LIMITED LIABILITY COMPANY HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR STATE SECURITIES AUTHORITIES AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND ANY APPLICABLE STATE SECURITIES LAWS OR AN OPINION OF COUNSEL REASONABLY ACCEPTABLE TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED. THE SALE OR OTHER TRANSFER OF THE OWNERSHIP INTERESTS IS ALSO RESTRICTED BY CERTAIN PROVISIONS IN THIS AGREEMENT.

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FIRST AMENDED AND RESTATED OPERATING AGREEMENT

OF

THE ALASKA WIRELESS NETWORK, LLC

This **First Amended and Restated Operating Agreement** (the “**Agreement**”) of The Alaska Wireless Network, LLC, a Delaware limited liability company (the “**Company**”), is entered into as of _____, 201__ (the “**Effective Date**”), by and among the Company, GCI Wireless Holdings, LLC, an Alaska limited liability company (the “**Initial GCI Member**”), and ACS Wireless, Inc., an Alaska corporation (the “**Initial ACS Member**”), and, solely for purposes of Sections 3.10[b], 6.5, 9.6, 14.10, 15, 16.8, 16.20, and 16.22, Alaska Communications Systems Group, Inc., a Delaware corporation, and, solely for purposes of Sections 3.10[b], 6.5, 9.6, 11.11, 14.10, 15, 16.8, 16.20, and 16.22, General Communication, Inc., an Alaska corporation.

In consideration of the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Members (as defined below) hereby agree as follows:

ARTICLE 1: FORMATION; DEFINITIONS; INTERPRETATION

1.1 Formation. The Company was formed as a single member Delaware limited liability company on _____, 2012, by filing a Certificate of Formation with the Delaware Secretary of State pursuant to the Act. This Agreement amends and restates in its entirety the original Operating Agreement of the Company dated as of _____, 2012. Unless expressly provided otherwise in this Agreement, the rights, duties and liabilities of the Company and the Members will be as provided in this Agreement and the Act. If any provisions of the Act conflict with this Agreement, the provisions of this Agreement will control, and the conflicting provision of the Act will be deemed waived, in each case to the extent permitted by the Act.

1.2 Name. The name of the Company is The Alaska Wireless Network, LLC. The business of the Company will be conducted under such name, as well as any other name or names as the Company may from time to time determine, provided that no such name may suggest that the Company is an Affiliate of either the GCI Member or the ACS Member.

1.3 Members. Unless and until a Transferee is admitted as a Member pursuant to Section 14.6, the Initial GCI Member and the Initial ACS Member shall be the sole Members of the Company within the meaning of the Act. Except as otherwise expressly provided in this Agreement, no Member may be removed as a member of the Company without such Member’s prior written approval. The address of each Member is set forth on the attached **Exhibit A**, as it may be amended from time to time in accordance with this Agreement.

1.4 Equity Interests. The Members agree that, as of the Effective Date, the Ownership Interests of the Members in the equity of the Company based on the agreed Fair Market Value of the Initial Capital Contributions made by the Members, expressed as a percentage, are 66⅔% for the GCI Member and 33⅓% for the ACS Member (the “**Equity Interests**”).

1.5 Registered Office and Agent. The initial registered office of the Company in Delaware will be at 1209 Orange St., Wilmington, DE 19801, New Castle County, and its registered agent will be The Corporation Trust Company. The Company may change its registered office and registered agent in Delaware by filing the appropriate documents with the Secretary of State of Delaware in accordance with the Act.

1.6 Principal Office. The principal office of the Company where records of the Company will be maintained initially is the GCI Member’s principal place of business in Anchorage, Alaska. The Company may change its principal office, provided that such office may not be changed to a location outside Anchorage, Alaska without the affirmative Vote of all Members.

1.7 Foreign Qualification. The Company will qualify as a foreign limited liability company under the provisions of Alaska law and will maintain such status for so long as the Company owns any real property or otherwise transacts business in the State of Alaska. The Company will also apply for any required certificate of authority to do business in any other state or jurisdiction, as required or appropriate.

