UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK	PROOF OF CLAIM
In re Allegiance Telecom, Inc , et al ,	Case Number 03-13057

CRDID 19488

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case A request for payment of an administrative expense may be filed pursuant to 11 U S C § 503

Name of Creditor and Address

03805890019488

MARIETTA STREET PARTNERS LLC
3101 TOWERCREEK PKWY
STE 560
ATLANTA GA 30039

Creditor Telephone Number ( )

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim Attach copy of statement giving particulars

☐ Check box if you have never received any notices from the bankruptcy court in this case

☐ Check box if this address differs from the address on the envelope sent to you by the court

FILED
U.S.B.C. SOUTHERN DISTRICT OF NEW YORK
ALLEGIANCE TELECOM, INC
03-13057 (RRD)
2361

If you have already properly filed a proof of claim with th Bankruptcy Court you do not need to file again

CREDITOR TAX I D #	ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR	Check here if this claim ☐ replaces or ☐ amends a previously filed claim dated _____

1 BASIS FOR CLAIM

☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Personal injury/wrongful death
☐ Taxes
☒ Other (describe briefly below)
Lease of real property
☐ Retiree benefits as defined in 11 U S C § 1114(a)
☐ Wages salaries and compensation (Fill out below)
Your social security number _____
Unpaid compensation for services performed from _____ (date) to _____ (date)

2 DATE DEBT WAS INCURRED

3 IF COURT JUDGMENT, DATE OBTAINED

4 TOTAL AMOUNT OF CLAIM AT TIME CASE FILED

$ 537,888 00	$ 0	$ 0	$ 537,888 00
(unsecured)	(secured)	(unsecured priority)	(total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below

☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim Attach itemized statement of all interest or additional charges

5 SECURED CLAIM

☐ Check this box if your claim is secured by collateral (including a right of setoff)

Brief description of collateral

☐ Real Estate
☐ Motor Vehicle
☐ Other _____

Value of collateral $ _____

Amount of arrearage and other charges at time case filed included in secured claim above if any $_____

6 UNSECURED PRIORITY CLAIM

☐ Check this box if you have an unsecured priority claim

RECD
DEC 03 2003
BMC

Specify the priority of the claim

☐ Wages salaries or commissions (up to $4 650) earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business whichever is earlier 11 U S C § 507(a)(3)
☐ Contributions to an employee benefit plan 11 U S C § 507(a)(4)
☐ Up to $2 100* of deposits toward purchase lease or rental of property or services for personal family or household use 11 U S C § 507(a)(6)
☐ Alimony maintenance or support owed to a spouse former spouse or child 11 U S C § 507(a)(7)
☐ Taxes or penalties owed to governmental units 11 U S C § 507(a)(8)
☐ Other Specify applicable paragraph of 11 U S C § 507(a) _____

Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment

7 CREDITS The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim

8 SUPPORTING DOCUMENTS *Attach copies of supporting documents* such as promissory notes purchase orders invoices itemized statements of running accounts contracts court judgments mortgages security agreements and evidence of perfection of lien DO NOT SEND ORIGINAL DOCUMENTS If the documents are not available explain If the documents are voluminous attach a summary

9 DATE-STAMPED COPY To receive an acknowledgment of your claim, please enclose a self-addressed stam[illegible] additional copy of this proof of claim

Allegiance Claim
02540

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 5 00 p m , November 26, 2003 Prevailing Eastern Time

BY MAIL TO
United States Bankruptcy Court
Southern District of New York
Allegiance Claims Docketing Center
Bowling Green Station P O Box 95
New York NY 10274-0095

BY HAND OR OVERNIGHT DELIVERY TO
United States Bankruptcy Court
Southern District of New York
Allegiance Claims Docketing Center
One Bowling Green Room 534
New York NY 10004-1408

RECEIVED
NOV 26 '03
CLAIMS DOCKETING CENTER

DATE SIGNED	SIGN and print the name and title if any of the creditor or other person authorized to file this claim (attach copy of power of attorney if any)
11/25/03	Thomas H Costl Attorney for Marietta Street Partners, LLC

Penalty for presenting fraudulent claim is a fine of up to $500 000 or imprisonment for up to 5 years or both 18 U S C §§ 152 AND 3571

See Other Side For Instructions

56 Marietta Street

OFFICE LEASE AGREEMENT - ENRON COMMUNICATIONS, INC.

THIS LEASE, made and entered into as of this 19 day of October, 1999, by and between PEACHTREE KESSLER LOFTS, LLC, a Georgia limited liability company dba TELECOM TOWER (hereinafter called "Landlord"), and ENRON COMMUNICATIONS, INC., a _____ corporation (hereinafter called "Tenant")

WITNESSETH

1

DEMISE

The Landlord, for and in consideration of the rents, covenants, agreements, and stipulations hereafter set forth, has leased and rented, unto Tenant, and Tenant hereby agrees to lease and take upon the terms and conditions hereinafter set forth, certain space in Landlord's office building known generally as the 56 Marietta Street Building (hereinafter called the "Building"), located at 56 Marietta Street, Atlanta, Georgia 30303 consisting of the following 11,834 rentable square feet located on the eighth floor, 890 rentable square feet located on the roof and 365 rentable square feet located in the basement, all as depicted on Exhibit A attached hereto (all of such space is hereinafter referred to as the "Premises") A legal description of the real property wherein the Premises is located showing Exhibit B attached hereto and by reference made a part hereof

2

TERM

THIS LEASE shall be for a term beginning on the earlier to occur of (a) Tenant commencing operations in the Premises or (b) December 1, 1999 (the date so determined is referred to herein as the "Commencement Date") and ending at midnight on the date which is ten (10) years from and after the Commencement Date unless sooner terminated as hereinafter provided For purposes of this Lease, the term "Lease Year" shall mean the 12-month period beginning on the Commencement Date and each 12-month period thereafter The parties shall execute a written statement setting forth the Commencement Date and the date of expiration of this Lease promptly after the same shall have been ascertained

3

RENT

Tenant hereby covenants and agrees to pay to Landlord at its office or at such place Landlord may designate, in lawful money of the United States, without demand, set

off or deduction, during the term of this Lease or any extension or renewal hereof, rent as follows

(a) Fixed Minimum Rent

Tenant shall pay Fixed Minimum Rent during the term of this lease, which shall be payable in advance in equal monthly installments on the first day of each and every calendar month included in the term of this Lease as follows

Lease Month	Fixed Min Rent
1-12	$19,088
13-24	$19,661
25-36	$20,250
37-48	$20,858
49-60	$21,484
61-72	$22,128
73-84	$22,792
85-96	$23,476
97-108	$24,180
109-120	$24,906

Tenant shall pay to Landlord the first month's installment of Fixed Minimum Rent contemporaneously with the execution of this Lease

(b) Taxes

If any governmental authority having jurisdiction now or hereafter imposes upon Landlord, pursuant to statute, ordinance, regulation, order or otherwise, a tax levy or other imposition based upon the gross rentals received by Landlord under the terms of this Lease, Tenant shall, within 10 days of written demand, pay to Landlord the amount thereof at the time or times the same may fall due with respect to the term of this Lease The tax, levy or imposition to which reference is herein above made shall include sales, excise, use or similar taxes but shall not include any income, franchise, capital stock, estate or inheritance taxes imposed upon Landlord

(c) Late Charges

In addition to all other payments owing hereunder, when any amount due from Tenant to Landlord under the provisions of this Lease is not paid when due, Tenant shall pay to Landlord upon receipt of written notice a late charge in the amount of five percent (5%) of the amount so payable to Landlord for each month or fraction thereof for which such payment is late, or one hundred dollars ($100 00), whichever is greater All such

interest or late charges described in this sub-paragraph shall be considered additional rent hereunder

(d) Cure of Breach

In the event of any default hereunder by Tenant (beyond any applicable notice and cure provision of Section 14 hereof), Landlord may at any time, cure such breach for the account of and at the expense of Tenant Any sums expended by Landlord to cure any such breach shall be paid to Landlord by Tenant within ten (10) days after demand as additional rent

(e) Attorney's Fees

In the event of sums owing to Landlord hereunder are collected by or through an attorney at law, Tenant agrees to pay as additional rent reasonable attorney's fees

4
USE OF PREMISES

The Premises shall be used for the operation of executive or general offices, and for the installation, operation, modification and maintenance of equipment and facilities, including but not limited to switching equipment, in connection with Tenant's telecommunication business Further, Tenant shall have the right to transmit and receive data, video, voice and other transmissions to or from the Premises The Premises shall not be used for any illegal purposes, nor in any manner to create any nuisance or trespass, nor in any manner to vitiate the insurance or increase the rate of insurance on the Premises

5
[INTENTIONALLY DELETED]

6
DEVELOPMENT PLAN

Landlord shall have the right, in addition to any other specific rights reserved elsewhere in this Lease, to change the development plan for the Building in such manner as Landlord, in its sole discretion, may from time to time find proper, provided such changes do not unreasonably interfere with Tenant's use of the Premises for the purposes permitted by Section 4 hereof Landlord shall have the right to make changes to the Building or any lands added thereto, including but not limited to, construct additional buildings or improvements and make alterations thereto, build additional stories or any buildings, construct multi-story or elevated parking facilities, rearrange drives and parking areas and construct roofs, walls, and any other improvements over, to or in connection with any part of, or all of, the foregoing

Landlord shall not exercise any right of Landlord to reduce, interrupt or cease service of the heating, air conditioning, ventilation, plumbing, electrical systems, telephone systems, and/or utilities services of the leased Premises or the Building, without having met with Tenant in advance to advise Tenant of Landlord's requirements so that Landlord and Tenant may devise a procedure for accomplishing Landlord's goals and eliminate (or minimize to the greatest extent reasonably possible) the interruption to Tenant's use, possession and occupancy of the leased Premises for the purpose of conducting its business on a continuing basis

7

INDEMNITY AND INSURANCE

Tenant agrees to indemnify, defend and hold harmless Landlord, its agents, servants, employees and the holder of any deed to secure debt or ground lessor of and from any loss, attorney's fees, expenses or claims (i) occurring in the Premises, unless caused by the negligence or willful misconduct of Landlord, its agents, employees or contractors, (ii) arising out of any and all defaults by Tenant, its agents, employees or contractors under this Lease or (iii) arising out of any negligent or willful act or omission of Tenant, its agents, employees or contractors Landlord agrees to indemnify, defend and hold harmless Tenant, its agents, servants and employees and permit its successors and assigns of and from any loss, attorney's fees, expenses or claims (i) arising out of any and all defaults by Landlord under this Lease, or (ii) arising out of any negligent or willful act or omission of Landlord, its agents, employees or contractors In no event shall either party be liable for any consequential damages (including, without limitation, lost rental income or lost profits) suffered by the other party as a result of any default hereunder Tenant agrees that at all times during the term of this Lease Tenant shall maintain insurance covering the Premises and naming Landlord as an additional insured, with limits as follows

(i) Commercial general liability insurance for bodily, personal injury, and property damage, not less than two million dollars ($2,000,000) Combined Single Limit in the event of any one occurrence (with a general liability umbrella of not less than four million dollars ($4,000,000), and

(ii) Worker's compensation and employer's liability insurance covering all of Tenant's employees working in and about the Premises, with coverage limits not less than the minimum limits allowable under all applicable laws

(iii) Property insurance providing 100% replacement cost coverage for Tenant's leasehold improvements, equipment, inventory, and other personal property

Tenant shall provide Landlord with a certificate of such insurance coverage which certificate shall state that the insurer shall notify Landlord not less than ten (10) days in

advance of any material modification or cancellation thereof Any insurance required to be carried by Tenant hereunder will be issued through insurance carriers licensed to do business in Georgia with a rating of Best's Insurance Guide A/VIII and/or Standard & Poor Insurance Solvency Review A-, or better

Notwithstanding anything to the contrary contained herein, Tenant or any successor to Tenant or sublessee or assignee of Tenant shall have the right to self-insure all or any part of any of said insurance coverages, in Tenant's sole discretion, so long as such self-insuring party maintains a tangible net worth of not less than Seventy-Five Million Dollars ($75,000,000 00), as determined pursuant to generally accepted accounting principles In the event that Tenant elects to self-insure all or any part of any risk that would be insured under the policies and limits described above, and an event occurs where insurance proceeds would have been available but for the election to self-insure, Tenant shall immediately make funds available to the same extent that they would have been available had such insurance policy been carried Landlord and Tenant each hereby release and relieve the other, and waive their entire right of recovery against the other for loss or damage arising out of or incident to the perils insured against, or required to be insured against pursuant to the terms hereof, which perils occur in, or about the Premises, whether due to the negligence of Landlord or Tenant, or their agents, employees, contractors, and/or invitees Landlord and Tenant shall, upon obtaining the policies of insurance required, give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease

8
REPAIRS BY LANDLORD

From and after the Delivery Date, Landlord's maintenance and repair obligations as to the Building shall be as follows

(a) Landlord shall have no maintenance or repair obligations as to the Premises or any portions of Building systems (including, without limitation, the Building's water, sewer, electrical, heating, plumbing, fire suppression, ventilation and air-conditioning systems) which are located within the Premises or which serve the Premises exclusively, except that Landlord, at Landlord's sole cost and expense shall keep in good order, condition and repair all structural components of the Premises,

(b) Subject to Section 8(a) above, Landlord, at Landlord's sole cost and expense shall (i) be responsible for lighting the common areas of the Building and washing the exteriors of windows on the Building in a manner that such services are customarily furnished to similar office buildings in the area where the Building is located, (ii) keep in good order, condition and repair (1) the elevators, (2) the Building's water, sewer, electrical, heating, plumbing, fire suppression, ventilation and air-conditioning systems, (3) the common areas of the Building, (4) structural

components of the Building, and (5) the roof of the Building

(c) Notwithstanding anything to the contrary in Sections 8(a) and (b) above, Tenant shall cause a contractor reasonably approved by Landlord to make such repairs as may be made necessary by any willful or negligent act or omission of Tenant or its employees, agents, customers, invitees, licensees or contractors, and the cost of such repairs shall be borne by Tenant

Landlord shall be under no obligation to make any inspection of the Premises or to make any repairs until after written notice from Tenant to Landlord of the need thereof As soon as reasonably practical, Tenant shall report in writing to Landlord any defective condition known to Tenant which Landlord is required to repair, and Tenant's failure so to report such defects or needed repairs shall make Tenant responsible to Landlord for any damage or liability incurred by Landlord by reason of such defect, or by reason of any delay in the repair of such defect Tenant hereby specifically waives any applicable law requiring inspection of the Premises by Landlord Landlord shall in no event be liable for any lost business, lost profits or consequential damages resulting from Landlord's failure to make repairs or otherwise

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REPAIRS BY TENANT ALTERATIONS

Tenant shall keep and maintain the non-structural elements of the Premises, and every part thereof including, without limitation, the portions of the Building's water, sewer, electrical, heating, plumbing, fire suppression, ventilation and air-conditioning systems located within or exclusively serving the Premises, in good order, condition and repair Tenant shall be responsible for providing janitorial services to the Premises, and trash will be disposed of by Tenant in trash dumpster (s) designated by Landlord All parts of the interior of the Premises shall be painted, wallpapered, varnished or otherwise redecorated at Tenant's own expense and at Tenant's discretion Upon written notice from Landlord, Tenant agrees to return the Premises to Landlord at the expiration of this Lease in good condition and repair as when first received, normal wear and tear and damage from casualty excepted

Tenant shall make no alterations, additions, or improvements to the Premises, except repairs and replacements of trade fixtures or equipment with new fixtures or equipment of equal or greater value, without the prior written consent of Landlord, and Landlord may impose, as a condition of such consent, such requirements as are reasonable including, without limiting the generality of the foregoing, requirements as to the manner in which, the time or times at which, such work shall be done Except for alterations, additions or improvements to the Premises which are structural in nature or which affect the Building's utility systems, Landlord agrees that it shall not unreasonably withhold or delay its consent to any alterations, additions or improvements to the Premises In the event Landlord fails to disapprove any such alterations, additions or improvements within ten (10) business days after Tenant submits plans and specifications

to Landlord for such alterations, additions or improvements in accordance with the notice provisions of Section 24 hereof, Landlord shall be deemed to have approved such alterations, additions or improvements Tenant agrees to indemnify and hold Landlord harmless from and against any and all claims from mechanics or material men or other liens in connection with any alterations, additions, or improvements, and Tenant will, if required by Landlord, furnish such waiver or waivers of lien or bond in form and with sureties satisfactory to Landlord, as Landlord may require before commencing any work in connection with making alterations, additions, or improvements to the Premises Tenant will promptly bond or discharge any liens which may be filed in connection with alterations, additions, repairs, or improvements to the Premises within ten (10) days after written notice from Landlord Tenant shall be responsible for complying with all government codes and ordinances made necessary when making alterations, additions or improvements to the Premises Landlord reserves the right to enter the Premises for the purpose of posting notices of non-responsibility as may be permitted by law or desired by Landlord Notwithstanding anything to the contrary herein, on or before the expiration or earlier termination of this Lease, (i) Tenant may remove from the Premises, its equipment, including without limitation its generators, dry coolers and fuel tanks, and (ii) Landlord may require Tenant to remove from the Premises, its equipment, including without limitation, its generators, dry coolers and fuel tanks Tenant shall repair all damage resulting from any such removal

10

RIGHT TO RELOCATE

Intentionally Omitted

11

UTILITIES

Electricity will be directly metered and billed by the utility provider to Tenant at Tenant's expense Landlord shall furnish water, at Landlord's expense for use in Tenant's restroom (s) and lighting, for common corridor areas Tenant's electrical power requirements are 277/480 volt, 4-wire, 3 phase, 1200 AMPs service (the "Promised Usage") Landlord shall construct a power vault to deliver the Promised Usage to the Premises, 24 hours per day, seven days per week Tenant shall pay to Landlord an amount equal to 13 33% ("Tenant's Pro Rata Share") of the actual out-of-pocket cost of constructing and installing such power vault If the electric utility provider (the "Utility Provider") requires a payment of any kind from Landlord for any equipment for such power vault, Tenant shall pay to Landlord Tenant's Pro Rata Share of such payment If in lieu of such a payment, the Utility Provider requires that the users of such power vault use no less than a specified amount of power (the "Minimum Power Usage"), and the Tenant's actual usage of power is less than the Promised Usage, Tenant shall pay a share of any costs or fees imposed upon Landlord by the Utility Provider as a result of not attaining the Minimum Power Usage, which share shall be based upon the following formula 13 33% x (1-(Tenant's actual power usage/60% of Promised Usage)) x 'the amount of any such cost of fees imposed upon Landlord' Tenant shall pay to Landlord

any sums required under this Section as additional rent hereunder within thirty (30) days of demand from Landlord If Tenant determines the Building's electrical system does not have sufficient capacity to accommodate Tenant's needs, Tenant, at its option and at its sole cost and expense, may upgrade the Building's electrical system as necessary to accommodate the Equipment The method and manner in which such upgrade is accomplished shall be subject to Landlord's reasonable approval Tenant shall have the option, and at its sole cost and expense, to install a transformer, tying into the Building's bus duct system to obtain the electrical supply of the Premises (such installation and connection the base building bus duct shall require Landlord's approval) and to separately meter Tenant's electrical power usage at the Premises

12
ANTENNAE

Except as expressly set forth in this Lease to the contrary, Tenant shall have no right to go upon, occupy or use all or any portion of the roof of the Building for any purpose All of such rights are hereby reserved by and to Landlord Notwithstanding the foregoing, Landlord grants Tenant the right, in common with Landlord and any other tenants of the Building, to install, operate and maintain, at Tenant's sole expense and risk and subject to any applicable laws, regulations, codes or ordinances, a GPS antenna (the "Antennae Equipment") within any portion of the Expansion Space which is located on the roof of the Building Any Antennae Equipment installed by Tenant shall be erected so as not to interfere with the operation of any other antennae, satellite dish or other similar equipment on the roof Tenant shall obtain all necessary municipal, state and federal permits and authorizations required to install, maintain and operate the Antennae Equipment and pay any charges levied by government agencies with respect thereto At the conclusion of the term of this Lease, Tenant shall remove the Antennae Equipment and surrender and restore the space occupied thereby to Landlord in as good as condition as when entered, except for loss or damage resulting from casualty, condemnation, Act of God or ordinary wear and tear Prior to installing or placing any Antennae Equipment on the roof, Tenant shall submit plans and specifications to Landlord for Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed If Landlord fails to disapprove of such plans and specifications within ten (10) days of receipt, Landlord shall be deemed to have approved such plans and specifications No approval by Landlord of any such plans and specifications shall constitute any representation or warranty by Landlord of any kind or nature

13
SIGNS

All rights to advertise on the Premises or place signs on the exterior thereof shall be reserved to Landlord, and Tenant may not advertise or place signs on the Premises without the prior written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion

14
DEFAULT

Should Tenant's interest herein, or any part thereof, be assigned or transferred either voluntarily or by operation of law (except as expressly permitted herein), including, without limitation, filing of a petition by or against Tenant under any insolvency or bankruptcy law, or if Tenant should make a general assignment or any assignment for the benefit of its creditors, or if Tenant should, after written notice, fail to remedy any default (i) in the payment of any sum of money due under this Lease for ten (10) days, or (ii) in the keeping of any other term, covenant, or condition herein with all reasonable dispatch, not exceeding thirty (30) days, and has not commenced to cure using all reasonable efforts, then, in any of such events, Landlord shall have the right, at its option, in addition to any other remedy Landlord may have hereunder or by operation of law, without any further demand or notice, to re-enter the Premises and eject all persons therefrom, using all necessary force to do so, and either (a) declare this Lease at an end, in which event Tenant shall immediately pay Landlord a sum of money equal to the amount, if any, by which the then cash value of the rent reserved hereunder for the balance of the term of this Lease exceeds the then cash reasonable rental value of the Premises for the balance of said, term, or (b) without terminating this Lease may re-let the Premises, or any part thereof, as the agent and for the account of Tenant upon such terms and conditions as Landlord may deem advisable, in which event the rent received on such re-letting shall be applied first to the expense of such re-letting, including necessary renovation and alteration of the Premises, any real estate commissions paid, and all other expenses of preparing the Premises for occupancy by the new tenant, and thereafter toward payment of all sums due or to become due hereunder If a sufficient sum shall not be thus realized to pay all sums owing by Tenant hereunder, Tenant shall pay Landlord any deficiency monthly, rental stipulated in this Lease in previous or subsequent months, and Landlord may bring an action therefor as such monthly deficiency shall arise Any such re-entry shall be allowed by Tenant without let or hindrance, and Landlord shall not be liable in damages for any such re-entry, or guilty of trespass or forcible entry provided it has not used willful misconduct

15
COMPLIANCE WITH REGULATIONS

Tenant agrees that it shall promptly comply at its sole cost with all requirements of any legally constituted public authority made necessary by reason of Tenant's occupancy of the Building or by reason of the business conducted by Tenant in the Building Landlord agrees promptly to comply at its sole cost with any such requirements if not made necessary by reason of Tenant's occupancy or by reason of the business conducted by Tenant in the Building

16
LATE DELIVERY

If Landlord is prevented by law or through no fault of Landlord from giving possession of the Premises on the date herein provided, there shall be no liability for damages of any kind resulting from such failure, provided, however, if Landlord, does not for any reason (other than force majeure), deliver the Premises to Tenant on or before January 15, 2000, Tenant shall have the right to terminate this Lease by written notice given to Landlord on or before February 1, 2000

17
RE-LEASING

Landlord may enter the Premises at reasonable times and with reasonable notice to exhibit the same to prospective purchasers or tenants, and to make repairs required of Landlord under the terms hereof, and to make repairs to Landlord's adjoining property

18
EARLY TERMINATION

No termination of this Lease prior to the normal expiration thereof, shall affect Landlord's right to collect rent for the period prior to termination

19
CONDITION OF PREMISES AT TIME OF DELIVERY

Landlord shall deliver to Tenant possession of the Premises substantially in their condition as of the date hereof, and Tenant shall accept possession of the Premises in such condition, except as otherwise provided herein

20
ASSIGNMENT

Except as specified in this Section 20, Tenant shall not sublet said Premises or any part thereof nor assign this Lease, without in each case the prior written consent of Landlord not to be unreasonably withheld In determining the reasonableness of Landlord's decision to withhold or grant its consent to any proposed assignment or sublease, Landlord may take into consideration all relevant factors surrounding the proposed assignment or sublease, including, without limitation, the following

1 The business reputation of the proposed subtenant or assignee and its officers or directors

2 The nature of the business and the proposed use of the Premises by the proposed subtenant or assignee in relation to restrictions, if any, contained

in other leases or agreements affecting the Building

3 The proposed subtenant or assignee shall not be a tenant (or subsidiary, affiliate or parent of a tenant) of other space in the Building or a party with whom Landlord is then negotiating regarding the lease of space in the Building

