

UNITED STATES BANKRUPTCY COURT <u>SOUTHERN</u> DISTRICT OF <u>NEW YORK</u>		<b>PROOF OF CLAIM</b>
Name of Debtor <b>Allegiance Telecom, Inc , et al</b>		Case Number <b>03-13057 (RDD)</b>
<small>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. Filings of this form should be made in the District of New York.</small>		
Name of Creditor (The person or other entity to whom the debtor owes money or property) <b>Cornerstone West Park, L L C. (Successor Landlord to Gateway Taft, Inc)</b>		<input type="checkbox"/> Check box if you are filing this claim on behalf of anyone else. <b>ALLEGIANCE TELECOM, INC</b> claim relating to your <b>03-13057 (RDD)</b> copy of statement giving particulars. <b>2818</b> <input checked="" type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input checked="" type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Name and address where notices should be sent <b>c/o Robert L Striler, Attorney-at-Law 16141 Swingley Ridge Rd , Suite #300 Chesterfield, MO 63017-0743</b>		<b>REC'D JUL 01 2004</b>  THIS SPACE IS FOR COURT USE ONLY
Telephone number <b>636-532-7100</b>		
Account or other number by which creditor identifies debtor		Check here if this claim <input type="checkbox"/> replaces a previously filed claim, dated _____ <input type="checkbox"/> amends
<b>1 Basis for Claim</b> <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other <u>Commercial Lease</u> <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Your SS # _____ Unpaid compensation for services performed from _____ (date) to _____ (date)		
<b>2 Date debt was incurred:</b> <u>1-12-2000</u> , being the date of the Lease, as amended thereafter <b>3. If court judgment, date obtained:</b>		
<b>4. Total Amount of Claim at Time Case Filed</b> <u>\$ 236,075.55</u> If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below <input type="checkbox"/> 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 (see attached Exhibit A as set out herein)		
<b>5 Secured Claim.</b> <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff) Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral \$ _____ Amount of mortgage and other charges at time case filed included in secured claim, if any \$ _____		<b>6. Unsecured Priority Claim</b> <input checked="" type="checkbox"/> Check this box if you have an unsecured priority claim (see attached Exhibit A) Specify the priority of the claim. <input type="checkbox"/> 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) <input type="checkbox"/> Contributions to an employee benefit plan 11 U.S.C. § 507(a)(4). <input type="checkbox"/> 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) <input type="checkbox"/> Alimony, maintenance or support owed to a spouse former spouse, or child - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8) <input type="checkbox"/> Other Specify applicable paragraph of 11 U.S.C. § 507(a)(____) <small>*Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment</small>
<b>7 Credits</b> The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. <b>8 Supporting Documents</b> 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. <b>9 Date-Stamped Copy</b> To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		THIS SPACE IS FOR COURT USE ONLY  <div style="border: 2px solid black; padding: 10px; width: fit-content; margin: auto;"> <b>RECEIVED</b>  <b>JUN 21 2004</b> </div> <b>CLAIMS PROCESSING CENTER</b> <b>USBC, SDNY</b>
Date <b>6-16-04</b>	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) <b>Robert L Striler, Attorney for Cornerstone West Park L L C. (Successor Landlord to Gateway Taft)</b> Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years or both.	

Allegiance Claim



02873

Exhibit A

- 1      The rent, operating expense, and 2003 operating expense rent reconciliation, due pursuant to the Commercial Lease, which is attached to the "Proof of Claim" as Exhibit B, during the bankruptcy proceeding prior to rejection of the lease, being an administrative expense priority, was \$21,683 55 [Section 501(g)]
- 2      The rent for one year, being July 1, 2004 through June 30, 2005, inclusive (12 months) is an administrative expense priority of \$214,392 00 [(Section 502(b)(6)]
- 3      The total amount claimed by creditor per paragraphs 1 and 2 hereinabove is \$236,075 55

Exh. b + B

12/1/92 SOG(BY)

LEASE

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Gateway Taft Inc., a California  
Corporation

Landlord

Allegiance Telecom, Inc., a  
Delaware Corporation

Tenant

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*Handwritten signature*

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GROSS (BY) OFFICE LEASE  
REFERENCE PAGE

BUILDING West Park I Office Building  
12655 Olive Boulevard

LANDLORD Gateway Taft Inc., a California  
Corporation

LANDLORD'S ADDRESS 1610 Des Peres Road, Suite 375  
St. Louis, Missouri 63131

LEASE REFERENCE DATE January 12, ~~xxx~~ 2000

TENANT Allegiance Telecom, Inc., a Delaware  
Corporation

TENANT'S ADDRESS  
(a) As of beginning of Term 4 Westbrook Corporate Center, Suite 400  
(b) Prior to beginning of Term  
(if different) Westchester, Illinois 60154

PREMISES IDENTIFICATION Suite Number 425 and 475  
(for outline of Premises see Exhibit A)

PREMISES RENTABLE AREA approximately 9,123 <sup>rentable</sup> sq ft

SCHEDULED COMMENCEMENT DATE The earlier of (i) 5 business days following  
the date the Landlord has completed construction or (ii) the date Tenant has commenced  
business operations in the Premises.  
TERMINATION DATE 7 years 4 months after Lease Commencement Dat

TERM OF LEASE 7 years 4 months and 0 days  
beginning on the Commencement Date and  
ending on the Termination Date (unless  
sooner terminated pursuant to the Lease)

INITIAL ANNUAL RENT (Article 3) \$ SEE RIDER #1

INITIAL MONTHLY INSTALLMENT OF  
ANNUAL RENT (Article 3) \$ SEE RIDER #1

BASE YEAR (DIRECT EXPENSES) ~~xx~~ 2000

BASE YEAR (TAXES) Taxes for ~~xx~~ 2000 ~~pro rata~~

TENANT'S PROPORTIONATE SHARE 9.35% (Bldg NRA 97,530 RSF) ~~xxx~~

SECURITY DEPOSIT \$ Waived

ASSIGNMENT/SUBLETTING FEE \$ 150.00

REAL ESTATE BROKER DUE COMMISSION Grubb & Ellis/Krombach Partners & Partners  
National Real Estate Group, Inc.

The Reference Page information is incorporated into and made a part of the Lease. In the event of any conflict between any Reference Page information and the Lease, the Lease shall control. This Lease includes Exhibits A through C, all of which are made a part of this Lease.

LANDLORD

Gateway Taft Inc.,  
a California Corporation

By RREEF Management Company  
a California corporation

By [Signature]  
Title Vice President - Portfolio Manager  
Dated 2/22/00

By: [Signature]  
Title: District Manager  
Dated: 2/22/00

TENANT

Allegiance Telecom, Inc.,

a Delaware Corporation

By [Signature]  
Title Senior Vice President  
Dated Feb 11, 2000

## LEASE

By this Lease Landlord leases to Tenant and Tenant leases from Landlord the Premises in the Building as set forth and described on the Reference Page. The Reference Page, including all terms defined thereon, is incorporated as part of this Lease.

### 1 USE AND RESTRICTIONS ON USE

1.1 The Premises are to be used solely for general office purposes. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Building or injure, annoy, or disturb them or allow the Premises to be used for any improper, immoral, unlawful, or objectionable purpose. Tenant shall not do, permit or suffer in, on, or about the Premises the sale of any alcoholic liquor without the written consent of Landlord first obtained, or the commission of any waste. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the use of the Premises and its occupancy and shall promptly comply with all governmental orders and directions for the correction, prevention and abatement of any violations in or upon, or in connection with, the Premises, all at Tenant's sole expense. <sup>See Rider #2</sup> Tenant shall not do or permit anything to be done on or about the Premises or bring or keep anything into the Premises which will in any way increase the rate of, invalidate or prevent the procuring of any insurance protecting against loss or damage to the Building or any of its contents by fire or other casualty or against liability for damage to property or injury to persons in or about the Building or any part thereof. Tenant shall have the non-exclusive right to use common areas of the building.

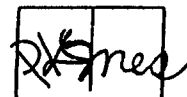
1.2 Tenant shall not, and shall not direct, suffer or permit any of its agents, contractors, employees, licensees or invitees to at any time handle, use, manufacture, store or dispose of in or about the Premises or the Building any (collectively "Hazardous Materials") flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or wastes, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances (collectively "Environmental Laws"), nor shall Tenant suffer or permit any Hazardous Materials to be used in any manner not fully in compliance with all Environmental Laws, in the Premises or the Building and appurtenant land or allow the environment to become contaminated with any Hazardous Materials. Notwithstanding the foregoing, ~~and subject to Landlord's prior consent,~~ Tenant may handle, store, use or dispose of products containing small quantities of Hazardous Materials (such as aerosol cans containing insecticides, toner for copiers, paints, paint remover and the like) to the extent customary and necessary for the use of the Premises for general office purposes, provided that Tenant shall always handle, store, use, and dispose of any such Hazardous Materials in a safe and lawful manner and never allow such Hazardous Materials to contaminate the Premises, Building and appurtenant land or the environment. Tenant shall protect, defend, indemnify and hold each and all of the Landlord Entities (as defined in Article 30) harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred by reason of any actual or asserted failure of Tenant to fully comply with all applicable Environmental Laws or the presence, handling, use or disposition in or from the Premises of any Hazardous Materials (even though permissible under all applicable Environmental Laws or the provisions of this Lease) or by reason of any actual or asserted failure of Tenant to keep, observe, or perform any provision of this Section 1.2.

See Rider #2

### 2 TERM

2.1 The Term of this Lease shall begin on the date ("Commencement Date") which shall be the later of the Scheduled Commencement Date as shown on the Reference Page and the date that Landlord shall tender possession of the Premises to Tenant. Landlord shall tender possession of the Premises with all the work, if any, to be performed by Landlord pursuant to Exhibit B to this Lease substantially completed. <sup>See Rider #2</sup> Tenant shall deliver a punch list of items not completed within 30 days after Landlord tenders possession of the Premises and Landlord agrees to proceed with due diligence to ~~perform its obligations regarding such items.~~ Landlord and Tenant shall execute a memorandum setting forth the actual Commencement Date and Termination Date. <sup>See Rider #2</sup> complete such punch-list items in a good and workmanlike manner.

2.2 Tenant agrees that in the event of the inability of Landlord to deliver possession of the Premises on the Scheduled Commencement Date, Landlord shall not be liable for any damage resulting from such inability, but Tenant shall not be liable for any rent until the time when Landlord can, after notice to Tenant, deliver possession of the Premises to Tenant. No such failure to give possession on the Scheduled Commencement Date shall affect the other with the required work substantially complete.



beyond the scheduled Commencement Date

obligations of Tenant under this Lease, except that if Landlord is unable to deliver possession of the Premises within one hundred twenty (120) days of the Scheduled Commencement Date (other than as a result of strikes, shortages of materials or similar matters beyond the reasonable control of Landlord and Tenant is notified by Landlord in writing as to such delay), Tenant shall have the option to terminate this Lease unless said delay is as a result of (a) Tenant's failure to agree to plans and specifications, (b) Tenant's request for materials, finishes or installations other than Landlord's standard except those, if any, that Landlord shall have expressly agreed to furnish without extension of time agreed by Landlord, (c) Tenant's change in any plans or specifications, or, (d) performance or completion by a party employed by Tenant. If any delay is the result of any of the foregoing, the Commencement Date and the payment of rent under this Lease shall be accelerated by the number of days of such delay.

2.3 In the event Landlord shall permit Tenant to occupy the Premises prior to the Commencement Date, such occupancy shall be subject to all the provisions of this Lease. Said early possession shall not advance the Termination Date excluding the obligation to pay rent

### 3 RENT

and subject to the rent abatement set forth in Rider #1 attached hereto

3.1 Tenant agrees to pay to Landlord the Annual Rent in effect from time to time by paying the Monthly Installment of Rent then in effect on or before the first day of each full calendar month during the Term, except that the first month's rent shall be paid upon the execution of this Lease. The Monthly Installment of Rent in effect at any time shall be one-twelfth of the Annual Rent in effect at such time. Rent for any period during the Term which is less than a full month shall be a prorated portion of the Monthly Installment of Rent based upon a thirty (30) day month. Said rent shall be paid to Landlord, without deduction or offset and without notice or demand, at the Landlord's address, as set forth on the Reference Page, or to such other person or at such other place as Landlord may from time to time designate in writing.

except as otherwise provided herein,

3.2 Tenant recognizes that late payment of any rent or other sum due under this Lease will result in administrative expense to Landlord, the extent of which additional expense is extremely difficult and economically impractical to ascertain. Tenant therefore agrees that if rent or any other sum is not paid ~~when due and payable pursuant to this Lease~~, a late charge shall be imposed in an amount equal to the greater of (a) Fifty Dollars (\$50.00), or (b) a sum equal to five percent (5%) per month of the unpaid rent or other payment. The amount of the late charge to be paid by Tenant shall be reassessed and added to Tenant's obligation for each successive monthly period until paid. The provisions of this Section 3.2 in no way relieve Tenant of the obligation to pay rent or other payments on or before the date on which they are due, nor do the terms of this Section 3.2 in any way affect Landlord's remedies pursuant to Article 19 of this Lease ~~in the event said rent or other payment is unpaid after date due~~ within ten (10) days following the due date thereof,

### 4 RENT ADJUSTMENTS

4.1 For the purpose of this Article 4, the following terms are defined as follows

4.1.1 Lease Year Each calendar year falling partly or wholly within the Term consistently applied

4.1.2 Direct Expenses All direct costs of operation, maintenance, repair and management of the Building (including the amount of any credits which Landlord may grant to particular tenants of the Building in lieu of providing any standard services or paying any standard costs described in this Section 4.1.2 for similar tenants), as determined in accordance with generally accepted accounting principles, including the following costs by way

of illustration, but not limitation: water and sewer charges, insurance charges of or relating to all insurance policies and endorsements deemed by Landlord to be reasonably necessary or desirable and relating in any manner to the protection, preservation, or operation of the Building or any part thereof, utility costs, including, but not limited to, the cost of heat, light, power, steam, gas, and waste disposal, the cost of janitorial services, the cost of security and alarm services, window cleaning costs, labor costs, costs and expenses of managing the Building including management fees, air conditioning maintenance costs, elevator maintenance fees and supplies, material costs, equipment costs including the cost of maintenance, repair and service agreements and rental and leasing costs, purchase costs of equipment other than capital items, ~~current rental and leasing costs of items which would be amortizable capital items if purchased, tool costs, licenses, permits and inspection fees, wages and salaries, employee benefits and payroll taxes, accounting and legal fees, any sales, use or service taxes incurred in connection therewith. Direct Expenses shall not include depreciation or amortization of the Building or equipment in the Building except as provided herein, loan principal payments, costs of alterations of tenants' premises, leasing commissions, interest expenses on long term borrowings, advertising costs or management salaries for executive~~

~~except as provided below~~

See Rider #2

current rental and leasing costs of items which would be

include hereunder as

RK mps



required by applicable laws and serving the Building  
genera /

~~personnel other than personnel located at the Building~~ In addition Landlord shall be entitled to amortize and include as an additional rental adjustment (i) an allocable portion of the cost of capital improvement items which are reasonably calculated to reduce operating expenses, (ii) fire sprinklers and suppression systems and other life safety systems, and (iii) other capital expenses which are required under any governmental laws, regulations or ordinances which were not applicable to the Building ~~at the time it was constructed~~ All such costs shall be amortized over the reasonable life of such improvements in accordance with such reasonable life and amortization schedules as shall be determined by Landlord in accordance with generally accepted accounting principles, with interest on the unamortized amount at one percent (1%) in excess of the prime lending rate announced from time to time as such by The Northern Trust Company of Chicago, Illinois

as of the  
Commencement  
Date

on a straight-line basis

4 1 3 Taxes Real estate taxes and any other taxes, charges and assessments which are levied with respect to the Building or the land appurtenant to the Building, or with respect to any improvements, fixtures and equipment or other property of Landlord, real or personal, located in the Building and used in connection with the operation of the Building and said land, any payments to any ground lessor in reimbursement of tax payments made by such lessor, and all fees, expenses and costs incurred by Landlord in investigating, protesting, contesting or in any way seeking to reduce or avoid increase in any assessments, levies or the tax rate pertaining to any Taxes to be paid by Landlord in any Lease Year ~~Taxes shall not include any corporate franchise, or estate, inheritance or net income tax, or tax imposed upon any transfer by Landlord of its interest in this Lease or the Building~~

reasonably

See Rider  
#2

4 2 If in any Lease Year (i) Direct Expenses paid or incurred shall exceed Direct Expenses paid or incurred in the Base Year (Direct Expenses) and/or (ii) Taxes paid or incurred by Landlord in any Lease Year shall exceed the amount of such Taxes which became due and payable in the Base Year (Taxes), Tenant shall pay as additional rent for such Lease Year Tenant's Proportionate Share of such excess

4 3 The annual determination of Direct Expenses shall be made by Landlord and if certified by a nationally recognized firm of public accountants selected by Landlord ~~shall be binding upon Landlord and Tenant~~ Tenant may review the books and records supporting such determination in the office of Landlord, or Landlord's agent, during normal business hours, upon giving Landlord five (5) days advance written notice within ~~sixty (60)~~ days after receipt of such determination, but in no event more often than once in any one year period In the event that during all or any portion of any Lease Year, the Building is not fully rented and occupied Landlord may make any appropriate adjustment in occupancy-related Direct Expenses for such year for the purpose of avoiding distortion of the amount of such Direct Expenses to be attributed to Tenant by reason of variation in total occupancy of the Building, by employing sound accounting and management principles to determine Direct Expenses that would have been paid or incurred by Landlord had the Building been fully rented and occupied, and the amount so determined shall be deemed to have been Direct Expenses for such Lease Year

one hundred  
twenty  
(120)