1.8 Term. The term of the Company as a limited liability company under the Act commenced on the date its Certificate and the Certificate of Conversion were filed with the Delaware Secretary of State and will continue in perpetuity until a Dissolution occurs under Section 12.1 and a certificate of cancellation is filed with the Delaware Secretary of State pursuant to Section 13.6.

1.9 Definitions. The following capitalized terms, when used in this Agreement, have the meanings set forth below:

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

ACS: Alaska Communications Systems Group, Inc., a Delaware corporation, the ultimate parent company of the Initial ACS Member.

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

ACS First Partial Preferred
Distribution:

if the Effective Date is not on the first day of a calendar quarter, an amount equal to \$12,500,000 multiplied by a fraction [a] the numerator of which is the number of Preference Period Partial First Quarter Days and [b] the denominator of which is the number of days in the calendar quarter during which the first day of the Preference Period Partial First Quarter occurs.

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

ACS Full Quarter Preferred
Distributions:

if the Effective Date is not on the first day of a calendar quarter, the following amounts:

[a] an amount equal to \$12,500,000 with respect to each of the first seven full calendar quarters in the Preference Period Full Quarters;

[b] with respect to the eighth full calendar quarter in the Preference Period Full Quarters, an amount equal to the sum of [i] \$12,500,000 minus the amount of the ACS First Partial Preferred Distribution, and [ii] \$11,250,000 multiplied by a fraction [A] the numerator of which is the number of Preference Period Partial First Quarter Days, and [B] the denominator of which is the number of days in the calendar quarter in which the Effective Date occurs; and

[c] an amount equal to \$11,250,000 with respect to each of the last seven full calendar quarters in the Preference Period Full Quarters.

ACS Last Partial Preferred
Distribution:

if the Effective Date is not on the first day of a calendar quarter, an amount equal to \$190,000,000 minus the sum of [a] the ACS First Partial Preferred Distribution, and [b] the aggregate amount of the ACS Full Quarter Preferred Distributions.

ACS Member:

initially, the Initial ACS Member, and shall include any successors thereto by merger or consolidation (or otherwise by operation of law), any assignees or

transferees of all or substantially all the assets thereof, and any transferees of the Ownership Interests thereof, in each case upon such successor, assignee or transferee being admitted as a substitute Member in accordance with the terms of this Agreement.

ACS Preference Period Last Quarter Distribution:

if the Effective Date is not on the first day of a calendar quarter, an amount equal to [a] the Equity Interest of the ACS Member, multiplied by [b] the product of [i] Adjusted FCF for the Preference Period Last Quarter, multiplied by [ii] a fraction [A] the numerator of which is the number of Preference Period Partial First Quarter Days, and [B] the denominator of which is the number of days in the Preference Period Last Quarter.

ACS Preferred Distributions:

an aggregate amount equal to [a] if the Effective Date is on the first day of a calendar quarter, an amount equal to \$12,500,000 with respect to each of the first eight calendar quarters beginning on the Effective Date and \$11,250,000 with respect to each of the next eight calendar quarters thereafter, or [b] if the Effective Date is not on the first day of a calendar quarter, the sum of [i] the ACS First Partial Preferred Distribution, [ii] the ACS Full Quarter Preferred Distributions, and [iii] the ACS Last Partial Preferred Distribution.

ACS Services Agreement:

the ACS Services Agreement between the Company and ACS Wireless, Inc. attached to this Agreement as **Exhibit O**.

[REDACTED]

[REDACTED]

Act:

the Delaware Limited Liability Company Act, as amended from time to time.

Additional Capital Contribution:

means any Capital Contribution made to the Company by a Member in accordance with the terms of this Agreement other than an Initial Capital Contribution.

Additional Capacity Purchase Agreement: as defined in the Contribution Agreement.

[REDACTED]

[REDACTED]

Adjusted Capital Account Deficit:

with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the

relevant taxable year, after giving effect to the following adjustments:

[a] credit to such Capital Account any amounts which such Member [i] is obligated to restore to the Company upon liquidation of such Member's interest in the Company (or which is so treated pursuant to Regulation § 1.704-1(b)(2)(ii)(c)) pursuant to the terms of this Agreement or under state law or [ii] is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations §§ 1.704-2(g)(1) and 1.704-2(i)(5); and

[b] debit to such Capital Account the items described in §§ 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of § 1.704-1(b)(2)(ii)(d) of the Regulations and will be interpreted consistently with such section.