4 The financial condition of the proposed subtenant or assignee

Any transfer of this Lease from Tenant by merger, consolidation, liquidation, or otherwise by operation of law shall constitute an assignment for the purpose of this Lease and shall require the written consent of the Landlord Tenant shall not permit any business to be operated in or from the Premises by any concessionaire or licensee without the prior written consent of Landlord In the event that Tenant shall seek Landlord's permission to assign this Lease or sublet the Premises, Tenant shall provide to Landlord the name, address and financial statement of the proposed assignee or sub-lessee and such other information concerning such proposed assignee or sub-lessee as Landlord may require It shall be a condition to any consent by Landlord to an assignment or subletting that Tenant shall accompany such request with a certified check in the amount of $1,500 to reimburse Landlord for administrative and legal expense for the review and preparation of necessary documents Any consent by Landlord to any assignment or subletting, or to the operation by a concessionaire or licensee, shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting, or operation by a concessionaire or licensee In the event that Tenant shall at any time, during the term of the Lease, sublet all or any part of said Premises or assign this Lease, either with the consent of Landlord as hereinbefore provided or without the consent of Landlord, then, in such event, it is hereby mutually agreed that Tenant shall nevertheless remain fully liable under all of the terms, covenants and conditions of this Lease If this Lease is assigned, or if the Premises or any part thereof is subleased or occupied by anybody other than Tenant or Tenant's permitted assigns, Landlord may upon a monetary default by Tenant, collect from assignee, sub-lessee or occupant any rent or other charges payable by Tenant under this lease, and apply the amount collected to the rent and other charges herein reserved, but such collection by Landlord shall not be deemed as acceptance of the assignee, sub-lessee or occupant as a tenant nor release of Tenant from the performance by Tenant under this Lease Notwithstanding the foregoing, Tenant shall have the right to assign this Lease or sublet the Premises or any portion thereof to an Affiliate (as hereinafter defined) without the consent of Landlord Tenant shall promptly notify Landlord of any such assignment or subletting, and no such assignment or subletting shall release Tenant from liability for any of its obligations hereunder For purposes of this Lease, the term "Affiliate" shall mean any person or entity which controls, is controlled by or is under common control with Enron Communications, Inc , so long as such persons or entity continues to control, be controlled by or be under common control with Enron Communications, Inc For purposes hereof, a person or entity "controls" another person or entity if such person or entity owns more than fifty percent (50%) of the ownership, partnership or beneficial interests of the other person or entity

21
DESTRUCTION OF PREMISES

If the Building or the Premises are totally destroyed by storm, fire, lightning, earthquake, flood or other casualty, this Lease shall terminate as of the date of such destruction, and rental shall be accounted for between Landlord and Tenant as of such date If the Premises are damaged but not wholly destroyed by any such casualties, rental shall abate in such proportion as use of the Premises has been destroyed, and Landlord shall restore the Premises to substantially the same condition as before such damage as speedily as practicable, but Landlord shall not be required to expend any amount greater than insurance proceeds received by Landlord arising out of such damage to the Premises, whereupon Tenant shall resume payment of the full rent owing hereunder In the event of total destruction of the Premises and termination of this Lease, Tenant shall be entitled to retain proceeds of Tenant's insurance If, as a result of any casualty which does not arise out of any negligent or willful act or omission of Tenant or its employees, agents or contractors, the Premises remains untenantable for a continuous period in excess of one hundred eighty (180) days, Tenant shall have the right to terminate this Lease by written notice given to Landlord within ten (10) days after the expiration of such one hundred eighty (180) day period

22
EMINENT DOMAIN

In the event the Premises or any part thereof shall be taken or condemned either permanently or temporarily for any public use or purpose by any competent authority by right of eminent domain, the entire compensation award therefor, including, but not limited to all damages and compensation for the reversion and fee, shall belong to the Landlord without deduction therefrom for any present or future estate of Tenant, and Tenant hereby assigns to Landlord all its rights, title and interest to any such award Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business and leasehold estate by reason of the condemnation and for or on account of any cost or loss to which Tenant might be put in removing Tenant's merchandise, furniture, fixtures and equipment In such event, this Lease shall terminate as of the day possession shall be taken by such public authority, and Tenant shall pay rent up to the date

23
PARTNERSHIP

This Lease shall not be construed as making Landlord in any manner or for any purpose a partner of Tenant in its business or otherwise, or a joint venturer or member of any joint enterprise with Tenant

24

NOTICES

All notices or consents required or permitted to be given hereunder shall be in writing and shall be deemed to be duly given if sent by (i) facsimile, (ii) certified mail, return receipt requested, postage prepaid, or (iii) by nationally recognized overnight courier service, and addressed as follows

IF TO TENANT	Enron Communications, Inc 210 S W Morrison Street Suite 400 Portland, Oregon 97204 Attn David Leatherwood, Vice President Fax _____
With a copy to	Enron Realty Advisors, Inc P O Box 1188 Houston, Texas 77251-1188 Attn Mark Santikos Fax 713-646-4020
IF TO LANDLORD	PEACHTREE KESSLER LOFTS, LLC dba TELECOM TOWER 3101 Towercreek Pkwy #560 Atlanta, Georgia 30339 Attn Don A Thomas Fax 404-953-6579
With a copy to	Sutherland Asbill & Brennan LLP 999 Peachtree Street, NE Atlanta, Georgia 30309-3996 Attn James B Jordan, Esq Fax 404-853-8806

Any notice given in the manner set forth above shall be deemed to be received by the party to whom such notice is addressed upon the earlier to occur of (i) actual receipt, or (ii) five (5) business days after the sending thereof Either party may change the address or fax number to which notices to such party shall be sent by giving written notice thereof to the other party In the case of notices delivered by facsimile, notice shall be deemed to have been given at the time of receipt set forth on the confirmation generated by the transmitting facsimile machine, provided that a copy of such notice is delivered to the receiving party by one of the methods described in clauses (ii) or (iii) above within five (5) business days thereafter

25
USUFRUCT ONLY

This Lease Agreement shall create the relationship of landlord and tenant only as between Landlord and Tenant No estate shall pass out of the Landlord hereunder Tenant shall have only a usufruct on the Premises, not subject to levy and sale, and not assignable by Tenant except as otherwise provided herein

26
SUBORDINATION/NON-DISTURBANCE

This Lease shall be subordinate to any ground lease, mortgage, deed to secure debt or trust, or any other hypothecation for security (each, a "Security Instrument"), now or hereafter placed upon the real property of which the Building and Premises are a part, and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof, provided, however, the subordination of this Lease to any Security Instrument shall be subject to Tenant's receipt of commercially reasonable subordination, non-disturbance and attornment agreement from the holder of any such Security Instrument Tenant agrees to execute any such commercially, reasonable subordination, non-disturbance and attornment agreement which may be required to effectuate such subordination within fifteen (15) days after written demand

27
NAME OF BUILDING

Tenant shall not use the name of the Building for any purpose other than the address of the business to be conducted by Tenant in the Premises Tenant shall not use any picture of the Building in any advertising, stationary nor in any other manner without Landlord's prior written consent Landlord expressly reserves the right at any time to change the name of the Building without, in any manner, being liable to Tenant therefore

28
RECORDING

The parties hereto agree that this Lease shall not be recorded in any public records

29
BROKER'S COMMISSION

Each party represents and warrants to the other that such party has not employed the services of any broker or finder in connection with this Lease, and each party shall indemnify and hold the other harmless against any liability for any brokers commission or finders fee claimed by any broker or finder alleging to have dealt with such party except Terminus Real Estate ("Terminus") which represented the Landlord in this Lease and CB Richard Ellis, Inc ("CB") which represented Tenant in this Lease Any broker commission due Terminus or CB by virtue of such representation shall be paid by Landlord under the terms of a separate agreement

30
ESTOPPEL CERTIFICATE

At any time and from time to time, Tenant agrees, within five (5) days after any request from Landlord to execute, acknowledge and deliver to Landlord, or to such person as Landlord may request, a statement in writing certifying the following (provided that in each case, such facts are true)

(a) That this Lease constitutes the entire agreement between Landlord and Tenant and is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modification),

(b) The date to which the fixed minimum rent and any other rent owing hereunder has been paid, and the amount of security deposited with Landlord,

(c) That Tenant has accepted possession, that the lease term has commenced, that Tenant is occupying the Premises and whether Tenant knows of any default under the Lease by Landlord and any defaults or offsets which Tenant has against enforcement of this Lease by Landlord,

(d) The actual Commencement Date of the Lease and the expiration date of the Lease, and

(e) That the Tenant's business is open for business

31
LIMITATION OF LANDLORD'S LIABILITY

If Landlord shall fail to perform any covenant, term or condition of this Lease upon Landlord's part to be performed, Tenant hereby releases Landlord from any personal liability for such default and should Tenant, as a consequence of such default, recover a

money judgement against Landlord, such judgement shall be satisfied only out of (i) the proceeds of sale produced upon execution of such judgement, and levy thereon, (ii) the rents or other income from such property receivable by Landlord, and (iii) the consideration received by Landlord's interest in such property, and Landlord shall not be liable for any deficiency The provisions of this paragraph are not designated to relieve Landlord from the performance of any of its obligations hereunder, but rather to limit Landlord's liability in the case of the recovery of a judgement against it, as aforesaid, nor shall any of the provisions of this Section be deemed to limit or otherwise affect Tenant's right to obtain injunctive relief or specific performance or to avail itself of any other right or remedy which may be accorded Tenant by law or this Lease In the event of sale or other transfer of Landlord's right, title and interest in the Building and an assumption of this Lease by the purchaser or transferee, Landlord shall thereafter be released from all liability and obligations hereunder, provided, that the provisions of this Section 31 shall inure to the benefit of any such purchaser or transferee

32
SECURITY DEPOSIT

Tenant has deposited with Landlord a security deposit in the amount of the first month's rent ($19,088) receipt of which is hereby acknowledged by the Landlord Said deposit shall be held by Landlord without liability for interest as security for the faithful performance by Tenant of all of the terms of this Lease by Tenant to be observed and performed Landlord shall have no obligation to maintain such deposit in a segregated account and may use or commingle the same with other funds If any of the rents herein reserved or any other sum payable by Tenant to Landlord shall be overdue and unpaid, or should Landlord make payments on behalf of Tenant, or Tenant shall fail to perform any of the terms of this Lease after the giving of notice and the expiration of any applicable cure periods, then Landlord may, at its option and without prejudice to any other remedy which Landlord may have on account thereof, appropriate and apply said security deposit or so much thereof as may be necessary to compensate Landlord toward the payment of rent or additional rent loss or damage sustained by Landlord due to such breach on the part of Tenant Tenant shall forthwith upon demand restore said security deposit to the original sum deposited Should Tenant comply with all of said terms and promptly pay all of the rentals as they fall due and all other sums payable by Tenant to Landlord hereunder, said deposit shall be returned in full to Tenant within thirty (30) days after the expiration or earlier termination of this Lease

33
HOLDING OVER

If Tenant shall remain in possession after expiration of the term hereof, with Landlord's acquiescence and without any express agreement of the parties, Tenant shall be a Tenant from month to month at a fixed minimum rental rate equal to one hundred fifty percent (150%) of the fixed minimum rental rate in effect at the end of the Lease, and all of the other terms and conditions of this Lease, including the provision relating to

other rent, shall continue in full force and effect, and there shall be no renewal of this Lease by operation of law In the event that Tenant so becomes a Tenant from month to month, either party may terminate this Lease upon thirty (30) days prior written notice to the other party

34
RULES AND REGULATIONS

Landlord shall have the right to promulgate reasonable rules and regulations for the benefit of Landlord and all of the tenants of the Building Any such rules and regulations shall apply to all of the tenants of the Building and shall be enforced in a non-discriminatory manner Tenant agrees to comply with all such rules and regulations after Landlord gives notice of same The present rules and regulations of the Building are described within Exhibit "C"

35
RIGHTS CUMULATIVE

All rights, powers and privileges of Landlord hereunder shall be cumulative of each other and of any rights, powers and privileges provided by law

36
NO WAIVER

The waiver of any breach of any provision of this Lease Agreement by Landlord, and any failure of Landlord to exercise any power given Landlord hereunder, or to insist upon strict compliance by Tenant with its obligations hereunder, and no custom or practice of the parties at variance with the term hereof, shall constitute a waiver of Landlord's right to demand strict compliance with the exact terms hereof Landlord does not authorize any agent to waive any of the provisions of this Lease Agreement

37
TIME OF ESSENCE

Time is of the essence of this Lease Agreement

38
PARTIES BOUND

This Lease shall be binding upon and inure to the benefit of Landlord and its heirs, representatives, successors and assigns This Lease shall be binding upon and inure to the benefit of Tenant and its heirs, representatives, successors and if this Lease shall be validly assigned or sublet, it shall be binding upon and inure to the benefit of Tenant's assignees or subletees as to Premises covered by such assignment or sublease Whenever the singular number is used in this Lease, and when required by context, the same shall

include the plural, and the masculine gender shall include the feminine and neuter genders, and vise versa, and the word "person" shall include corporations, partnerships and other associations, all where the context so requires

39
CAPTIONS

The captions, headings and sub-headings set forth in this Lease Agreement are for the convenience of reference only, and shall not be used in interpreting this Agreement

40
ENTIRE AGREEMENT

This Lease contains the entire Agreement between the parties with respect to the subject matter hereof, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein, shall be of any force or effect

41
DISCLOSURE

For the purposes of disclosure Don A Thomas and Mark Swiecichowski, principals of Landlord, are licensed real estate brokers in the State of Georgia

42
SUBMISSION OF LEASE

The submission of this Lease for examination does not constitute an option nor offer for the Premises, and this Lease shall become effective only when fully executed counterparts of this Lease have been executed and delivered by both Landlord and Tenant

43
ENVIRONMENTAL PROVISION

(a) Tenant will not use or permit any hazardous or toxic waste, substance, contaminant, asbestos, oil, radioactive or other material, the removal of which is required or the maintenance or storage of which is prohibited, regulated, or penalized by any local, state, or federal agency, authority, or governmental unit (collectively, "Hazardous Substances"), to be brought onto the Premises or if so brought or found located thereon, shall cause the same to be immediately removed, unless the storage, use, treatment, and disposal of same is in full compliance with all applicable federal, state and local laws and regulations pertaining thereto, and Tenant's obligation to so remove shall survive the termination of this Lease Tenant will not use or suffer the use of the Premises in any manner other than in full compliance

with all applicable federal, state and local environmental laws and regulations Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all costs, damages, and expenses, including without limitation reasonable attorney's fees, resulting, directly or indirectly, from any Hazardous Substances introduced in, on or under the Premises by or on behalf of Tenant, its agents, representatives, employees or contractors This indemnity shall survive the expiration or earlier termination of this Lease

(b) Landlord hereby represents and warrants to Tenant that to the best of its knowledge, there are no Hazardous Substances in the Premises at levels or in concentrations which violate any applicable law, code, regulation or ordinance In the event that any such Hazardous Substances are presently located in the Premises, upon notice from Tenant, Landlord shall diligently cause the same to be removed, contained or remediated in accordance with all applicable laws, codes, regulations and ordinances

44

AMERICANS WITH DISABILITIES ACT PROVISION

The parties acknowledge that the Americans with Disabilities Act of 1990 (42 U S C Section 12101 et seq) and regulations and guidelines promulgated thereunder, as all of the same may be amended and supplemented from time to time (collectively referred to herein as the "ADA") establish requirements for business operations, accessibility and barrier removal, and that such requirements may or may not apply to the Premises and Building depending on among other things (i) whether Tenant's business is deemed a "public accommodation" or "commercial facility", (ii) whether such requirements are "readily achievable", and (iii) whether a given alteration affects a "primary function" or triggers "path of travel" requirements The parties hereby agree that (i) Landlord shall be responsible for ADA Title III compliance in the Common Areas, and (ii) Tenant shall be responsible for the ADA Title III compliance in the Premises, including any leasehold improvements or other work to be performed in the Premises under or in connection with this Lease Tenant and Landlord hereby agree to indemnify and hold harmless the non-defaulting party from and against any and all claims, demands, actions, damages, fines, judgments, penalties, costs (including reasonable attorneys' fees and consultants' fees), liabilities and losses resulting from the other's failure to make alterations required by the ADA, as now or hereafter amended, and the rules and regulations promulgated thereunder

45

INTENTIONALLY OMITTED

SPECIAL STIPULATIONS

1 Landlord is to turn the Premises over to the Tenant in "as is" condition, without any representation or warranty, except as specified herein

2 Tenant shall be responsible for the construction of any and all walls inside of Tenant's Premises Tenant, at its cost, shall convert the existing wet sprinkler system to a dry pipe system

3 Tenant shall coordinate and obtain Landlord's approval of all conduit routing and connections of fiber, telephone, data, mechanical, power, etc , to main building system with Landlord

4 Landlord shall provide a ground bar located in generator room connected to main building ground

5 Tenant shall be responsible for the construction of all demising walls in the Premises Tenant shall also be required to construct a 2-hour rated demising wall, approximately 48' long as per the drawing attached hereto as Exhibit F, which is required by the City of Atlanta Building Authority

6 Removal of Electrical and Telecommunications Wire

a Landlord May Elect to Either Remove or Keep Wires Within 10 days after the expiration or sooner termination of the Lease, Landlord may elect ("Election Right") by written notice to Tenant to

(i) Retain any or all wiring, cables, risers and similar installations appurtenant thereto installed by Tenant in the risers of the Building ("Wiring"),

(ii) Remove any or all such Wiring and restore the Premises and risers to their condition existing prior to the installation of the Wiring ("Wire Restoration Work") Landlord shall perform such Wire Restoration Work at Tenant's sole cost and expense, or

(iii) Require Tenant to perform the Wire Restoration Work at Tenant's sole cost and expense In such event, Tenant shall perform the Wire Restoration Work as promptly as practicable under the circumstances and shall not interfere with Landlord's activities in the Premises The performance of such Wire Restoration Work by Tenant shall not constitute a holdover pursuant to terms of this Lease or applicable law

b **Survival** The provision of this Clause shall survive the expiration or sooner termination of this Lease

c **Conditioning of Wiring** In the event Landlord elects to retain the Wiring (pursuant to Paragraph a(i) hereof), Tenant covenants that

(i) Tenant shall be the sole owner of such Wiring, that Tenant shall have the right to surrender such Wiring, and that such Wiring shall be free of all liens and encumbrances, and

(ii) All wiring shall be left in as-is condition, properly labeled at each end and in each telecommunications/electrical closet and junction box, and in safe condition

d **Landlord Retains Security Deposit** Notwithstanding anything to the contrary in this Lease, Landlord may retain Tenant's Security Deposit after the expiration or sooner termination of the Lease until the earliest of the following events

(i) Landlord elects to retain the Wiring pursuant to Paragraph 6(a)(i)

(ii) Landlord elects to perform the Wiring Restoration Work pursuant to Paragraph 6(a)(ii) and the Wiring Restoration Work is complete and Tenant has fully reimbursed Landlord for all costs related thereto, or

(iii) Landlord elects to require the Tenant to perform the Wiring Restoration Work pursuant to Paragraph 6(a)(iii) and the Wiring Restoration Work is complete and Tenant has paid for all costs related thereto,

e **Landlord Can Apply Security Deposit** In the event Tenant fails or refuses to pay all costs of the Wiring Restoration Work within 10 days of Tenant's receipt of Landlord's notice requesting Tenant's reimbursement for or payment of such costs, Landlord may apply all or any portion of Tenant's Security Deposit toward the payment of such unpaid costs relative to the Wiring Restoration Work

f **No Limit on Right to Sue** The retention or application of such Security Deposit by Landlord pursuant to this Clause does not constitute a limitation on or waiver of Landlord's right to seek further remedy under law or equity

47

RIGHT OF FIRST REFUSAL

So long as Tenant is not in default hereunder at the time of the receipt by Landlord of an acceptable bona fide proposal to lease all of the 7th floor, Landlord shall provide, and hereby grants, to Tenant, a right of refusal with respect to the Offered Space (as defined below) on the following terms and conditions

(a) At such time as Landlord receives an acceptable bona fide proposal for leasing all or a portion of the 7th floor of the Building (the "Offered Space"), Landlord shall provide Tenant a written notice ("Landlord's Notice of Terms") describing the financial terms and conditions of the proposed lease between Landlord and the prospective tenant

(b) The deadline for Tenant to exercise its right to lease the Offered Space (the "Exercise Deadline") shall be ten (10) days from the receipt of Landlord's Notice of Terms If Tenant fails to provide written notice of exercise to Landlord prior to the Exercise Deadline, Tenant shall be conclusively deemed to have waived its right to the lease of the Offered Space, Tenant shall no longer have any rights as to the Offered Space during the remainder of the Term, and Landlord shall have the right to lease the Offered Space to a third party on terms and conditions satisfactory to Landlord

(c) If Tenant timely exercises this right of refusal, Tenant shall lease the Offered Space on the terms and conditions set forth in Landlord's Notice of Terms Landlord and Tenant shall enter into a new lease or an amendment to this Lease with respect to the Offered Space containing terms and conditions identical to those specified in Landlord's Notice of Terms

(d) The Right of First Refusal Agreement pursuant to this paragraph shall not apply to any of proposals received by Landlord prior to March 1, 2000, nor to any proposals to lease all or a portion of the seventh floor to the party then leasing such space for an affiliate thereof Landlord shall be entitled to lease all or any portion of the seventh or ninth floors pursuant to a proposal received prior to March 1, 2000 and/or to the tenant then leasing such space or an affiliate thereof without being obligated to offer such space to Tenant pursuant to the terms hereof

48

RENEWAL OPTION

Tenant shall have the right to renew the Term of the Lease for two (2) additional periods of five (5) years each (each, a "Renewal Term") by giving Landlord prior written notice one (1) year prior to the expiration of the initial Term or the prior Renewal Term, as applicable, that Tenant has exercised such renewal right, subject to the following conditions

(a) Tenant shall not be in default under any of the terms or provisions of the Lease at the time such notice is given or at the time of the commencement of the applicable Renewal Term

(b) Tenant shall occupy the Premises during the Renewal Term under the same terms and conditions as specified in the Lease, except Tenant shall lease the Premises in their then "as-is" condition, with Tenant not having any right to require any improvements be made to the Premises, and the Base Rent for any Renewal Term shall be ninety-five percent (95%) of the then Market Rate, but not less than the Base Rent for the Premises in effect immediately prior to the commencement of such Renewal Term

(c) As used herein, the term "Market Rate" shall be initially determined by Landlord as the amount of base annual rent per square foot then being charged in comparable office buildings located in the Atlanta, Georgia market (the "Comparable Buildings") for space comparable to the Premises and taking into consideration all other relevant factors establishing similarity or dissimilarity between the comparable lease and the leasing of the Premises to Tenant for the Renewal Term, including without limitation, the inherent value of the Premises to tenants in the telecommunication business because of the ready availability of fiber optics, access to diesel fuel storage, adequate chaseways and floor loads, escalations (including type, base year and stop), concessions, length of lease term, size and location of the Premises, building standard work letter and/or tenant improvement allowances, quality and quantity of any existing tenant improvements, quality and creditworthiness of Tenant, amenities offered, location of building, the cost and provision of parking spaces, and other generally applicable concessions, allowances, terms and conditions of tenancy In determining Market Rate, Landlord shall be entitled to accord the greatest weight to recent transactions in the Building The reference to the foregoing factors is illustrative only and the presence or absence of such factors shall be taken into account in determining Market Rate

(d) Within thirty (30) days after Landlord receives the notice of Tenant's exercise of the renewal option, Landlord shall notify Tenant of the

proposed Market Rate, as well as the rate of escalation applicable to the Renewal Term, provided, however, Landlord shall not be required to respond to any such notice more than 1 year before the expiration of the term or then current Renewal Term, as applicable In the event that Landlord and Tenant are not able to agree as to the Market Rate and the applicable escalation rate within thirty five (35) days of good faith negotiation, the Market Rate shall be determined by arbitration as follows Each of Landlord and Tenant shall, within ten (10) days following the expiration of such thirty five (35) period, each designate an independent commercial leasing broker (respectively, "Landlord's Arbitrator" and "Tenant's Arbitrator") experienced in the leasing of office space in the Atlanta metropolitan marketplace of similar quality and for uses similar to Tenant's use of the Premises, and the joint decision of Landlord's Arbitrator and Tenant's Arbitrator as to Market Rate shall be final and binding on Landlord and Tenant Landlord's Arbitrator and Tenant's Arbitrator shall negotiate in good faith to agree upon the Market Rate In the event that Landlord's Arbitrator and Tenant's Arbitrator fail to agree as to Market Rate within thirty (30) days after the expiration of such thirty five (35) day period, then Landlord's Arbitrator and Tenant's Arbitrator shall jointly designate a third individual having similar qualifications (the "Third Arbitrator") for determination of Market Rate In the event Landlord's Arbitrator and Tenant's Arbitrator fail to agree as to the appointment of the Third Arbitrator within ten (10) days of the expiration of such thirty (30) day period, then the Third Arbitrator shall be an individual with the required qualifications selected by the American Arbitration Association pursuant to its then current procedures The Third Arbitrator shall, within fifteen (15) days after his or her appointment make a determination as to the Market Rate, and the average of the positions of the Third Arbitrator, Landlord's Arbitrator and Tenant's Arbitrator shall be the Market Rate, provided, however, if one of the three positions is more than ten percent (10%) above or below the average of the other two positions, then that position shall be discarded and the Market Rate shall be the average of the two remaining positions The costs of engagement of the Third Arbitrator shall be borne equally by Landlord and Tenant, and the costs of engagement of Landlord's Arbitrator, Tenant's Arbitrator and each party's counsel shall be borne by their respective parties

(e) Tenant shall not be entitled to more than two (2) renewal options

(f) In the event Tenant fails to timely notify Landlord in the manner herein specified, Tenant shall be conclusively deemed to have waived its right to enter into any Renewal Term

49

COLLOCATION

Tenant shall have the right to permit certain customers of Tenant (each a"Collocation Customer" and collectively the "Collocation Customers") to place telecommunications equipment (the "Customer Equipment") within the Premises or to otherwise interconnect Customer Equipment with Tenant's telecommunications facilities or equipment in order to allow such Collocation Customers to avail themselves of Tenant's services provided in accordance with the use of the Premises permitted by this Lease So long as such collocation occurs in connection with the ordinary course of Tenant's business in the Premises, such collocation shall not be deemed to be an assignment or sublease by Tenant or a prohibited use by Tenant or that would require any consent of Landlord No such collocation shall grant any Collocation Customer any possessory interest in the Premises, and, as between Landlord and Tenant, any rights and liabilities with respect to the Collocation Customers or Customer Equipment shall be the sole responsibility of Tenant, including without limitation the movement of any Customer Equipment in or out of the Premises and the security for the Customer Equipment Landlord shall have no obligation with respect to any Customer Equipment or Collation Customer Tenant shall indemnify, defend and hold Landlord, its members, agents, representatives and employees harmless from and against any and all loss, cost, damage, liability, suit or lien arising out of or relating to any Collocation Customer, any Customer Equipment or the exercise by Tenant of any right pursuant to this Section 49