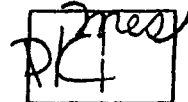
4 4 Prior to the actual determination thereof for a Lease Year, Landlord may from time to time estimate Tenant's liability for Direct Expenses and/or Taxes under Section 4 2, Article 6 and Article 29 for the Lease Year or portion thereof Landlord will give Tenant written notification of the amount of such estimate and Tenant agrees that it will pay, by increase of its Monthly Installments of Rent due in such Lease Year, additional rent in the amount of such estimate Any such increased rate of Monthly Installments of Rent pursuant to this Section 4 4 shall remain in effect until further written notification to Tenant pursuant hereto

4 5 When the above mentioned actual determination of Tenant's liability for Direct Expenses and/or Taxes is made for any Lease Year and when Tenant is so notified in writing, then

4 5 1 If the total additional rent Tenant actually paid pursuant to Section 4 4 on account of Direct Expenses and/or Taxes for the Lease Year is less than Tenant's liability for Direct Expenses and/or Taxes, then Tenant shall pay such deficiency to Landlord as additional rent in one lump sum within thirty (30) days of receipt of Landlord's bill therefor, and

4 5 2 If the total additional rent Tenant actually paid pursuant to Section 4 4 on account of Direct Expenses and/or Taxes for the Lease Year is more than Tenant's liability for Direct Expenses and/or Taxes, then Landlord shall credit the difference against the then next due payments to be made by Tenant under this Article 4 Tenant shall not be entitled to a credit by reason of actual Direct Expenses and/or Taxes in any Lease Year being less than Direct Expenses and/or Taxes in the Base Year (Direct Expenses and/or Taxes)

or, in the case of the final lease year, refunded to Tenant reasonably promptly, which obligation shall survive the expiration or termination of this Lease



4 6 If the Commencement Date is other than January 1 or if the Termination Date is other than December 31, Tenant's liability for Direct Expenses and Taxes for the Lease Year in which said Date occurs shall be prorated based upon a three hundred sixty five (365) day year

## 5 SECURITY DEPOSIT

, if any,

Tenant shall deposit the Security Deposit with Landlord upon the execution of this Lease. Said sum shall be held by Landlord as security for the faithful performance by Tenant of all the terms, covenants and conditions of this Lease to be kept and performed by Tenant and not as an advance rental deposit or as a measure of Landlord's damage in case of Tenant's default. If Tenant defaults with respect to any provision of this Lease, Landlord may use any part of the Security Deposit for the payment of any rent or any other sum in default, or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Tenant's default, or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion is so used, Tenant shall within five (5) days after written demand therefor, deposit with Landlord an amount sufficient to restore the Security Deposit to its original amount and Tenant's failure to do so shall be a material breach of this Lease. Except to such extent, if any, as shall be required by law, Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant at such time after termination of this Lease when Landlord shall have determined that all of Tenant's obligations under this Lease have been fulfilled.

## 6 ALTERATIONS

, which consent shall not be unreasonably withheld, delayed or conditioned

6 1 Except for those, if any, specifically provided for in Exhibit B to this Lease, Tenant shall not make or suffer to be made any alterations, additions, or improvements, including, but not limited to, the attachment of any fixtures or equipment in, on, or to the Premises or any part thereof or the making of any improvements as required by Article 7, without the prior written consent of Landlord. When applying for such consent, Tenant shall, if requested by Landlord, furnish complete plans and specifications for such alterations, additions and improvements.

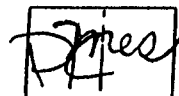
6 2 In the event Landlord consents to the making of any such alteration, addition or improvement by Tenant, the same shall be made using Landlord's contractor (unless Landlord agrees otherwise) at Tenant's sole cost and expense. If Tenant shall employ any Contractor other than Landlord's Contractor and such other Contractor or any Subcontractor of such other Contractor shall employ any non-union labor or supplier, Tenant shall be responsible for and hold Landlord harmless from any and all delays, damages and extra costs suffered by Landlord as a result of any dispute with any labor unions concerning the wage, hours, terms or conditions of the employment of any such labor. In any event Landlord may charge Tenant a reasonable charge to cover its ~~overhead as it relates to such proposed work~~ out-of-pocket costs in reviewing such request.

6 3 All alterations, additions or improvements proposed by Tenant shall be constructed in accordance with all government laws, ordinances, rules and regulations and Tenant shall, prior to construction, provide the additional insurance required under Article 11 in such case, and also all such assurances to Landlord, including but not limited to, waivers of lien, ~~surety company performance bonds and personal guarantees of individuals of substance~~ as Landlord shall require to assure payment of the costs thereof and to protect Landlord and the Building and appurtenant land against any loss from any mechanic's, materialmen's or other liens. Tenant shall pay in addition to any sums due pursuant to Article 4, any increase in real estate taxes attributable to any such alteration, addition or improvement for so long, during the Term, as such increase is ascertainable, at Landlord's election said sums shall be paid in the same way as sums due under Article 4.

equipment

6 4 All alterations, additions, and improvements in, on, or to the Premises made or installed by Tenant, including carpeting, shall be and remain the property of Tenant during the Term but, excepting furniture, furnishings, movable partitions of less than full height from floor to ceiling and other trade fixtures, shall become a part of the realty and belong to Landlord without compensation to Tenant upon the expiration or sooner termination of the Term, at which time title shall pass to Landlord under this Lease as by a bill of sale, unless Landlord elects otherwise. Upon such election by Landlord, Tenant shall upon demand by Landlord, at Tenant's sole cost and expense, forthwith and with all due diligence remove any such alterations, additions or improvements which are designated by Landlord to be removed, and Tenant shall forthwith and with all due diligence, at its sole cost and expense, repair and

at the time Landlord originally approved such alterations, additions or improvements



substantially the same

restore the Premises to their original condition, reasonable wear and tear and damage by fire or other casualty excepted as existed prior to the installation thereof

## 7 REPAIR

7.1 Landlord shall have no obligation to alter, remodel, improve, repair, decorate or paint the Premises, except as specified in Exhibit B if attached to this Lease and except that Landlord shall repair and maintain the structural portions of the Building, including the basic roof and plumbing, air conditioning, heating and electrical systems installed or furnished by the Landlord. By taking possession of the Premises, Tenant accepts them as being in good order, condition and repair and in the condition in which Landlord is obligated to deliver them. It is hereby understood and agreed that no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant, except as specifically set forth in this Lease.

, latent defects and punch-list items excluded

7.2 Tenant shall, at all times during the Term, keep the Premises in good condition and repair excepting damage by fire, or other casualty, and in compliance with all applicable governmental laws, ordinances and regulations, promptly complying with all governmental orders and directives for the correction, prevention and abatement of any violations or nuisances in or upon, or connected with, the Premises, all at Tenant's sole expense or any obligation of Landlord hereunder.

See Rider #2

7.3 Landlord shall not be liable for any failure to make any repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to Landlord by Tenant.

See Rider #2

7.4 Except as provided in Article 22, there shall be no abatement of rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Building or the Premises or to fixtures, appurtenances and equipment in the Building. Except to the extent, if any, prohibited by law, Tenant waives the right to make repairs at Landlord's expense under any law, statute or ordinance now or hereafter in effect.

See Rider #2

## 8 LIENS

Tenant shall keep the Premises, the Building and appurtenant land and Tenant's leasehold interest in the Premises free from any liens arising out of any services, work or materials performed, furnished, or contracted for by Tenant, or obligations incurred by Tenant. In the event that Tenant shall not, within ten (10) days following the imposition of any such lien, either cause the same to be released of record or provide Landlord with insurance against the same issued by a major title insurance company or such other protection against the same as Landlord shall accept, Landlord shall have the right to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith shall be considered additional rent and shall be payable to it by Tenant on demand.

thirty (30)

within ten (10) business days following written

## 9 ASSIGNMENT AND SUBLETTING

Except as otherwise provided herein,

9.1 Tenant shall not have the right to assign or pledge this Lease or to sublet the whole or any part of the Premises whether voluntarily or by operation of law, or permit the use or occupancy of the Premises by anyone other than Tenant, and shall not make, suffer or permit such assignment, subleasing or occupancy without the prior written consent of Landlord, and said restrictions shall be binding upon any and all assignees of the Lease and subtenants of the Premises. In the event Tenant desires to sublet, or permit such occupancy of, the Premises, or any portion thereof, or assign this Lease, Tenant shall give written notice thereof to Landlord at least thirty (30) days but no more than one hundred eighty (180) days prior to the proposed commencement date of such subletting or assignment, which notice shall set forth the name of the proposed subtenant or assignee, the relevant terms of any sublease or assignment and copies of financial reports and other relevant financial reports and other relevant financial information of the proposed subtenant or assignee.

thirty (30)

9.2 Notwithstanding any assignment or subletting, permitted or otherwise, Tenant shall at all times remain directly, primarily and fully responsible and liable for the payment of the rent specified in this Lease and for compliance with all of its other obligations under the terms, provisions and covenants of this Lease. Upon the occurrence of an Event of Default, if the Premises or any part of them are then assigned or sublet, Landlord, in addition to any other remedies provided in this Lease or provided by law, may, at its option, collect directly from such assignee or subtenant all rents due and becoming due to Tenant under such assignment or sublease and apply such rent against any sums due to Landlord from Tenant.

PK me

under this Lease, and no such collection shall be construed to constitute a novation or release of Tenant from the further performance of Tenant's obligations under this Lease

requiring Landlord's consent hereunder

9 3 In addition to Landlord's right to approve of any subtenant or assignee, Landlord shall have the option, in its sole discretion, in the event of any proposed subletting or assignment, to terminate this Lease, or in the case of a proposed subletting of less than the entire Premises, to recapture the portion of the Premises to be sublet, as of the date the subletting or assignment is to be effective. The option shall be exercised, if at all, by Landlord giving Tenant written notice given by Landlord to Tenant within ~~sixty (60)~~ <sup>thirty (30)</sup> days following Landlord's receipt of Tenant's written notice as required above. If this Lease shall be terminated with respect to the entire Premises pursuant to this Section, the Term of this Lease shall end on the date stated in Tenant's notice as the effective date of the sublease or assignment as if that date had been originally fixed in this Lease for the expiration of the Term. If Landlord recaptures under this Section only a portion of the Premises, the rent to be paid from time to time during the unexpired Term shall abate proportionately based on the proportion by which the approximate square footage of the remaining portion of the Premises shall be less than that of the Premises as of the date immediately prior to such recapture. Tenant shall, at Tenant's own cost and expense, discharge in full any outstanding commission obligation on the part of Landlord with respect to this Lease, and any commissions which may be due and owing as a result of any proposed assignment or subletting, whether or not the Premises are recaptured pursuant to this Section 9 3 and rented by Landlord to the proposed tenant or any other tenant

fifty

(50%)

9 4 In the event that Tenant sells, sublets, assigns or transfers this Lease, Tenant shall pay to Landlord as additional rent an amount equal to ~~one hundred percent (100%)~~ of any Increased Rent (as defined below) when and as such Increased Rent is received by Tenant. As used in this Section, "Increased Rent" shall mean the excess of (i) all rent and other consideration which Tenant is entitled to receive by reason of any sale, sublease, assignment or other transfer of this Lease, over (ii) the rent otherwise payable by Tenant under this Lease at such time. For purposes of the foregoing, any consideration received by Tenant in form other than cash shall be valued at its fair market value as determined by Landlord in good faith and Tenant shall be entitled to deduct from any amount payable to Landlord hereunder the costs incurred by Tenant of entering into such assignment or sublease.

9 5 Notwithstanding any other provision hereof, Tenant shall have no right to make (and Landlord shall have the absolute right to refuse consent to) any assignment of this Lease or sublease of any portion of the Premises ~~if at the time of either Tenant's notice of the proposed assignment or sublease or the proposed commencement date thereof, there shall exist any uncured default of Tenant or matter which will become a default of Tenant with passage of time unless cured, or if the proposed assignee or sublessee is an entity (a) with~~ which Landlord is already in negotiation as evidenced by the issuance of a written proposal, (b) is already an occupant of the Building unless Landlord is unable to provide the amount of space required by such occupant, (c) is a governmental agency, (d) is incompatible with the character of occupancy of the Building, or (e) would subject the Premises to a use which would (i) involve increased personnel or wear upon the Building, (ii) violate any exclusive right granted to another tenant of the Building, (iii) require any addition to or modification of the Premises or the Building in order to comply with building code or other governmental requirements, or, (iv) involve a violation of Section 1 2. Tenant expressly agrees that Landlord shall have the absolute right to refuse consent to any such assignment or sublease and that for the purposes of any statutory or other requirement of reasonableness on the part of Landlord such refusal shall be reasonable

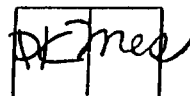
requiring Landlord's consent

9 6 Upon any request to assign or sublet, Tenant will pay to Landlord the Assignment/Subletting Fee plus, on demand, a sum equal to all of Landlord's costs, including attorney's fees, incurred in investigating and considering any proposed or purported assignment or pledge of this Lease or sublease of any of the Premises, regardless of whether Landlord shall consent to, refuse consent, or determine that Landlord's consent is not required for, such assignment, pledge or sublease. Any purported sale, assignment, mortgage, transfer of this Lease or subletting which does not comply with the provisions of this Article 9 shall be void

actual, out-of-pocket

9 7 If Tenant is a corporation, partnership or trust, any transfer or transfers of or change or changes within any twelve month period in the number of the outstanding voting shares of the corporation, the general partnership interests in the partnership or the identity of the persons or entities controlling the activities of such partnership or trust resulting in the persons or entities owning or controlling a majority of such shares, partnership interests or activities of such partnership or trust at the beginning of such period no longer having such ownership or control shall be regarded as equivalent to an assignment of this Lease to the persons or entities acquiring such ownership or control and shall be subject to all the provi-

whose shares are not publicly traded



visions of this Article 9 to the same extent and for all intents and purposes as though such an assignment See Rider #2

## 10 INDEMNIFICATION

None of the Landlord Entities shall be liable and Tenant hereby waives all claims against them for any damage to any property or any injury to any person in or about the Premises or the Building by or from any cause whatsoever (including without limiting the foregoing, rain or water leakage of any character from the roof, windows, walls, basement, pipes, plumbing works or appliances, the Building not being in good condition or repair, gas, fire, oil, electricity or theft), except to the extent caused by or arising from the gross negligence or willful misconduct of Landlord or its agents, employees or contractors. Tenant shall protect, indemnify and hold the Landlord Entities harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred by reason of (a) any damage to any property (including but not limited to property of any Landlord Entity) or any injury (including but not limited to death) to any person occurring in, on or about the Premises or the Building to the extent that such injury or damage shall be caused by or arise from any actual or alleged act, neglect, fault, or omission by or of Tenant, its agents, servants, employees, invitees, or visitors to meet any standards imposed by any duty with respect to the injury or damage, (b) the conduct or management of any work or thing whatsoever done by the Tenant in or about the Premises or from transactions of the Tenant concerning the Premises, (c) Tenant's failure to comply with any and all governmental laws, ordinances and regulations applicable to the condition or use of the Premises or its occupancy, or (d) any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of the Tenant to be performed pursuant to this Lease. The provisions of this Article shall survive the termination of this Lease with respect to any claims or liability accruing prior to such termination to the extent required hereunder

## 11 INSURANCE

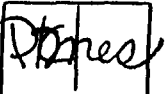
11.1 Tenant shall keep in force throughout the Term (a) a Commercial General Liability insurance policy or policies to protect the Landlord Entities against any liability to the public or to any invitee of Tenant or a Landlord Entity incidental to the use of or resulting from any accident occurring in or upon the Premises with a limit of not less than \$1,000,000.00 per occurrence and not less than \$2,000,000.00 in the annual aggregate, or such larger amount as Landlord may prudently require from time to time, covering bodily injury and property damage liability and \$1,000,000 products/completed operations aggregate, (b) Business Auto Liability covering owned, non-owned and hired vehicles with a limit of not less than \$1,000,000 per accident, (c) insurance protecting against liability under Worker's Compensation Laws with limits at least as required by statute, (d) Employers Liability with limits of \$500,000 each accident, \$500,000 disease policy limit, \$500,000 disease--each employee, (e) All Risk or Special Form coverage protecting Tenant against loss of or damage to Tenant's alterations, additions, improvements, carpeting, floor coverings, panelings, decorations, fixtures, inventory and other business personal property situated in or about the Premises to the full replacement value of the property so insured, and, (f) Business Interruption Insurance with limit of liability representing loss of at least approximately six months of income. Landlord is obligated to carry All Risk & General Liability Insurance on the property with commercially reasonable coverages and deductibles