Adjusted FCF:

FCF minus the sum of [a] the Consulting Fee and [b] payments required to be made in accordance with the terms of the Company Working Capital Loan or the GCI Working Capital Loan, other than, in the case of the GCI Working Capital Loan, payments financed pursuant to a refinancing of such loan.

Affiliate:

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 any Member.

Affiliate Contracts:

as defined in the Contribution Agreement.

Affiliate Transactions:

as defined in Section 6.4[n].

██

██

Agreement:

this First Amended and Restated Operating Agreement, also known as a limited liability company agreement under the Act, as amended from time to time.

Ancillary Agreements:

as defined in the Contribution Agreement.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Approved Affiliate Transactions:

the following agreements and transactions: [a] the Contribution Agreement, all Affiliate Contracts that are Assumed Contracts (as identified on the Schedules to the Contribution Agreement) to which the Company, on the one hand, and a Member or an Affiliate of a Member, on the other hand, are parties after the Effective Date, and all agreements entered into in connection with closing of the Contribution Agreement that are between a Member or an Affiliate of a Member and the Company, including all agreements related to the contribution of assets by the Members to the Company (and maintenance thereof) and the applicable Ancillary Agreements, [b] the GCI Services Agreement, [REDACTED]

[REDACTED]

[REDACTED], [c] the ACS Services Agreement, [d] the Facilities and Network Use Agreement, [e] the GCI Working Capital Loan and [f] any other agreement or transaction that is approved by the unanimous Vote of the Members.

Arbitration Agreement:

that certain Arbitration Agreement between the Company and the Members set forth as the attached Exhibit E, as it may be amended from time to time, and which is hereby incorporated into and made a part of this Agreement.

Arbitrator:

as defined in the Arbitration Agreement.

Arbitrator's Expenses:

as defined in the Arbitration Agreement.

ARPU:

average revenue per unit, with a unit for this purpose meaning a Connection.

Assumed Contracts:

as defined in the Contribution Agreement.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Bankruptcy Code:

as defined in definition of Bankruptcy Event.

Bankruptcy Event:

means, with respect to a Person, the commencement of 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; or

[b] the appointment of (or a proceeding to appoint) a trustee or receiver for a substantial portion of such Person's property or a custodian (as such term is defined in section 101 of the Bankruptcy Code); or

[c] an attachment, execution or other judicial seizure of (or a proceeding to attach, execute or seize) a substantial property interest of such Person; or

[d] a general assignment for the benefit of creditors.

Board:

as defined in Section 6.3[a].

Book Value:

with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

[a] the initial Book Value of any asset contributed by a Member to the Company will be the asset's Fair Market Value at the time of the contribution, which shall be the amount set forth on **Exhibit B** for the Initial Capital Contributions made by the Initial ACS Member and the Initial GCI Member;

[b] the Book Value of all Company assets will be adjusted to equal their respective Fair Market Values, [i] as of [A] the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution, [B] the distribution by the Company to a Member of more than a de minimis amount of Company property as consideration for an interest in the Company, or [C] the issuance of an interest in return for services; and [ii] as of the liquidation of the Company within the meaning of Regulations § 1.704-1(b)(2)(ii)(g);

[c] the Book Value of any Company asset distributed to any Member will be the Fair Market Value of the asset on the date of Distribution; and

[d] the Book Values of Company assets will be increased or decreased to reflect any adjustment to the adjusted basis of the assets under Code §§ 734(b) or

743(b), but only to the extent that the adjustment is taken into account in determining Capital Accounts under Regulations § 1.704-1(b)(2)(iv)(m), but Book Values will not be adjusted pursuant to this provision to the extent that an adjustment under clause [b] is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment under this clause [d].