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be executed by their duly authorized representatives as of the day and year first written above

LANDLORD PEACHTREE KESSLER LOFTS, LLC
d/b/a TELECOM TOWER

By _____
Name Don A Thomas
Title Member

TENANT ENRON COMMUNICATIONS, INC

By _____
Name David M Leatherwood
Title Vice President, Network Implementation

[CORPORATE SEAL]

H \RRP\WPDOCS\81089\0017\ENRONM EASE6 DOC

EXHIBIT B

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in the city of Atlanta in Land Lot 78 of the 14th District of Fulton County, Georgia

Beginning at the southwest corner of the intersection of Marietta Street and Forsyth Street running thence along the west side of Marietta Street a distance of 150 feet to a point, thence running southwest a distance of 100 feet the northeasterly side of an alley, thence running southeast along the northeast side of said alley a distance of 150 feet to the north side of Forsyth Street, thence running northeast along the northerly side of Forsyth Street a distance of 100 feet to the point of Beginning

Said property is improved by a multi-story office building known as 56 Marietta Street according to the present system of numbering in the city of Atlanta, Georgia

EXHIBIT C

RULES & REGULATIONS

(1) The sidewalks, corridors, halls, and stairways in and adjacent to the Building shall not be obstructed by Tenant or used by Tenant for any purpose other than those of ingress or egress The floor and windows that reflect or admit light into any place in the Building shall not be covered or obstructed by Tenant The rest rooms and plumbing facilities shall not be used for any purpose other than those for which they were constructed and no sweepings, rubbish, or other obstructing or injurious substance shall be thrown therein Nothing shall be thrown out of the windows or doors or down the elevator shafts or stairways of the Building

(2) No awnings, curtains, blinds, shades or screens shall be attached to or hung in or used in connection with any window or door of the Building without the prior written consent of the Landlord, which consent must include approval by the Landlord of the quality, type, design, color, texture, and manner attached

(3) The Premises shall not be occupied or used for sleeping or lodging at any time, nor shall any cooking be done in the Premises, nor shall vending machines of any kind be installed or used in any part of the Premises, except those for exclusive use of Tenant's employees and Tenant's customers Nor shall any intoxicating beverages be sold or consumed in the Premises, without the prior written approval of the Landlord No gambling, immoral or other unlawful conduct shall be permitted on or about the Premises The use of a microwave oven for warming snacks and lunches of Tenant's employees shall be permitted

(4) Tenant shall not do or permit to be done any act on or about the property which will obstruct or interfere with the rights of other tenants of Landlord or annoy them in any way, including but not limited to, the using of any musical instruments, making loud noises, or singing No bicycles, vehicles, animals (other than service animals such as seeing eye dogs), birds or reptiles of any kind shall be brought into the Building

(5) No additional locks or latches shall be placed upon any door without the written consent of Landlord, such consent not to be reasonably withheld, and Tenant, upon the termination of this Lease, shall return to Landlord all keys to doors in the Building possessed by Tenant at that time

(6) Landlord shall have the right to reasonably prescribe the weight, position and manner of installation of heavy articles, machinery and equipment, including, but not limited to, safes, batteries, business machines, and computer equipment, which Tenant may desire to install in the Premises No batteries, safes, furniture,

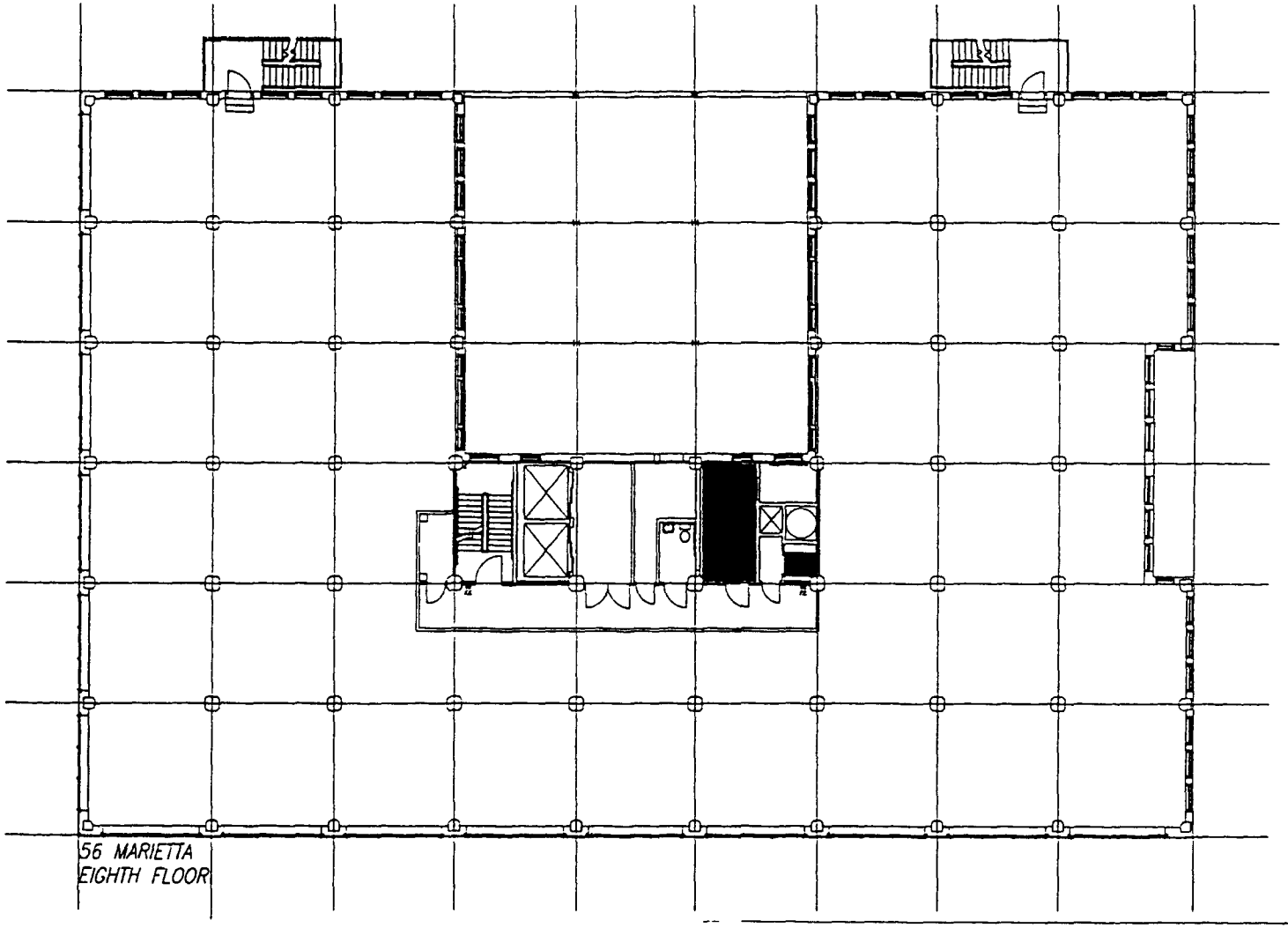
boxes, large parcels or other kinds of freight shall be taken to or from the Premises not allowed in any elevator, hall or corridor without prior approval of Landlord, and then only under supervision of the Building Maintenance Manager All such moving shall be done in the elevator and during the hours specified by said Manager No weight shall be place upon the floor of the Premises in excess of fifty (50) pounds per square foot of floor space without the prior written approval of Landlord

(7) Tenant shall not cause or permit any unusual or objectionable odors to be produced upon or permeate from the property, and no flammable, combustible or explosive fluid, chemical or substance shall be brought into the Building

(8) Tenant shall have 24 hour access to the Premises Landlord shall not be liable for admission of any person to the Building at any time, or for damages or loss or theft resulting therefrom to any person including Tenant

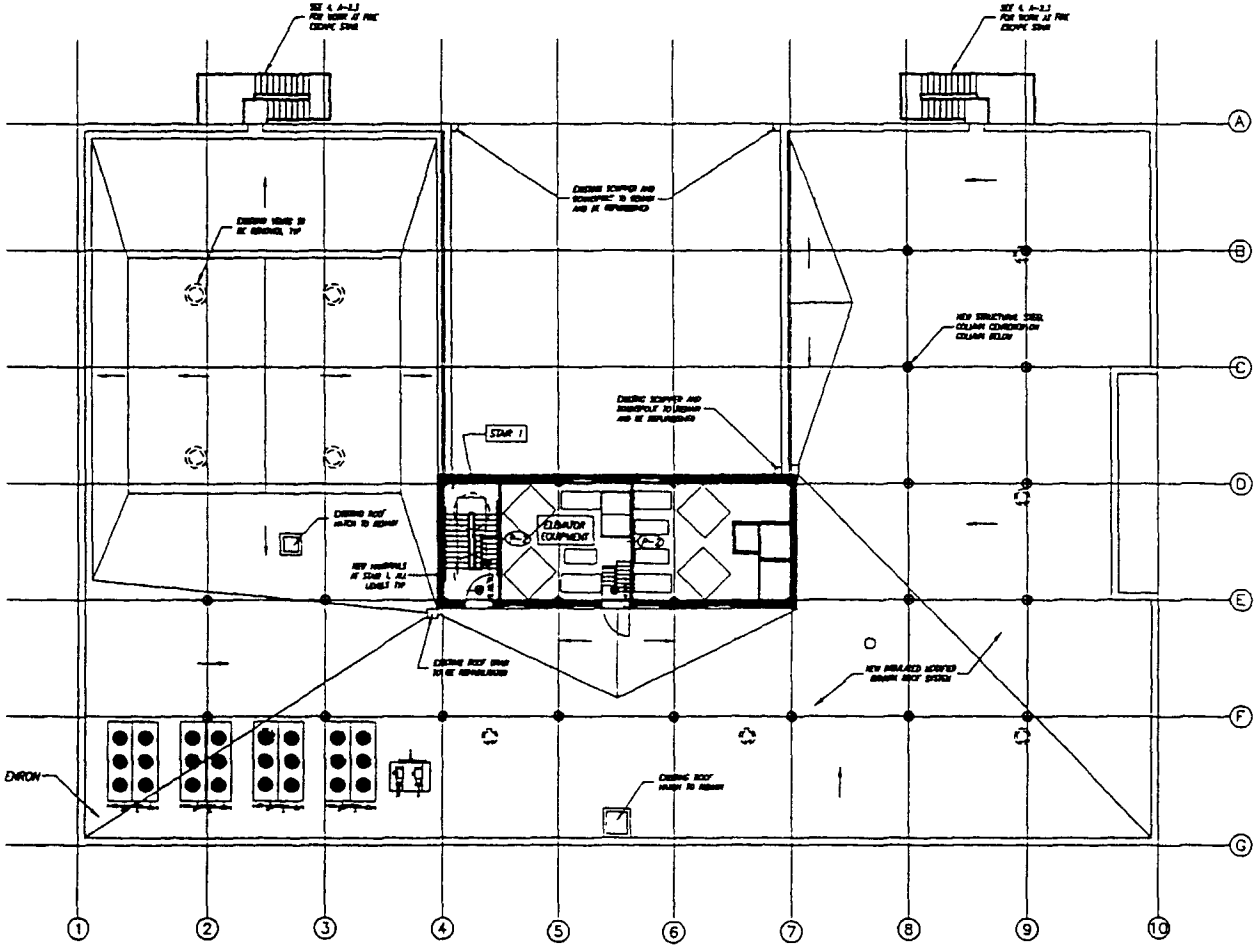
(9) Landlord reserves the right, from time to time, to amend any one or more of the above Rules and Regulations and to make such other reasonable rules and regulations as in its judgment may be needed from time to time for the security, safety, care and cleanliness of the Premises, the Building, and the entire complex

EXHIBIT A



56 MARIETTA
EIGHTH FLOOR

EXHIBIT A



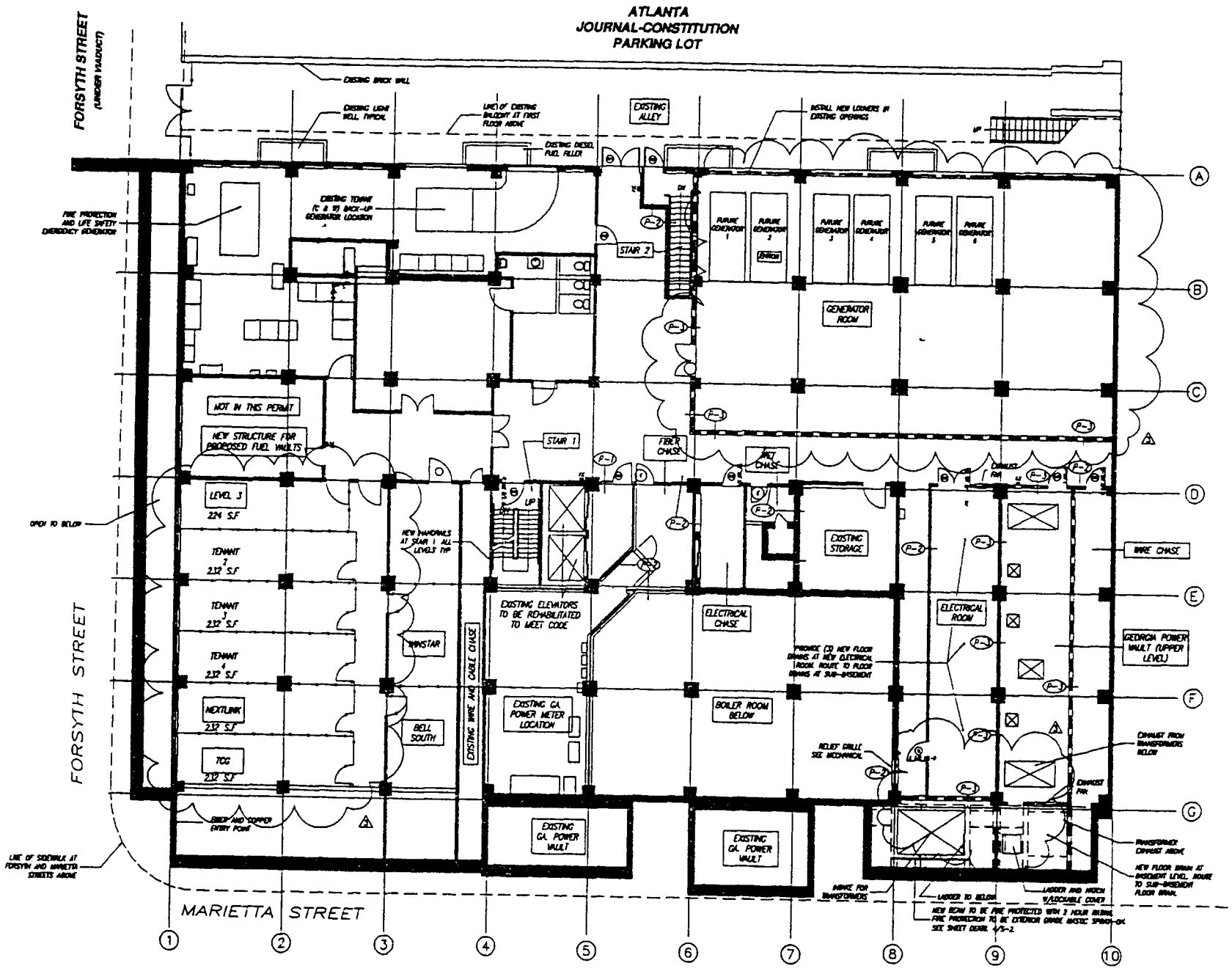
1 ROOF PLAN
A-2.8

LEGEND

- INTERIOR 1 HOUR RATED WALL PARTITION
- INTERIOR 2 HOUR RATED WALL PARTITION
- INTERIOR 4 HOUR RATED WALL PARTITION
- EXISTING WALL TO REMAIN
- FIRE EXTINGUISHER

SEE SHEET A2.0 FOR PARTITION TYPES
SEE SHEET A2.1 FOR DOOR SCHEDULE

NOTE: PER TABLE 1506.1 OF THE STANDARD PLUMBING CODE, 4 LEADERS @ 4600 SQ. FT. PER LEADER. 3 LEADERS ARE REQUIRED AND 3 LEADERS ARE PROVIDED.



1 BASEMENT FLOOR PLAN
A-2.1 1/8"=1'-0"

EXHIBIT A

EXHIBIT D - Technical Requirements

1 The Landlord will provide the following items to the Tenant according to the listed schedule

a) A cleared space on the roof directly above the 10th floor sufficient to install the Tenant's HVAC equipment, consisting of 890 square feet (the "HVAC Space") and being depicted on Exhibit A hereto In the event that such HVAC Space is insufficient for Tenant to install and operate its HVAC equipment, Tenant, at Tenant's cost, may install decking within the HVAC Space to accommodate such equipment At Landlord's option, Tenant shall remove such decking upon the expiration or earlier termination of this Lease and shall repair all damage caused by such removal Any such decking shall be installed by a licensed contractor in a good workmanlike and lien free manner in accordance with plans and specifications approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed If Landlord fails to disapprove such plans and specifications within ten (10) business days after the same are submitted to Landlord in accordance with the notice provisions of Section 24 hereof, Landlord shall be deemed to have approved such plans and specifications

b) Remediation of the mastic (which previously adhered the acoustical ceiling tiles to the slab surfaces above)

c) Cleared space at the basement consisting of 365 square feet to be used for the installation of a 750 KW diesel generator, related pumps, piping and connect to Landlord's fuel tank at Tenant's expense Tenant shall pay for its own generator and its own fuel consumption and expenses In the event Landlord obtains from the City of Atlanta the right to have fuel tank capacity in the generator room of the Building in addition to the existing 10,000 gallon fuel tank, Tenant shall be entitled to either (i) install and maintain and its sole cost and expense one day tank of up to seventy-five (75) gallons of capacity, or (ii) use up to 12 5% of a common fuel tank installed by Landlord Tenant shall elect to exercise the right set forth in clause (i) or the right set forth in clause (ii) above within twenty (20) days after notice from Landlord If Tenant elects to exercise the right set forth in clause (ii) above, upon completion of such fuel tank, Tenant shall promptly reimburse Landlord for 12 50% of the costs of constructing and installing such fuel tank

d) Landlord hereby grants to Tenant and Tenant accepts from Landlord, a non-exclusive license and right, without additional charge to Tenant beyond the rent and other charges specified in Section ~~1~~, to have access to and to use space within the Building (in such locations and in such manner

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as is approved by Landlord, such approval not to be unreasonably withheld), such space including without limitation, any portion of the Premises on the roof, any portion of the Premises in the basement, risers, raceways, shafts, electrical rooms and mechanical rooms, in order to construct, install, repair, maintain, use and replace, at Tenant's sole cost and expense, all conduits, duct work, piping, wiring, telecommunications lines and related equipment as may be required by Tenant to connect the Premises on the 8th floor with Tenant's Antennae Equipment, Tenant's generator, Tenant's HVAC equipment on the roof, the Utility Provider, telecommunications providers and ~~Collection~~ Collocation Customers Without limiting Landlord's ability to reasonably withhold its consent to the foregoing, it shall be reasonable for Landlord to withhold its consent if the location or manner of installation of any of the foregoing would materially interfere with the equipment, conduits, duct work, piping, wiring or lines of any existing tenant or occupant of the Building Tenant's requirements, include without limitation, the following

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Electrical	Three 4" conduits for the Tenant's generator power/grounding and control wiring from the basement to the Premises or the 8th floor
HVAC Equipment	Two 4" or four 2" conduits for HVAC power and control wiring and required condenser piping from the roof to the Premises on the 8th floor and to Tenant's electrical service, as well as duct work to the Premises on the 8th floor
Fiber	One 4" conduit from the Premises on the 8th floor to the minimum point of entry or demarcation point (as those terms are defined in 47 C F R §68 3 (1998) for the Building
Telecom Grnd	One 2" conduit from a suitable grounding location at subgrade to the Tenant's Premises on the 8th floor

e) Landlord to provide Tenant 4,000 Amp 277/480 volt, 3 phase, 4 wire at electrical on Tenant's Floor - the "Base Building Bus Duct" Tenant shall be allowed to use no more than 1,200 Amps of the Base Building Bus-duct Tenant shall access their own power from Landlord's provided bus duct located at the electrical room on Tenant's floor

f) A pass card security entry system for all elevators opening onto Tenant's floor

Two 4" conduits in Landlord shaft with some junction boxes to interconnect to other Tenants

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g) Removal of all existing radiators and related steam piping

h) Access to standpipe on Tenant floor

i) Provision of a freight elevator for the Tenant improvement process

j) A drain is to be located in new preaction system room

k) A building fire alarm system with a Tenant tie-in location at the first floor

l) A location to connect the Tenants HVAC condensation drain at Tenant's floor

m) A location to connect the Tenants HVAC make-up water to the buildings domestic water system at Tenant's floor

~~n)~~

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE (hereinafter referred to as the "First Amendment") is made and entered into as of the 1st day of February 2000 by and between PEACHTREE-KESSLER LOFTS, LLC, a Georgia limited liability company (hereinafter referred to as "Landlord") and ENRON COMMUNICATIONS, INC , a Oregon corporation (hereinafter referred to as "Tenant")

WITNESSETH

WHEREAS, Landlord and Tenant entered into that certain Lease Agreement dated October 19, 1999 (hereinafter referred to as the "Lease"), whereby Tenant leased approximately 11,834 square feet on the eighth (8th) floor of the Building, 890 square feet on the roof of the Building and 365 square feet in the basement of the Building,

WHEREAS, Landlord and Tenant desire to amend the Lease to relocate and expand portions of the Premises and to make those certain other changes set forth herein,

NOW, THEREFORE, for and in consideration of TEN DOLLARS ($10 00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto for themselves and their successors and assigns do hereby agree as follows

1 ***Definitions*** All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Lease

2 ***Roof Space*** The portion of the Premises on the roof of the Building is expanded by 384 square feet so that the total square footage of the portion of the Premises on the roof is 1,274

3 ***Basement Space*** The portion of the Premises in the basement of the Building is hereby relocated to the locations depicted on **Exhibit A** attached hereto and incorporated herein

4 ***Exhibit A*** Exhibit A to the Lease is hereby deleted in its entirety and replaced with **Exhibit A** attached hereto and incorporated herein

5 ***Rent*** To reflect the increase in the size of the Premises, the schedule of Fixed Minimum Rent set forth in lines 4 - 14 of Section 3(b) of the Lease is hereby deleted in its entirety and replaced with the following

Lease Year	Fixed Minimum Rent
1	$19,648 00
2	$20,237 44
3	$20,844 56

Lease Year	Fixed Minimum Rent
4	$21,469 90
5	$22,114 00
6	$22 777 42
7	$23,460 74
8	$24,164 56
9	$24 889 50
10	$25,636 18

6 ***Steel Superstructure*** Landlord has constructed a steel superstructure grid on the 10th floor roof upon which Tenant may place its HVAC equipment Tenant has previously paid Landlord $14,600 for use of such steel superstructure during the Lease term Upon execution of this First Amendment, Tenant shall pay Landlord an additional one-time fee of $7,300 00 for use of such steel superstructure during the Lease term

7 ***Security*** So long as Landlord is contracting with a third party to provide security services (which shall consist of one unarmed guard for the Building), to the Building, Tenant shall pay to Landlord, as additional Rent, $750 00 per month, which sum represents Tenant's pro rata share of the cost of such security services Such sum shall be due and payable on the first day of each month during the term of this Lease Landlord reserves the right to cancel such security services upon 30 days notice to Tenant, and Tenant's obligation to pay such $750 00 in additional Rent hereby provided shall terminate

8 ***Corridor*** At all times during the term of this Lease, Landlord shall have reasonable access to the Corridor depicted on Exhibit "A" for purposes of accessing the chases depicted on Exhibit "A"

9 ***Review Fees*** In connection with any request by Tenant for Landlord's approval, within thirty (30) days after written demand by Landlord, Tenant shall reimburse Landlord for the reasonable out-of-pocket costs incurred by Landlord in having an engineer and/or construction consultant review any documents or plans in order for Landlord to grant or deny such approval

10 ***Fuel Piping*** Landlord will install piping from Landlord's 6,000 gallon common fuel tank to a common manifold in the Building's generator room Upon completion of such installation, Tenant shall pay to Landlord Tenant's share of the cost of such installation, which share shall be equal to 12 5% but shall not exceed $5,000 00

11 ***Ratification*** Landlord and Tenant hereby ratify and affirm the Lease, as amended hereby

12 *No Offer* The negotiation and documentation of this First Amendment shall not constitute an offer to Tenant to amend the Lease as specified herein or a reservation in favor of Tenant Neither party shall be bound by the terms of this First Amendment until such time as both Landlord and Tenant have executed the same

IN WITNESS WHEREOF, the Landlord and Tenant have caused this First Amendment to Lease to be executed as of the date and year first above written

LANDLORD

PEACHTREE-KESSLER LOFTS LLC, a Georgia limited liability company

By _____
Printed Name Don Thomas
Its MANAGER

[SEAL]