11.2 Each of the aforesaid policies shall (a) be provided at Tenant's expense, (b) name the Landlord and the building management company, if any, as additional insureds, (c) be issued by an insurance company with a minimum Best's rating of "A VII" during the Term, and (d) provide that said insurance shall not be cancelled unless thirty (30) days prior written notice (ten days for non-payment of premium) shall have been given to Landlord, and said policy or policies or certificates thereof shall be delivered to Landlord by Tenant upon the Commencement Date and at least thirty (30) days prior to each renewal of said insurance

11.3 Whenever Tenant shall undertake any alterations, additions or improvements in, to or about the Premises ("Work") the aforesaid insurance protection must extend to and include injuries to persons and damage to property arising in connection with such Work, without limitation including liability under any applicable structural work act, and such other insurance as Landlord shall require, and the policies or certificates evidencing such insurance must be delivered to Landlord prior to the commencement of any such Work

## 12 WAIVER OF SUBROGATION

So long as their respective insurers so permit, Tenant and Landlord hereby mutually waive their respective rights of recovery against each other for any loss insured by fire, extended coverage, All Risks or other insurance now or hereafter existing for the benefit of the



respective party but only to the extent of the net insurance proceeds payable under such policies. Each party shall obtain any special endorsements required by their insurer to evidence compliance with the aforementioned waiver

(with at least one elevator operating on a 24/7 basis)

### 13 SERVICES AND UTILITIES

13.1 ~~Provided Tenant shall not be in default under this Lease, and~~ subject to the other provisions of this Lease, Landlord agrees to furnish to the Premises during ordinary business hours on generally recognized business days (but exclusive in any event of Sundays and legal holidays), the following services and utilities subject to the rules and regulations of the Building prescribed from time to time: (a) water suitable for normal office use of the Premises, (b) heat and air conditioning required in Landlord's judgment for the use and occupation of the Premises, (c) cleaning and janitorial service, (d) elevator service by nonattended automatic elevators, (e) such window washing as may from time to time in Landlord's judgment be reasonably required, and, (f) equipment to bring to Tenant's meter, electricity for lighting, convenience outlets and other normal office use. ~~To the extent that Tenant is not billed directly by a public utility, Tenant shall pay, upon demand, as additional rent, for all electricity used by Tenant in the Premises. The charge shall be at the rates charged for such services by the local public utility. Landlord shall not be liable for, and Tenant shall not be entitled to, any abatement or reduction of rental by reason of Landlord's failure to furnish any of the foregoing, unless such failure shall persist for an unreasonable time after written notice of such failure is given to Landlord by Tenant and provided further that Landlord shall not be liable when such failure is caused by accident, breakage, repairs, labor disputes of any character, energy usage restrictions or by any other cause, similar or dissimilar, beyond the reasonable control of Landlord. Landlord shall use reasonable efforts to remedy any interruption in the furnishing of services and utilities. See Rider #2~~

five (5) consecutive business days

13.2 Should Tenant require any additional work or service, as described above, including services furnished outside ordinary business hours specified above, Landlord may, on terms to be agreed, upon reasonable advance notice by Tenant, furnish such additional service and Tenant agrees to pay Landlord such charges as may be agreed upon, including any tax imposed thereon, but in no event at a charge less than Landlord's actual cost plus overhead for such additional service and, where appropriate, a reasonable allowance for depreciation of any systems being used to provide such service. Charges for overtime shall not exceed Landlord's standard building charges for such services.

13.3 Wherever heat generating machines or equipment are used by Tenant in the Premises which affect the temperature otherwise maintained by the air conditioning system, Landlord reserves the right to install supplementary air conditioning units in or for the benefit of the Premises and the cost thereof, including the cost of installation and the cost of operations and maintenance, shall be paid by Tenant to Landlord upon demand as such additional rent.

13.4 Tenant will not, without the written consent of Landlord, use any apparatus or device in the Premises, including but not limited to, electronic data processing machines and machines using current in excess of 200 watts or 110 volts, which will in any way increase the amount of electricity or water usually furnished or supplied for use of the Premises for normal office use, nor connect with electric current, except through existing electrical outlets in the Premises, or water pipes, any apparatus or device for the purposes of using electrical current or water. If Tenant shall require water or electric current in excess of that usually furnished or supplied for use of the Premises as normal office use, Tenant shall procure the prior written consent of Landlord for the use thereof, which Landlord may refuse, and if Landlord does consent, Landlord may cause a water meter or electric current meter to be installed so as to measure the amount of such excess water and electric current. The cost of any such meters shall be paid for by Tenant. Tenant agrees to pay as additional rent to Landlord ~~promptly upon~~ demand therefor, the cost of all such excess water and electric current consumed (as shown by said meters, if any, or, if none, as reasonably estimated by Landlord) at the rates charged for such services by the local public utility or agency, as the case may be, furnishing the same, plus any additional expense incurred in keeping account of the water and electric current so consumed.

within ten (10) business days following written

### 14 HOLDING OVER

Tenant shall pay Landlord for each day Tenant retains possession of the Premises or part of them after termination of this Lease by lapse of time or otherwise at the rate ("Holdover Rate") which shall be ~~200%~~ 150% of the greater of: (a) the amount of the Annual Rent for the last period prior to the date of such termination plus all Rent Adjustments under Article 4, and, (b) the then market rental value of the Premises as determined by Landlord assuming a new lease of the Premises of the then usual duration and other terms, in either case prorated on a daily basis, and also pay all damages sustained by Landlord by reason of such retention. If

*R. Phes*

constitute renewal of Lease for a period from month to month or one year, whichever shall be specified in such notice, in either case at the Holdover Rate, but if the Landlord does not so elect, no such renewal shall result notwithstanding acceptance by Landlord of any sums due hereunder after such termination, and instead, a tenancy at sufferance at the Holdover Rate shall be deemed to have been created. In any event, no provision of this Article 14 shall be deemed to waive Landlord's right of reentry or any other right under this Lease or at law.

## 15 SUBORDINATION

Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be subject and subordinate at all times to ground or underlying leases and to the lien of any mortgages or deeds of trust now or hereafter placed on, against or affecting the Building, Landlord's interest or estate in the Building, or any ground or underlying lease, provided, however, that if the lessor, mortgagee, trustee, or holder of any such mortgage or deed of trust elects to have Tenant's interest in this Lease be superior to any such instrument, then, by notice to Tenant, this Lease shall be deemed superior, whether this Lease was executed before or after said instrument. Notwithstanding the foregoing, Tenant covenants and agrees to execute and deliver upon demand such further instruments evidencing such subordination or superiority of this Lease as may be required by Landlord. At Tenant's request, Landlord shall request a reasonable and customary non-disturbance letter from its mortgagee, but the failure to obtain such non-disturbance letter shall not be a breach of this Lease.

## 16 RULES AND REGULATIONS

Tenant shall faithfully observe and comply with all the rules and regulations as set forth in Exhibit C to this Lease and all reasonable modifications of and additions to them from time to time put into effect by Landlord. Landlord shall not be responsible to Tenant for the non-performance by any other tenant or occupant of the Building of any such rules and regulations.

, non-discriminatory

## 17 REENTRY BY LANDLORD

, during the final lease year only,

17.1 Landlord reserves and shall at all times have the right to re-enter the Premises to inspect the same, to supply janitor service and any other service to be provided by Landlord to Tenant under this Lease, to show said Premises to prospective purchasers, mortgagees or tenants, and to alter, improve or repair the Premises and any portion of the Building, without abatement of rent, and may for that purpose erect, use and maintain scaffolding, pipes, conduits and other necessary structures and open any wall, ceiling or floor in and through the Building and Premises where reasonably required by the character of the work to be performed, provided entrance to the Premises shall not be blocked thereby, and further provided that the business of Tenant shall not be interfered with unreasonably.

upon reasonable prior written notice to Tenant, except in the event of an emergency.

17.2 Landlord shall have the right at any time to change the arrangement and/or locations of entrances, or passageways, doors and doorways, and corridors, windows, elevators, stairs, toilets or other public parts of the Building and to change the name, number or designation by which the Building is commonly known. In the event that Landlord damages any portion of any wall or wall covering, ceiling, or floor or floor covering within the Premises, Landlord shall repair or replace the damaged portion to match the original as nearly as commercially reasonable but shall not be required to repair or replace more than the portion actually damaged.

17.3 Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned by any action of Landlord authorized by this Article 17. Tenant agrees to reimburse Landlord, on demand, as additional rent, for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease.

properly taken and

17.4 For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in the Premises, excluding Tenant's vaults and safes or special security areas (designated in advance), and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency to obtain entry to any portion of the Premises. As to any portion to which access cannot be had by means of a key or keys in Landlord's possession, Landlord is authorized to gain access by such means as Landlord shall elect and the cost of repairing any damage occurring in doing so shall be borne by Tenant and paid to Landlord as additional rent upon demand.

## 18 DEFAULT

18.1 Except as otherwise provided in Article 20, the following events shall be deemed to be Events of Default under this Lease:

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18 1 1 Tenant shall fail to pay when due any sum of money becoming due to be paid to Landlord under this Lease, whether such sum be any installment of the rent reserved by this Lease, any other amount treated as additional rent under this Lease, or any other payment or reimbursement to Landlord required by this Lease, whether or not treated as additional rent under this Lease, and such failure shall continue for a period of ~~five~~ <sup>ten</sup> days after written notice that such payment was not made when due, ~~but if any such notice shall be given, for the twelve month period commencing with the date of such notice, the failure to pay within five days after due any additional sum of money becoming due to be paid to Landlord under this Lease during such period shall be an Event of Default, without notice~~

thirty (30) 18 1 2 Tenant shall fail to comply with any term, provision or covenant of this Lease which is not provided for in another Section of this Article and shall not cure such failure within ~~twenty (20)~~ days (forthwith, if the failure involves a hazardous condition) after written notice of such failure to Tenant

18 1 3 Tenant shall fail to vacate the Premises immediately upon termination of this Lease, by lapse of time or otherwise, or upon termination of Tenant's right to possession only

18 1 4 Tenant shall become insolvent, admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy or a petition to take advantage of any insolvency statute, make an assignment for the benefit of creditors, make a transfer in fraud of creditors, apply for or consent to the appointment of a receiver of itself or of the whole or any substantial part of its property, or file a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws, as now in effect or hereafter amended, or any other applicable law or statute of the United States or any state thereof

18 1 5 A court of competent jurisdiction shall enter an order, judgment or decree adjudicating Tenant bankrupt, or appointing a receiver of Tenant, or of the whole or any substantial part of its property, without the consent of Tenant, or approving a petition filed against Tenant seeking reorganization or arrangement of Tenant under the bankruptcy laws of the United States, as now in effect or hereafter amended, or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within ~~thirty (30)~~ <sup>sixty (60)</sup> days from the date of entry thereof

#### 19 REMEDIES

and during the continuation

19 1 Except as otherwise provided in Article 20 upon the occurrence of any of the Events of Default described or referred to in Article 18, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever, concurrently or consecutively and not alternatively

19 1 1 Landlord may, at its election, terminate this Lease or terminate Tenant's right to possession only without terminating the Lease

19 1 2 Upon any termination of this Lease, whether by lapse of time or otherwise, or upon any termination of Tenant's right to possession without termination of the Lease, Tenant shall surrender possession and vacate the Premises immediately, and deliver possession thereof to Landlord, and Tenant hereby grants to Landlord full and free license to enter into and upon the Premises in such event and to repossess Landlord of the Premises as of Landlord's former estate and to expel or remove Tenant and any others who may be occupying or be within the Premises and to remove Tenant's signs and other evidence of tenancy and all other property of Tenant therefrom without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and without incurring any liability for any damage resulting therefrom, Tenant waiving any right to claim damages for such re-entry and expulsion, and without relinquishing Landlord's right to rent or any other right given to Landlord under this Lease or by operation of law

19 1 3 Upon any termination of this Lease, whether by lapse of time or otherwise, Landlord shall be entitled to recover as damages, all rent, including any amounts treated as additional rent under this Lease, and other sums due and payable by Tenant on the date of termination, plus as liquidated damages and not as a penalty, an amount equal to the sum of (a) an amount equal to the then present value of the rent reserved in this Lease for the residue of the stated Term of this Lease including any amounts treated as additional rent under this Lease and all other sums provided in this Lease to be paid by Tenant, minus the fair rental value of the Premises for such residue, (b) the value of the time and expense necessary to obtain a replacement tenant or tenants, and the estimated expenses described in Section 19 1 4 relating to recovery of the Premises, preparation for reletting and for reletting itself, provided, however, that in the event such default is not reasonably susceptible of cure within thirty (30) days, Tenant shall have such additional period of time as may be reasonable under the circumstances so long as Tenant commences the cure within such thirty-day period and thereafter diligently prosecutes such cure to completion

*Done*



and (c) the cost of performing any other covenants which would have otherwise been performed by Tenant

19 1 4 Upon any termination of Tenant's right to possession only without termination of the Lease on a monthly basis

any deficiency in

19 1 4 1 Neither such termination of Tenant's right to possession nor Landlord's taking and holding possession thereof as provided in Section 19 1 2 shall terminate the Lease or release Tenant, in whole or in part, from any obligation, including Tenant's obligation to pay the rent, including any amounts treated as additional rent, under this Lease for the full Term, and if Landlord so elects Tenant shall pay forthwith to Landlord the sum equal to the entire amount of the rent, including any amounts treated as additional rent under this Lease, for the remainder of the Term plus any other sums provided in this Lease to be paid by Tenant for the remainder of the Term taking into account the net amount collected by Landlord from any reletting of the Premises

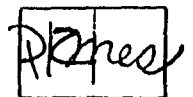
19 1 4 2 Landlord may, but need not, relet the Premises or any part thereof for such rent and upon such terms as Landlord, in its sole discretion, shall determine (including the right to relet the premises for a greater or lesser term than that remaining under this Lease, the right to relet the Premises as a part of a larger area, and the right to change the character or use made of the Premises) In connection with or in preparation for any reletting, Landlord may, but shall not be required to, make repairs, alterations and additions in or to the Premises and redecorate the same to the extent Landlord deems necessary or desirable, and Tenant shall, upon demand, pay the cost thereof, together with Landlord's expenses of reletting, including, without limitation, any commission incurred by Landlord If Landlord decides to relet the Premises or a duty to relet is imposed upon Landlord by law, Landlord and Tenant agree that nevertheless Landlord shall at most be required to use only the same efforts Landlord then uses to lease premises in the Building generally and that in any case that Landlord shall not be required to give any preference or priority to the showing or leasing of the Premises over any other space that Landlord may be leasing or have available and may place a suitable prospective tenant in any such other space regardless of when such other space becomes available Landlord shall not be required to observe any instruction given by Tenant about any reletting or accept any tenant offered by Tenant unless such offered tenant has a credit-worthiness acceptable to Landlord and leases the entire Premises upon terms and conditions including a rate of rent (after giving effect to all expenditures by Landlord for tenant improvements, broker's commissions and other leasing costs) all no less favorable to Landlord than as called for in this Lease, nor shall Landlord be required to make or permit any assignment or sublease for more than the current term or which Landlord would not be required to permit under the provisions of Article 9

19 1 4 3 Until such time as Landlord shall elect to terminate the Lease and shall thereupon be entitled to recover the amounts specified in such case in Section 19 1 3, Tenant shall pay to Landlord upon demand the full amount of all rent, including any amounts treated as additional rent under this Lease and other sums reserved in this Lease for the remaining Term, together with the costs of repairs, alterations, additions, redecorating and Landlord's expenses of reletting and the collection of the rent accruing therefrom (including attorney's fees and broker's commissions), as the same shall then be due or become due from time to time, less only such consideration as Landlord may have received from any reletting of the Premises, and Tenant agrees that Landlord may file suits from time to time to recover any sums falling due under this Article 19 as they become due Any proceeds of reletting by Landlord in excess of the amount then owed by Tenant to Landlord from time to time shall be credited against Tenant's future obligations under this Lease but shall not otherwise be refunded to Tenant or inure to Tenant's benefit permanently

19 2 Landlord may, at Landlord's option, enter into and upon the Premises if Landlord determines in its sole discretion that Tenant is not acting within a commercially reasonable time to maintain, repair or replace anything for which Tenant is responsible under this Lease and correct the same, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer and without incurring any liability for any damage or interruption of Tenant's business resulting therefrom If Tenant shall have vacated the Premises, Landlord may at Landlord's option re-enter the Premises at any time during the last six months of the then current Term of this Lease and make any and all such changes, alterations, revisions, additions and tenant and other improvements in or about the Premises as Landlord shall elect, all without any abatement of any of the rent otherwise to be paid by Tenant under this Lease

obligations

19 3 If, on account of any breach or default by Tenant in Tenant's obligations under the terms and conditions of this Lease, it shall become necessary or appropriate for Landlord to employ or consult with an attorney concerning or to enforce or defend any of Landlord's rights or remedies arising under this Lease, Tenant agrees to pay all Landlord's attorney's reasonable



provided Landlord is the prevailing party Landlord and fees so incurred Tenant expressly waives any right to (a) trial by jury, and (b) service of any notice required by any present or future law or ordinance applicable to landlords or tenants but not required by the terms of this Lease

19.4 Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies provided in this Lease or any other remedies provided by law (all such remedies being cumulative), nor shall pursuit of any remedy provided in this Lease constitute a forfeiture or waiver of any rent due to Landlord under this Lease or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants contained in this Lease

19.5 No act or thing done by Landlord or its agents during the Term shall be deemed a termination of this Lease or an acceptance of the surrender of the Premises, and no agreement to terminate this Lease or accept a surrender of said Premises shall be valid, unless in writing signed by Landlord. No waiver by Landlord of any violation or breach of any of the terms, provisions and covenants contained in this Lease shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants contained in this Lease. Landlord's acceptance of the payment of rental or other payments after the occurrence of an Event of Default shall not be construed as a waiver of such Default, unless Landlord so notifies Tenant in writing. Forbearance by Landlord in enforcing one or more of the remedies provided in this Lease upon an Event of Default shall not be deemed or construed to constitute a waiver of such Default or of Landlord's right to enforce any such remedies with respect to such Default or any subsequent Default.