After the Book Value of any asset has been adjusted under clause [a], clause [b] or clause [d] above, Book Value will be adjusted by the Depreciation taken into account with respect to the asset for purposes of computing Net Income and Net Loss.

[REDACTED]

[REDACTED]

Business Day:

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.

Capital Account:

the capital account of a Member established and maintained in accordance with Section 3.2.

Capital Contribution:

any contribution of money or property by a Member to the Company, which is either an Initial Capital Contribution or an Additional Capital Contribution.

Cause:

the CEO [i] commits any act of fraud (including securities fraud), theft or willful misconduct relating to the Company or any of its Subsidiaries or any Member, or [ii] is convicted of, or pleads guilty or no contest to, a misdemeanor involving fraud, deceit or embezzlement which is either in relation to the Company or is reasonably likely to have a material adverse effect on the business or reputation of the Company, or any felony or [iii] violates any material federal or state securities law or other applicable material law or regulation in connection with activities directly related to the Company and its Subsidiaries, which violation is reasonably likely to have a material adverse effect on the business or reputation of the Company or its Subsidiaries or [iv] breaches his or her duty of loyalty to the Company.

CEO:

as defined in Section 6.2[a].

Certificate:

the Certificate of Formation of the Company, as amended from time to time.

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

Code:

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

[REDACTED]
[REDACTED]

[REDACTED]

Company:

The Alaska Wireless Network, LLC, as formed under the Certificate and governed by this Agreement.

[REDACTED]

[REDACTED]

Company Minimum Gain:

the amount computed under Regulations § 1.704-2(d)(1) with respect to the Company's Nonrecourse Liabilities.

Company Network:

as defined in the Facilities and Network Use Agreement.

Company Working Capital Loan:

as defined in Section 3.10[b].

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

Cure Date: as defined in Section 3.11[b].

Cure Offer: as defined in Section 3.11[a].

Cure Offer Period: as defined in Section 3.11[b].

Current Assets: the current assets of the Company, determined in accordance with GAAP.

Current Liabilities: the current liabilities of the Company, determined in accordance with GAAP.

[REDACTED]

[REDACTED]

Depreciation: for each taxable year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for the year or other period, except that if the Book Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of the year or other period, Depreciation will be an amount that bears the same ratio to the beginning Book Value as the federal income tax depreciation, amortization or other cost recovery deduction for the year or other period bears to the beginning adjusted tax basis, but if the federal income tax depreciation, amortization, or other cost recovery deduction for the year or other period is zero, Depreciation will be determined with reference to the beginning Book Value using any reasonable method selected by the Tax Matters Partner and mutually agreed to by the Members; provided, however, that the Members will not unreasonably withhold approval of a reasonable method selected by the Tax Matters Partner so long as such method does not result in a disproportionate effect on any Member.

[REDACTED]

[REDACTED]

Disclosing Party: as defined in Section 16.20.

[REDACTED]

[REDACTED]

Dissolution: the happening of any of the events set forth in Section 12.1.

Distribution: the amount of any money or the Fair Market Value of any property distributed by the Company to the Members as an operating or liquidating distribution in accordance with this Agreement.

[REDACTED]

Effective Date: as defined in the preamble, which will be the Closing Date as defined in the Contribution Agreement.

End User Data: as defined in the Facilities and Network Use Agreement.

[REDACTED]

[REDACTED]

Equity Interests: as defined in Section 1.4.

[REDACTED]

[REDACTED]

Facilities and Network Use Agreement: as defined in Section 9.3.

[REDACTED]

[REDACTED]

Fair Market Value: the cash price at which a willing seller would sell and a willing buyer would buy, both having full knowledge of the relevant facts and being under no compulsion to buy or sell, in an arm's-length transaction without time constraints, as determined by:

[a] the Members by unanimous Vote in the case of a determination of Fair Market Value pursuant to: clause [a] (except as otherwise provided therein with respect to the Fair Market Value of the Initial Capital Contributions), clause [b] and clause [c] of the definition of Book Value; the definition of Distribution; clause [c] of the definition of Income; clause [c] of the definition of Loss; Section 3.2[a][ii] (but only with respect to Additional Capital Contributions); Section 3.2[b][ii]; as provided in the penultimate paragraph of Section 3.2; [REDACTED]