TENANT

ENRON COMMUNICATIONS, INC , a Oregon corporation

By _____
Printed Name TOD A LINDHOLM
Its _____

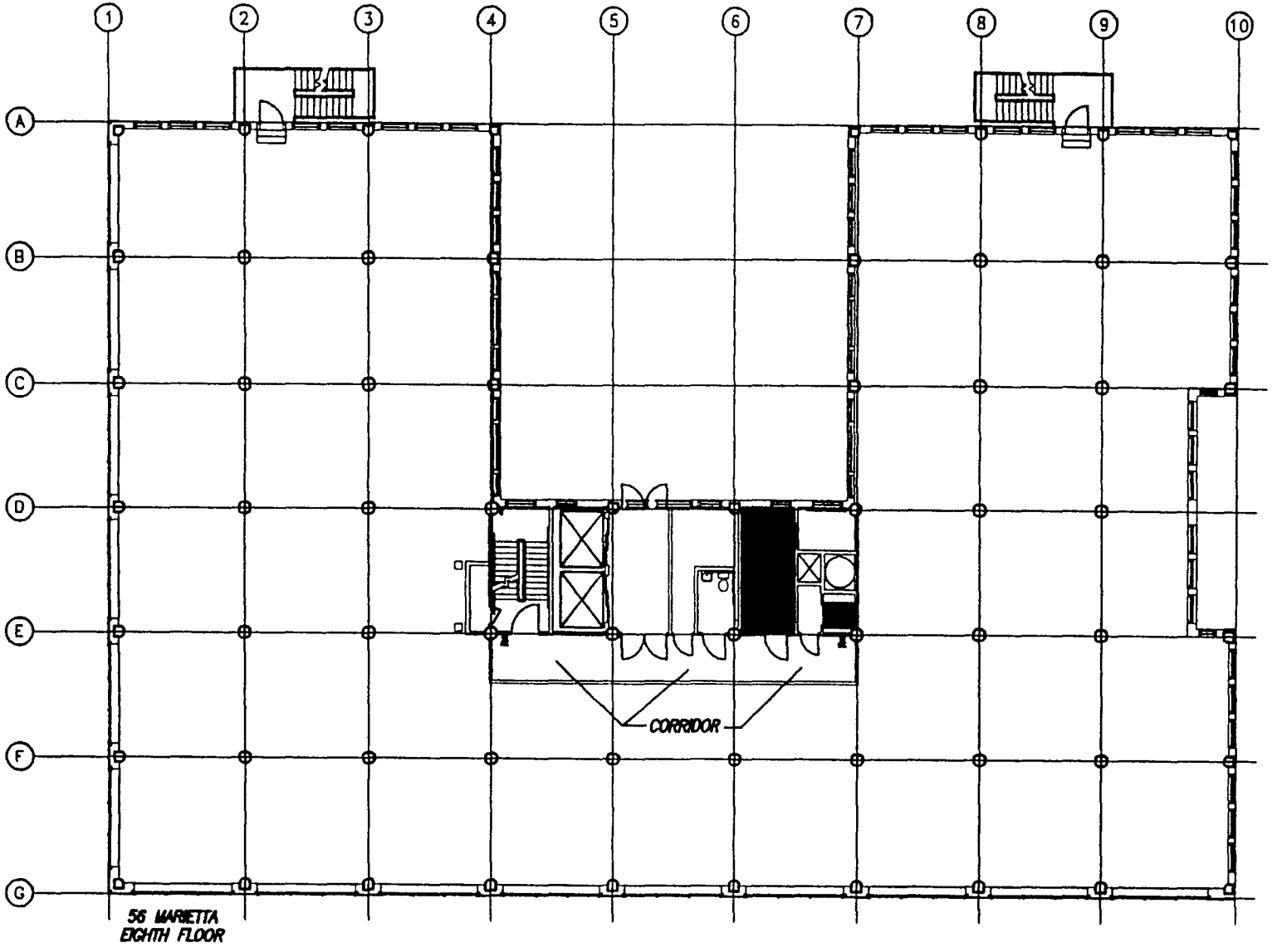
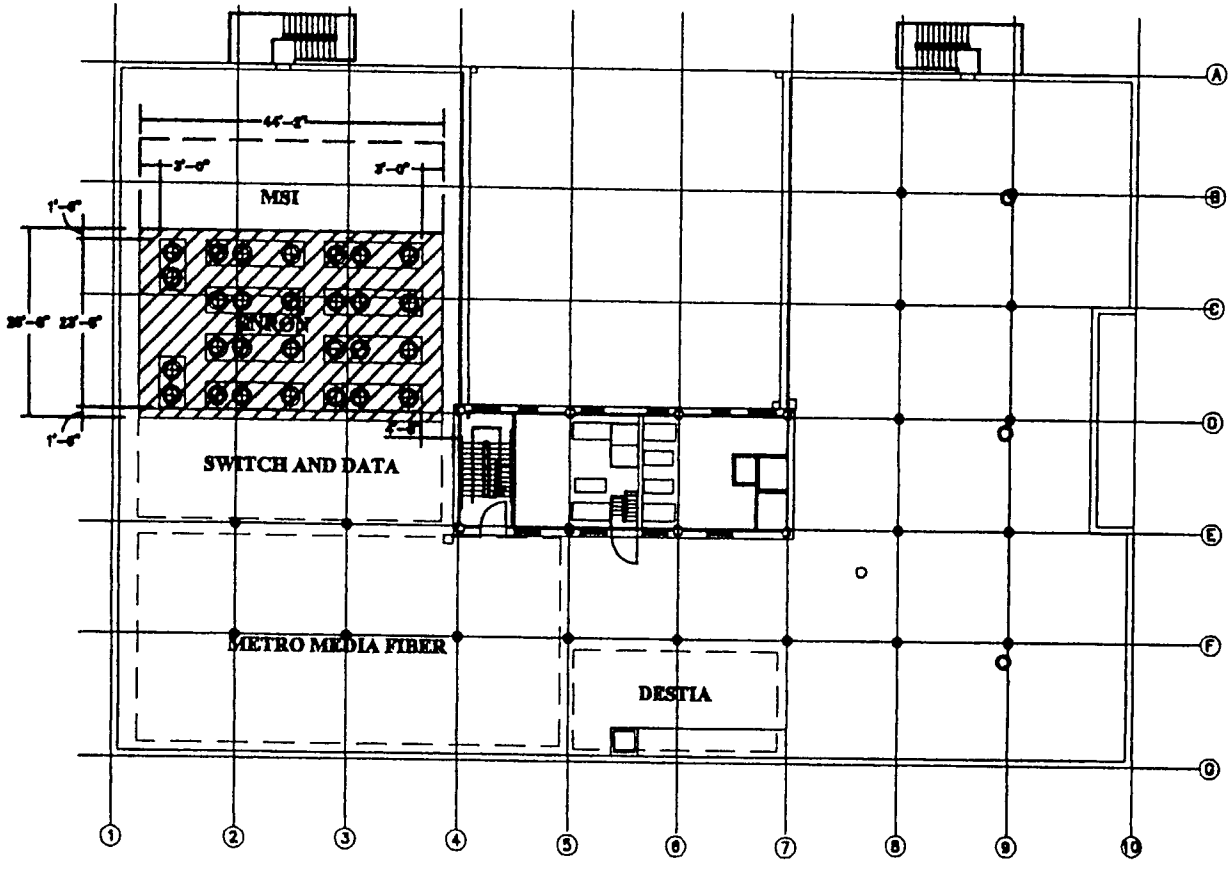


EXHIBIT "A"

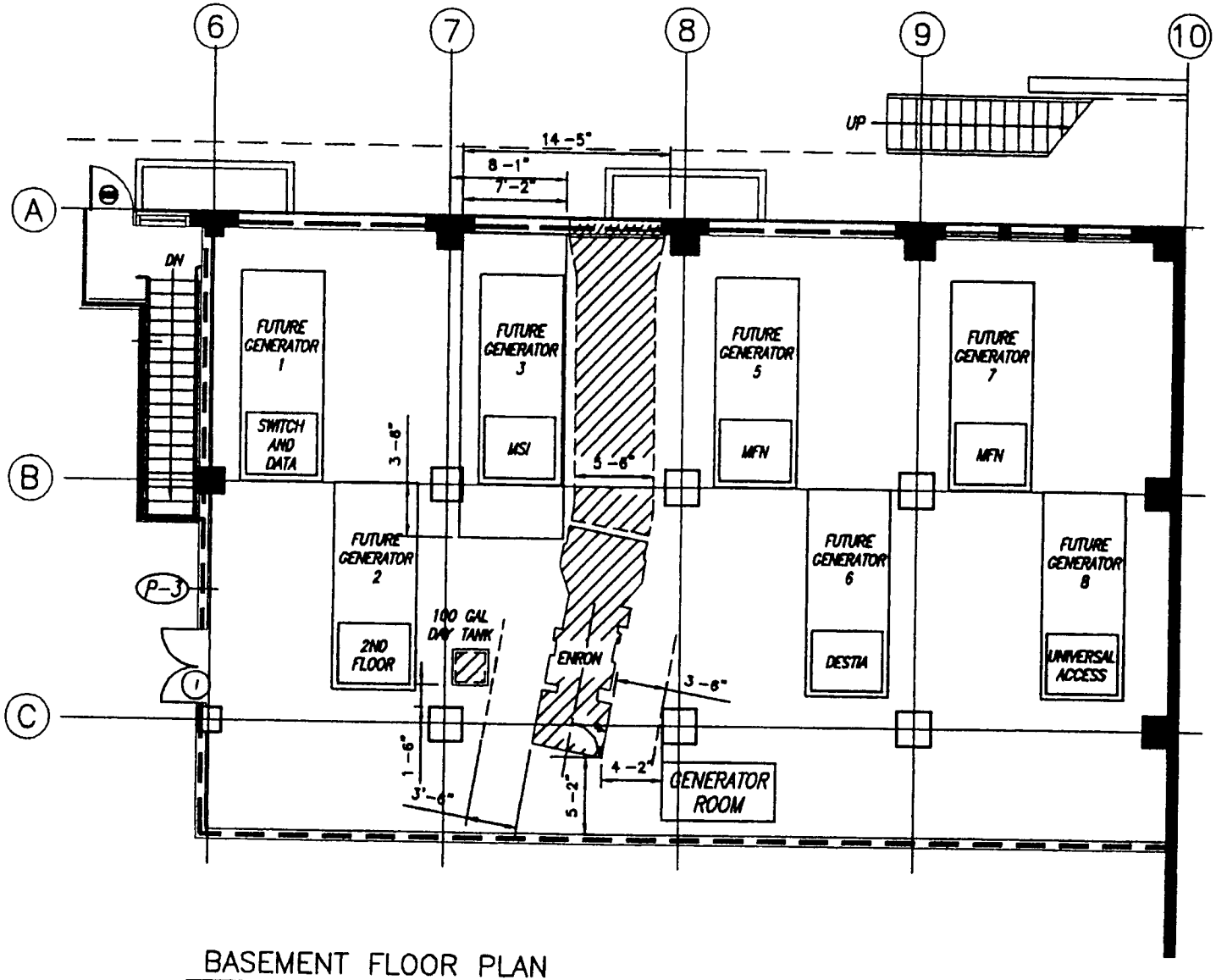
8TH FLOOR OF BUILDING



ROOF PLAN

EXHIBIT "A"

ROOF OF BUILDING
PORTION OF PREMISES
IN CROSSHATCHED AREA



BASEMENT FLOOR PLAN

PARTIAL

3 OF 3

EXHIBIT "A"

BASEMENT OF BUILDING
PORTION OF PREMISES AS REQUIRED
FOR CROSSHATCHED EQUIPMENT

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE (hereinafter referred to as the "Second Amendment") is made and entered into as of the 26 day of May 2000, by and between **PEACHTREE-KESSLER LOFTS, LLC**, a Georgia limited liability company (hereinafter referred to as "Landlord") and **ENRON BROADBAND SERVICES, INC**, formerly known as **ENRON COMMUNICATIONS, INC**, an Oregon corporation (hereinafter referred to as "Tenant")

WITNESSETH

WHEREAS, Landlord and Tenant entered into that certain Lease Agreement (the Original Amendment) dated October 19, 1999, as amended by that certain First Amendment to Lease (the First Amendment) dated February 1, 2000 (the Original Lease, as amended by the First Amendment, is hereinafter referred to as the "Lease"), whereby Tenant leased approximately 11,834 square feet on the eighth (8th) floor of the Building, 1,274 square feet on the roof of the Building and 365 square feet in the basement of the Building,

WHEREAS, Landlord and Tenant desire to amend the Lease to relocate and expand portions of the Premises and to make those certain other changes set forth herein,

NOW, THEREFORE, for and in consideration of TEN DOLLARS ($10 00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto for themselves and their successors and assigns do hereby agree as follows

1 ***Definitions*** All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Lease

2 ***Roof Space.*** The portion of the Premises on the roof of the Building is hereby expanded by 896 square feet so that the total square footage of the portion of the Premises on the roof is 2,170 Such roof space is more particularly described on **Exhibit A** attached hereto and incorporated herein

3 ***Basement Space.*** The portion of the Premises in the basement of the Building is hereby expanded by 730 square feet so that the total square footage of the portion of the Premises in the basement is 1,095 square feet Such basement space is more particularly described on **Exhibit A** attached hereto and incorporated herein

4 ***Second Floor Space.*** The Premises is expanded to include the approximately 6,726 square feet of space on the second floor of the Building, which second floor space is more particularly described on **Exhibit A**, attached hereto and incorporated herein

5 ***Electrical Service.*** Landlord shall provide access to connect to, and Tenant (at Tenant's cost) shall connect to, the electrical Georgia Power Company vault in the basement of the

Building to access up to 4,000 amps of electricity for use in the portion of the Premises on the second and eighth floors of the Building Electricity will be directly metered and billed by the utility provider to Tenant at Tenant's expense In the event the applicable utility provider, charges Landlord a fee in connection with providing the electrical service required by Tenant, Tenant shall pay such fee to Landlord promptly upon written demand therefor Tenant may temporarily connect to and use Landlord's 1200 amp bus on the second floor of the Building until October 31, 2000

6 ***Exhibit A*** Exhibit A to the Lease is hereby deleted in its entirety and replaced with **Exhibit A** attached hereto and incorporated herein

7 ***Rent*** To reflect the increase in the size of the Premises, the schedule of Fixed Minimum Rent set forth in lines 4 - 14 of Section 3(b) of the Lease is hereby deleted in its entirety and replaced with the following

Time Period	Fixed Minimum Rent
12/1/99-4/30/00	$19,648 00
5/1/00-11/30/00	$31,828 00
12/1/00-11/30/01	$32,783 00
12/1/01-11/30/02	$33,766 00
12/1/02-11/30/03	$34,779 00
12/1/03-11/30/04	$35,823 00
12/1/04-11/30/05	$36,897 00
12/1/05-11/30/06	$38,004 00
12/1/06-11/30/07	$39,144 00
12/1/07-11/30/08	$40,319 00
12/1/08-11/30/09	$41,528 00

8 ***Steel Superstructure.*** Landlord has constructed a steel superstructure grid on the 10th floor roof upon which Tenant may place its HVAC equipment In connection with the expansion of Tenant's space on the 10th floor roof of the Building, Landlord will construct an additional steel superstructure grid on the 10th floor roof for Tenant's additional HVAC equipment Upon execution of this Second Amendment, Tenant shall pay Landlord an additional one-time fee of $15,400 00 for use of such additional steel superstructure during the Lease term

9 ***Security*** Paragraph 7 of the First Amendment is hereby amended by deleting the phrase $750,00 per month in lines 3 and 6 of such Paragraph 7, and replacing such phrase with $1,250 00 per month

10 ***Fuel Piping, Fuel Capacity*** Paragraph 10 of the First Amendment is hereby deleted in its entirety and replaced with the following ALandlord will install piping from Landlord's 6,000 gallon common fuel tank to a common manifold in the Building's generator room Upon completion of such installation, Tenant shall pay to Landlord Tenant's share of the cost of such installation, which share shall be equal to 37 5% [Notwithstanding anything to the contrary in the Lease, Tenant shall be allocated up to 1,410 gallons of total fuel capacity, which 1,410 gallons of capacity may be comprised of up to 180 gallons of capacity from up to three (3) 100 gallon day tanks (to be provided by Tenant at Tenant's cost), with the remainder of such 1,410 gallons of capacity (i e , 1,410 gallons less the capacity of any such day tanks) to be from Landlord=s common fuel storage tank, provided, however, Tenant shall pay for its own generator and its own fuel consumption and expenses Further, Tenant agrees that the maximum amount of fuel allowed in any of Tenant's day tanks at any time shall not exceed sixty (60) gallons Tenant agrees that it will not test its generator equipment at any time other than the first five (5) days of any month The manner of Tenant=s connection to such common fuel tank shall be subject to Landlord's reasonable approval

11 ***Commencement Date.*** As to the Premises leased pursuant to the Lease (i e , prior to expansion pursuant to the terms hereof), the Commencement Date is December 1, 1999 As to the additional space included in the Premises pursuant to the terms of this Second Amendment, the Commencement Date is May 1, 2000

12 ***Expiration Date.*** The term of the Lease, as amended hereby, shall expire on November 30, 2009, unless sooner terminated in accordance with the terms of the Lease, as amended hereby

13 ***Security Deposit.*** Section 32 of the Original Lease is hereby amended by increasing the security deposit by $12,180 00 to $31,268 00 Upon execution of this Second Amendment, Tenant shall pay $12,180 00 to Landlord in order to increase the amount of the security deposit pursuant to the terms of this paragraph

14 ***Electricity*** Section 11 of the Original Lease is hereby amended by deleting the phrase 1,200 AMPs in line 4 of Section 11 and replacing such phrase with 4,000 AMPs and by increasing Tenant's Pro Rata Share in lines 7 and 16 of such Section 11 from 13 33% to 44 43%

15 ***Ratification.*** Landlord and Tenant hereby ratify and affirm the Lease, as amended hereby

16 ***No Offer*** The negotiation and documentation of this Second Amendment shall not constitute an offer to Tenant to amend the Lease as specified herein or a reservation in favor of Tenant Neither party shall be bound by the terms of this Second Amendment until such time as both Landlord and Tenant have executed the same

17 ***Cross Default*** Any default by Tenant under that certain License Agreement dated as of May __, 2000, by and between Landlord and Tenant for space in the Meet Me Room in the Building shall constitute a default under the Lease, as amended hereby

18 ***Additional Fuel*** In the event that Landlord obtains from the City of Atlanta the right for Landlord to install, operate and maintain common fuel tank capacity in addition to Landlord's current 6,000 gallons of fuel tank capacity, Tenant, at Tenant's expense, shall be entitled to use Tenant's pro rata share of such fuel tank capacity, which pro rata share shall be calculated based upon the square footage occupied by Tenant as compared to the square footage of the entire Building Nothing in this Paragraph 18 shall be deemed to obligate Landlord to obtain such additional fuel tank capacity

19 ***Fuel Supply*** Landlord will contract with a reputable fuel supply company and use commercially reasonable efforts to provide an uninterrupted supply of fuel during situations in which the Building systems fail and emergency generator power is activated

IN WITNESS WHEREOF, the Landlord and Tenant have caused this Second Amendment to Lease to be executed as of the date and year first above written

LANDLORD

PEACHTREE-KESSLER LOFTS LLC,
a Georgia limited liability company

By _____
Printed Name Don Thomas
Its Manager

[SEAL]

TENANT

ENRON BROADBAND SERVICES, INC,
f/k/a ENRON COMMUNICATIONS, INC,
an Oregon corporation

By _____
Printed Name Todd A. Lindholm
Its Managing Director

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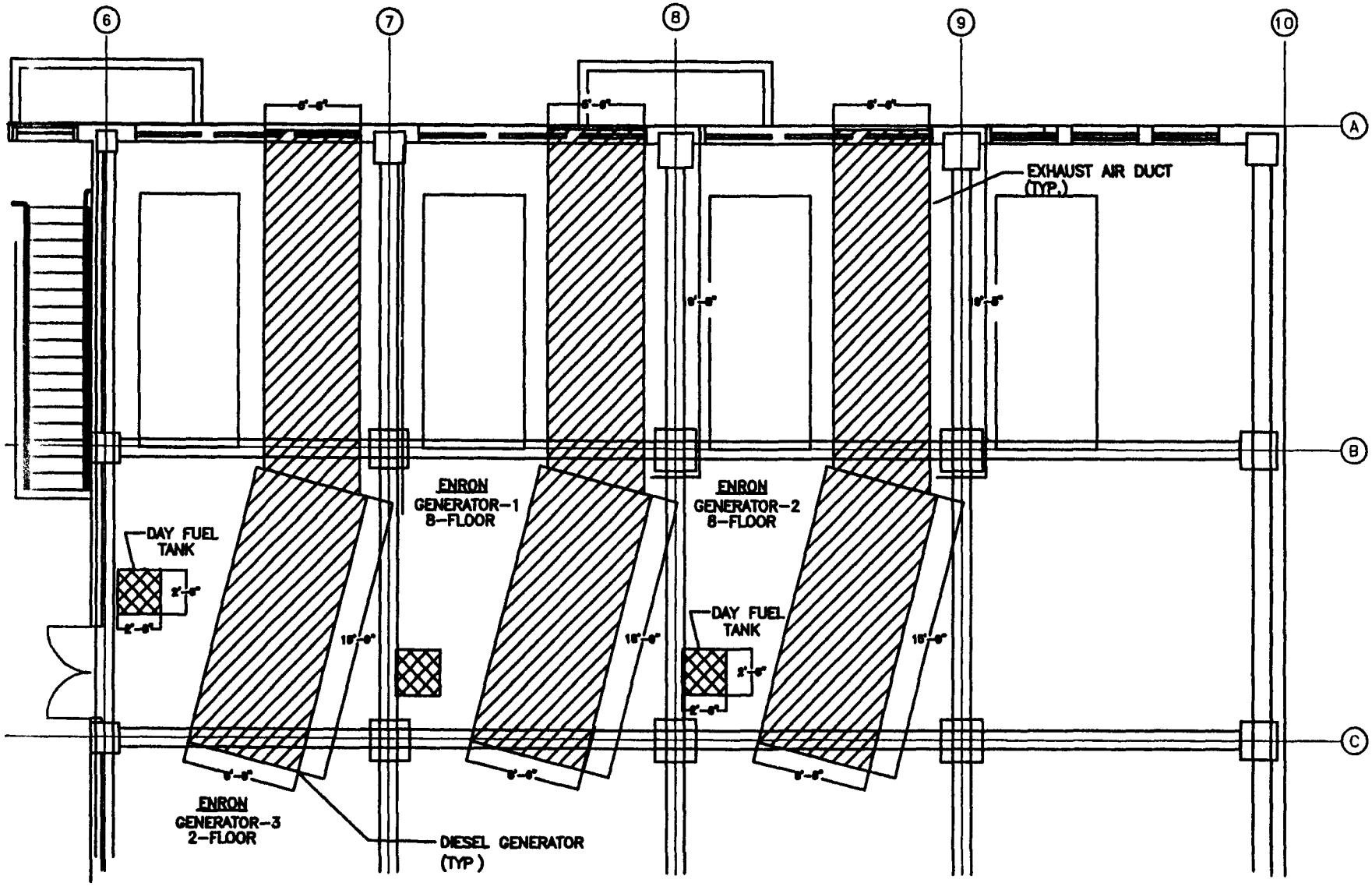
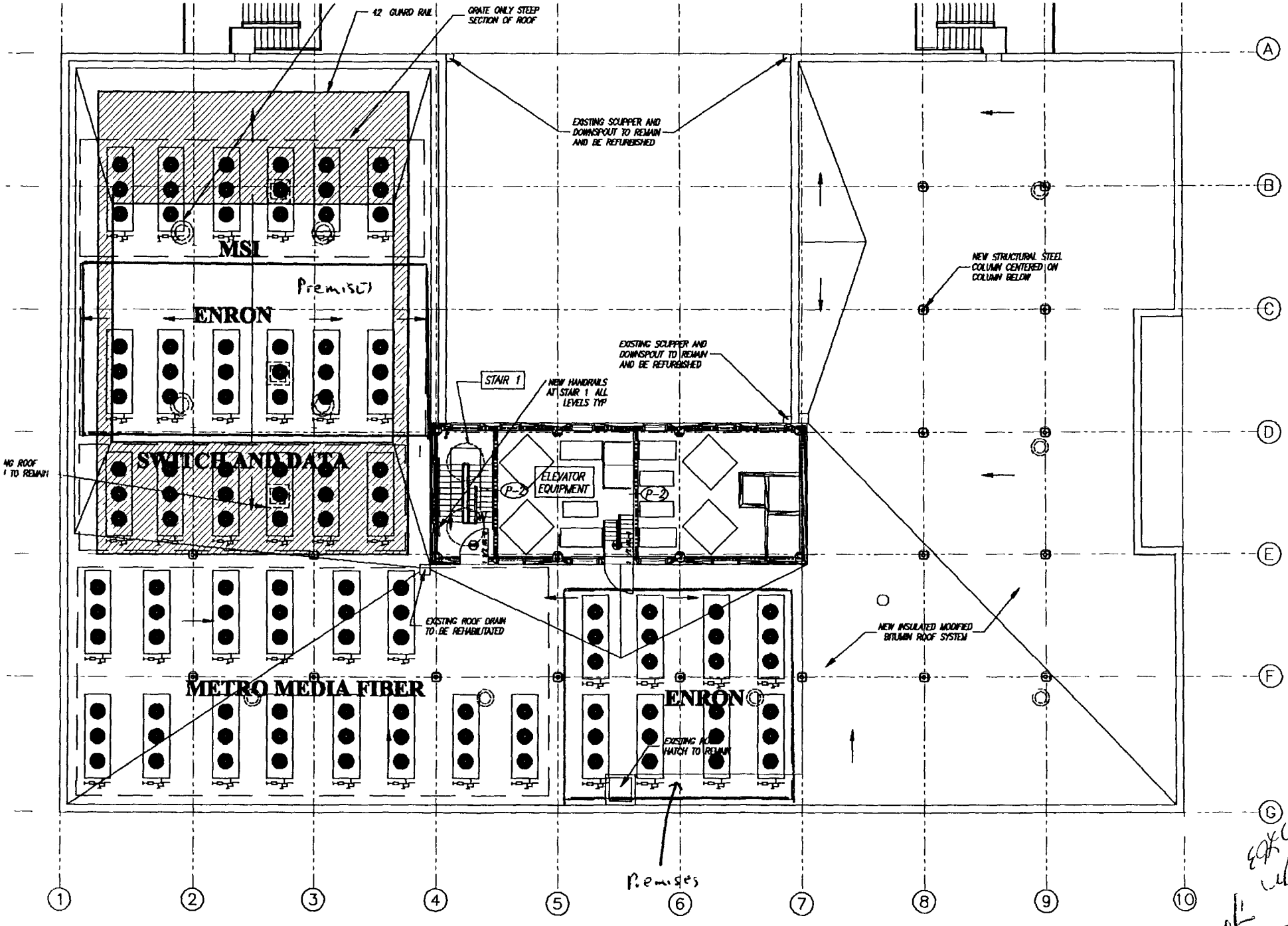
EXHIBIT – A