~~19.6 To secure the payment of all rentals and other sums of money becoming due from Tenant under this Lease, Landlord shall have and Tenant grants to Landlord a first lien upon the leasehold interest of Tenant under this Lease, which lien may be enforced in equity, and a continuing security interest upon all goods, wares, equipment, fixtures, furniture, inventory, accounts, contract rights, chattel paper and other personal property of Tenant situated on the Premises, and such property shall not be removed therefrom without the consent of Landlord until all arrearages in rent as well as any and all other sums of money then due to Landlord under this Lease shall first have been paid and discharged. In the event of a default under this Lease, Landlord shall have, in addition to any other remedies provided in this Lease or by law, all rights and remedies under the Uniform Commercial Code, including without limitation the right to sell the property described in this Section 19.6 at public or private sale upon five (5) days' notice to Tenant. Tenant shall execute all such financing statements and other instruments as shall be deemed necessary or desirable in Landlord's discretion to perfect the security interest hereby created.~~

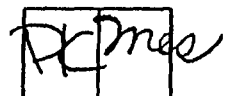
19.7 Any and all property which may be removed from the Premises by Landlord pursuant to the authority of this Lease or of law, to which Tenant is or may be entitled, may be handled, removed and/or stored, as the case may be, by or at the direction of Landlord but at the risk, cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay to Landlord, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in Landlord's possession or under Landlord's control. Any such property of Tenant not retaken by Tenant from storage within thirty (30) days after removal from the Premises shall, at Landlord's option, be deemed conveyed by Tenant to Landlord under this Lease as by a bill of sale without further payment or credit by Landlord to Tenant.

## 20. TENANT'S BANKRUPTCY OR INSOLVENCY

20.1 If at any time and for so long as Tenant shall be subjected to the provisions of the United States Bankruptcy Code or other law of the United States or any state thereof for the protection of debtors as in effect at such time (each a 'Debtor's Law')

20.1.1 Tenant, Tenant as debtor in-possession, and any trustee or receiver of Tenant's assets (each a "Tenant's Representative") shall have no greater right to assume or assign this Lease or any interest in this Lease, or to sublease any of the Premises than accorded to Tenant in Article 9, except to the extent Landlord shall be required to permit such assumption, assignment or sublease by the provisions of such Debtor's Law. Without limitation of the generality of the foregoing, any right of any Tenant's Representative to assume or assign this Lease or to sublease any of the Premises shall be subject to the conditions that

20.1.1.1 Such Debtor's Law shall provide to Tenant's Representative a right of assumption of this Lease which Tenant's Representative shall have timely exercised and Tenant's Representative shall have fully cured any default of Tenant under this Lease



20 1 1 2 Tenant's Representative or the proposed assignee, as the case shall be, shall have deposited with Landlord as security for the timely payment of rent an amount equal to the larger of (a) three months' rent and other monetary charges accruing under this Lease, and (b) any sum specified in Article 5, and shall have provided Landlord with adequate other assurance of the future performance of the obligations of the Tenant under this Lease. Without limitation, such assurances shall include, at least, in the case of assumption of this Lease, demonstration to the satisfaction of the Landlord that Tenant's Representative has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that Tenant's Representative will have sufficient funds to fulfill the obligations of Tenant under this Lease, and, in the case of assignment, submission of current financial statements of the proposed assignee, audited by an independent certified public accountant reasonably acceptable to Landlord and showing a net worth and working capital in amounts determined by Landlord to be sufficient to assure the future performance by such assignee of all of the Tenant's obligations under this Lease.

20 1 1 3 The assumption or any contemplated assignment of this Lease or subleasing any part of the Premises, as shall be the case, will not breach any provision in any other lease, mortgage, financing agreement or other agreement by which Landlord is bound.

20 1 1 4 Landlord shall have, or would have had absent the Debtor's Law, no right under Article 9 to refuse consent to the proposed assignment or sublease by reason of the identity or nature of the proposed assignee or sublessee or the proposed use of the Premises concerned.

## 21 QUIET ENJOYMENT

Landlord represents and warrants that it has full right and authority to enter into this Lease and that Tenant, while paying the rental and performing its other covenants and agreements contained in this Lease, shall peaceably and quietly have, hold and enjoy the Premises for the Term without hindrance or molestation from Landlord subject to the terms and provisions of this Lease. Landlord shall not be liable for any interference or disturbance by other tenants or third persons, nor shall Tenant be released from any of the obligations of this Lease because of such interference or disturbance.

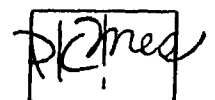
or anyone claiming through Landlord

## 22 DAMAGE BY FIRE, ETC

22 1 In the event the Premises or the Building are damaged by fire or other cause and in Landlord's reasonable estimation such damage can be materially restored within ~~ninety (90)~~ <sup>one hundred eighty (180)</sup> days, Landlord shall forthwith repair the same and this Lease shall remain in full force and effect, except that Tenant shall be entitled to a proportionate abatement in rent from the date of such damage. Such abatement of rent shall be made pro rata in accordance with the extent to which the damage and the making of such repairs shall interfere with the use and occupancy by Tenant of the Premises from time to time. Within forty-five (45) days from the date of such damage, Landlord shall notify Tenant, in writing, of Landlord's reasonable estimation of the length of time within which material restoration can be made, and Landlord's determination shall be binding on Tenant. For purposes of this Lease, the Building or Premises shall be deemed "materially restored" if they are in such condition as would not prevent or materially interfere with Tenant's use of the Premises for the purpose for which it was being used immediately before such damage.

<sup>one hundred eighty (180)</sup>  
22 2 If such repairs cannot, in Landlord's reasonable estimation, be made within ~~ninety (90)~~ days, Landlord and Tenant shall each have the option of giving the other, at any time within sixty (60) days after such damage, notice terminating this Lease as of the date of such damage. In the event of the giving of such notice, this Lease shall expire and all interest of the Tenant in the Premises shall terminate as of the date of such damage as if such date had been originally fixed in this Lease for the expiration of the Term. In the event that neither Landlord nor Tenant exercises its option to terminate this Lease, then Landlord shall repair or restore such damage, this Lease continuing in full force and effect, and the rent hereunder shall be proportionately abated as provided in Section 22 1.

22 3 Landlord shall not be required to repair or replace any damage or loss by or from fire or other cause to any panelings, decorations, partitions, additions, railings, ceilings, floor coverings, office fixtures or any other property or improvements installed on the Premises or belonging to Tenant. Any insurance which may be carried by Landlord or Tenant against loss or damage to the Building or Premises shall be for the sole benefit of the party carrying such insurance and under its sole control.



restoration within sixty (60) days after the date estimated by Landlord therefor as extended by this Section 22.4. Tenant may at its option and as its sole remedy terminate this Lease by delivering written notice to Landlord, within fifteen (15) days after the expiration of said period of time, whereupon the Lease shall end on the date of such notice or such later date fixed in such notice as if the date of such notice was the date originally fixed in this Lease for the expiration of the Term, provided, however, that if construction is delayed because of changes, deletions or additions in construction requested by Tenant, strikes, lockouts, casualties, Acts of God, war, material or labor shortages, government regulation or control or other causes beyond the reasonable control of Landlord, the period for restoration, repair or rebuilding shall be extended for the amount of time Landlord is so delayed.

22.5 Notwithstanding anything to the contrary contained in this Article (a) Landlord shall not have any obligation whatsoever to repair, reconstruct, or restore the Premises when the damages resulting from any casualty covered by the provisions of this Article 22 occur during the last twelve (12) months of the Term or any extension thereof, but if Landlord determines not to repair such damages Landlord shall notify Tenant and if such damages shall render any material portion of the Premises untenantable Tenant shall have the right to terminate this Lease by notice to Landlord within fifteen (15) days after receipt of Landlord's notice; and (b) in the event the holder of any indebtedness secured by a mortgage or deed of trust covering the Premises or Building requires that any insurance proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant within fifteen (15) days after such requirement is made by any such holder, whereupon this Lease shall end on the date of such damage as if the date of such damage were the date originally fixed in this Lease for the expiration of the Term. in excess of \$500,00

22.6 In the event of any damage or destruction to the Building or Premises by any peril covered by the provisions of this Article 22, it shall be Tenant's responsibility to properly secure the Premises and upon notice from Landlord to remove forthwith, at its sole cost and expense, such portion of all of the property belonging to Tenant or its licensees from such portion or all of the Building or Premises as Landlord shall request.

### 23 EMINENT DOMAIN

If all or any substantial part of the Premises shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain or conveyance in lieu of such appropriation, either party to this Lease shall have the right, at its option, of giving the other, at any time within thirty (30) days after such taking, notice terminating this Lease, except that Tenant may only terminate this Lease by reason of taking or appropriation, if such taking or appropriation shall be so substantial as to materially interfere with Tenant's use and occupancy of the Premises. If neither party to this Lease shall so elect to terminate this Lease, the rental thereafter to be paid shall be adjusted on a fair and equitable basis under the circumstances. In addition to the rights of Landlord above, if any substantial part of the Building shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, and regardless of whether the Premises or any part thereof are so taken or appropriated, Landlord shall have the right, at its sole option, to terminate this Lease. Landlord shall be entitled to any and all income, rent, award, or any interest whatsoever in or upon any such sum, which may be paid or made in connection with any such public or quasi-public use or purpose, and Tenant hereby assigns to Landlord any interest it may have in or claim to all or any part of such sums, other than any separate award which may be made with respect to Tenant's trade fixtures and moving expenses, Tenant shall make no claim for the value of any unexpired Term.

### 24 SALE BY LANDLORD

for such future obligation

In event of a sale or conveyance by Landlord of the Building, the same shall operate to release Landlord from any future liability upon any of the covenants or conditions, expressed or implied, contained in this Lease in favor of Tenant, and in such event Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to this Lease. Except as set forth in this Article 24, this Lease shall not be affected by any such sale and Tenant agrees to attorn to the purchaser or assignee. If any security has been given by Tenant to secure the faithful performance of any of the covenants of this Lease, Landlord may transfer or deliver said security, as such, to Landlord's successor in interest and thereupon Landlord shall be discharged from any further liability with regard to said security. shall

### 25 ESTOPPEL CERTIFICATES

business

Within ten (10) days following any written request which Landlord may make from time to time, Tenant shall execute and deliver to Landlord or mortgagee or prospective mortgagee a sworn statement certifying: (a) the date of commencement of this Lease, (b) the fact that this Lease is unmodified and in full force and effect (or, if there have been modifications to this Lease, that this lease is in full force and effect, as modified, and stating the date and provided, however, that in the event of such occurrence, Landlord shall, notwithstanding the foregoing, restore the Premises in the event that within ten (10) business days following Landlord's notice to Tenant of its election not to repair, Tenant exercises the renewal option provided for in Rider #1 attached hereto.

reasonably

nature of such modifications), (c) the date to which the rent and other sums payable under this Lease have been paid, (d) the fact that there are no current defaults under this Lease by either Landlord or Tenant except as specified in Tenant's statement, and (e) such other matters as may be requested by Landlord. Landlord and Tenant intend that any statement delivered pursuant to this Article 25 may be relied upon by any mortgagee, beneficiary or purchaser and ~~Tenant shall be liable for all loss, cost or expense resulting from the failure of any sale or funding of any loan caused by any material misstatement contained in such stoppage certificate.~~ Tenant irrevocably agrees that if Tenant fails to execute and deliver such certificate within such ten (10) day period Landlord or Landlord's beneficiary or agent may execute and deliver such certificate on Tenant's behalf, and that such certificate shall be fully binding on Tenant.

business

## 26 SURRENDER OF PREMISES

26.1 Tenant shall, at least thirty (30) days before the last day of the Term, arrange to meet Landlord for a joint inspection of the Premises. In the event of Tenant's failure to arrange such joint inspection to be held prior to vacating the Premises, Landlord's inspection at or after Tenant's vacating the Premises shall be conclusively deemed correct for purposes of determining Tenant's responsibility for repairs and restoration.

substantially

26.2 At the end of the Term or any renewal of the Term or other sooner termination of this Lease, Tenant will peaceably deliver up to Landlord possession of the Premises, together with all improvements or additions upon or belonging to the same, by whomsoever made, in the same conditions received or first installed, broom clean and free of all debris, excepting only ordinary wear and tear and damage by fire or other casualty. Tenant may, and at Landlord's request shall, at Tenant's sole cost, remove upon termination of this Lease, any and all furniture, furnishings, movable partitions of less than full height from floor to ceiling, trade fixtures and other property installed by Tenant, title to which shall not be in or pass automatically to Landlord upon such termination, repairing all damage caused by such removal. Property not so removed shall, unless requested to be removed, be deemed abandoned by the Tenant and title to the same shall thereupon pass to Landlord under this Lease as by a bill of sale. All other alterations, additions and improvements in, on or to the Premises shall be dealt with and disposed of as provided in Article 6 hereof.

Landlord and

26.3 All obligations of Tenant under this Lease not fully performed as of the expiration or earlier termination of the Term shall survive the expiration or earlier termination of the Term. ~~In the event that Tenant's failure to perform prevents Landlord from releasing the Premises, Tenant shall continue to pay rent pursuant to the provisions of Article 14 until such performance is complete.~~ Upon the expiration or earlier termination of the Term, Tenant shall pay to Landlord the amount, as estimated by Landlord, necessary to repair and restore the Premises as provided in this Lease and/or to discharge Tenant's obligation for unpaid amounts due or to become due to Landlord. All such amounts shall be used and held by Landlord for payment of such obligations of Tenant, with Tenant being liable for any additional costs upon demand by Landlord, or with any excess to be returned to Tenant after all such obligations have been determined and satisfied. Any otherwise unused Security Deposit shall be credited against the amount payable by Tenant under this Lease.

reasonably

## 27 NOTICES

in writing and

or demand

Any notice or document required or permitted to be delivered under this Lease shall be addressed to the intended recipient, shall be transmitted personally, by fully prepaid registered or certified United States Mail return receipt requested, or by reputable independent contract delivery service furnishing a written record of attempted or actual delivery, and shall be deemed to be delivered when tendered for delivery to the addressee at its address set forth on the Reference Page, or at such other address as it has then last specified by written notice delivered in accordance with this Article 27, or if to Tenant at either its aforesaid address or its last known registered office or home of a general partner or individual owner, whether or not actually accepted or received by the addressee.

## 28 TAXES PAYABLE BY TENANT

and other taxes excluded from the definition of taxes

In addition to rent and other charges to be paid by Tenant under this Lease, Tenant shall reimburse to Landlord, upon demand, any and all taxes payable by Landlord (other than net income taxes) whether or not now customary or within the contemplation of the parties to this Lease. (a) upon, allocable to, or measured by or on the gross or net rent payable under this Lease, including without limitation any gross income tax or excise tax levied by the State, any political subdivision thereof, or the Federal Government with respect to the receipt of such rent, (b) upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy of the Premises or any portion thereof,

in the event such tax is assessed in lieu of any taxes

the Tenant's gross receipts, payroll or the value of Tenant's equipment, furniture, fixtures and other personal property, of Tenant or leasehold improvements, alterations or additions located in the Premises, or (d) upon this transaction or any document to which Tenant is a party creating or transferring any interest of Tenant in this Lease or the Premises. In addition to the foregoing, Tenant agrees to pay, before delinquency, any and all taxes levied or assessed against Tenant and which become payable during the term hereof upon Tenant's equipment, furniture, fixtures and other personal property of Tenant located in the Premises.

## 29. RELOCATION OF TENANT

~~Landlord, at its sole expense, on at least ninety (90) days prior written notice, may require Tenant to move from the Premises to other space of comparable size and decor in order to permit Landlord to consolidate the space leased to Tenant with other adjoining space leased or to be leased to another tenant. In the event of any such relocation, Landlord will pay all expenses of preparing and decorating the new premises so that they will be substantially similar to the Premises from which Tenant is moving, and Landlord will also pay the expense of moving Tenant's furniture and equipment to the relocated premises. In such event this Lease and each and all of the terms and covenants and conditions hereof shall remain in full force and effect and thereupon be deemed applicable to such new space except that a revised Reference Page and a revised Exhibit A shall become part of this Lease and shall reflect the location of the new premises.~~

## 30. DEFINED TERMS AND HEADINGS

the Landlord or Tenant is comprised of

The Article headings shown in this Lease are for convenience of reference and shall in no way define, increase, limit or describe the scope or intent of any provision of this Lease. Any indemnification or insurance of Landlord shall apply to and inure to the benefit of all the following "Landlord Entities", being Landlord, Landlord's investment manager, and the trustees, boards of directors, officers, general partners, beneficiaries, stockholders, employees and agents of each of them. Any option granted to Landlord shall also include or be exercisable by Landlord's trustee, beneficiary, agents and employees, as the case may be.