[REDACTED] provided, that if the Members do not unanimously agree on Fair Market Value in any such case within 15 days after a determination of Fair Market Value is required to be made (or such longer

period as the Members may agree), then Fair Market Value shall be determined by an Independent Appraiser in accordance with Section 1.11 or Section 1.12, as applicable;

[b] as set forth on **Exhibit B** in the case of a determination of Fair Market Value pursuant to: Section 1.4; as provided in clause [a] of the definition of Book Value with respect to Initial Capital Contributions; or in Section 3.2[a][ii] with respect to Initial Capital Contributions; and

[c] by Majority Vote in all other instances;

provided, that the determination of the Fair Market Value of any Ownership Interest being valued pursuant to this Agreement for any purpose shall not be subject to any discount for lack of marketability or minority interest.

Fair Market Value
Determination Date:

as defined in Section 1.11.

FCF:

means, for any period, the consolidated net income (or loss) of the Company and its Subsidiaries determined in accordance with GAAP (“FCF Income”) plus (a) the amount of depreciation and amortization expense reducing FCF Income for such period, (b) the amount of interest expense reducing FCF Income for such period and (c) any non-cash items reducing FCF Income for such period, and minus (i) any non-cash items increasing FCF Income for such period, and (ii) any capital expenditures made in such period for tangible and intangible assets;

[REDACTED]

Fiscal Year:

[REDACTED]

GAAP:

generally accepted accounting principles as in effect from time to time in the United States, consistently applied.

GCI:

means General Communication, Inc., an Alaska corporation, the parent company of the Initial GCI Member.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

GCI Member:

initially, the Initial GCI Member, and shall include any successors thereto by merger or consolidation (or otherwise by operation of law), any assignees or transferees of all or substantially all the assets thereof, and any transferees of the Ownership Interests thereof, in each case upon such successor, assignee or transferee being admitted as an additional or substitute Member in accordance with the terms of this Agreement.

GCI Preference Period Last Quarter Distribution:

if the Effective Date is not on the first day of a calendar quarter, an amount equal to [a] 100% of Adjusted FCF for the Preference Period Last Quarter, minus [b] the sum of [i] the amount of any ACS Preferred Distributions made during the Preference Period Last

Quarter, and [ii] the amount of the ACS Preference Period Last Quarter Distribution.

GCI Services Agreement:

as defined in Section 6.2[c].


GCI Working Capital Loan:


as defined in Section 3.10[a].

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).

HSPA Services Agreement:

the HSPA Services Agreement dated as of June __, 2012 by and between GCI and ACS.

Income:

for each Fiscal Year, each item of income and gain as determined, recognized and classified for federal income tax purposes, but [a] any income or gain that is exempt from federal income tax will be included as if it were an item of taxable income, [b] any income or gain attributable to the taxable disposition of any Company asset will be computed by the Company as if the adjusted basis of such asset as of the date of the disposition were equal in amount to the Company's Book Value with respect to such asset as of such date, [c] in the event of a Distribution of any Company asset, whether or not in connection with a Liquidation of the Company, such event will for Capital Account purposes be a deemed taxable disposition of such Company asset immediately prior to such Distribution and income or gain will be computed and allocated among the Members in accordance with their Equity Interests as if such property were actually disposed of for an amount realized equal to the Fair Market Value of such asset and as if the adjusted basis of such asset was equal to its Book Value at such time, and [d] in the event the Book Value of any Company asset is adjusted upwards pursuant to the definition of Book Value, the amount of such adjustment will be taken into account for Capital Account purposes as income or gain from the

disposition of such Company asset and allocated among the Members.