ENRON–ATLANTA – BASEMENT GENERATOR ROOM





1 ROOF PLAN 04.21.2000

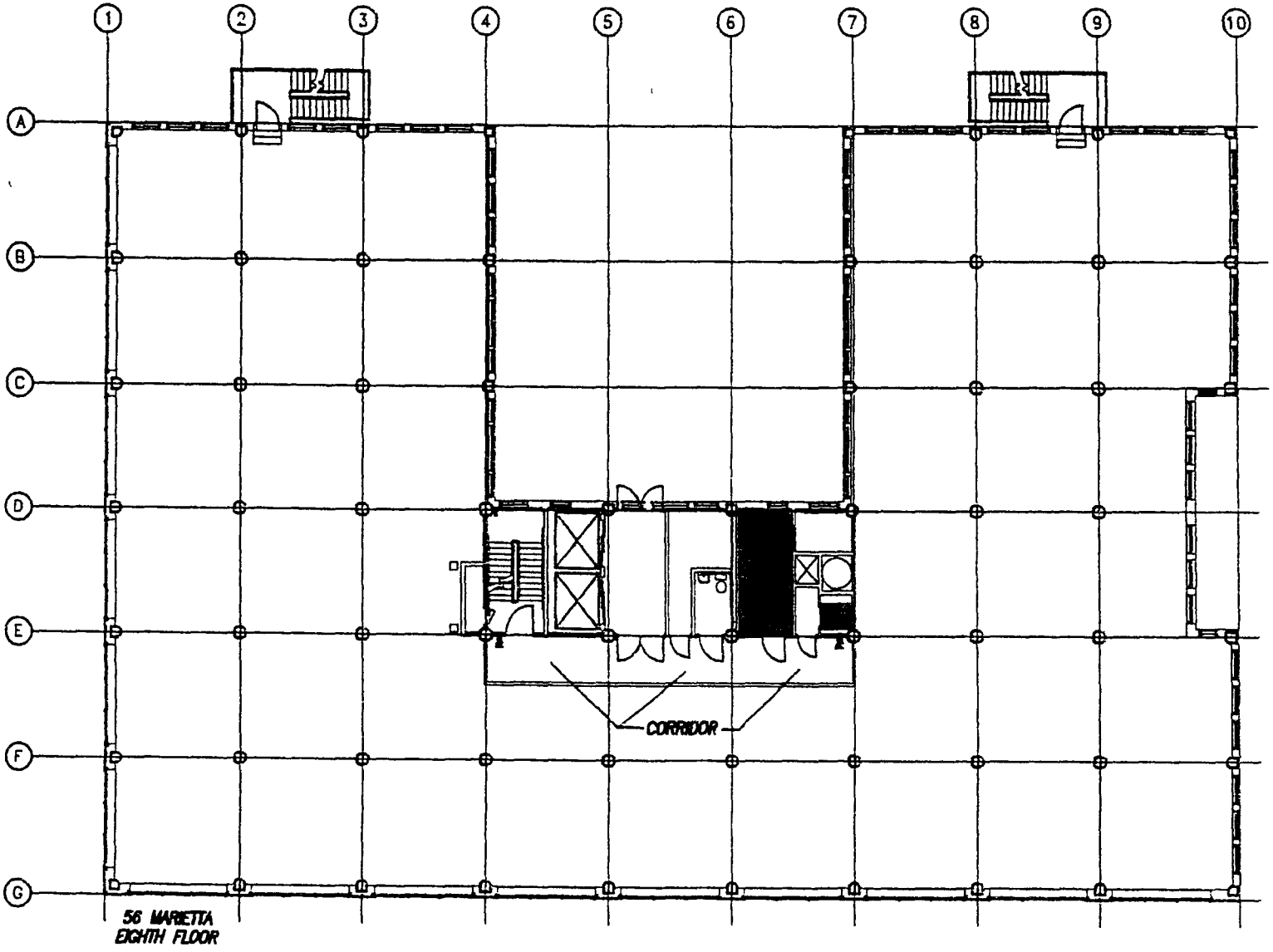


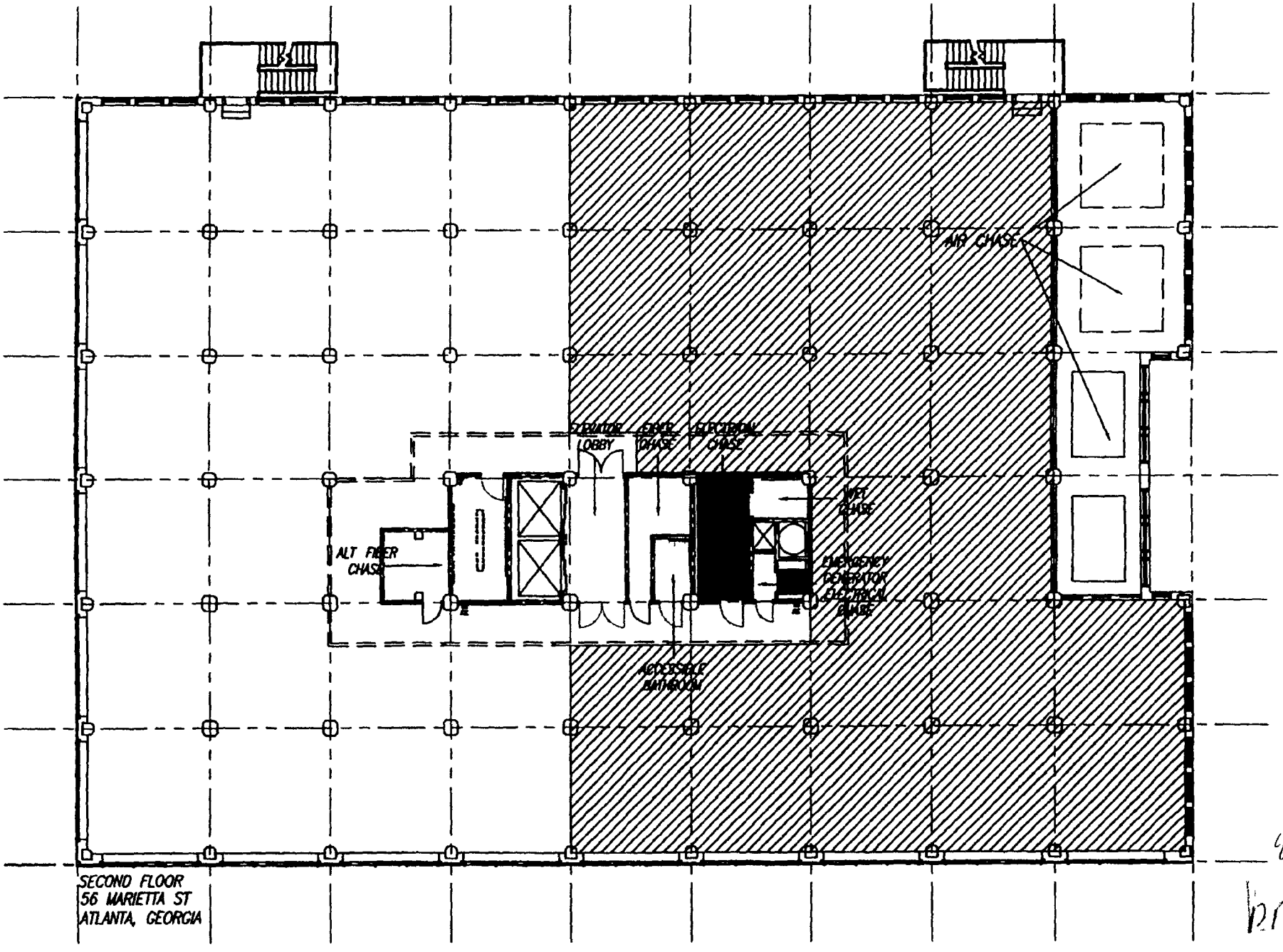
EXHIBIT "A"
8TH FLOOR OF BUILDING

5-20-00

EXHIBIT - A

SHEET- 3 OF 3

ENRON-ATLANTA - 2nd FLOOR



SECOND FLOOR
56 MARIETTA ST
ATLANTA, GEORGIA

COPY

THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO LEASE (hereinafter referred to as the "Third Amendment") is made and entered into as of the 27 day of September, 2002, by and between MARIETTA STREET PARTNERS, LLC, a Georgia limited liability company, successor in interest to PEACHTREE-KESSLER LOFTS, LLC, a Georgia limited liability company (hereinafter referred to as "Landlord") and ALLEGIANCE TELECOM OF GEORGIA, INC , a Delaware corporation, successor in interest to ENRON BROADBAND SERVICES, INC , formerly known as ENRON COMMUNICATIONS, INC , an Oregon corporation (hereinafter referred to as "Tenant")

WITNESSETH

WHEREAS, Peachtree Kessler Lofts, LLC, a Georgia limited liability company ("PKL") and Enron Communications, Inc , an Oregon corporation ("ECI") entered into that certain Lease Agreement (the "Original Agreement") dated October 19, 1999, as amended by that certain First Amendment to Lease (the "First Amendment") dated February 1, 2000, by and between PKL and ECI, and as further amended by that certain Second Amendment to Lease (the "Second Amendment") dated May 20, 2000, by and between ECI then and now known as Enron Broadband Services, Inc ("EBS") (the Original Agreement, as amended by the First Amendment, and the Second Amendment is hereinafter referred to as the "Lease"),

WHEREAS, Landlord is the successor in interest to PKL and Tenant is the successor in interest to EBS,

WHEREAS, pursuant to the Lease, Tenant leases approximately 11,834 square feet on the eighth (8th) floor of the Building (the "Eighth Floor Space"), approximately 2,170 square feet on the roof of the Building (the "Roof Space"), approximately 1,095 square feet in the basement of the Building (the "Basement Space") and approximately 6,726 square feet of space on the second (2nd) floor of the Building (the "Second Floor Space"),

WHEREAS, Landlord and Tenant desire to amend the Lease to reduce the square footage of the Roof Space, Basement Space and Second Floor Space and to make those certain other changes set forth herein,

NOW, THEREFORE, for and in consideration of TEN DOLLARS ($10 00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto for themselves and their successors and assigns do hereby agree as follows

1 ***Definitions*** All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Lease

2 ***Roof Space*** The Roof Space is hereby reduced by 896 square feet so that the total square footage of the Roof Space is approximately 1,274 square feet Such Roof Space (as modified hereby) is more particularly described on Exhibit A-2 attached hereto and incorporated herein

3 ***Basement Space*** The Basement Space is hereby reduced by 365 square feet so that the total square footage of the portion of the Premises in the basement is approximately 730 square feet Such Basement Space (as modified hereby) is more particularly described on Exhibit A-3 attached hereto and incorporated herein

4 ***Second Floor Space*** The square footage of the Premises is reduced and shall no longer include the 6,726 square feet of space on the second floor of the Building (the "Second Floor Contraction Space") Paragraph 4 of the Second Amendment is hereby deleted in its entirety The portion of the Premises located on the eighth floor of the Building is described on Exhibit A-1 attached hereto and incorporated herein

5 ***Consideration*** In consideration of Landlord's agreement to amend the Lease and terminate Tenant's obligations with respect to certain basement space and second floor space as set forth in Sections 2, 3 and 4 above, simultaneously with the execution of this Third Amendment, Tenant shall pay to Landlord a termination fee in the amount of $100,000 00 (the "Termination Fee") by wire transfer of immediately available federal funds in accordance with the instructions set forth on Exhibit B hereto

6 ***Exhibit A*** Exhibit A to the Lease is hereby deleted in its entirety and replaced with Exhibit A-1, Exhibit A-2 and Exhibit A-3 attached hereto and incorporated herein

7 ***Rent*** To reflect the reduction in the size of the Premises, effective as of the Effective Date (as hereinafter defined), the schedule of Fixed Minimum Rent set forth in lines 4 – 14 of Section 3(b) of the Lease shall be deleted in its entirety and replaced with the following

Time Period	Fixed Minimum Rent
Effective Date – 11/30/02	$21,407 00
12/1/02 – 11/30/03	$22,049 00
12/1/03 – 11/30/04	$22,711 00
12/1/04 – 11/30/05	$23,392 00
12/1/05 – 11/30/06	$24,094 00
12/1/06 – 11/30/07	$24,817 00
12/1/07 – 11/30/08	$25,561 00
12/1/08 – 11/30/09	$26,328 00

8 ***Security*** Effective as of the Effective Date, Paragraph 9 of the Second Amendment is hereby deleted and Paragraph 7 of the First Amendment is hereby reinstated and shall control

9 ***Fuel Piping, Fuel Capacity*** Effective as of the Effective Date, the third sentence of Paragraph 10 of the Second Amendment (which sentence begins "Notwithstanding anything to the contrary in this Lease") is hereby deleted in its entirety and replaced with the following "Notwithstanding anything to the contrary in the Lease, Tenant shall be allocated up to 945 gallons of total fuel capacity, which 945 gallons of capacity may be comprised of up to 180 gallons of capacity from up to two (2) 100 gallon day tanks (to be provided by Tenant at Tenant's cost), with the remainder of such 945 gallons of capacity (*i e*, 945 gallons less the capacity of any such day tanks) to be from Landlord's common fuel storage tank, *provided, however,* Tenant shall pay for its own generator and its own fuel consumption and expenses "

10 ***Effective Date*** Except as set forth in Section 19 of this Third Amendment, provided that there are then no uncured defaults beyond applicable notice and cure period by "Tenant" under the Lease, this Third Amendment shall be effective as of the Effective Date, which shall be the date that is the latest of (a) the dates Landlord and Tenant each executes and delivers this Third Amendment, (b) the entry of a Final Order by the United States Bankruptcy Court for the Southern District of New York in Case No 01-16039 (the "Bankruptcy Court"), approving the execution and performance of that certain Sale, Assignment and Assumption Agreement dated 9/24, 2002 by and between EBS and Tenant (the "Agreement"), pursuant to which EBS shall assign the Lease to Tenant free and clear of all liens, claims and encumbrances as provided in the Agreement, or (c) the dates EBS and Tenant each executes and delivers the Agreement

11 ***Security Deposit*** Effective as of the Effective Date, Section 32 of the Lease is hereby amended by reducing the security deposit by $12,180 00 to $19,088 00

12 ***Section 14 of Lease*** Section 14 of the Lease is hereby deleted in its entirety and replaced with the following

> "In the event (i) any payment of rental or other sum due hereunder is not paid as and when due and Tenant fails to cure such default within ten (10) days after written demand from Landlord (but in no event shall Landlord be required to give more than two (2) such written notice in any twelve month period, thereafter a default shall exist if a payment is not paid as and when due), (ii) Tenant shall fail to comply with any term, provision, condition, or covenant of this Agreement, other than an obligation requiring the payment of rent or other sums hereunder and shall not cure such failure within thirty (30) days after notice to the Tenant of such failure to comply (or if such failure cannot by its nature be cured within such 30 day period, Tenant shall have a reasonable period of time not to exceed 120 days within which to cure such failure, but only if Tenant promptly commences such cure within such 30 day period and thereafter diligently and continuously prosecutes such cure to completion), or (iv) Tenant shall file a petition under any applicable federal or state bankruptcy or insolvency law or have any involuntary petition filed thereunder against it and such involuntary petition is not dismissed within 60 days after the date of filing, then Landlord, in addition to any remedy available at law or in equity, shall have the option to do any one or more of the following
>
> (a) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord Tenant agrees to indemnify Landlord for all direct (but not indirect nor consequential) loss, damage and expense which Landlord may suffer by

reason of such termination, which damages shall include the difference between the amount of rental and additional rental that would have been due hereunder were it not for such termination and fair rental value for the same period, both discounted to present value using an interest rate of 8%

(b) Without terminating this Agreement, terminate Tenant's right of possession, whereupon rental shall continue to accrue and be owed by Tenant hereunder Thereafter, at Landlord's option, Landlord may enter upon and relet all or a portion of the Premises (or relet the Premises together with any additional space) for a term longer or shorter than the remaining term hereunder and otherwise on terms satisfactory to Landlord Tenant shall be liable to Landlord for the deficiency, if any, between Tenant's rent hereunder and all net sums received by Landlord on account of such reletting (after deducting all costs incurred by Landlord in connection with any such reletting, including without limitation, cost of necessary repairs to the Premises (but excluding any costs, expenses or allowance to improve or alter the Premises to make them suitable for any replacement tenant or occupant), brokerage commissions (but only to the extent allocable to the remaining term hereunder) and reasonable attorney's fees)

(c) Pursue a dispossessory action against Tenant, in which event Tenant shall remain liable for all amounts owed hereunder, including amounts accruing hereunder from and after the date that a writ of possession is issued

(d) Perform any unperformed obligation of Tenant Any sums expended by Landlord shall be repaid by Tenant, as additional rent, within ten (10) days of demand therefor by Landlord

Pursuant of any of the foregoing remedies shall not preclude pursuit of any other remedies provided by law In the event Landlord places the enforcement of all or any part of this Agreement in the hands of an attorney on account of Tenant's default, Tenant agrees to pay Landlord's costs of collection, including reasonable attorney's fees, whether suit is actually filed or not "

13 ***Section 17*** Section 17 of the Lease is hereby amended by adding the following at the end of such Section 17 "Notwithstanding the foregoing, except in the event of an emergency, (a) Landlord shall give Tenant not less than three (3) business days notice to Tenant so that Tenant may have the opportunity for an employee or representative to accompany Landlord into the Premises, and (b) Landlord will use commercially reasonable precautions to protect Tenant's equipment from damage by Landlord's employees, representatives and contractors during Landlord's entry "

14 ***Section 20*** Section 20 of the Lease is hereby amended to delete the definition of "Affiliate" and replace it with the following "For purposes of this Lease, the term "Affiliate" shall mean (a) any person or entity which controls, is controlled by or is under common control with Licensee, so long as such person or entity continues to control, be controlled by or be under common control with Allegiance Telecom of Georgia, Inc , or (b) any person or entity which acquires all or substantially all of the assets or stock of Allegiance Telecom of Georgia, Inc , or

with which Allegiance Telecom of Georgia, Inc merges or is consolidated, so long as such person or entity has a tangible net worth of not less than the greater of (a) Five Million Dollars ($5,000,000 00) or (b) the net worth of Tenant as of the date hereof, following such assignment "

15 ***Section 21*** Section 21 of the Lease is hereby amended to add the following at the end of such Section 21 "Notwithstanding the foregoing, in the event of a casualty that does not arise out of any negligent or willful act or omission of Tenant or its employees, agents or contractors, Landlord shall use commercially reasonable efforts to provide to Tenant as promptly as is practicable an estimate of the time period in which Landlord reasonably anticipates the repairs required by this Section will be completed If such estimate exceeds one hundred eighty (180) days, Tenant shall have the right to terminate this Lease by written notice given to Landlord within twenty (20) days after the date Landlord gives such notice to Tenant If Tenant fails to give such notice within such twenty (20) day period, Tenant shall be deemed to have waived the right to terminate this Lease pursuant to the preceding sentence "

16 ***Section 22*** Section 22 of the Lease is hereby deleted in its entirety and replaced with the following

"**22 01 Substantial Taking** If all or a substantial part of the Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere with the use of the Premises as set forth in Section 4, then either party may terminate this Lease upon notice to the other within ninety (90) days of the taking, and the rent shall be abated during the unexpired portion of the Term effective on the date physical possession is taken by the condemning authority

22 02 Partial Taking In the event a portion of the Premises shall be taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by purchase in lieu thereof, and this Lease is not terminated as provided in Section 22 01 above, to the extent sufficient condemnation awards or sale proceeds in lieu thereof to enable Landlord to restore and reconstruct the Premises are made available to Landlord by the holder of any mortgage or deed to secure a debt encumbering the Building, Landlord shall, at Landlord's sole cost and expense, restore and reconstruct the Building and other improvements on the Premises to the extent necessary to make it tenantable in a manner reasonably comparable to the tenantability of the Premises immediately prior to the taking (provided that if the available condemnation or sale proceeds are not sufficient to restore the Premises to such condition, Tenant may terminate this Lease effective upon thirty (30) days notice to Landlord) The rent payable under this Lease during the unexpired portion of the Term shall be adjusted to such an extent as may be fair and reasonable under the circumstances

22 03 Tenant's Claim In the event of any total, substantial or partial takings described in Sections 22 01 and 22 02, Landlord shall be entitled to receive the entire condemnation award without deduction therefrom for any interest of Tenant in the Premises, but Tenant shall have the right to make a separate claim with the condemning authority for, and to receive therefor, (i) any moving expenses incurred by Tenant as a result of such condemnation, (ii) any costs incurred or paid by Tenant in connection with

any alteration or improvement made by Tenant to the Premises, (iii) the value of any of Tenant's personal property taken, (iv) Tenant's loss of business income, and (v) any other separate claim which Tenant may hereafter be permitted to make under applicable law, provided, however, that such other separate claims shall not reduce or adversely affect the amount of Landlord's award "

17 ***Section 24*** The notice address for Tenant set forth in Section 24 of the Lease is hereby deleted in its entirety and replaced with the following

"IF TO TENANT — Allegiance Telecom of Georgia, Inc
700 East Butterfield Road
Lombard, Illinois 60148
Attn Ken Close

With a copy to — Allegiance Telecom, Inc
1201 North Central Expressway
Dallas, Texas 75231
Attn Real Estate Lease Administration "

18 ***SNDA*** Within forty five (45) days after the Effective Date, Landlord shall provide to Tenant a subordination, nondisturbance and attornment agreement ("SNDA") executed by Wachovia Bank, the holder of the deed to secure debt affecting the Building, which SNDA shall be on Wachovia Bank's form Such SNDA shall be on the same form and may be combined on a single document with any SNDA that Landlord provides with respect to the License Landlord will use commercially reasonable efforts to have Wachovia Bank agree to Tenant's requested modifications

19 ***Power.*** Tenant shall obtain ownership of the 4,000 amp GE switch (with all associated parts and connections) installed by or on behalf of ECI or Enron Broadband Services, Inc , in the basement of the Building (the "Switch") and the 4,000 amp bus riser (with all associated parts) installed by or on behalf of ECI or Enron Broadband Services, Inc , in the Building (the "Bus Riser") Without cost to Landlord, Tenant shall convey title to the Switch and the Bus Riser (free and clear of all liens and encumbrances) to Landlord pursuant to a bill of sale in form and substance reasonably acceptable to Tenant Upon such conveyance, Landlord shall (a) assume the obligation to repair, maintain and keep the Switch and Bus Riser in good operating order and condition and (b) cause the power serving the Eighth Floor Space to be separately metered, with the costs of such power to be billed directly to Tenant by the local power provider Tenant shall pay all of the costs of such power and Landlord shall pay the cost to install the separate meter for the Eighth Floor Space

20 ***Estoppel.*** To the knowledge of Landlord, Landlord certifies to Tenant, as of the date of the Landlord's signature, that Tenant is not in default of its obligations under the Lease, except for Tenant's failure to pay $2,110 86 for diesel fuel, $1,250 for security services for September 2001 and $1,250 for security services for November 2001 In the event any or all of the foregoing defaults are not cured as of the Effective Date, same shall not be deemed an uncured default beyond applicable notice and cure period by "Tenant" under the Lease for the purposes of either Section 10 of this Third Amendment or Section 14 of the Lease as amended hereby unless

and until Landlord has thereafter given Tenant written notice of such default(s) as required by the Sections 14 and 24 of Lease as amended hereby and Tenant has failed to cure same within the time for cure provided in Section 14 of the Lease as amended hereby

21 ***Equipment.*** Tenant shall obtain ownership from Enron Broadband Services, Inc , of the "Equipment" (as hereinafter defined) and, without cost to Landlord, Tenant will transfer ownership of all such Equipment to Landlord free of all liens and encumbrances For purposes hereof, the Equipment is 28 CABINETS, 28 AC POWER STRIPS, 2 HENDRY FUSE PANELS, 2 ADC FL2000 SPLICE PANELS, 2 ADC CONNECTOR MODULE, 1 ADC REAR CROSS CONNECT SYSTEM, and 1 ADC DSX SPLICE PANEL Such Equipment is located in the portion of the Premises on the Forsyth Street side of the Building

22 ***Ratification*** Landlord and Tenant hereby ratify and affirm the Lease, as amended hereby

23 ***No Offer*** The negotiation and documentation of this Third Amendment shall not constitute an offer to Tenant to amend the Lease as specified herein or a reservation in favor of Tenant Neither party shall be bound by the terms of this Third Amendment until such time as both Landlord and Tenant have executed the same

IN WITNESS WHEREOF, the Landlord and Tenant have caused this Third Amendment to Lease to be executed under seal as of the date and year first above written

Landlord

MARIETTA STREET PARTNERS LLC,
a Georgia limited liability company

By Peachtree-Kessler Lofts, LLC, its managing member

By _____ [seal]
Don A Thomas, Member

Tenant

ALLEGIANCE TELECOM OF GEORGIA, INC., a Delaware corporation

By _____

Printed Name – Kenneth C. Close

Its _____ Vice President Real Estate & Facilities

[CORPORATE SEAL]

CONSENT TO THIRD AMENDMENT TO LEASE

Wachovia Bank a national banking association hereby consents to the foregoing Third Amendment to Lease by and between Marietta Street Partners LLC and Allegiance Telecom of Georgia Inc