In any case where ~~this Lease is signed by~~ more than one person, the obligations under this Lease shall be joint and several. The terms "Tenant" and "Landlord" or any pronoun used in of such place thereof shall indicate and include the masculine or feminine, the singular or plural party number, individuals, firms or corporations, and each of their respective successors, executors, administrators and permitted assigns, according to the context hereof. The term "rentable area" shall mean the rentable area of the Premises or the Building as calculated by the Landlord on the basis of the plans and specifications of the Building including a proportionate share of any common areas. Tenant hereby accepts and agrees to be bound by the figures for the rentable space footage of the Premises and Tenant's Proportionate Share shown on the Reference Page absent manifest error.

equal to 13%

## 31. TENANT'S AUTHORITY

If Tenant signs as a corporation ~~each of the persons executing this Lease on behalf of~~ Tenant represents and warrants that Tenant has been and is qualified to do business in the state in which the Building is located; that the corporation has full right and authority to enter into this Lease, and that all persons signing on behalf of the corporation were authorized to do so by appropriate corporate actions. If Tenant signs as a partnership, trust or other legal entity, each of the persons executing this Lease on behalf of Tenant represents and warrants that Tenant has complied with all applicable laws, rules and governmental regulations relative to its right to do business in the state and that such entity on behalf of the Tenant was authorized to do so by any and all appropriate partnership, trust or other actions. Tenant agrees to furnish promptly upon request a corporate resolution, proof of due authorization by partners, or other appropriate documentation evidencing the due authorization of Tenant to enter into this Lease.

## 32. COMMISSIONS

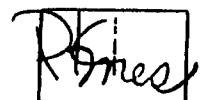
Each of the parties represents and warrants to the other that it has not dealt with any broker or finder in connection with this Lease, except as described on the Reference Page.

## 33. TIME AND APPLICABLE LAW

Time is of the essence of this Lease and all of its provisions. This Lease shall in all respects be governed by the laws of the state in which the Building is located.

## 34. SUCCESSORS AND ASSIGNS

Subject to the provisions of Article 9, the terms, covenants and conditions contained in this Lease shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators and assigns of the parties to this Lease.



35. ENTIRE AGREEMENT

This Lease, together with its exhibits, contains all agreements of the parties to this Lease and supersedes any previous negotiations. There have been no representations made by the Landlord or understandings made between the parties other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties to this Lease.

36. EXAMINATION NOT OPTION

Submission of this Lease shall not be deemed to be a reservation of the Premises. Landlord shall not be bound by this Lease until it has received a copy of this Lease duly executed by Tenant and has delivered to Tenant a copy of this Lease duly executed by Landlord, and until such delivery Landlord reserves the right to exhibit and lease the Premises to other prospective tenants. Notwithstanding anything contained in this Lease to the contrary, Landlord may withhold delivery of possession of the Premises from Tenant until such time as Tenant has paid to Landlord any security deposit required by Article 5, the first month's rent as set forth in Article 3 and any sum owed pursuant to this Lease.

37. RECORDATION

Tenant shall not record or register this Lease or a short form memorandum hereof without the prior written consent of Landlord and then shall pay all charges and taxes incident such recording or registration.

38. LIMITATION OF LANDLORD'S LIABILITY

and Tenant shall be limited to and enforceable only against and to the extent of Landlord's interest in the Building. The obligations of Landlord under this Lease are not intended to and shall not be personally binding on, nor shall any resort be had to the private properties of, any of its trustees or board of directors and officers, as the case may be, its investment manager, the general partners thereof, or any beneficiaries, stockholders, employees, or agents of Landlord or the investment manager or Tenant, as the case may be, and the proceeds thereof.

LANDLORD,

Gateway Taft Inc., a California  
Corporation

By A. Jay Jenle  
Title Vice President

Dated 2/22 19 2000

By: RREEF Management Company,  
a Delaware Corporation

By: Mary Ellen Stahl  
Title District Manager  
Dated: 2/17/00

TENANT

Allegiance Telecom, Inc.,  
a Delaware Corporation

By Patricia E. Koide  
Title Senior Vice President

Dated Feb 11 2000

RIDER #1

attached to and made a part of Lease bearing the Lease Reference Date of January 12, 2000 between Gateway Taft, Inc., a California Corporation, as Landlord and Allegiance Telecom, Inc., a Delaware Corporation, as Tenant

BASE RENT SCHEDULE.

	Annual Amount	Monthly Amount
Months 1-4	\$00 00 (rental abatement period)	
Months 5-12	\$196,140 00	\$16,345 00
Months 13-24	\$200,706 00	\$16,725 00
Months 25-36	\$205,272 00	\$17,106 00
Months 37-48	\$209,829 00	\$17,485 75
Months 49-60	\$214,392 00	\$17,866 00
Months 61-72	\$218,952 00	\$18,246 00
Months 73-88	\$223,512 00	\$18,626 00

1) EXPANSION OF PREMISES

In the event Tenant requires additional

Landlord in writing of to which Tenant will landlord before the first negotiations of such expansion lease except for the amount which shall be such that it is not less than the allowance will be determined by the following formula, the numerator of which

Term Typs, 4 months

made on 5-19-00

5-19-07 plus 4 months

19-18-07 terminated

Abate 5-19-00 - 9-18-00

\$16,345 - 10-1-00 - 5-18-01  
plus 9/19-9/20 prorated

5/19/01 - 5/18/02 \$16,725

5/19/02 - 5/18/03 \$17,106

5/19/03 - 5/18/04 \$17,485.75

5/19/04 - 5/18/05 \$17,866

2) 5/19/05 - 5/18/06 \$18,246

In 5/18/06 - 5/19/07 \$18,626  
Pr 10 9/18/07  
sp

After the first anniversary of expansion space, in no event shall the amount of leases of similar size in the vicinity of West Park I, shall be less than the amount of the base lease. The same formula as set forth in the termination of the Base Rent shall apply. Upon receipt of Tenant's determination, Landlord shall have thirty (30) days to resolve the disagreement. If Landlord fails to rescind its offer, the amount shall be based upon the actual amount occupied by Tenant.

the number of parking

adjacent to the  
first Offer on said

Landlord will give Tenant written notice on such available space and Tenant will have five (5) business days following receipt of Landlord's notice in which to notify Landlord of Tenant's response. If Tenant fails to respond within such five (5) business day period, Tenant will be deemed to have declined such offer. In the event Tenant elects to lease the additional space, the (1) Base rent will be determined in accordance with Section 1 above of this Rider based upon the date Tenant notifies Landlord of its election to lease such space (2) the length of lease term of the expansion space will be such that it is coterminous with the base lease, and (3) the tenant improvement allowance will be determined by the following formula: \$18 00 multiplied by a fraction, the numerator of which is the length of lease term for the expansion space and the denominator of which will be seven (7) years, four (4) months

PK



## RIDER #1

attached to and made a part of Lease bearing the Lease Reference Date of January 12, 2000 between Gateway Taft, Inc., a California Corporation, as Landlord and Allegiance Telecom, Inc., a Delaware Corporation, as Tenant

### BASE RENT SCHEDULE

	<u>Annual Amount</u>	<u>Monthly Amount</u>
Months 1-4	\$00 00 (rental abatement period)	
Months 5-12	\$196,140 00	\$16,345 00
Months 13-24	\$200,706 00	\$16,725 00
Months 25-36	\$205,272 00	\$17,106 00
Months 37-48	\$209,829 00	\$17,485 75
Months 49-60	\$214,392 00	\$17,866 00
Months 61-72	\$218,952 00	\$18,246 00
Months 73-88	\$223,512 00	\$18,626 00

#### 1) EXPANSION OF PREMISES:

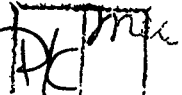
In the event Tenant requires additional space, Tenant will notify Landlord in writing of Tenant's requirement to expand and will designate the space into which Tenant will expand. In the event Tenant delivers the first notice to the Landlord before the first anniversary date of the commencement date, the terms and conditions of such expansion space will be the same terms and conditions as those in the base lease except for the following: (1) the length of lease term of the expansion space will be such that it is coterminous with the base lease, and (2) the tenant improvement allowance will be determined by the following formula:  $\$18.00$  multiplied by a fraction, the numerator of which is the length of lease term for the expansion space and the denominator of which will be seven (7) years, four (4) months.

In the event the Tenant delivers the first notice to the Landlord after the first anniversary date of the commencement date, the terms and conditions of such expansion space, in no event not less than a three (3) year term, will be the same as those of leases of similar size for similar credit tenants in similar quality buildings in or in the vicinity of West Park I, except that the lease term for the additional space will be coterminous with the base lease and the tenant improvement allowance will be determined by the same formula as identified above. Landlord shall deliver to Tenant Landlord's determination of the Base Rent for such expansion space within ten (10) business days following receipt of Tenant's notice. In the event that Tenant disagrees with Landlord's determination, Landlord and Tenant shall negotiate in good faith for a period of up to thirty (30) days to resolve the disagreement. In the event the parties are unable to resolve the disagreement by the end of such thirty (30) day period, Tenant shall have the right to rescind its election within thirty (30) days thereafter. For all expansion space leased by Tenant, the expense stop for both operating expenses and property taxes will be based upon the actual expenses for the first full year during which the expansion space is occupied by Tenant.

Upon Tenant's expansion, Tenant shall have the right to increase its number of parking spaces by five (5) spaces for every 1,000 RSF added.

#### 2) RIGHT OF SECOND OFFER.

In the event that space becomes available on the fourth floor that is adjacent to the Premises, and existing Tenant on the fifth floor who has Right of First Offer on said space declines space, Tenant will have a Right of Second Offer on such space. Landlord will give Tenant written notice on such available space and Tenant will have five (5) business days following receipt of Landlord's notice in which to notify Landlord of Tenant's response. If Tenant fails to respond within such five (5) business day period, Tenant will be deemed to have declined such offer. In the event Tenant elects to lease the additional space, the (1) Base rent will be determined in accordance with Section 1 above of this Rider based upon the date Tenant notifies Landlord of its election to lease such space, (2) the length of lease term of the expansion space will be such that it is coterminous with the base lease, and (3) the tenant improvement allowance will be determined by the following formula:  $\$18.00$  multiplied by a fraction, the numerator of which is the length of lease term for the expansion space and the denominator of which will be seven (7) years, four (4) months.

  
J. M. M.

3) **RELOCATION OF ADJACENT TENANT:**

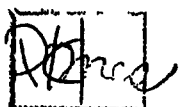
In the event Tenant requires additional space during the first four (4) years of the lease term and no other space adjacent to the Premises is available in the approximate quantity as required by Tenant and if there is comparable space to relocate the adjacent tenant, Thomas Croft, the Landlord will move this tenant at Tenant's expense. Tenant will be responsible for all costs of the Thomas Croft relocation and other tenant expense to include and not limited to tenant improvements in their new space so as to make such new space reasonably comparable to the space being vacated, moving telecommunications and reprinting of any stationary products, if necessary. If Tenant delivers notice to Landlord of need for space the base rent and tenant improvement allowance will be determined in accordance with Section 1 based upon the date Tenant delivers notice.

Prior to notifying said adjoining Tenant, Landlord shall provide to Tenant a written estimate of the relocation costs to be incurred. Tenant shall then have the right to rescind its election within ten (10) business days thereafter by delivery of written notice to Landlord.

4) **RENEWAL OPTION:**

Tenant shall, provided the Lease is in full force and effect and no event of default exists at the time of notification or commencement, have one (1) successive option to renew this Lease for a term of five (5) years for the portion of the Premises being leased by Tenant or any Permitted Transferee as of the date the renewal term is to commence, on the same terms and conditions set forth in the Lease, except as modified by the terms, covenants and conditions as set forth below.

- a If Tenant elects to exercise said option, then Tenant shall provide Landlord with written notice no earlier than the date which is 180 days prior to the expiration of the then current term of the Lease but no later than the date which is 90 days prior to the expiration of the then current term of this Lease, except that the Annual Rent and Monthly Installment in effect at the expiration of the then current term of the Lease shall be increased, as set forth herein commencing on the first day of the new renewal term. If Tenant fails to provide such notice, Tenant shall have no further or additional right to extend or renew the term of the Lease. The notice shall be given in the manner provided in the Lease for the giving of notices to Landlord.
- b The Annual Rent and Monthly Installment in effect at the expiration of the then current term of the Lease shall be adjusted to reflect the current fair market rental for comparable space in the Building and in other similar office buildings in the same rental market as of the date of the renewal term is to commence taking into account all relevant economic factors. Landlord shall advise Tenant of the new Annual Rent and Monthly Installment for the Premises no later than 30 days after receipt of Tenant's written request therefor. Said request shall be made no earlier than thirty (30) days prior to the first date on which Tenant may exercise its option under this Paragraph. In the event that the Tenant disagrees with Landlord's determination of fair market rent, then Tenant may either (a) revoke its exercise of this option to renew or (b) submit the dispute to binding arbitration by giving notice to Landlord within twenty days following the end of such thirty-day period. In the event that Tenant elects arbitration, Landlord and Tenant shall each, within twenty (20) days following such notice electing arbitration, select one arbitrator who shall be an independent commercial real estate broker having not less than 10 years experience in the St. Louis area. The two arbitrators so selected shall then select a third arbitrator having similar qualifications. Each of Landlord and Tenant shall then submit to one another and to the arbitrators such party's determination of the fair market rental rate for the renewal term. The arbitrators shall then decide whether the determination of Landlord or Tenant as to the fair market rent is closer to the actual fair market rent, which decision shall be final and binding upon the parties. In the event that either party fails to timely appoint an arbitrator, the decision of the arbitrator appointed by the other party shall be final and binding. Each party shall bear the cost of its arbitrator as well as one-half of the cost of the third arbitrator. In no event shall the Annual Rent and Monthly Installment for any option period be less than the Annual Rent and Monthly Installment in the preceding period.



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- c This option is not transferable except to any Permitted Transferee, the parties hereto acknowledge and agree that they intend that the aforesaid option to renew this Lease shall be "personal" to Tenant and any Permitted Transferee as set forth above and that in no event will any assignee or sublessee other than a Permitted Transferee have any rights to exercise the aforesaid option to renew

5) **AMERICANS WITH DISABILITIES ACT OF 1990 (ADA).**

The Landlord shall be responsible for ADA compliance for accessibility to the building and with respect to the common areas of the building The Tenant shall be responsible for compliance within the Premises

6) **PARKING**

Tenant will have the right to use up to five (5) spaces per 1,000 rentable square feet of the Premises at no charge to the Tenant throughout the lease term and any extensions thereto, Tenant shall be entitled to seven (7) executive parking spaces in the parking area below the building at no additional charge The Landlord shall allow Tenant additional parking at no cost to Tenant on a one-time per week basis in the adjacent parking lot to accommodate any overflow from the allotted five (5) spaces per 1,000 rentable square feet

- 7) With respect to the tenant improvement work to be performed by Landlord as identified on Exhibits B and B-1 attached hereto, all such work (the "Work") shall be performed by Landlord diligently and in a good and workmanlike manner in accordance with the plans and specifications approved by Landlord and Tenant, as they may be amended from time to time by mutual agreement, and in accordance with all applicable laws, codes, permits, rules and regulations Landlord shall cause the Work to be bid by at least three qualified, licensed general contractors satisfactory to Landlord, each of whom shall be subject to Tenant's approval, not to be unreasonably withheld Each of the bids shall be submitted to Tenant for its review whereupon Tenant shall select the general contractor General contractor shall be responsible for obtaining any necessary building permits The Landlord shall enter into a guaranteed maximum price contract with the designated general contractor consistent with the bid approved by Tenant In the event that the cost of the Work increases due to (i) any delays attributable to Tenant, (ii) any change orders requested by Tenant or (iii) any other acts or omissions of Tenant or any of its agents or employees, such increased costs shall be borne by Tenant In the event the cost of the Work increases due to (i) any delays by Landlord in approving any change orders or (ii) any other acts or omissions by Landlord or any of its agents or employees, such increased costs shall be borne by Landlord and shall be added to the tenant improvement allowance being provided by Landlord

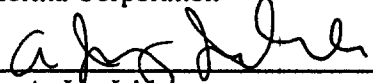
Landlord shall arrange for the contractors performing the Work to provide not less than a one-year warranty with respect to the Work Landlord shall, to the extent required by the terms of any such warranty, enforce such warranty against the applicable contractor on Tenant's behalf Tenant's contractors shall be allowed access to the Premises during the course of the Work to install necessary wiring and other equipment provided that such work is coordinated in a manner to minimize interference with the Work

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- 8) If by reason of inability to obtain suitable labor, materials or supplies, circumstances directly or indirectly the result of fire, weather, a state of war or national or local emergency, or any other cause beyond the reasonable control of Landlord or Tenant (any of the foregoing being referred to herein as "Force Majeure"), such party is unable to perform or is delayed in the performance of any covenant or obligation hereunder, such nonperformance or delay in performance shall not render such party liable in any respect to the other party, its employees, invitees or licensees for damages to either person or property, constitute a total or partial eviction, constructive or otherwise, work an abatement of rent or relieve the other party from the fulfillment of any covenant or agreement contained in this Lease. Notwithstanding the pervious sentence, in no event shall Force Majeure extend the time for the payment of Rent hereunder