Indebtedness:

with respect to a Person, without duplication, [i] all indebtedness for borrowed money, [ii] all indebtedness for the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of business and other than expense accruals and deferred compensation items arising in the ordinary course of business), [iii] all obligations evidenced by notes, bonds, debentures or other similar instruments (other than performance, surety and appeal bonds arising in the ordinary course of business in respect of which such Person's liability remains contingent), [iv] all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), [v] all obligations under leases that have been or should be, in accordance with GAAP, recorded as capital leases, [vi] all reimbursement, payment or similar obligations, contingent or otherwise, under acceptance, letter of credit or similar facilities and [vii] any liability of others described in clauses [i] through [vi] above that the Person has guaranteed or that is otherwise its legal liability, and including in clauses [i] through [vi] above any accrued and unpaid interest or penalties thereon.

Indemnified Losses:

losses, damages, expenses (including fees and expenses of attorneys and other advisors and court costs) and liabilities.

Independent Appraiser:

a nationally recognized third-party appraiser which, as of the date of appointment (or consideration for appointment), [i] shall be qualified to appraise businesses in the Wireless industry; [ii] shall have been engaged in the appraisal or business valuation business for not less than five years; and [iii] unless the Members otherwise agree, shall not be, and shall not have been at any time during the previous three years, engaged by the Company or either Member, or any of their respective Affiliates, to provide services to the Company, such Member or such Affiliate.

Individual Fees and Expenses:

as defined in the Arbitration Agreement.

Initial ACS Member: as defined in the preamble.

Initial Capital Contribution: as defined in Section 3.1[a].

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

Initial GCI Member: as defined in the preamble.

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

LIBOR: the three-month London Interbank Offered Rate of interest on the first day on which an applicable interest rate is to be determined, adjusted on the first day of each calendar quarter, for dollar deposits as published in *The Wall Street Journal* (Eastern Edition) under “Money Rates” from time to time, or if such rate does not so appear, in such other nationally recognized publication as the Members, by Majority Vote, may, from time to time, specify. On any day when such a rate is not reported, the most recently reported rate on a preceding day will be deemed the applicable rate.

Liquidation: the process of winding up and terminating the Company after its Dissolution.

Loss: for each Fiscal Year, each item of loss or deduction as determined, recognized and classified for federal income tax purposes, but [a] any Code § 705(a)(2)(B) expenditure will be included as if it were a deductible expenditure, [b] any loss attributable to the taxable disposition of any Company asset will be computed by the Company as if the adjusted basis of such asset as of the date of the disposition were equal to the Company’s Book Value with respect to such asset as of such date, [c] in the event of a Distribution of any Company asset, whether or not in connection with a Liquidation of the Company, such event will be a deemed taxable disposition of such asset immediately prior to such Distribution and any loss will be computed and allocated among the Members in accordance with their Equity Interests as if such property were actually

disposed of for an amount realized equal to the Fair Market Value of such asset and as if the adjusted basis of such asset were equal to its Book Value at such time, [d] in the event the Book Value of any Company asset is adjusted downward pursuant to the definition of Book Value, the amount of such adjustment will be taken into account as a loss from the disposition of such asset and allocated among the Members, and [e] any deductions for Depreciation with respect to a Company asset will be determined as if the adjusted basis of such asset were equal to the Book Value of such asset pursuant to the methodology described in Regulations § 1.704-1(b)(2)(iv)(g)(3).

Majority Vote: the affirmative Vote of Members holding a majority of the outstanding Equity Interests.

Material Indebtedness: as defined in Section 6.4[c].

Maximum Rate: the maximum lawful rate of interest permitted by the State of Alaska.

Member: initially, each of the Initial GCI Member and the Initial ACS Member, and any other Person subsequently admitted to the Company as an additional or substitute member in accordance with the terms of this Agreement.

Member Approval Request: as defined in Section 6.4.

Member Carrier: as defined in the Facilities and Network Use Agreement.

Member Carrier Customer: as defined in the Facilities and Network Use Agreement.

[REDACTED]

[REDACTED]

Member Nonrecourse Debt: any Nonrecourse Liability of the Company for which any Member or related Person bears the economic risk of loss under Regulations § 1.752-2 within the meaning of Regulations § 1.704-2(b)(4).

Member Nonrecourse Deductions: Company losses, deductions or Code § 705(a)(2)(B) expenditures attributable to a particular Member Nonrecourse Debt. The amount of Member Nonrecourse Deductions for any Fiscal Year or other