WACHOVIA BANK,
A national banking association

By _____

Name JAMES P. O'MARA

Title VICE PRESIDENT

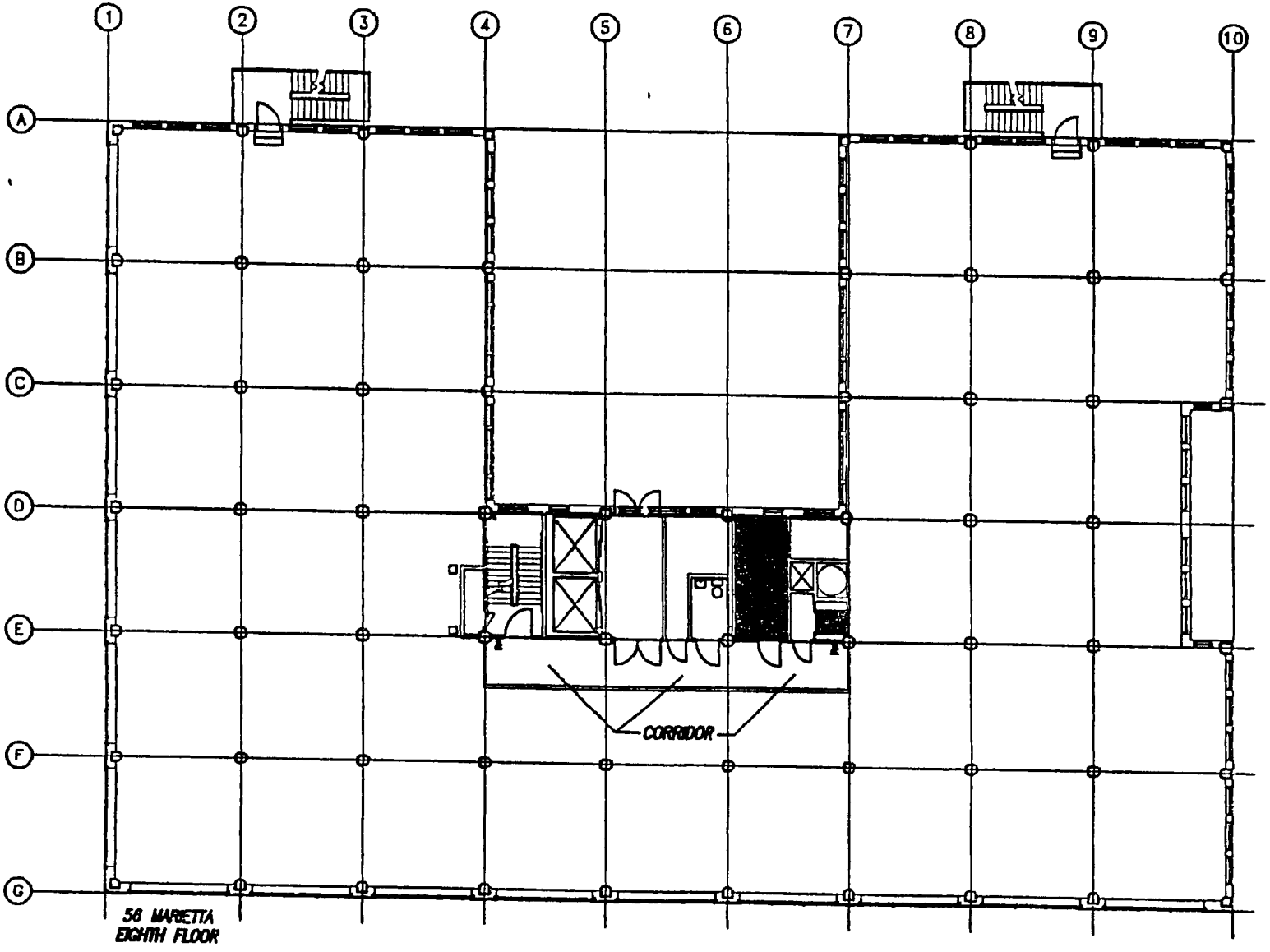
[BANK SEAL]

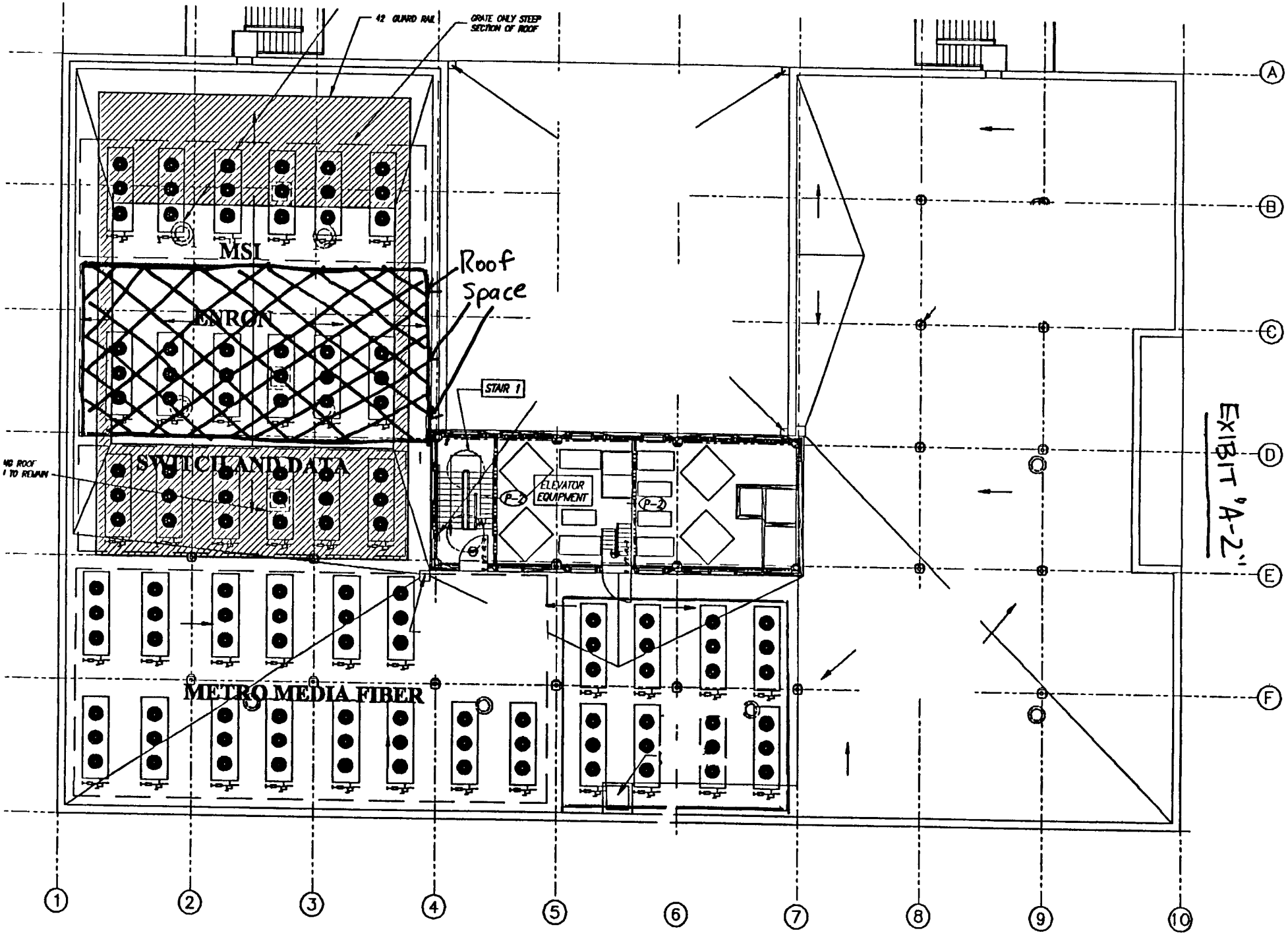
[NEED EXHIBITS]

761072_4.doc
AO 7510

EXHIBIT "A-1"

Premises on Eighth Floor





EXIBIT "A-2"

1 ROOF PLAN 04.21.2000

ENRON–ATLANTA – BASEMENT GENERATOR ROOM

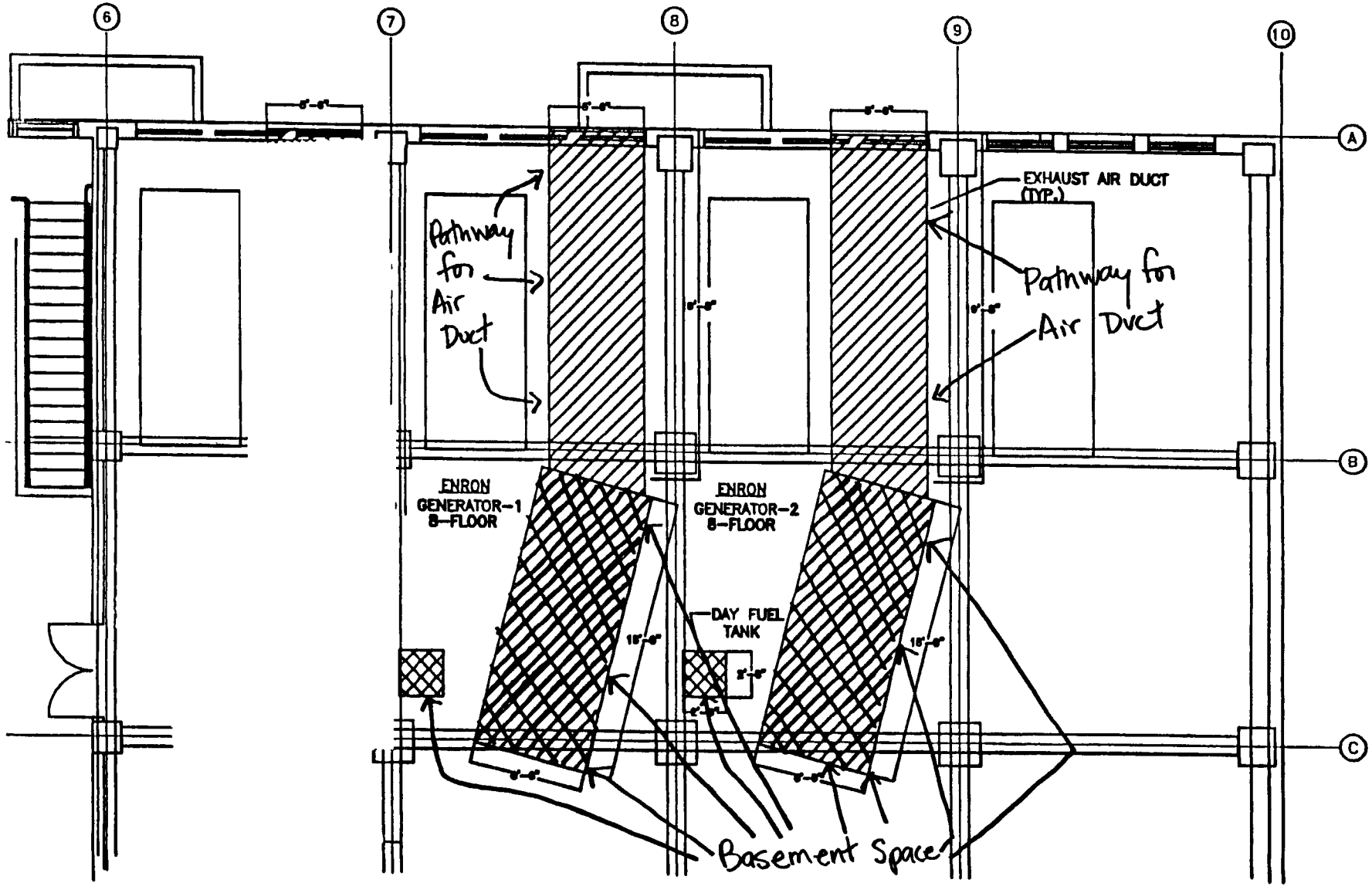


EXHIBIT "A-3"

EXHIBIT "B"

MARIETTA STREET PARTNERS, LLC WIRING INSTRUCTIONS

ROUTING NUMBER	062005690
BANK NAME	REGIONS BANK, BIRMINGHAM, AL
FOR CREDIT TO	
OFFICE	REGIONS BANK 6637 ROSWELL ROAD ATLANTA, GA 30328
ACCOUNT NAME	MARIETTA STREET PARTNERS, LLC
ACCOUNT NUMBER	64-1302-6388

LICENSE AGREEMENT

This License Agreement (this "Agreement") is entered into as of this 20 day of May, 2000, by and between **ENRON BROADBAND SERVICES, INC** , an Oregon corporation ("Licensee") and **PEACHTREE-KESSLER LOFTS, LLC**, a Georgia corporation ("Owner")

RECITALS

A Owner is the owner of that certain building located at 56 Marietta Street, Atlanta, Georgia, 30303 (the "Building") Owner has set aside a portion of the second floor of the Building for use by multiple parties as a room (the "Meet Me Room") to facilitate interconnections between various telecommunications providers and users who enter license agreements with Owner for the use of such Meet Me Room

B Licensee wishes to obtain a license from Owner for use of certain space within the Meet Me Room Owner is willing to give Licensee an exclusive license to use an approximately eight foot by twelve foot area square feet of space within the Meet Me Room more particularly described in **Exhibit A**, attached hereto and incorporated herein (the "Premises"), and a non-exclusive license to use the Meet Me Facilities (as hereinafter defined) Both such licenses shall be revocable by Owner at will under the circumstances described below

NOW, THEREFORE, for and in consideration of Ten Dollars ($10 00), the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows

AGREEMENT

1 License for Use of Premises and Meet Me Facilities Owner hereby grants to Licensee an exclusive right to use the Premises and a non-exclusive license to use the Meet Me Facilities (as hereinafter defined) Such licenses are referred to collectively herein as the "Licenses" Licensee's use of the Premises and the Meet Me Facilities (as hereinafter defined) shall be on the terms and conditions set forth in this Agreement Licensee hereby acknowledges that Owner reserves the right to install and maintain conduits, cables and wiring along and adjacent to the ceiling above the Premises Any conduits, cables and wiring installed along and adjacent to the ceiling above the Premises by the Owner (other than any conduits, cables, pipes or wiring associated with the dry pipe preaction fire suppression system running through the Premises), if containing any liquid, will be wrapped, drip panned and leak detected

2 Commencement and Expiration Licenses Licensee may commence using the Licenses on May 1, 2000 (the "Commencement Date") The Licenses shall expire on November 30, 2009 (the "Expiration Date")

3 Monthly License Fee Commencing on the Commencement Date, Licensee shall pay to Owner on the first day of each month at Owner's office or at such other place as Owner may designate, in lawful money of the United States, without demand, deduction or offset, a fee for the Licenses (the "Monthly License Fee") in the amount of Two Thousand Eight Hundred Fifty and No/100 Dollars ($2,850 00) Upon execution of this Agreement, Licensee has paid to Owner

, Two Thousand Eight Hundred Fifty and No/100 Dollars ($2,850 00), representing the first month's Monthly License Fee, and Two Thousand Five Hundred and No/100 Dollars ($2,500 00), representing a one time prep charge for a total of Five Thousand Three Hundred Fifty and No/100 Dollars ($5,350 00) In the event Licensee fails to pay the Monthly License Fee or any other payment called for under this Agreement within five (5) days after the time period specified herein, Licensee shall pay a late charge equal to five percent (5%) of the unpaid amount, which late charge shall be paid with the required payment The Monthly License Fee for any partial calendar month shall be equitably prorated, as calculated by Owner in its reasonably discretion The timely payment of the Monthly License Fee is a condition precedent to Licensee's right to use the Licenses Unless this license is revoked by Owner through no fault of Licensee, Licensee shall remain obligated for the Monthly License Fee until the Expiration Date, and shall remain obligated until such time for Licensee's other obligations under this Agreement, regardless of whether Licensee actually makes use of the Licenses, or whether Licensee surrenders the Licenses On each anniversary of the Commencement Date, the Monthly License Fee shall be increased as follows

Anniversary of Commencement Date	Monthly License Fee
05/01/00 - 11/30/00	$ 2,850 00
12/01/00 – 11/30/01	$ 2,964 00
12/01/01 – 11/30/02	$ 3,083 00
12/01/02 – 11/30/03	$ 3,206 00
12/01/03 – 11/30/04	$ 3,334 00
12/01/04 – 11/30/05	$ 3,467 00
12/01/05 – 11/30/06	$ 3,606 00
12/01/06 – 11/30/07	$ 3,750 00
12/01/07 – 11/30/08	$ 3,900 00
12/01/08 – 11/30/09	$ 4,056 00

4 Security Deposit Intentionally Deleted

5 Use of Premises and Meet Me Facilities Licensee acknowledges that other licensees and tenants of the Building will be using the Meet Me Room and some of the Meet Me Facilities, such as, but not limited to, the Generator (as defined below) Licensee has the right to make, and agrees to use the Meet Me Room only for the purpose of facilitating, interconnections between Licensee's telecommunications system and the telecommunications of other entities that have (a) executed agreements with Owner for the use of space within Meet Me Room, and (b) consented to such interconnection in writing Owner shall have no obligation with respect to any such interconnection Licensee agrees not to store, install or use any equipment, conduit, cable, wiring, connecting lines or other property of Licensee in the Meet Me Room for any other purpose In no event shall Licensee (x) cause (or permit its employees, representatives, contractors or invitees to cause) any interference or damage to the Meet Me Facilities, equipment, conduits, cable, wiring or connecting lines owned or used by other tenants or licensees of the Building, or (y) install any conduits, wiring, cabling or other installations anywhere in the Building outside the Meet Me Room without Owner's advance written approval, which may be granted or withheld in Owner's sole discretion Owner's only obligation to

Licensee regarding the installation of facilities pursuant to this Agreement shall be to install the Meet Me Facilities assigned to Licensee in the Meet Me Room

6 Meet Me Facilities Except as set forth in this Section 6, Owner shall not be responsible to provide any service, equipment or other item to Licensee or the Meet Me Room Owner shall provide Licensee the following items in the specific quantities indicated

6 1 Power Owner shall provide 2, 20 Amp, 120 volt/single phase circuits The foregoing two (2) circuits are collectively referred to herein as the "Circuits" Owner shall also provide one (1) 30 Amp DC redundant A and B feed

6 2 Generator Owner shall provide a generator (the "Generator") to back up the Circuits Owner provides no representation or warranty with respect to the Generator Owner will be responsible for repairing and maintaining the Generator and for supplying fuel to the Generator, and Licensee shall pay to Owner $0 for the cost of such repair, maintenance and fuel

6 3 Ventilation and Air Conditioning Owner shall provide ventilation and air conditioning service to the Meet Me Room Owner will be responsible for repairing and maintaining the ventilation and air conditioning equipment, and Licensee shall pay to Owner $0 for the cost of such repair and maintenance

6 4 Fire Suppression Owner shall supply a preaction system for the Meet Me Room

6 5 Walls Owner shall construct ONE ~~a~~ sheet rock wall ~~around the Premises, which wall shall be approximately nine (9) feet high Owner shall further construct a grating from the top of the sheet rock wall to the ceiling above the Premises~~ OTHER WALLS TO BE METAL GRATED DT 5-20-00

6 6 Door Owner shall ~~construct a new entry door for the Premises~~ INSTALL A METAL GRATED DOOR DT 5 20-00

6 7 Lighting Owner shall provide common over head lighting for the Meet Me Room

6 8 Card Key Access Owner shall provide a card key access system for access to the Meet Me Room, Building, and Elevators

7 Licensee's Installations The installation of any equipment, conduits, cabling, wiring and connecting lines in the Meet Me Room shall be subject to review and approval of Owner In connection with any requested review and approval, Licensee shall reimburse Owner, within ten (10) days of demand, for the fees and costs of Owner's engineer or other Owner consultant in responding to such request All such installation (other than the installation of the Meet Me Facilities) shall be performed at Licensee's sole expense by a qualified, duly licensed contractor selected by Licensee Owner shall have no obligation or liability with respect to such work by Licensee's contractors and no such obligation or liability shall be implied from Owner's review of any plans, specifications or other documents Licensee shall cause all such work by Licensee's contractors to be completed in a good, workmanlike and lien free manner All such contractors shall comply with the Rules and Regulations (as hereinafter defined) In addition, prior to commencing any work in the Meet Me Room, Licensee's contractors must provide to

Owner (a) evidence of insurance coverage for the work in conformity with the provisions of this Agreement, (b) copies of all legally required permits for the work, and (c) a copy of the written consent of any other tenant or licensee in the Meet Me Room with whose facilities a connection will be made as part of the work In no event may Licensee penetrate any of the exterior walls of the Building, provided, however, nothing in the preceding sentence shall prevent Licensee from exercising any right contained in the Lease (as defined below)

8 Indemnity and Waiver Licensee hereby agrees to indemnify and hold harmless Owner and Owner's officers, directors, members, shareholders and employees (collectively, the "Owner Entities") from and against any and all claims (including but not limited to claims for bodily injury or property damage), liabilities, costs, injuries, damages, actions, mechanic's liens, losses and expenses (including but not limited to reasonable attorney fees and costs) (collectively, "Claims"), which may arise from the installation, operation, use, maintenance or removal of conduit, cable, wiring, connecting lines, equipment or other property pursuant to this Agreement or from Licensee's use of the Meet Me Room or the Meet Me Facilities Similarly, Licensee shall pay upon demand by Owner the costs to repair any physical damage to the Building caused by, resulting from or arising out of such installation, operation, use, maintenance or removal Licensee hereby waives and releases the Owner Entities from any Claims Licensee may have at any time (including but not limited to Claims relating to interruptions in services) arising out of or relating in any way to the installation, operation, use, maintenance, or removal of conduit, cable, wiring, connecting lines, equipment or other property described in this Agreement or Licensee's use of the Meet Me Room or the Meet Me Facilities, unless caused by the gross negligence or willful misconduct of any of the Owner Entities or Owner's contractors In no event shall Owner or any of the Owner Entities be liable to Licensee for lost profits or consequential, incidental or punitive damages of any kind

9 Insurance Licensee shall maintain, at its expense, and commercial general liability insurance for the Premises Such coverage shall (a) have a single limit of not less than $3,000,000 00 (or such greater amount over time so as to be commercially reasonable) and shall provide for a deductible of not less than $5,000 00, (b) cover Licensee's contractual liability hereunder, (c) cover any third parties performing work in the Building, (d) name Licensee as insured, (e) name Owner as additional insured to the extent of Licensee's indemnity obligations contained herein, and (f) be considered primary, regardless of any insurance carried by Owner to the extent of Licensee's indemnity obligations contained herein Licensee shall also keep in force all risk property coverage insurance for the full replacement value of Licensee's improvements within the Building, its furniture, fixtures and equipment and all personal property of Licensee Licensee shall deliver certificates (with a copy of the endorsement naming Owner as an additional insured being attached) thereof to Owner within ten (10) days of the Commencement Date which certificates shall reflect that the policies shall not be canceled without ten (10) days prior notice to Owner, but if any work is to be performed for Licensee's improvements, the certificate shall be delivered to Owner prior to commencement of the improvements If Licensee fails to obtain the necessary coverages, Owner may do at Licensee's expense All such insurance shall be provided by companies admitted to engage in the business of insurance in the State of Georgia and which have a Best's Insurance Guide rating of A/VIII or better Licensee shall also procure and maintain worker's compensation and employer's liability insurance covering all of Licensee's employees working in or about the Premises, with coverage limits not less than the

minimum limits allowable under all applicable laws Owner shall procure and maintain in full force "all risk" property insurance covering the full replacement value of the Building (exclusive of any improvements made thereto by any occupants of the Building) and commercial general liability covering Owner's activities in the Building All such insurance shall be in commercially reasonable amounts

Anything in this Agreement to the contrary notwithstanding, Owner and Licensee hereby waive and release each other of and from any and all rights of recovery, claim, action or cause of action, against each other, their partners, agents, officers and employees, for any loss or damage that may occur to the Premises or Building, or personal property within the Building, which is covered or required to be covered by valid and collectible insurance in effect at the time of such loss or damage regardless of cause or origin, including negligence of Owner or Licensee and their partners, agents, officers and employees, but only to the extent of any recovery made by the parties hereto for such loss or damage under any insurance policy now or hereafter issued or required to be carried pursuant to this Agreement covering the Premises or the Building Owner and Licensee agree to give immediately to their respective insurance companies which have issued policies of insurance covering any risk of direct physical loss, written notice of the terms of the mutual waivers contained in this section, and to have the insurance policies properly endorsed, if necessary In the event either of Owner's or Licensee's insurance companies is unwilling or unable to provide the necessary endorsement(s), despite the exercise of good faith, diligent efforts by the insured party, the foregoing waiver by the party whose insurance company is unwilling or unable to provide the necessary endorsement(s) shall be invalid Owner and Licensee acknowledge that the waivers and releases set forth in this section are intended to result in any loss or damage which is covered by insurance being borne by the insurance carrier of Owner or Licensee, as the case may be, or by the party having the insurable interest if such loss is not covered by insurance and this Agreement required such party to maintain insurance to cover such loss Owner and Licensee agree that such waivers and releases were freely bargained for and willingly and voluntarily agreed to by Owner and Licensee and do not constitute a violation of public policy Notwithstanding anything to the contrary contained herein, Tenant shall have the right to self-insure the first $2,000,000 00 of its insurance requirement so long as Tenant maintains a net worth of not less than Fifty Million Dollars ($50,000,000 00) and annually provides Landlord financial statements of Tenant (certified by an independent certified public accountant) which evidence such net worth