LANDLORD

Gateway Taft, Inc ,  
a California Corporation

By   
A Jay Jehle

Title Vice President - Portfolio Manager

Dated 2/22/00

By RREEF Management Company,  
a Delaware Corporation

By   
Mary Ellen Stahl

Title District Manager

Dated 2/17/00

TENANT

Allegiance Telecom, Inc ,  
a Delaware Corporation

By   
Patricia E Koide

Title Senior Vice President

Dated \_\_\_\_\_

## RIDER #2

attached to and made a part of Lease bearing the Lease Reference Date of January 12, 2000 between Gateway Taft, Inc , a California Corporation, as Landlord and Allegiance Telecom, Inc , a Delaware Corporation, as Tenant

- 1 1 excluding any violation which existing on the Commencement Date or which was proximately caused by Landlord or any other tenant of the Building, or any agent, employee, contractor or invitee of either Landlord or such other tenant
- 1 2 excluding, however, any Hazardous Materials which existed on, in, under or affected the Premises on the Commencement Date or the presence of which was proximately caused by Landlord or any other tenant of the Building, or any agent, employee, contractor or invitee of either Landlord or such other tenant
- 2 1 Such work shall be deemed substantially completed by Landlord at such time as (i) the work has been completed in a good and workmanlike manner in substantial compliance with the approved plans and specifications therefor other than punch-list items which do not individually or in the aggregate materially interfere with Tenant's use and occupancy of the Premises for its intended purpose and (ii) Landlord has obtained a certificate of occupancy for the Premises Landlord shall notify Tenant of the contemplated date of substantial completion not less than three (3) business days before such date
- 4 1 2 (i) depreciation on the Building, (ii) debt service and costs or fees relating to the financing of the Building, (iii) rental under any ground or underlying lease, (iv) interest except as expressly provided in this Section 4 1 2, ~~(v) Taxes~~, (vi) the cost of any improvements or equipment which would properly be classified as capital expenditures (except for any capital expenditures expressly included in Direct Expenses pursuant to this Section 4 1 2, (vii) the cost of decorating, improving for tenant occupancy or painting or redecorating portion of the Building to be demised to tenants (including cost of permits, licenses and inspections in connection therewith), (viii) costs of attorneys fees incurred in connection with negotiations with tenants and prospective tenants, (ix) advertising and marketing costs relating to vacant space, (x) real estate brokers' or other leasing commissions, (xi) costs paid for or reimbursed by any third party including, without limitation, any insurer, warrantor or condemning authority, (xii) legal expenses for services other than those that benefit the Building tenants generally, (xiii) the initial construction cost of the Building or any defects in design or construction of the Building, (xiv) legal fees, accountant fees, and other expenses incurred in connection with the defense of Landlord's title to or interest in the Building or any part thereof, (xv) specific costs and expenses separately billed to and paid for by other tenants, (xvi) costs incurred due to a violation by Landlord or any other tenant of the Building under any lease, license or other agreement, (xvii) any bad debt loss, rent loss or reserves for bad debts or rent loss, or reserves for equipment or capital replacement, (xviii) any political or charitable contributions, (xix) interest or penalties incurred by Landlord in connection with any late payments by Landlord except to the extent proximately caused by Tenant's default under this Lease, ~~(xx) the cost of any artwork~~, (xxi) the wages of any off-site management personnel (except to the extent Landlord elects to cease operating an on-site management office in which case a reasonable allocation of off-site personnel wages shall be chargeable as Direct Expenses hereunder), (xxii) salaries, wages and other compensation paid to officers or directors of Landlord in their capacity as officers or directors, (xxiii) the cost of operating any retail space or parking garage contained in Building, (xxiv) costs incurred by Landlord in connection with the operation of the business entity which constitutes Landlord (as opposed to the operation of the Building), (xxv) any fines or penalties incurred due to violations by Landlord of any applicable legal requirement provided that such violation is not attributable to any act or omission of Tenant or any of its employees, agents, contractors or invitees, (xxvi) costs incurred in connection with any sale or change of ownership of the Building, including, without limitation, brokerage commissions, attorneys and accountants fees, closing costs, title insurance premiums, transfer taxes and debt losses, rent losses and reserves for such losses, (xxvii) amounts paid to any person, firm or other entity related to or otherwise affiliated with Landlord which are in excess of arm's length competitive prices in the St Louis area for such services or goods provided, (xxviii) costs arising from the removal or abatement of hazardous materials except those introduced to the Building by the Tenant or any of its contractors, agents, employees or invitees, (xxix) costs arising from conditions which, on the Commencement Date , violate the Americans with Disabilities Act or any other applicable law, (xxx) costs associated with damage or repairs to the Building necessitated by the negligence or willful misconduct of Landlord or Landlord's agents or contractors, (xxxi) services or installations furnished to any tenant in the Building which are not

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furnished to Tenant, or quantities of such services furnished to any tenant in the Building which are also furnished to Tenant but are furnished to Tenant but are furnished to other tenants in an amount materially in excess of that which would represent a fair proportion of such services, (xxxii) costs incurred in relocating tenants in the building, (xxxiii) amounts payable by Landlord to any tenant, mortgagee or other person or entity in connection with any indemnity obligation or for damages, and (xxxiv) any other expenses or costs that, in accordance with generally accepted accounting principles, consistently applied, would not normally be treated as Direct Expenses by comparable landlords of comparable buildings

4 1 3 Notwithstanding the foregoing, Taxes shall not include (i) any profits or excess profits tax, franchise taxes, gift taxes, estate taxes, capital stock taxes, inheritance and succession taxes, transfer taxes, recordation taxes, intangible taxes, federal, state or local income taxes, gross receipts taxes, capital gains taxes, corporate or unincorporated business taxes or any other taxes to the extent applicable to Landlord's general or net income, (ii) any items included as Direct Expenses or expressly excluded from Direct Expenses, (iii) any taxes imposed in connection with personal property owned, leased or used by any tenant or other occupant of the Building and (iv) penalties or interest incurred as a result of Landlord's failure to make any required payment of Taxes. In the event of any refund of any Taxes with respect to any Lease Year, Tenant shall receive a credit (or a direct refund in the event such refund relates to the final Lease Year) equal to Tenant's Proportionate Share of such refund, after deducting the reasonable costs incurred by Landlord in obtaining such refund amortized equally over the affected Lease Years. In no event will the credit or direct refund exceed the amount Tenant was originally charged for real estate tax escalation during the year for which the refund is issued.

7 2 excluding any violation or nuisance which existed on the Commencement Date or which was proximately caused by Landlord or any agent, employee, contractor or invitee of Landlord

7 4 or in connection with any repairs, alterations or improvements arising out of the negligence or willful misconduct of Landlord or any of its agents, employees or contractors,

In making any such repairs, alterations or improvements, Landlord shall use all reasonable efforts to minimize interference with Tenant's business operations and shall provide reasonable prior written notice except in the event of an emergency.

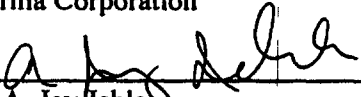
9 8 Notwithstanding anything herein to the contrary, Tenant may, without Landlord's consent but with prompt written notice to Landlord, assign its interest in this Lease or sublet all or any portion of the Premises to a corporation, partnership or other entity into or with which Tenant is merged or consolidated so long as successor corporation has a net worth equal to or greater than tenants' as of the date of this lease, or to which all or substantially all of Tenant's assets are transferred or sold or to any corporation, partnership or other entity which controls or is controlled by Tenant's parent or is under common control with Tenant or Tenant's parent (any of the foregoing, a "Permitted Transferee")

  
Initial

13.1 In the event that any such interruption in service continues for at least five (5) consecutive business days, commencing with the sixth (6<sup>th</sup>) day and for so long as such condition continues, rent shall abate hereunder on an equitable basis based upon the area of the Premises rendered untenantable by such condition

LANDLORD

Gateway Taft, Inc.,  
a California Corporation

By   
A. Jay Jehle

Title Vice President - Portfolio Manager

Dated 2/22/00

By RREEF Management Company,  
a Delaware Corporation

By   
Mary Ellen Stahl

Title District Manager

Dated 2/17/00

TENANT

Allegiance Telecom, Inc.,  
a Delaware Corporation

By   
Patricia E. Koide

Title Senior Vice President

Dated Feb 11, 2000

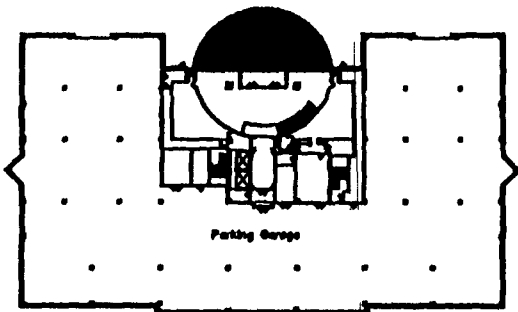
EXHIBIT A

attached to and made a part of Lease bearing the  
Lease Reference Date of January 12, 2000, between Gateway Taft Inc.,  
a California Corporation, as Landlord and Allegiance Telecom Inc.,  
a Delaware Corporation, as tenant

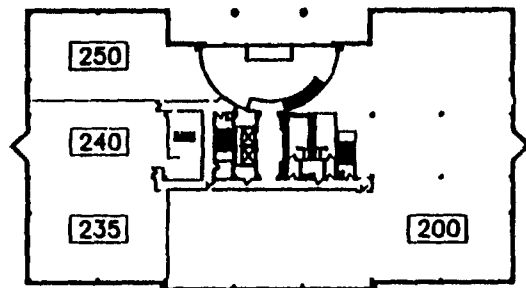
PREMISES

Exhibit A is intended only to show the general layout of the Premises as of the beginning of the Term of this Lease. It does not in any way supersede any of Landlord's rights set forth in Section 17.2 with respect to arrangements and/or locations of public parts of the Building and changes in such arrangements and/or locations. It is not to be scaled, any measurements or distances shown should be taken as approximate.

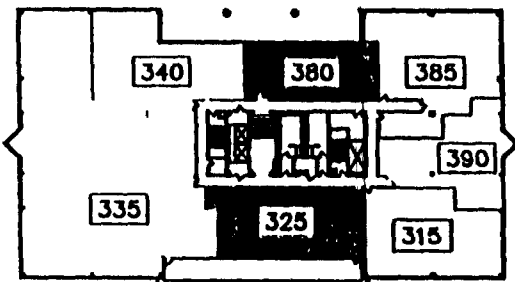
9,123 rentable square feet  
(approximate configuration)  
12655 Olive Blvd., Suites 425 & 475  
St. Louis, MO 63141



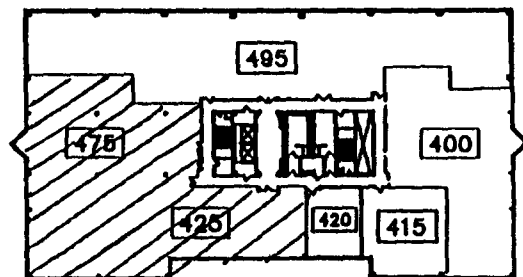
FIRST FLOOR PLAN



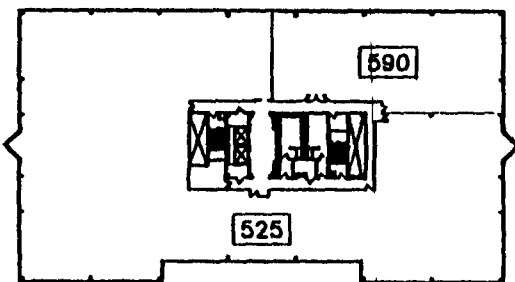
SECOND FLOOR PLAN



THIRD FLOOR PLAN



FOURTH FLOOR PLAN



FIFTH FLOOR PLAN



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EXHIBIT B

attached to and made a part of Lease bearing the  
Lease Reference Date of January 12, 2000, ~~1999~~ between Gateway Taft Inc.,  
a California Corporation, as Landlord and Allegiance Telecom, Inc.,  
a Delaware Corporation, as Tenant

INITIAL ALTERATIONS

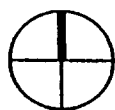
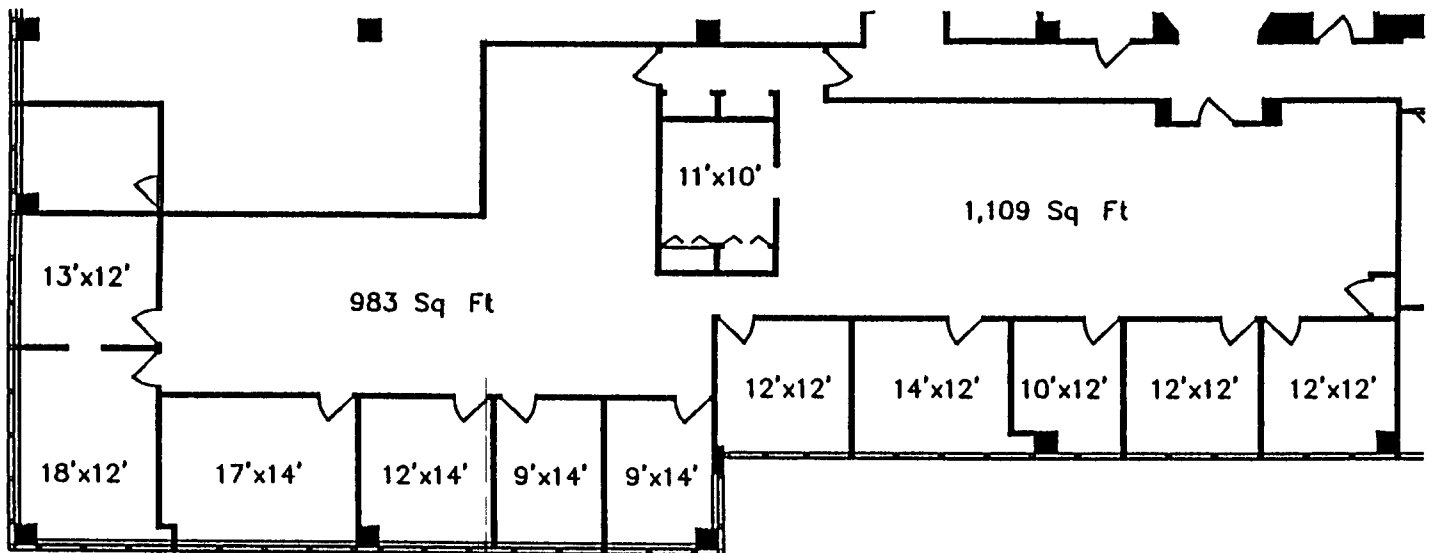
9,123 rentable square feet  
(approximate configuration)  
12655 Olive Blvd., Suites 425 & 475  
St. Louis, MO 63141

except as provided in  
Paragraph 7 of Rider #1

Tenant Improvements:

Landlord shall contribute up to \$18.00 per <sup>rentable</sup> square  
foot toward design and construction of tenant  
improvements. Tenant shall be required to pay  
any expenses over this amount upon receipt of  
invoice from Landlord. Any construction manage-  
ment fee charged by Landlord shall not exceed  
3%.

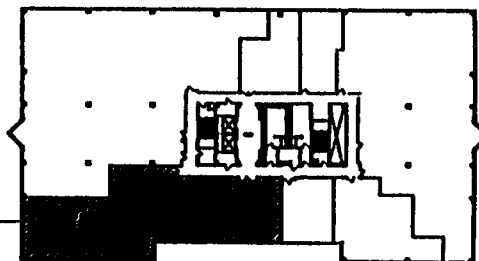
If said improvements cost less than \$16.00 per  
square foot, the difference between \$16.00 per  
square foot and the actual cost shall be  
credited towards rent.