10 Removal of Cable, Wiring and Connecting Lines Licensee agrees that, upon the expiration or termination of the Licenses, Licensee (or, at Owner's election, the contractor designated by Owner) shall promptly remove, at Licensee's sole cost and expense, all cable, wiring, connecting lines, and other installations, equipment or property installed or placed by or for Licensee in the Building (except the Meet Me Facilities, which shall remain the property of Owner), and restore those portions of the Building damaged by such removal to their condition immediately prior to the installation or placement of such items If Licensee fails to promptly remove all such items pursuant to this Section 10, or if Owner elects to have such work performed by Owner's contractor, Owner may remove such items and restore those portions of the Building damaged by such removal to their condition immediately prior to the installation or placement of such items, in which case Licensee agrees promptly to pay Owner's reasonable costs of removal and

restoration

11 Interference or Damage Licensee, its agents, representatives, employees, contractors and invitees will not harm, damage, destroy, endanger, breach the security of, or interfere with (or use any equipment, installations, tools or methods that, in Owner's reasonable judgment might harm, damage, destroy, endanger, breach the security of or interfere with) (a) the Building, or (b) any services offered by, personnel of or property owned, leased or licensed by Owner or any Licensee, licensee, concessionaire or other permitted occupant of the Building or any vendors or customers of any such Licensee, licensee, concessionaire or other permitted occupant of the Building If Licensee or any employee, agent, representative, contractor or invitee of Licensee violates, or seeks to take any action that will violate, the terms and conditions of this Section, (x) Licensee must, immediately upon notice from Owner, cease or avoid committing such violation, and repair and correct any damage, harm or interference arising out of such violation, and (y) without limiting the foregoing obligations of Licensee, Owner may at its option take any necessary action, at the cost and for the account of Licensee to (1) immediately prevent or stop such violation (including, without limitation, requiring Licensee to cease, using certain equipment, tools or methods until the problem is resolved), and/or (2) repair and correct any damage, harm or interference caused by such violation Within fifteen (15) days of demand from Owner, Licensee shall reimburse Owner for any amounts paid by Owner pursuant to this Section

12 Access by Licensee Those individuals specifically identified by name on the list set forth on **Exhibit B**, attached hereto and incorporated herein by this reference, (the "Permitted Access List") shall have access to the Meet Me Room twenty-four (24) hours per day, seven (7) days per week The persons on the Permitted Access List (the "Authorized Personnel") shall be employees, agents, or contractors of Licensee (and if contractors they must be approved in advance by Owner, such approval not to be unreasonably withheld, conditioned or delayed) The Authorized Personnel may enter the Building only for purposes of ingress to and egress from the Meet Me Room to perform work or services permitted by this Agreement No representatives, agents, employees or invitees of Licensee other than the Authorized Personnel shall have the right to enter the Building Authorized Personnel must carry a photo-identification credential for presentation to Owner or Owner's agents, employees or representatives when entering the Building Upon written notice to Owner, Licensee may amend the Permitted Access List, provided, however, in no event may the Permitted Access List identify more than ten (10) individuals In no event shall Licensee or any agent, representative, contractor or invitee of Licensee, including without limitation, Authorized Personnel, have the right to access any portion of the Building, other than the Conduit and those corridors, hallways, doorways and elevators designated by Owner for access to the Meet Me Room

13 No Lease or Easement of Meet Me Room, Termination of License Licensee acknowledges that the rights granted to Licensee hereunder do not constitute a lease of any portion of the Meet Me Room or the Meet Me Facilities nor an easement The Licenses are revocable by Owner in Owner's sole discretion upon any default by Licensee under this Agreement which is not cured within ten (10) days after written notice from Owner to Licensee or upon any casualty which destroys the Meet Me Room or renders it substantially unusable Owner shall retain such rights of revocation notwithstanding any expenditure of money on the installations described herein or other actual or alleged reliance by Licensee Such revocation shall be made by written notice

from Owner to Licensee In the event of any termination of this license due to a default by Licensee, Owner, in addition to any other rights it may have at law or in equity, may collect from Licensee (a) the worth at the time of award of all Monthly License Fees earned at the time of termination, (b) the worth at the time of award of the amount by which the unpaid Monthly License Fees which would have been earned after termination until the time of award exceed the amount of such loss of license fees that the Licensee proves could have been reasonably avoided, (c) the worth at the time of award of the amount by which the unpaid license fees after the time of award up through the Expiration Date exceed the amount of such loss of Monthly License Fees that Licensee proves could be reasonably avoided, and (d) any other amount necessary to compensate Owner for all the detriment proximately caused by the Licensee's default or which in the ordinary course of things would be likely to result therefrom The "worth at the time of award" as described in items (a) and (b) shall include interest at Bank of America's prime rate at that time plus 3% The "worth at the time of award" as described in item (c) shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1% Owner agrees to use reasonable efforts to mitigate any damages arising out of a default (beyond any applicable notice and cure periods) on the part of Licensee, provided, however, that (i) Owner shall have no obligation to treat preferentially the Premises compared to other premises Owner has available for leasing or licensing within the Building or in other properties owned or managed by Owner, (ii) Owner shall not be obligated to expend any efforts or any monies beyond those Owner would expend in the ordinary course of leasing space within the Building, and (iii) in evaluating a prospective reletting or relicensing of the Premises, the term, rental, use and the reputation, experience and financial standing of prospective tenants or licensees are factors which Owner may properly consider

14 Assignment or Sublicensing Licensee's rights hereunder may not be assigned, sub-licensed, or otherwise transferred without the prior written approval of the Owner Licensee agrees not to permit any third party to place, use or operate their own equipment, wiring, cabling or connecting lines in or about the Meet Me Room

15 Compliance with Laws, Rules and Regulations Licensee, at Licensee's sole cost and expense, shall comply with (a) all laws, ordinances, orders, rules and regulations of state, federal, municipal or other agencies or bodies having jurisdiction relating to its specific use or manner of use of the Meet Me Room, and (b) all industry standards, practices and procedures Licensee will also comply with the rules and regulations of the Building adopted by Owner which are set forth on **Exhibit "C"**, attached hereto and incorporated herein by this reference (the "Rules and Regulations") Owner shall have the right at all times to change and amend the Rules and Regulations in any reasonable manner as may be deemed advisable by Owner for the safety, care, cleanliness, preservation of good order and operation or use of the Meet Me Room or the Building All changes and amendments to the Rules and Regulations will be sent by Owner to Licensee in writing and shall thereafter be carried out and observed by Licensee

16 Rights of Mortgagees Licensee accepts this Agreement subject and subordinate to the lien or security title of any mortgage, deed of trust or deed to secure debt presently existing or hereafter created upon the Building and to all existing restrictions, covenants, easements and agreements with respect to the Building or any part thereof, and all amendments, modifications and restatements thereof and all replacements and substitutions therefor The subordination of this

Agreement to any such mortgage, deed to secure debt, restrictions, covenants, easements or leases shall be self-operative and shall occur automatically If the interests of Owner under this Agreement shall be transferred by reason of exercise of a power of sale, foreclosure or other proceedings for enforcement of any mortgage, deed of trust or deed to secure debt on the Building, Licensee shall be bound to the transferee, at the option of the transferee, under the terms, covenants and conditions of this Agreement for the balance of the term remaining, and any extensions or renewals, with the same force and effect as if the transferee was Owner

17 Attorneys' Fees In the event of any lawsuit or other proceeding between the parties arising out of this Agreement, the prevailing party shall be entitled to recover from the losing party the prevailing party's reasonable attorneys' fees and costs of suit

18 Notices All notices or consents required or permitted to be given hereunder shall be in writing and shall be deemed to be duly given if (a) sent by hand delivery, (b) certified mail, return receipt requested, postage prepaid, or (c) by nationally recognized overnight courier service

18 1 Owner Peachtree-Kessler Lofts, LLC, 3101 Towercreek Parkway, Suite 560, Atlanta, Georgia 30339, Attn Don A Thomas, Fax 770-953-6579 with a copy to Sutherland, Asbill & Brennan LLP, 999 Peachtree Street NE, Atlanta, Georgia 30309, Attn James B Jordan

18 2 Licensee Enron Broadband Services, 1400 Smith Street, 44th Floor, Houston, Texas, 77002, Attn Paula Corey, with a copy to Mark Santikos, Enron Realty Advisors, 1400 Smith Street, EB 468, Houston, Texas, 77002

18 3 Any notice given in the manner set forth above shall be deemed to be received by the party to who such notice is addressed upon actual receipt Either party may change the address or fax number to which notices to such party shall be sent by giving written notice thereof to the other party

19 No Warranties LICENSEE ACCEPTS THE PREMISES AND THE MEET ME FACILITIES "AS IS" WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER IMPLIED WARRANTIES TO THE EXTENT OWNER PROVIDES LICENSEE WITH MATERIALS, EQUIPMENT OR SERVICES IN CONJUNCTION WITH THE LICENSES (INCLUDING, WITHOUT LIMITATION, THE MEET ME FACILITIES), OWNER ALSO PROVIDES SUCH MATERIALS, EQUIPMENT AND SERVICES "AS IS" WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER IMPLIED WARRANTIES

20 Miscellaneous This Agreement supersedes all prior or contemporaneous understandings, negotiations, or agreements between the parties, whether written or oral, with respect to its subject matter This Agreement may be amended only in a writing signed by both Owner and

Licensee Owner's obligations under this Agreement shall be enforceable only Owner's interest in the Building and not any other asset of Owner Upon any sale or other conveyance by Owner of its interest in the Building, Owner shall be released from any further obligations under this Agreement, and Licensee shall acknowledge Owner's transferee of the Building as the new licensor under this Agreement Subject to the other provisions hereof, this Agreement shall be binding on the parties and their respective successors and assigns Licensee acknowledges that Owner and its agents, employees, and representatives have made no representation to Licensee of any kind regarding any matter, including but not limited to the Building, the Meet Me Room, the Meet Me Facilities, or the effect of applicable laws or zoning on Licensee's intended use of this license Licensee is relying on its own investigation of all such matters and agrees to obtain at its expense all licenses, conditional use permits, or other governmental approvals legally required for its intended use of this license The interpretation and enforcement of this Agreement shall be governed by the laws of the State of Georgia

21 Cross-Default Any default by Licensee under that certain Lease Agreement (the "Lease") dated October 19, 1999, as amended, by and between Owner and Licensee shall constitute a default under this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and at the place first written above

OWNER

PEACHTREE-KESSLER LOFTS, LLC

By _____
Name Don Thomas
Title Manager
Date 5/22/00

LICENSEE

ENRON BROADBAND SERVICES, INC

By _____
Name Joe A Lindholm
Title Managing Director
Date 5/16/00

EXHIBIT A

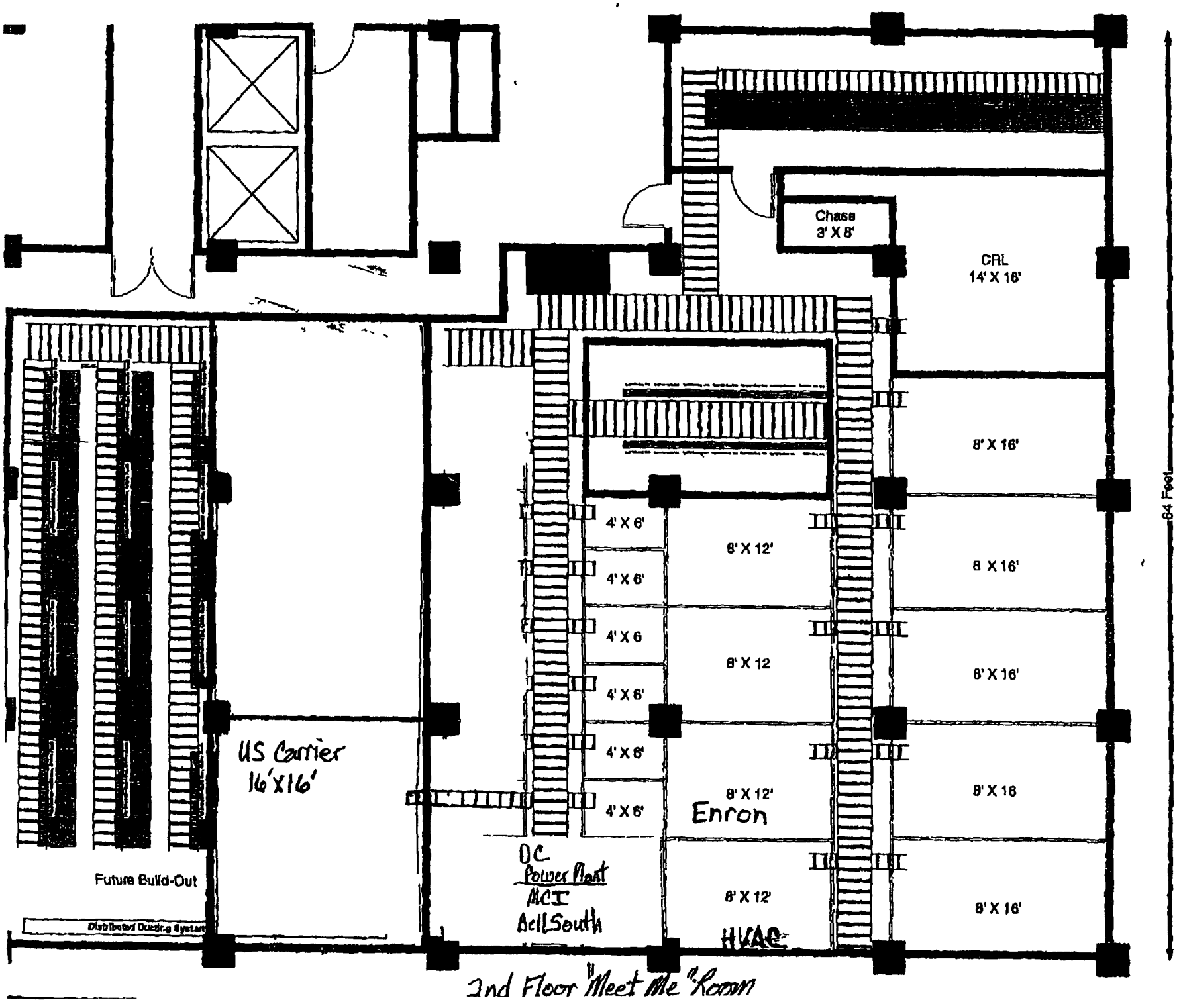

Chase
3' X 8'
CRL
14' X 16'
8' X 16'
8 X 16'
8' X 16'
8' X 16
8' X 16'
64 Feet
4' X 6'
4' X 6'
4' X 6
4' X 6'
4' X 6'
4' X 6'
6' X 12'
6' X 12
8' X 12'
6' X 12'
Enron
HVAC
US Carrier
16'X16'
Future Build-Out
Distributed Ducting System
OC
Power Plant
MCI
BellSouth
2nd Floor "Meet Me" Room

EXHIBIT B

[PERMITTED ACCESS LIST]

EXHIBIT C

RULES AND REGULATIONS

1 Owner may waive any one or more of these rules and regulations for the benefit of any tenant or licensee of the Meet Me Room, but no such waiver by the Owner shall be construed as a waiver of any such rules and regulations for the benefit of any person or entity other than the tenant or licensee for whose benefit such waiver was expressly intended, nor shall any such waiver prevent Owner from enforcing any rule or regulation against any person or entity which is not the express beneficiary of a waiver of such rule or regulation

2 Owner may make such reasonable modifications of or amendments to these rules and regulations as Owner may deem necessary or desirable

3 Authorized Personnel (as defined in the Agreement) entering the Meet Me Room shall not leave the door to the Meet Me Room ajar when entering or leaving the Meet Me Room

4 Authorized Personnel shall promptly report any suspicious activity in the Meet Me Room, including without limitation, circuit tampering

5 Authorized Personnel shall not perform (a) work to interconnect Licensee's equipment, facilities, wiring or conduits with the equipment, facilities, wiring or conduits of another occupant of the Building or Meet Me Room, or (b) any other work which involves Authorized Personnel touching any equipment, facilities, wiring or conduits of another occupant of the Building or Meet Me Room, unless and until Licensee has delivered to Owner at the notice address set forth in the Agreement a written consent (in form reasonably satisfactory to Owner) to such work signed by such other occupant, which consent shall state with specificity the date(s) of such permitted work and the nature of such permitted work Owner shall have no obligation, and specifically disclaims all liability, which arises out of any such work

6 All interconnections between Licensee and any other occupant of the Building or Meet Me Room must be accomplished utilizing cables, wires and connections that are clearly labeled and easily identified using Building standard labels All wiring and cables shall be routed in locations reasonably acceptable to Owner

7 The Meet Me Room must be kept clean and free of debris at all times

8 Tampering in any way with other occupants' circuits, equipment, wires, cables and/or cross-connects is not permissible and is grounds for immediate revocation of this Agreement All other infractions of these rules and regulations must be corrected within 24 hours of notification

COPY

FIRST AMENDMENT TO LICENSE AGREEMENT

THIS FIRST AMENDMENT TO LICENSE AGREEMENT (hereinafter referred to as the "First Amendment") is made and entered into as of the 27 day of September, 2002, by and between **MARIETTA STREET PARTNERS, LLC,** a Georgia limited liability company, successor in interest to **PEACHTREE-KESSLER LOFTS, LLC,** a Georgia limited liability company (hereinafter referred to as "Owner") and **ALLEGIANCE TELECOM OF GEORGIA, INC**, a Delaware corporation, successor in interest to **ENRON BROADBAND SERVICES, INC**, ("EBS") formerly known as **ENRON COMMUNICATIONS, INC**, an Oregon corporation (hereinafter referred to as "Licensee")

WITNESSETH

WHEREAS, Owner and EBS entered into that certain License Agreement dated as of May 20, 2000 (the "Original Agreement") for the exclusive right to use certain Premises and the non-exclusive right to use the Meet Me Facilities as more particularly described therein,

WHEREAS, Owner and Licensee desire to amend the Original Agreement in certain respects more particularly described herein,

NOW, THEREFORE, for and in consideration of TEN DOLLARS ($10 00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto for themselves and their successors and assigns do hereby agree as follows

1 ***Definitions*** All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Original Agreement

2 ***Effective Date*** Provided that there are then no uncured defaults beyond applicable notice and cure period by "Licensee" under the Original Agreement, this First Amendment shall be shall be effective as of the Effective Date, which shall be the date that is the latest of (a) the dates Owner and Licensee each executes and delivers this First Amendment, (b) the entry of a Final Order by the United States Bankruptcy Court for the Southern District of New York in Case No 01-16039 (the "Bankruptcy Court"), approving the execution and performance of that certain Sale, Assignment and Assumption Agreement dated 9/24, 2002 by and between EBS and Licensee (the "Sale Agreement"), pursuant to which EBS shall assign the Original Agreement to Licensee free and clear of all liens, claims and encumbrances as provided in the Sale Agreement, or (c) the dates EBS and Licensee each executes and delivers the Sale Agreement

3 ***Monthly License Fee*** Section 3 of the Original Agreement is hereby amended to delete the Schedule of Monthly License Fees at the end of Section 3 and replace it with the following

"Period of Time	Monthly License Fee
Effective Date – 11/30/02	$3,083 00
12/01/02 – 11/30/03	$3,206 00
12/01/03 – 11/30/04	$3,334 00

12/01/04 – 11/30/05	$3,467 00
12/01/05 – 11/30/06	$3,606 00
12/01/06 – 11/30/07	$3,750 00
12/01/07 – 11/30/08	$3,900 00
12/01/08 – 11/30/09	$4,056 00

First Renewal Term

12/01/09 – 11/30/10	$4,218 00
12/01/10 – 11/30/11	$4,387 00
12/01/11 – 11/30/12	$4,562 00
12/01/12 – 11/30/13	$4,745 00
12/01/13 – 11/30/14	$4,935 00

Second Renewal Term

12/01/14 – 11/30/15	$5,132 00
12/01/15 – 11/30/16	$5,337 00
12/01/16 – 11/30/17	$5,551 00
12/01/17 – 11/30/18	$5,773 00
12/01/18 – 11/30/19	$6,004 00"

5 ***Renewal Terms*** In the event that Licensee is the "Tenant" under the Lease and the "Tenant" under the Lease exercises one or more of the two Renewal Terms contemplated by Section 48 of the Lease, the term of this License shall automatically be extended by the length of the exercised Renewal Term In such event, the Monthly License Fee shall increase pursuant to the schedule set forth in paragraph 4 above

6 ***Section 12*** Section 12 of the Original Agreement is hereby deleted in its entirety and replaced with the following

"12 Access by Licensee Only persons possessing a card key for the card key access system for the Meet Me Room (as described in Section 6 8 above) issued to Licensee by Owner shall be permitted access to the Meet Me Room and Premises Such persons are referred to herein as the "Authorized Personnel " Owner shall issue up to ten (10) card keys, without charge, to Authorized Personnel as designated by Licensee from time to time The Authorized Personnel may enter the Building only for purposes of ingress to and egress from the Meet Me Room (and any cable, wiring, connecting lines and other installations, equipment and property installed by Licensee in the Building to serve Licensee's Meet Me Facilities pursuant to this Agreement) to perform work or services permitted by this Agreement No representatives, agents, employees or invitees of Licensee other than the Authorized Personnel shall have the right to enter the Meet Me Room Authorized Personnel must carry a photo-identification credential for presentation to Owner or Owner's agents, employees or representatives when entering the Building, provided, however, Owner and Owner's agents shall not be liable in any way for admitting a person into the Building or Premises that possesses a card key issued to

Licensee by Owner In no event shall Licensee or any agent, representative, contractor or invitee of Licensee, including without limitation, Authorized Personnel, have the right to access any portion of the Building, other than the Meet Me Room and Licensee's Meet Me Facilities, those corridors, hallways, doorways and elevators reasonably designated by Owner for access to the Meet Me Room and Licensee's Meet Me Facilities, and such other portions of the Building containing any cable, wiring, connecting lines and other installations, equipment and property installed by Licensee in the Building to serve Licensee's Meet Me Facilities pursuant to this Agreement Owner reserves the right to prohibit access to the Building or to remove from the Building any person that fails to comply with the Rules and Regulations, regardless of whether such person possesses a card key "

7 ***Section 14*** Section 14 of the Original Agreement is hereby amended to provide that Licensee may, without Owner's consent, assign the Licensee's rights under the Original Agreement, as amended, to any person or entity to which Licensee, at "Tenant" under the Lease, assign the Lease (subject to and pursuant to the terms of Section 20 of the Lease) Licensee shall notify Owner of any such assignment

8 ***Section 18 2*** Section 18 2 of the Original Agreement is hereby deleted in its entirety and replaced with the following

"18 2 Licensee Allegiance Telecom of Georgia, Inc , 700 East Butterfield Road, Lombard, Illinois 60148, Attn Ken Close, with a copy to Allegiance Telecom, Inc , 9201 North Central Expressway, Dallas, Texas 75231, Attn Real Estate Lease Administration "

9 ***SNDA*** Within forty five (45) days after the Effective Date, Owner shall provide to Licensee a subordination, nondisturbance and attornment agreement ("SNDA") executed by Wachovia Bank, the holder of the deed to secure debt affecting the Building, which SNDA shall be on Wachovia Bank's form Such SNDA shall be on the same form and may be combined on a single document with any SNDA that Owner provides with respect to the Lease Owner will use commercially reasonable efforts to have Wachovia Bank agree to Licensee's requested modifications

10 ***Estoppel*** To the knowledge of Owner, Owner certifies to Licensee, as of the date of the Owner 's signature, that Licensee is not in default of its obligations under the Original Agreement

11 ***Ratification*** Owner and Licensee hereby ratify and affirm the Original Agreement, as amended hereby In the event of any conflict between the terms of this Second Amendment and the terms of the Original Agreement the terms of this Second Amendment shall prevail

IN WITNESS WHEREOF, Owner and Licensee have caused this First Amendment to be executed under seal as of the Effective Date

OWNER

MARIETTA STREET PARTNERS, LLC

By Peachtree-Kessler Lofts, LLC, its manager

By _____
Don A Thomas, manager

LICENSEE

ALLEGIANCE TELECOM OF GEORGIA, INC

By _____
Printed Name Kenneth C. Close
Its Vice President Real Estate & Facilities
Date _____

Sutherland
Asbill & Brennan LLP
ATTORNEYS AT LAW

999 Peachtree Street NE
Atlanta GA 30309-3996
404 853 8000
fax 404 853 8806
www sablaw com

THOMAS H CASTELLI
DIRECT LINE 404 853 8553
Internet thcastelli@sablaw com

November 25, 2003

Via Federal Express

United States Bankruptcy Court
Southern District of New York
Allegiance Claims Docketing Center
One Bowling Green, Room 534
New York, NY 10004-1408

Re *In re Allegiance Telecom, Inc , et al*
Chapter 11 Case No 03-13057 (RDD)

Dear Sir or Madam

Enclosed are an original and one copy a Proof of Claim submitted by Marietta Street Partners, LLC Please file the document in your customary manner and return a filed copy to me in the provided self-addressed, stamped envelope

Thank you for your assistance

Sincerely,

Betz Handmaker

Betz Handmaker
Secretary to Thomas H Castelli

Enclosures

AO 1023298 1

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	
Allegiance Telecom, Inc., et al.,	:	Chapter 11 Case No. 03-13057 (RDD)
Debtors.	:	Jointly Administered

STIPULATION AND AGREED ORDER RESOLVING CLAIMS OF COLO PROPERTIES ATLANTA, LLC

This STIPULATION AND AGREED ORDER (the "Stipulation") is by and between (i) the Allegiance Telecom Liquidating Trust (the "ATLT"), as successor to the Debtors (as defined below), and (ii) (a) Colo Properties Atlanta, LLC ("Colo") and (b) Marietta Street Partners, LLC ("Marietta"). The parties hereby stipulate and agree as follows:

WHEREAS, on or about October 19, 1999, Enron Broadband Services, Inc. ("EBS") entered into a lease (the "Lease") with Peachtree-Kessler Lofts, LLC ("Peachtree") for collocation space at 56 Marietta Street, Atlanta, Georgia (the "Premises"); and

WHEREAS, on or about May 20, 2000, EBS entered into a license (the "License") with Peachtree for use of certain space within the Premises; and

WHEREAS, Debtor Allegiance Telecom of Georgia, Inc. ("ATGI") is successor in interest to EBS; and

WHEREAS, Colo is successor in interest to Marietta and Marietta is successor in interest to Peachtree; and

Claims: 2540, 2899; 2900

Docket #2079 eod 2/28/05

WHEREAS, pursuant to the Lease, EBS paid a security deposit in the amount of $19,088 (the "Security Deposit"); and