Partial Fourth Floor Plan

0 10 20  
feet

Suite 425  
4,28 r s f  
Square Footage is Approximate  
And Must Be Verified



Key Plan

Not To Scale

*Handwritten signature/initials*

EXHIBIT B-1

attached to and made a part of Lease bearing the  
Lease Reference Date of January 12, 2000, ~~1999~~ between Gateway Taft Inc ,  
a California Corporation , as Landlord and Allegiance Telecom, Inc.,  
a Delaware Corporation , as Tenant

INITIAL ALTERATIONS

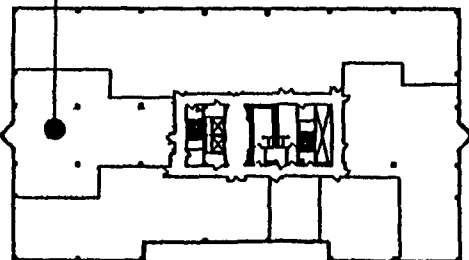
9,123 rentable square feet  
(approximate configuration)  
12655 Olive Blvd., Suites 425 & 475  
St. Louis, MO 63141

except as provided in  
Paragraph 7 of Rider #1

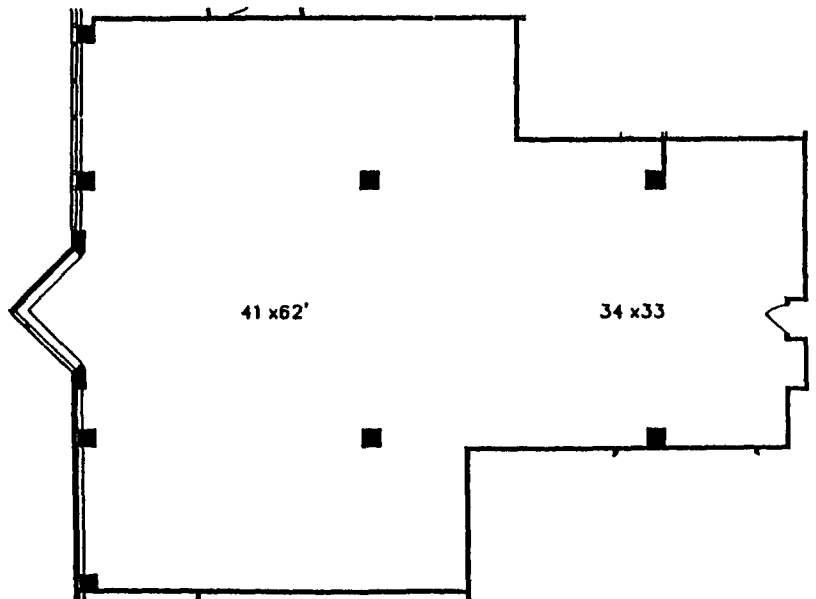
Tenant Improvements: rentable  
Landlord shall contribute up to \$18.00 per square  
foot toward design and construction of tenant  
improvements. Tenant shall be required to pay  
any expenses over this amount upon receipt of  
invoice from Landlord. Any construction manage-  
ment fee charged by Landlord shall not exceed  
3%.

If said improvements cost less than \$16.00 per  
square foot, the difference between \$16.00 per  
square foot and the actual cost shall be  
credited towards rent.

Suite 475  
4,398 r s f  
Square Footage Is Approximate  
And Must Be Verified



⊕ Key Plan  
Not To Scale



⊕ Partial Fourth Floor Plan  
0 10 20  
[Scale bar]

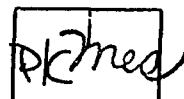
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## EXHIBIT C

attached to and made a part of Lease bearing the  
Lease Reference Date of January 12, 2000, ~~box~~ between Gateway Taft Inc.,  
a California Corporation, as Landlord and Allegiance Telecom, Inc.,  
a Delaware Corporation, as Tenant

### RULES AND REGULATIONS

- 1 No sign, placard, picture, advertisement, name or notice shall be installed or displayed on any part of the outside or inside of the Building without the prior written consent of the Landlord. Landlord shall have the right to remove, at Tenant's expense and without notice, any sign installed or displayed in violation of this rule. All approved signs or lettering on doors and walls shall be printed, painted, affixed or inscribed at the expense of Tenant by a person or vendor chosen by Landlord. In addition, Landlord reserves the right to change from time to time the format of the signs or lettering and to require previously approved signs or lettering to be appropriately altered.
- 2 If Landlord objects in writing to any curtains, blinds, shades or screens attached to or hung in or used in connection with any window or door of the Premises, Tenant shall immediately discontinue such use. No awning shall be permitted on any part of the Premises. Tenant shall not place anything or allow anything to be placed against or near any glass partitions or doors or windows which may appear unsightly, in the opinion of Landlord, from outside the Premises.
- 3 Tenant shall not obstruct any sidewalks, halls, passages, exits, entrances, elevators, escalators or stairways of the Building. The halls, passages, exits, entrances, shopping malls, elevators, escalators and stairways are not for the general public, and Landlord shall in all cases retain the right to control and prevent access to the Building of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interests of the Building and its tenants provided that nothing contained in this rule shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. No tenant and no employee or invitee of any tenant shall go upon the roof of the Building.
- 4 The directory of the Building will be provided exclusively for the display of the name and location of tenants only and Landlord reserves the right to exclude any other names therefrom.
- 5 All cleaning and janitorial services for the Building and the Premises shall be provided exclusively through Landlord. Tenant shall not cause any unnecessary labor by carelessness or indifference to the good order and cleanliness of the Premises. Landlord shall not in any way be responsible to any Tenant for any loss of property on the Premises, however occurring, or for any damage to any Tenant's property by the janitor or any other employee or any other person.
- 6 Landlord will furnish Tenant free of charge with two keys to each door in the Premises. Landlord may make a reasonable charge for any additional keys, and Tenant shall not make or have made additional keys, and Tenant shall not alter any lock or install a new or additional lock or bolt on any door of its Premises. Tenant, upon the termination of its tenancy, shall deliver to Landlord the keys of all doors which have been furnished to Tenant, and in the event of loss of any keys so furnished, shall pay Landlord therefor.
- 7 If Tenant requires telegraphic, telephonic, burglar alarm or similar services, it shall first obtain, and comply with, Landlord's instructions in their installation.
- 8 No equipment, materials, furniture, packages, supplies, merchandise or other property will be received in the Building or carried in the elevators except between such hours and in such elevators as may be designated by Landlord.
- 9 Tenant shall not place a load upon any floor which exceeds the load per square foot which such floor was designed to carry and which is allowed by law. Landlord shall have the right to prescribe the weight, size and position to all equipment, materials, furniture or other property brought into the Building. Heavy objects shall stand on such platforms as determined by Landlord to be necessary to properly distribute the weight. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Building or to any space in the Building to such a degree as to be objectionable to Landlord or to any tenants shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate noise.



or vibration. The persons employed to move such equipment in or out of the Building must be acceptable to Landlord. Landlord will not be responsible for loss of, or damage to, any such equipment or other property from any cause, and all damage done to the Building by maintaining or moving such equipment or other property shall be repaired at the expense of Tenant.

10. Tenant shall not use any method of heating or air conditioning other than that supplied by Landlord. Tenant shall not waste electricity, water or air conditioning. Tenant shall keep corridor doors closed.

11. Landlord reserves the right to exclude from the Building between the hours of 6 p.m. and 7 a.m. the following day, or such other hours as may be established from time to time by Landlord, and on Sundays and legal holidays any person unless that person is known to the person or employee in charge of the Building and has a pass or is properly identified. Tenant shall be responsible for all persons for whom it requests passes and shall be liable to Landlord for all acts of such persons. Landlord shall not be liable for damages for any error with regard to the admission to or exclusion from the Building of any person.

12. Tenant shall close and lock the doors of its Premises and entirely shut off all water faucets or other water apparatus and electricity, gas or air outlets before Tenant and its employees leave the Premises. Tenant shall be responsible for any damage or injuries sustained by other tenants or occupants of the Building or by Landlord for noncompliance with this rule.

13. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, no foreign substance of any kind whatsoever shall be thrown into any of them, and the expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose employees or invitees, shall have caused it.

14. Tenant shall not install any radio or television antenna, satellite dish, loudspeaker or other device on the roof or exterior walls of the Building. Tenant shall not interfere with radio or television broadcasting or reception from or in the Building or elsewhere.

15. Except as approved by Landlord, Tenant shall not mark, drive nails, screw or drill into the partitions, woodwork or plaster or in any way deface the Premises. Tenant shall not cut or bore holes for wires. Tenant shall not affix any floor covering to the floor of the Premises in any manner except as approved by Landlord. Tenant shall repair any damage resulting from noncompliance with this rule.

16. Tenant shall not install, maintain or operate upon the Premises any vending machine.

17. Tenant shall store all its trash and garbage within its Premises. Tenant shall not place in any trash box or receptacle any material which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by Landlord.

18. No cooking shall be done or permitted by any Tenant on the Premises, except by the Tenant of Underwriters' Laboratory approved microwave oven or equipment for brewing coffee, tea, hot chocolate and similar beverages shall be permitted provided that such equipment and use is in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations.

19. Tenant shall not use in any space or in the public halls of the Building any hand trucks except those equipped with the rubber tires and side guards or such other material-handling equipment as Landlord may approve. Tenant shall not bring any other vehicles of any kind into the Building.

20. Tenant shall not use the name of the Building in connection with or in promoting or advertising the business of Tenant except as Tenant's address.

21. The requirements of Tenant will be attended to only upon appropriate application to the office of the Building by an authorized individual. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instruction from Landlord, and no employee of Landlord will admit any person (Tenant or otherwise) to any office without specific instructions from Landlord.

22. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no such waiver by Landlord shall be construed as a waiver.

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of such Rules and Regulations in favor of any other tenant or tenants, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Building in a non-discriminatory manner.

23 These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of any lease of premises in the Building

non-discriminatory

24 Landlord reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for safety and security, for care and cleanliness of the Building and for the preservation of good order in and about the Building. Tenant agrees to abide by all such rules and regulations in this Exhibit C stated and any additional rules and regulations which are adopted and of which Tenant has prior written notice.

25. Tenant shall be responsible for the observance of all of the foregoing rules by Tenant's employees, agents, clients, customers, invitees and guests

In the event of any conflict between these Rules and Regulations, including any subsequently enacted Rules and Regulations, and the terms of the Lease, the terms of the Lease shall control.

**FIRST AMENDMENT TO LEASE**

This Amendment, dated this 31st day of July, 2000, between Gateway Taft, Inc, a California Corporation and having an address at RREEF Management Company, 1610 Des Peres Road, Suite 375, St Louis, Missouri 63131 ("Landlord") and Allegiance Telecom, Inc, a Delaware Corporation ("Tenant") having an address at 12655 Olive Boulevard, Suite 425, St Louis, Missouri 63141 (the "Premises")

**WITNESSETH:**

**WHEREAS**, Landlord and Tenant entered into that certain Lease dated January 12, 2000 (hereinafter collectively referred to as the "Lease"),

**WHEREAS**, Landlord and Tenant desire to amend the Lease as more fully set forth below

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows

1 **Definitions** Unless otherwise specifically set forth herein, all capitalized terms herein shall have the same meaning as set forth in the Lease

- 1) The scheduled commencement date of the lease as shown on the reference page shall be amended to May 19, 2000 and the termination date shall be September 18, 2007. Rent shall be abated for the period May 19, 2000 – September 18, 2000. Rent will commence September 19, 2000 and will be pro-rated for that month.


2 **Incorporation** Except as modified herein, all other terms and conditions of the Lease between the parties above described, as attached hereto, shall continue in full force and effect

3 **Limitation of Landlord's Liability** Redress for any claims against Landlord under this Amendment or under the Lease shall only be made against Landlord to the extent of Landlord's interest in the property to which the Premises are a part. The obligations of Landlord under this Amendment and the Lease shall not be personally binding on, nor shall any resort be had to the private properties of, any of its trustees or board of directors and officers, as the case may be, the general partners thereof or any beneficiaries, stockholders, employees or agents of Landlord, or its investment manager

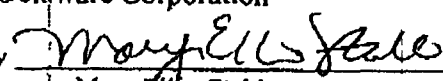
IN WITNESS WHEREOF, Landlord and Tenant have executed this First Amendment as of the day and year first written above

LANDLORD

Gateway Taft, Inc.,  
a California Corporation

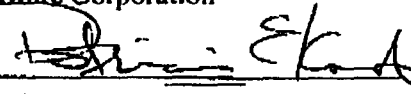
By   
A Jay Ichle  
Title VP - Portfolio Manager  
Dated 8/15/00

By RREEF Management Company,  
a Delaware Corporation

By   
Mary Ellen Stahl  
Title District Manager  
Dated 8/11/00

TENANT

Allegiance Telecom, Inc.,  
a Delaware Corporation

By   
Patricia E. Koide  
Title Senior Vice President  
Dated August 8, 2000

**ASSIGNMENT OF LEASES, SERVICE CONTRACTS,  
WARRANTIES AND OTHER INTANGIBLE PROPERTY**

This Assignment of Leases, Service Contracts, Warranties and Other Intangible Property (this "Assignment") is made and entered into June 11, 2003 by and between GATEWAY TAFT, INC , a California corporation ("Assignor"), and CORNERSTONE-WEST PARK, L L C , a Missouri limited liability company ("Assignee")

For good and valuable consideration paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby assign, transfer, set over and deliver unto Assignee all of Assignor's right, title, and interest in and to the following (collectively, the "Assigned Items") (i) those certain leases (the "Leases") listed on Exhibit A attached hereto and made a part hereof for all purposes except for Seller's right to collect delinquent rent and other delinquent sums owing under such Leases for the period prior to the date hereof in accordance with the Agreement (as defined below) (ii) those certain service contracts, equipment leases, tenant improvement agreements and leasing agreements (the "Service Contracts") listed on Exhibit B, if any, attached hereto and made a part hereof for all purposes and (iii) those certain warranties held by Assignor (the "Warranties") listed on Exhibit C, if any, attached hereto and made a part hereof for all purposes, and (iv) all zoning, use, occupancy and operating permits, and other permits, licenses, approvals and certificates, maps, plans, specifications, studies, reports and other construction and/or development related documents, if any, and all other Intangible Personal Property (as defined in the Agreement) owned by Assignor and used exclusively in the use or operation of the Real Property and Personal Property (each as defined in the Agreement), including, without limitation, any right of Assignor to any utility contracts or other agreements or rights relating to the use and operation of the Real Property and Personal Property, but excluding the name "RREEF" and any derivatives thereof (collectively, the "Other Intangible Property")

This Assignment is made subject, subordinate and inferior to the easements, covenants and other matters and exceptions set forth on Exhibit D, if any, attached hereto and made a part hereof for all purposes

ASSIGNEE ACKNOWLEDGES AND AGREES, BY ITS ACCEPTANCE HEREOF, THAT, EXCEPT AS EXPRESSLY PROVIDED IN, AND SUBJECT TO THE LIMITATIONS CONTAINED IN, THAT CERTAIN AGREEMENT OF PURCHASE AND SALE DATED MARCH 31, 2003 BY AND BETWEEN ASSIGNOR AND CORNERSTONE EQUITIES, L L C , A MISSOURI LIMITED LIABILITY COMPANY, PREDECESSOR-IN-INTEREST TO ASSIGNEE, AS AMENDED (COLLECTIVELY, THE "AGREEMENT"), THE ASSIGNED ITEMS ARE CONVEYED "AS IS, WHERE IS" AND IN THEIR PRESENT CONDITION WITH ALL FAULTS, AND THAT ASSIGNOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE NATURE, QUALITY OR CONDITION OF THE ASSIGNED ITEMS, THE INCOME TO BE DERIVED THEREFROM, OR THE ENFORCEABILITY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE ASSIGNED ITEMS

Except as otherwise expressly provided in Article VII of the Agreement, by accepting this Assignment and by its execution hereof, Assignee assumes the payment and performance of,

and agrees to pay, perform and discharge, all the debts, duties and obligations to be paid, performed or discharged from and after the Closing Date (as defined in the Agreement) by (a) the "landlord" or the "lessor" under the terms, covenants and conditions of the Leases, including, without limitation brokerage commissions and compliance with the terms of the Leases relating to tenant improvements and security deposits, and (b) the owner under the Service Contracts, the Warranties and/or the Other Intangible Property Assignee agrees to indemnify, hold harmless and defend Assignor from and against any and all claims, losses, liabilities, damages, costs and expenses (including, without limitation, court costs and reasonable attorneys' fees and disbursements) resulting by reason of the failure of Assignee to pay, perform or discharge any of the debts, duties or obligations assumed or agreed to be assumed by Assignee hereunder arising out of or relating to, directly or indirectly, in whole or in part, the Assigned Items, from and after the Closing Date Except as otherwise expressly provided in Article VII and subject to the provisions of Sections 3.2 and 9.19 of the Agreement (which provisions are not modified in any way by the following indemnity), Assignor agrees to protect, indemnify, defend and hold Assignee harmless from and against all claims, losses, damages, costs, expenses, obligations and liabilities (including, without limitation, court costs and reasonable attorneys' fees and disbursements) (collectively, "Claims") arising out of or relating to, directly or indirectly, in whole or in part, the Leases or Service Contracts prior to the Closing Date, provided, however, that the foregoing indemnity shall not apply to any Claims relating in any way to the physical, environmental or other condition of the Property (as defined in the Agreement) or the compliance or non-compliance of the Property with any legal requirements, and provided further that the foregoing indemnity shall apply solely to Claims first raised after the Closing Date and shall survive only for a period of twelve (12) months after the Closing Date Any such Claim which Assignee may have at any time against Assignor, whether known or unknown, which is not specifically asserted by written notice to Assignor within such twelve (12) month period shall not be valid or effective, and neither Assignor nor any Seller Related Parties (as defined in the Agreement) shall have any liability with respect thereto

The obligations of Assignor are intended to be binding only on the property of Assignor and shall not be personally binding upon, nor shall any resort be had to, the private properties of any Seller Related Parties

All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns

This Assignment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument

*[signature page follows]*



IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be executed on the day and year first above written

*Assignor*

GATEWAY TAFT, INC.,  
a California corporation

By

Name Margaret O. Shuler

Its Vice President & Secretary

*Assignee*

CORNERSTONE-WEST PARK, L L C ,  
a Missouri limited liability company

By

Name Robert H Johnson

Its Manager

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be executed on the day and year first above written