WHEREAS, on May 14, 2003, Allegiance Telecom, Inc. and its direct and indirect subsidiaries (collectively, the "Debtors") commenced voluntary cases (the "Chapter 11 Cases") under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the Bankruptcy Court for the Southern District of New York, Case No. 03-13057 (RDD) (the "Bankruptcy Court"); and

WHEREAS, the Chapter 11 Cases were consolidated for procedural purposes only and were jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure; and

WHEREAS, on or about November 25, 2003, Marietta filed a proof of claim numbered 2540 (the "First Proof of Claim") for Claims (as such term is defined in the Plan) against Allegiance Telecom, Inc., *et al.* in the amount of $537,888.00 (the "First Claim); and

WHEREAS, the Debtors filed their Third Amended Joint Plan of Reorganization dated June 8, 2004 (the "Plan") with the Bankruptcy Court and the Court entered its Findings of Fact, Conclusions of Law, and Order Confirming Debtors' Third Amended Joint Plan of Reorganization on June 10, 2004 (the "Confirmation Order"); and

WHEREAS, in accordance with the terms of the Plan, on the Initial Effective Date, the ATLT was created; and

WHEREAS, pursuant to the Plan, Eugene I. Davis was appointed as the plan administrator (the "Plan Administrator") for the ATLT; and

WHEREAS, among other things, the purpose of the ATLT is to (i) wind-down the

Debtors' affairs, including making distributions as contemplated in the Plan, (ii) investigate, enforce and prosecute avoidance and other causes of action, (iii) object to, settle, compromise, dispute and/or prosecute disputed claims, and (iv) administer the Plan and take such actions as are necessary to effectuate the terms of the Plan; and

WHEREAS, the ATLT, as the successor to the rights of the Debtors, and the Plan Administrator has the authority to, *inter alia*, perform the duties, exercise the powers, and assert the rights of a trustee under Sections 704 and 1106 of the Bankruptcy Code; and

WHEREAS, section 6.1(a) of the Plan provides in relevant part that "[p]ursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, and subject to the terms and conditions of the Purchase Agreement, all executory contracts and unexpired leases between the Debtors and any Person or Entity that are not listed on Schedules 2, 3 and 4 . . . shall be deemed rejected by the Debtors on the Initial Effective Date."; and

WHEREAS, pursuant to section 6.1(a) of the Plan, the Debtors rejected the Lease and the License on the Initial Effective Date; and

WHEREAS, on or about July 7, 2004, Colo filed a proof of claim numbered 2899 (the "Second Proof of Claim") for Claims against ATGI with respect to rejection damages relating to the Lease in the amount of $277,063 (the "Second Claim"); and

WHEREAS, on or about July 7, 2004, Colo filed a proof of claim numbered 2900 (the "Third Proof of Claim") for Claims against ATGI with respect to rejection damages relating to the License in the amount of $247,180 (the "Third Claim"); and

WHEREAS, none of Colo, Marietta, and Peachtree have filed any proofs of claim in the Chapter 11 Cases besides the First Proof of Claim, the Second Proof of Claim and the Third Proof of Claim; and

WHEREAS, the ATLT disputes the amounts sought by Marietta in the First Proof of Claim and by Colo in the Second Proof of Claim and the Third Proof of Claim; and

WHEREAS, on or about August 6, 2004, the ATLT filed its Eighth Omnibus Objection to Certain Proofs of Claims, which included an objection to the Second Proof of Claim, the Third Proof of Claim, the Second Claim, and the Third Claim; and

WHEREAS, on or about September 2, 2004, the ATLT filed its Eleventh Omnibus Objection to Certain Lease Rejection Damages Claims, which included an objection to the First Proof of Claim, the Second Proof of Claim, the Third Proof of Claim, the First Claim, the Second Claim, and the Third Claim; and

WHEREAS, the ATLT and Colo have negotiated in good faith at arm's length and have reached a consensual resolution, as set forth below, with respect to the First Proof of Claim, the Second Proof of Claim, the Third Proof of Claim, the First Claim, the Second Claim, and the Third Claim to avoid incurring significant additional litigation expenses that would necessarily be incurred in litigating this matter to an uncertain conclusion.

ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. Upon the entry of a Final Order (as defined below) approving this Stipulation, the ATLT is hereby authorized and directed to grant to Colo and Colo shall hereby possess (a) an Allowed ATI Unsecured Claim (as such term is defined in the Plan) of $249,472.00 (the "Allowed Lease Unsecured

Claim"), (b) an Allowed Secured Claim (as such term is defined in the Plan) of $19,088.00 (the "Paid Lease Secured Claim") and (c) an Allowed ATI Unsecured Claim of $50,000.00 (the "Allowed License Unsecured Claim") in full and complete satisfaction of all Claims held by Colo, Marietta and Peachtree with respect to the Debtors, the Debtors' estates, and/or the ATLT, including, but not limited to, the First Claim, the Second Claim and the Third Claim.

2. The ATLT and Colo hereby stipulate and agree that (a) the Security Deposit constitutes full and final satisfaction of the Paid Lease Secured Claim, (b) no further amounts are due with respect to the Paid Lease Secured Claim and (c) upon entry of the Final Order, Colo can apply or setoff, without need for relief from the automatic stay, the Security Deposit against the Paid Lease Secured Claim.

3. Colo hereby stipulates and agrees to elect the Cash Recovery (as defined in the Plan) on account of the Allowed Lease Unsecured Claim and the Allowed License Unsecured Claim, regardless of any prior election to the contrary.

4. Upon the entry of a Final Order approving this Stipulation, the ATLT is hereby authorized and directed to expunge from the ATLT's claims register all proofs of claims, including the First Proof of Claim, the Second Proof of Claim, and the Third Proof of Claim, filed by Colo, Marietta, or Peachtree and/or related to the First Claim, the Second Claim, and/or the Third Claim.

5. Except as provided in paragraph 6 below, Colo hereby stipulates and agrees that it will not file any proofs of claim or requests for the payment of administrative expenses against the ATLT, the Debtors, or the Debtors' estates, whether in the Chapter 11 Cases or otherwise. Marietta hereby stipulates and agrees that it will not file any proofs of claim or requests for the payment of administrative expenses against the ATLT, the Debtors, or the Debtors' estates, whether in the Chapter 11 Cases or otherwise.

6. Upon entry of a Final Order approving this Stipulation, Colo hereby irrevocably, unconditionally and without reservation of any kind waives, releases and forever discharges the ATLT, the Debtors, and the Debtors' estates, and their respective parent firms and affiliates, and their officers, directors, employees, attorneys, professionals, and agents (collectively, the "Estate Parties"), from and against any and all past, present and future actions, causes of action, Claims, liabilities, suits, debts, judgments, and damages, of any kind whatsoever, whether matured or unmatured, whether at law or in equity, whether known or unknown, liquidated or unliquidated, foreseen or unforeseen, discoverable or undiscoverable, contingent or non-contingent, which Colo has, had, or may have in the future against the Estate Parties; provided, however, that Colo shall retain any and all rights arising from or related to being the holder of the Allowed Lease Unsecured Claim, the Paid Secured Claim, and the Allowed License Unsecured Claim, including, without limitation, the right to collect any and all distributions thereto.

7. Upon entry of a Final Order approving this Stipulation, Marietta hereby irrevocably, unconditionally and without reservation of any kind waives, releases and forever discharges the Estate Parties from and against any and all past, present and future actions, causes of action, Claims, liabilities, suits, debts, judgments, and damages, of any kind whatsoever, whether matured or unmatured, whether at law or in equity, whether known or unknown, liquidated or unliquidated, foreseen or unforeseen, discoverable or undiscoverable, contingent or non-contingent, which Marietta has, had, or may have in the future against the Estate Parties.

8. Upon entry of a Final Order approving this Stipulation, the Estate Parties hereby irrevocably, unconditionally and without reservation of any kind waive, release and forever discharge Colo and Marietta from and against any and all past, present and future actions, causes of action, Claims,

liabilities, suits, debts, judgments, and damages, of any kind whatsoever, whether matured or unmatured, whether at law or in equity, whether known or unknown, liquidated or unliquidated, foreseen or unforeseen, discoverable or undiscoverable, contingent or non-contingent, which the Estate Parties have, had, or may have in the future against Colo and/or Marietta; provided, however, that the Estate Parties shall retain any and all of their rights arising from or related to Colo retaining any and all rights arising from or related to being the holder of the Allowed Lease Unsecured Claim, the Paid Secured Claim, and the Allowed License Unsecured Claim.

9. This Stipulation shall be governed by the laws of the State of New York, excluding its conflicts of laws principles and this Court shall retain jurisdiction to resolve any disputes between the parties hereto arising with respect to this Stipulation.

10. The undersigned, on behalf of the ATLT, Colo and Marietta, each warrants and represents that he or she has been duly authorized and empowered to execute and deliver this Stipulation on behalf of such party.

11. Colo represents and warrants to the ATLT that, as of the date hereof, it is the sole holder of both of the Second Proof of Claim and Third Proof of Claim, and that Colo has not assigned, sold, hypothecated or otherwise transferred such Claims against the Debtors, the Debtors' estates, or the ATLT.

12. Marietta represents and warrants to the ATLT that, as of the date hereof, it is the sole holder of the First Proof of Claim, and that Marietta has not assigned, sold, hypothecated or otherwise transferred such Claim against the Debtors, the Debtors' estates or the ATLT.

13. This Stipulation is subject to approval by the Bankruptcy Court and the entry of a Final Order by the Bankruptcy Court approving this Stipulation; provided, however, that the parties hereto shall support such Bankruptcy Court approval and comply with this Stipulation pending the Bankruptcy Court's entry of a Final Order approving or disapproving this Stipulation. For the purposes of this Stipulation, the term "Final Order" shall mean an order approving this Stipulation that has not been stayed, reversed or amended and the time, as computed under the Bankruptcy Rules, to appeal or seek review or rehearing of such order (or any revision, modification or amendment thereof) has expired and no appeal or petition for review or rehearing of such order was filed, or if filed, remains pending.

14. Nothing contained in this Stipulation nor any negotiations or proceedings in connection herewith shall constitute or be deemed to be evidence of an admission by any party hereto of any liability or wrongdoing whatsoever, or the truth or untruth, or merit or lack of merit, of any claim or defense of any party. Neither this Stipulation nor any negotiations or proceedings in connection herewith may be used in any proceeding against any party for any purpose whatsoever except with respect to effectuation and enforcement of this Stipulation.

15. This Stipulation contains the entire agreement of the parties with respect to its subject matter and supersedes any prior or contemporaneous oral or written agreements. The parties acknowledge that no promise, inducement, or agreement not stated herein has been made to them in connection with this Stipulation. The parties understand and agree that this Stipulation may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by both parties and the Court. The parties agree and acknowledge that they will make no claim at any time or place that this Stipulation has been orally altered or modified or otherwise changed by oral communication

of any kind or character. Each party hereto agrees that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be employed in the interpretation, construction or enforcement of this Stipulation.

16. This Stipulation may be executed simultaneously or in one or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. A facsimile copy of a signature page is the equivalent of an original signature page.

17. This Stipulation shall be binding upon the Plan Administrator; any trustee appointed under Chapter 7 of the Bankruptcy Code; the ATLT, as successor to the Debtors; the Debtors; the Debtors' estates; Colo; Marietta; and their respective predecessors, successors, heirs, subsidiaries, affiliates, assignees, agents, directors, officers, and employees.

[Signature Page Follows]

Dated: New York, New York
February 23, 2005

ALLEGIANCE TELECOM LIQUIDATING TRUST

By: /s/ Mark Stachiw
Mark Stachiw
Allegiance Telecom Liquidating Trust
1405 S. Beltline Road, Suite 100
Coppell, Texas 75019

and

AKIN GUMP STRAUSS HAUER & FELD LLP

By: /s/ Jeffrey M. Anapolsky
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Counsel to the Allegiance Telecom Liquidating Trust

COLO PROPERTIES ATLANTA, LLC

By: /s/ Todd Raymond
Todd Raymond

MARIETTA STREET PARTNERS, LLC

By: /s/ Todd Raymond
Todd Raymond

and

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, P.C.

By: /s/ Michael L. Schein
Michael L. Schein, Esq. (MS-0241)
666 Third Avenue
New York, New York 110017
Telephone: (212) 935-3000

Counsel to Colo Properties Atlanta, LLC and Marietta Street Partners, LLC

SO ORDERED, this 28th day of February 2005

/s/Robert D. Drain
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	
Allegiance Telecom, Inc., et al.,	:	Chapter 11 Case No. 03-13057 (RDD)
Debtors.	:	Jointly Administered

STIPULATION AND AGREED ORDER RESOLVING CLAIMS OF COLO PROPERTIES ATLANTA, LLC

This STIPULATION AND AGREED ORDER (the "Stipulation") is by and between (i) the Allegiance Telecom Liquidating Trust (the "ATLT"), as successor to the Debtors (as defined below), and (ii) (a) Colo Properties Atlanta, LLC ("Colo") and (b) Marietta Street Partners, LLC ("Marietta"). The parties hereby stipulate and agree as follows:

WHEREAS, on or about October 19, 1999, Enron Broadband Services, Inc. ("EBS") entered into a lease (the "Lease") with Peachtree-Kessler Lofts, LLC ("Peachtree") for collocation space at 56 Marietta Street, Atlanta, Georgia (the "Premises"); and

WHEREAS, on or about May 20, 2000, EBS entered into a license (the "License") with Peachtree for use of certain space within the Premises; and

WHEREAS, Debtor Allegiance Telecom of Georgia, Inc. ("ATGI") is successor in interest to EBS; and

WHEREAS, Colo is successor in interest to Marietta and Marietta is successor in interest to Peachtree; and

Claims: 2540, 2899 & 2900

Docket #2079 eod 2/28/05

WHEREAS, pursuant to the Lease, EBS paid a security deposit in the amount of $19,088 (the "Security Deposit"); and

WHEREAS, on May 14, 2003, Allegiance Telecom, Inc. and its direct and indirect subsidiaries (collectively, the "Debtors") commenced voluntary cases (the "Chapter 11 Cases") under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the Bankruptcy Court for the Southern District of New York, Case No. 03-13057 (RDD) (the "Bankruptcy Court"); and

WHEREAS, the Chapter 11 Cases were consolidated for procedural purposes only and were jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure; and

WHEREAS, on or about November 25, 2003, Marietta filed a proof of claim numbered 2540 (the "First Proof of Claim") for Claims (as such term is defined in the Plan) against Allegiance Telecom, Inc., *et al.* in the amount of $537,888.00 (the "First Claim); and

WHEREAS, the Debtors filed their Third Amended Joint Plan of Reorganization dated June 8, 2004 (the "Plan") with the Bankruptcy Court and the Court entered its Findings of Fact, Conclusions of Law, and Order Confirming Debtors' Third Amended Joint Plan of Reorganization on June 10, 2004 (the "Confirmation Order"); and

WHEREAS, in accordance with the terms of the Plan, on the Initial Effective Date, the ATLT was created; and

WHEREAS, pursuant to the Plan, Eugene I. Davis was appointed as the plan administrator (the "Plan Administrator") for the ATLT; and

WHEREAS, among other things, the purpose of the ATLT is to (i) wind-down the

Debtors' affairs, including making distributions as contemplated in the Plan, (ii) investigate, enforce and prosecute avoidance and other causes of action, (iii) object to, settle, compromise, dispute and/or prosecute disputed claims, and (iv) administer the Plan and take such actions as are necessary to effectuate the terms of the Plan; and

WHEREAS, the ATLT, as the successor to the rights of the Debtors, and the Plan Administrator has the authority to, *inter alia*, perform the duties, exercise the powers, and assert the rights of a trustee under Sections 704 and 1106 of the Bankruptcy Code; and

WHEREAS, section 6.1(a) of the Plan provides in relevant part that "[p]ursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, and subject to the terms and conditions of the Purchase Agreement, all executory contracts and unexpired leases between the Debtors and any Person or Entity that are not listed on Schedules 2, 3 and 4 . . . shall be deemed rejected by the Debtors on the Initial Effective Date."; and

WHEREAS, pursuant to section 6.1(a) of the Plan, the Debtors rejected the Lease and the License on the Initial Effective Date; and

WHEREAS, on or about July 7, 2004, Colo filed a proof of claim numbered 2899 (the "Second Proof of Claim") for Claims against ATGI with respect to rejection damages relating to the Lease in the amount of $277,063 (the "Second Claim"); and

WHEREAS, on or about July 7, 2004, Colo filed a proof of claim numbered 2900 (the "Third Proof of Claim") for Claims against ATGI with respect to rejection damages relating to the License in the amount of $247,180 (the "Third Claim"); and

WHEREAS, none of Colo, Marietta, and Peachtree have filed any proofs of claim in the Chapter 11 Cases besides the First Proof of Claim, the Second Proof of Claim and the Third Proof of Claim; and

WHEREAS, the ATLT disputes the amounts sought by Marietta in the First Proof of Claim and by Colo in the Second Proof of Claim and the Third Proof of Claim; and

WHEREAS, on or about August 6, 2004, the ATLT filed its Eighth Omnibus Objection to Certain Proofs of Claims, which included an objection to the Second Proof of Claim, the Third Proof of Claim, the Second Claim, and the Third Claim; and

WHEREAS, on or about September 2, 2004, the ATLT filed its Eleventh Omnibus Objection to Certain Lease Rejection Damages Claims, which included an objection to the First Proof of Claim, the Second Proof of Claim, the Third Proof of Claim, the First Claim, the Second Claim, and the Third Claim; and

WHEREAS, the ATLT and Colo have negotiated in good faith at arm's length and have reached a consensual resolution, as set forth below, with respect to the First Proof of Claim, the Second Proof of Claim, the Third Proof of Claim, the First Claim, the Second Claim, and the Third Claim to avoid incurring significant additional litigation expenses that would necessarily be incurred in litigating this matter to an uncertain conclusion.

ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. Upon the entry of a Final Order (as defined below) approving this Stipulation, the ATLT is hereby authorized and directed to grant to Colo and Colo shall hereby possess (a) an Allowed ATI Unsecured Claim (as such term is defined in the Plan) of $249,472.00 (the "Allowed Lease Unsecured

Claim"), (b) an Allowed Secured Claim (as such term is defined in the Plan) of $19,088.00 (the "Paid Lease Secured Claim") and (c) an Allowed ATI Unsecured Claim of $50,000.00 (the "Allowed License Unsecured Claim") in full and complete satisfaction of all Claims held by Colo, Marietta and Peachtree with respect to the Debtors, the Debtors' estates, and/or the ATLT, including, but not limited to, the First Claim, the Second Claim and the Third Claim.

2. The ATLT and Colo hereby stipulate and agree that (a) the Security Deposit constitutes full and final satisfaction of the Paid Lease Secured Claim, (b) no further amounts are due with respect to the Paid Lease Secured Claim and (c) upon entry of the Final Order, Colo can apply or setoff, without need for relief from the automatic stay, the Security Deposit against the Paid Lease Secured Claim.

3. Colo hereby stipulates and agrees to elect the Cash Recovery (as defined in the Plan) on account of the Allowed Lease Unsecured Claim and the Allowed License Unsecured Claim, regardless of any prior election to the contrary.

4. Upon the entry of a Final Order approving this Stipulation, the ATLT is hereby authorized and directed to expunge from the ATLT's claims register all proofs of claims, including the First Proof of Claim, the Second Proof of Claim, and the Third Proof of Claim, filed by Colo, Marietta, or Peachtree and/or related to the First Claim, the Second Claim, and/or the Third Claim.

5. Except as provided in paragraph 6 below, Colo hereby stipulates and agrees that it will not file any proofs of claim or requests for the payment of administrative expenses against the ATLT, the Debtors, or the Debtors' estates, whether in the Chapter 11 Cases or otherwise. Marietta hereby stipulates and agrees that it will not file any proofs of claim or requests for the payment of administrative expenses against the ATLT, the Debtors, or the Debtors' estates, whether in the Chapter 11 Cases or otherwise.

6. Upon entry of a Final Order approving this Stipulation, Colo hereby irrevocably, unconditionally and without reservation of any kind waives, releases and forever discharges the ATLT, the Debtors, and the Debtors' estates, and their respective parent firms and affiliates, and their officers, directors, employees, attorneys, professionals, and agents (collectively, the "Estate Parties"), from and against any and all past, present and future actions, causes of action, Claims, liabilities, suits, debts, judgments, and damages, of any kind whatsoever, whether matured or unmatured, whether at law or in equity, whether known or unknown, liquidated or unliquidated, foreseen or unforeseen, discoverable or undiscoverable, contingent or non-contingent, which Colo has, had, or may have in the future against the Estate Parties; provided, however, that Colo shall retain any and all rights arising from or related to being the holder of the Allowed Lease Unsecured Claim, the Paid Secured Claim, and the Allowed License Unsecured Claim, including, without limitation, the right to collect any and all distributions thereto.

7. Upon entry of a Final Order approving this Stipulation, Marietta hereby irrevocably, unconditionally and without reservation of any kind waives, releases and forever discharges the Estate Parties from and against any and all past, present and future actions, causes of action, Claims, liabilities, suits, debts, judgments, and damages, of any kind whatsoever, whether matured or unmatured, whether at law or in equity, whether known or unknown, liquidated or unliquidated, foreseen or unforeseen, discoverable or undiscoverable, contingent or non-contingent, which Marietta has, had, or may have in the future against the Estate Parties.

8. Upon entry of a Final Order approving this Stipulation, the Estate Parties hereby irrevocably, unconditionally and without reservation of any kind waive, release and forever discharge Colo and Marietta from and against any and all past, present and future actions, causes of action, Claims,

liabilities, suits, debts, judgments, and damages, of any kind whatsoever, whether matured or unmatured, whether at law or in equity, whether known or unknown, liquidated or unliquidated, foreseen or unforeseen, discoverable or undiscoverable, contingent or non-contingent, which the Estate Parties have, had, or may have in the future against Colo and/or Marietta; provided, however, that the Estate Parties shall retain any and all of their rights arising from or related to Colo retaining any and all rights arising from or related to being the holder of the Allowed Lease Unsecured Claim, the Paid Secured Claim, and the Allowed License Unsecured Claim.

9. This Stipulation shall be governed by the laws of the State of New York, excluding its conflicts of laws principles and this Court shall retain jurisdiction to resolve any disputes between the parties hereto arising with respect to this Stipulation.

10. The undersigned, on behalf of the ATLT, Colo and Marietta, each warrants and represents that he or she has been duly authorized and empowered to execute and deliver this Stipulation on behalf of such party.

11. Colo represents and warrants to the ATLT that, as of the date hereof, it is the sole holder of both of the Second Proof of Claim and Third Proof of Claim, and that Colo has not assigned, sold, hypothecated or otherwise transferred such Claims against the Debtors, the Debtors' estates, or the ATLT.

12. Marietta represents and warrants to the ATLT that, as of the date hereof, it is the sole holder of the First Proof of Claim, and that Marietta has not assigned, sold, hypothecated or otherwise transferred such Claim against the Debtors, the Debtors' estates or the ATLT.

13. This Stipulation is subject to approval by the Bankruptcy Court and the entry of a Final Order by the Bankruptcy Court approving this Stipulation; provided, however, that the parties hereto shall support such Bankruptcy Court approval and comply with this Stipulation pending the Bankruptcy Court's entry of a Final Order approving or disapproving this Stipulation. For the purposes of this Stipulation, the term "Final Order" shall mean an order approving this Stipulation that has not been stayed, reversed or amended and the time, as computed under the Bankruptcy Rules, to appeal or seek review or rehearing of such order (or any revision, modification or amendment thereof) has expired and no appeal or petition for review or rehearing of such order was filed, or if filed, remains pending.

14. Nothing contained in this Stipulation nor any negotiations or proceedings in connection herewith shall constitute or be deemed to be evidence of an admission by any party hereto of any liability or wrongdoing whatsoever, or the truth or untruth, or merit or lack of merit, of any claim or defense of any party. Neither this Stipulation nor any negotiations or proceedings in connection herewith may be used in any proceeding against any party for any purpose whatsoever except with respect to effectuation and enforcement of this Stipulation.

15. This Stipulation contains the entire agreement of the parties with respect to its subject matter and supersedes any prior or contemporaneous oral or written agreements. The parties acknowledge that no promise, inducement, or agreement not stated herein has been made to them in connection with this Stipulation. The parties understand and agree that this Stipulation may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by both parties and the Court. The parties agree and acknowledge that they will make no claim at any time or place that this Stipulation has been orally altered or modified or otherwise changed by oral communication

of any kind or character. Each party hereto agrees that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be employed in the interpretation, construction or enforcement of this Stipulation.

16. This Stipulation may be executed simultaneously or in one or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. A facsimile copy of a signature page is the equivalent of an original signature page.

17. This Stipulation shall be binding upon the Plan Administrator; any trustee appointed under Chapter 7 of the Bankruptcy Code; the ATLT, as successor to the Debtors; the Debtors; the Debtors' estates; Colo; Marietta; and their respective predecessors, successors, heirs, subsidiaries, affiliates, assignees, agents, directors, officers, and employees.

[Signature Page Follows]

Dated: New York, New York
February 23, 2005

ALLEGIANCE TELECOM LIQUIDATING TRUST

By: /s/ Mark Stachiw
Mark Stachiw
Allegiance Telecom Liquidating Trust
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and

AKIN GUMP STRAUSS HAUER & FELD LLP

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Counsel to the Allegiance Telecom Liquidating Trust

COLO PROPERTIES ATLANTA, LLC

By: /s/ Todd Raymond
Todd Raymond

MARIETTA STREET PARTNERS, LLC

By: /s/ Todd Raymond
Todd Raymond

and

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, P.C.

By: /s/ Michael L. Schein
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Counsel to Colo Properties Atlanta, LLC and Marietta Street Partners, LLC

SO ORDERED, this 28th day of February 2005

/s/Robert D. Drain
UNITED STATES BANKRUPTCY JUDGE