*Assignor*

GATEWAY TAFT, INC ,  
a California corporation

By \_\_\_\_\_  
Its \_\_\_\_\_

*Assignee*

CORNERSTONE-WEST PARK, L L C ,  
a Missouri limited liability company

By   
Name Robert H Johnson  
Its Manager

## **EXHIBIT A**

### **Leases**

#### **OFFICE TENANTS**

##### **Thomas A. Croft – Suite 420**

Lease Agreement dated January 29, 1999

First Amendment to Lease dated September 2, 1999

##### **Allegiance Telecom, Inc. – Suites 425 & 475**

Lease Agreement dated January 12, 2000

First Amendment to Lease dated July 31, 2000

##### **Computer Task Group, Inc. – Suite 385**

Lease Agreement dated February 22, 1999

First Amendment to Lease dated June 25, 1999

Sublease with Camp Dresser & McKee dated June 18, 2001

##### **Phoenix Home Life (dba Premier Financial Partners) – Suites 400, 415, 480, 485 & 495**

Lease Agreement dated January 27, 1995

First Amendment to Lease dated November 25, 1998

Second Amendment to Lease dated July 27, 1999

Sublease Agreement dated December 1, 1998

##### **Mobius Management Systems, Inc. – Suite 315**

Lease Agreement dated January 6, 1999

Commencement Memorandum and Agreement dated February 17, 1999

Sublease Agreement dated January 6, 1999

##### **Levi, Ray & Shoup, Inc. – Suites 235, 240, 240A & 250**

Lease Agreement dated July 23, 1999

First Amendment to Lease dated September 16, 1999

Second Amendment to Lease dated December 15, 1999

Third Amendment to Lease dated June 30, 2000

Storage Space Lease Agreement dated June 25, 1999

##### **Regency Centers (successor to Midland Development) – Suite 200**

Lease Agreement dated February 16, 1987

Amendment to Lease dated April 1, 1988

Second Amendment to Lease dated April 6, 1989

Third Amendment to Lease dated September 15, 1989

Fourth Amendment to Lease dated November 8, 1993

Fifth Amendment to Lease dated October 5, 1994

Sixth Amendment to Lease dated June 30, 1997

Lease Assignment dated September 3, \_\_\_\_

Sublease dated June \_\_, 1998

Consent to Sublease dated August 24, 1998

**Talisen Technologies – Suite 500**

Lease Agreement dated December 31, 2001  
Side letter dated December 31, 2001  
Commencement letter dated February 20, 2002  
2003 Amendment dated January 15, 2003  
Commencement Date Memorandum dated March 6, 2003

**Telcordia Technologies – Suite 380**

Lease Agreement dated February 17, 1999  
First Amendment to Lease dated November 1, 2001  
Second Amendment to Lease dated April 4, 2003

**Sprint Spectrum (Rooftop)**

License Agreement dated January 8, 2002

**Oak Street Mortgage - Suite 340**

Lease Agreement dated January 27, 2003  
Commencement Date Memorandum dated April 10, 2003

**Landco Construction- Suite 325**

Lease dated November 27, 2002

**RETAIL TENANTS.**

**Advanced Vision Institute, Inc – 12601 Olive Boulevard**

Lease Effective Date – 05/06  
First Amendment to Lease September 17, 1999  
Sublease agreement – May 1, 2000  
Modification to Sublease Agreement – February 7, 2003  
Second Amendment to lease – February 7, 2003  
Consent to Sublease  
Sublease Agreement – February 19, 2003

**American Prestige, Inc. – 12639 Olive Boulevard**

Lease Effective Date – 03/07  
First Amendment to Lease – March 7, 2001

**Annex Two – 12623 Olive Boulevard**

Lease Effective Date – February 26, 2002  
Signage Agreement – August 1, 2001

**Lori Holcomb, D M D., P C. – 12611 Oliver Boulevard**

Lease Effective Date – 04/12  
First Amendment to Lease – April 4, 2001  
License Agreement – January 18, 2002

**G H Malone's – 12643 Olive Boulevard**

Lease Effective Date – 02/29  
Signage Agreement – August 1, 2001

**Mercy Medical Group – 12609 Olive Boulevard**  
Lease Effective Date – 06/05  
First Amendment to Lease – June 19, 2000

**Optical Expressions – 12619 Olive Boulevard**  
Lease Effective Date – 02/01

**Pastries of Denmark – 12613 Olive Boulevard**  
Lease Effective Date – 09/14  
First Amendment to Lease – January 10, 1994  
Second Amendment to Lease – September 25, 1998  
Signage Agreement – September 1, 2001  
Third Amendment to Lease – January 1, 2003

**R&G Restaurants, L.C. – 12653 Olive Boulevard**  
Lease Effective Date – 01/01  
Assignment, Amendment & Release – February 8, 1996  
Second Amendment – August 28, 1997  
Third Amendment – March 24, 1999

**St Louis PET Centers – 12633 and 12637 Olive Boulevard**  
Lease Effective Date – 07/02

**Studio Branca – 12627 Olive Boulevard**  
Lease Effective Date – March 26, 2002 (original lease effective 6/24/1997, due to expansion a new lease was executed)

**Westpark Cleaners – 12631 Olive Boulevard**  
Lease Effective Date – 05/21

**EXHIBIT B**

**SERVICE CONTRACTS**

<b>Name of Vendor</b>	<b>Service</b>
Ace Metal Refinishers	Metal Cleaning
Air Masters Corp	HVAC M & R
Audio Comm Network	Musak
Blue Chip Exterminating	Pest Control
Botanical Designs	Ext/Interior Plant Rental
Building Stars	Janitorial
Clearview Window Cleaning	Window Cleaning
Custom Air Filter	Air Filters
Harris Consulting Engineers	Tenant Electric Billing
Automation Solutions	EMS Monitoring
Hughes Customat	Lobby Mat Service
Kings III	Monitor Elev Phones
Midwest Elevator	Elevator Maint
Tech Electronics	Alarm Monitoring
Tower Resource Mgmt.	Roof Top Management
Waste Management	Waste Removal
Building Stars	Day Porter
Woodsmill Pest Control	Termite Service

**EXHIBIT C**

**Warranties**

NONE

## **EXHIBIT D**

### **Exceptions to Title**

- (1) Interests of tenants in possession under the Leases,
- (2) Matters created by or with the written consent of Assignee,
- (3) Non-delinquent liens for real estate taxes and assessments,
- (4) The Restated Declaration of Covenants, Easements and Restrictions dated March 15, 1996, and recorded in Book 10780, at Page 197 in the Office of the Recorder of Deeds of St Louis County, Missouri and all amendments thereto, all the provisions of which are incorporated herein as so set forth herein and are covenants running with the land constituting West Park, and
- (5) Those certain exceptions to title listed on Schedule 1 attached hereto and, any other exceptions to title disclosed by the public records or which would be disclosed by an inspection and/or survey of the Property (as such term is defined in the Agreement)



## SCHEDULE 1

### PERMITTED EXCEPTIONS

- 1 All assessments and taxes for the year 2003 and all subsequent years for the County of St. Louis and City of Creve Coeur Paid current
- 2 Easement, 100 feet wide, condemned by Union Electric Company under Condemnation Suit No. 212384 filed in the Circuit Court of St. Louis County
- 3 Terms and provisions of Looped Multi-Feed Water System Use Restriction, according to instrument recorded in Book 8051, page 1131
- 4 Easement granted to the Metropolitan St. Louis Sewer District, according to instrument recorded in Book 8024 page 1471
- 5 Easements for Center Park Drive and other drives, utility easements and other easements, according to the plat recorded in Plat Book 257, page 33, and amended by instruments recorded in Book 8258 page 2158 and Book 8271 page 1965
- 6 Easement granted to Union Electric Company, according to instrument recorded in Book 8227, page 1583 and Book 8410 page 2145, and partial vacation recorded in Book 8410 page 2155
- 7 Easement granted to Laclede Gas Company, according to instrument recorded in Book 8296 page 2103.
- 8 Covenants, easements, restrictions and rights and powers of Board of Trustees, as established by the Restated Declaration recorded in Book 10780 page 197
- 9 Terms and provisions of the Reciprocal Easement, Joint Use, Construction and Maintenance Agreements recorded in Book 8461 page 1189
- 10 Building lines, easements, covenants and restrictions established by the recorded plat in Plat Book 284 pages 1 and 2
- 11 Easement granted to Union Electric Company by instrument recorded in Book 8710 page 1847
- 12 Terms and provisions of Site Development Plan-Grading & Landscaping for West Park Center-East and parking for West Park Center, according to the plats thereof recorded on September 4, 1996 in Plat Book 344 pages 147, 148, and 149
- 13 Sign Location Agreement by and among Olive-Mason, L.P., John Hancock Mutual Life Insurance Company and AMC Realty, Inc., dated as of December 2, 1997 and recorded on December 4, 1997 in Book 11376 page 2205

- 14 Duties and Obligations imposed as set forth in the instrument creating the estate defined in Parcel 3 herein, recorded in Book 8119 page 1598
- 15 Sewer Assessments, if any Paid current
- 16 Assessments for Common Area maintenance, if any Paid current
- 17 Rights of tenants in possession under any unrecorded leases or month to month tenancies as listed in their entirety on the attached Schedule 2
- 18 Terms and provisions of that certain Lease Agreement dated 1/5/1993 by and between Broken Heart Venture and Dockrockers Restaurant and Bar, Inc and assigned to R & G Restaurant, L C , notice of which is given in the instrument recorded in 3/17/2003 in Book 14673 page 3374
- 19 Terms, provisions, conditions, restrictions and easements contained in the Property Owners Agreement dated as of 2/27/2003, executed by Gateway Taft, Inc , a California corporation, recorded in Book 14673 page 3374

## SCHEDULE 2

### **Leases**

#### **OFFICE TENANTS:**

##### **Thomas A Croft – Suite 420**

Lease Agreement dated January 29, 1999

First Amendment to Lease dated September 2, 1999

##### **Allegiance Telecom, Inc – Suites 425 & 475**

Lease Agreement dated January 12, 2000

First Amendment to Lease dated July 31, 2000

##### **Computer Task Group, Inc – Suite 385**

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Lease Assignment dated September 3, \_\_\_\_

Sublease dated June \_\_, 1998

Consent to Sublease dated August 24, 1998

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Lease Agreement dated December 31, 2001

Side letter dated December 31, 2001

Commencement letter dated February 20, 2002

2003 Amendment dated January 15, 2003

Commencement Date Memorandum dated March 6, 2003

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Lease Agreement dated February 17, 1999

First Amendment to Lease dated November 1, 2001

Second Amendment to Lease dated April 4, 2003

**Sprint Spectrum (Rooftop)**

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**RETAIL TENANTS:**

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Lease Effective Date – 05/06

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Sublease agreement – May 1, 2000

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Second Amendment to lease – February 7, 2003

Consent to Sublease

Sublease Agreement – February 19, 2003

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Lease Effective Date – 03/07

First Amendment to Lease – March 7, 2001

**Annex Two – 12623 Olive Boulevard**

Lease Effective Date – February 26, 2002

Signage Agreement – August 1, 2001

**Lori Holcomb, D M D., P C – 12611 Oliver Boulevard**

Lease Effective Date – 04/12

First Amendment to Lease – April 4, 2001

License Agreement – January 18, 2002

**G H Malone's – 12643 Olive Boulevard**

Lease Effective Date – 02/29

Signage Agreement – August 1, 2001

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**Mercy Medical Group – 12609 Olive Boulevard**

**Lease Effective Date – 06/05**

**First Amendment to Lease – June 19, 2000**

**Optical Expressions – 12619 Olive Boulevard**

**Lease Effective Date – 02/01**

**Pastries of Denmark – 12613 Olive Boulevard**

**Lease Effective Date – 09/14**

**First Amendment to Lease – January 10, 1994**

**Second Amendment to Lease – September 25, 1998**

**Signage Agreement – September 1, 2001**

**Third Amendment to Lease – January 1, 2003**

**R&G Restaurants, L.C. – 12653 Olive Boulevard**

**Lease Effective Date – 01/01**

**Assignment, Amendment & Release – February 8, 1996**

**Second Amendment – August 28, 1997**

**Third Amendment – March 24, 1999**

**St. Louis PET Centers – 12633 and 12637 Olive Boulevard**

**Lease Effective Date – 07/02**

**Studio Bionca – 12627 Olive Boulevard**

**Lease Effective Date – March 26, 2002 (original lease effective 6/24/1997, due to expansion a new lease was executed)**

**Westpark Cleaners – 12631 Olive Boulevard**

**Lease Effective Date – 05/21**

1

McCARTHY, LEONARD, KAEMMERER,  
OWEN, McGOVERN & STRILER L C

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JAMES P TOWEY JR \*  
TODD A MASSA\*  
ROBERT W HOFFMAN  
KATHERINE S WALSH  
KEVIN T McLAUGHLIN  
ROBERT A MILLER\*  
JAMES R WALSH\*

CHRISTOPHER C O CONNELL  
KRISTEN L MALY\*\*  
DANIEL K MANNION  
TRENTON K BOND  
BRYAN M KAEMMERER

\* ALSO LICENSED IN ILLINOIS  
\*\* ALSO LICENSED IN INDIANA

June 16, 2004

United States Bankruptcy Court  
Southern District of New York  
Attention Clerk  
Bowling Green Station  
P O Box 95  
New York, New York 10274-0095

RE Debtor Allegiance Telecom, Inc , et al  
Case No 03-13057 (RDD)  
Creditor Cornerstone West Park, L L C , c/o Robert L Striler,  
Attorney-at-Law

Dear Clerk

Please find enclosed original and one (1) of "Proof of Claim" to be filed in the above-referenced bankruptcy. Would you please file the original, and send back to my attention a file-stamped copy in the enclosed self-addressed, stamped envelope.

Thank you for your consideration in this matter, and if you have any questions, please don't hesitate to contact me.

Very truly yours,



Robert L Striler

RLS dib

Enclosure

cc Kirkland & Ellis LLP

Attention Matthew A Cantor/Jonathan S Henes, Attorneys for Debtors  
and Debtors in Possession

Colliers Turley Martin Tucker, Attention Ms Kelly Diehl

K:\Turley Martin Tucker\Allegiance Telecom\Bankruptcy Court letter 061404

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_ X  
In re

Allegiance Telecom, Inc , et al., Chapter 11 Case No  
03-13057 (RDD)

Debtors Jointly Administered  
\_\_\_\_\_ X

**STIPULATION AND AGREED ORDER RESOLVING CLAIMS OF  
CORNERSTONE WEST PARK LLC**

This STIPULATION AND AGREED ORDER is by and between the Allegiance  
Telecom Liquidating Trust (the "ATLT"), as successor to the Debtors (as defined below), and  
Cornerstone West Park LLC ("Claimant") The parties hereby stipulate and agree as follows

WHEREAS, on or about January 12, 2000, Debtor Allegiance Telecom, Inc ("ATI")  
entered into a lease (the "Lease") with Gateway Taft Inc ("Gateway") for office space at 12655 Olive  
Boulevard, Suites 425 and 475, St Louis, Missouri 63141, and

WHEREAS, Gateway waived any obligation for ATI to pay a cash security deposit,  
and

WHEREAS, on May 14, 2003, ATI 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

Docket #1961  
eod 12-8-04

claim 2873

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, 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 on the Initial Effective Date, and

WHEREAS, on or about July 1, 2004, Claimant, as successor to Gateway, filed a proof of claim numbered 2873 (the “Proof of Claim”) for an unsecured, priority claim against ATI in the amount of \$236,075 55 (the “Rejection Claim”), and

WHEREAS, Claimant has not filed any proofs of claim in the Chapter 11 Cases besides the Proof of Claim, and

WHEREAS, the ATLT disputes the amounts sought by Claimant in the Proof of 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 Proof of Claim, and

WHEREAS, the ATLT and Claimant have negotiated in good faith at arm’s length and have reached a consensual resolution, as set forth below, with respect to the Proof of 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 Claimant an allowed ATI Unsecured Claim (as such term is defined in the Plan) of \$189,767.75 (the "Allowed Unsecured Claim") in full and complete satisfaction of all Claims (as such term is defined in the Plan) held by Claimant with respect to the Debtors, the Debtors' estates, and/or the ATLT, including, but not limited to, the Rejection Claim.

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

3        Upon the entry of a Final Order approving this Stipulation, the ATLT is hereby authorized and directed to expunge all proofs of claims relating to Claimant from the ATLT's claims register, except for the Proof of Claim, which shall be amended to include only the Allowed Unsecured Claim.

4        Claimant 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.

5        Upon entry of a Final Order approving this Stipulation, Claimant 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 Claimant has, had, or may have in the future against the Estate Parties

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

7 The undersigned on behalf of the ATLT and Claimant 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

8 Claimant represents and warrants to the ATLT that, as of the date hereof, it is the sole holder of the Proof of Claim and that Claimant has not assigned, sold, hypothecated or otherwise transferred any Claims against the Debtors, the Debtors' estates, or the ATLT

9 This Stipulation is subject to approval by the Court and the entry of a Final Order by the Court approving this Stipulation, provided, however, that the parties shall support such Court approval and comply with this Stipulation pending the 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

10 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.

11 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.

12 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.

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

Dated New York, New York  
November 30, 2004

**ALLEGIANCE TELECOM LIQUIDATING TRUST      CORNERSTONE WEST PARK, LLC**

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

By /s/ Kelly J Diehl  
Kelly J Diehl  
Colliers Turley Marin Tucker  
7701 Forsyth Boulevard, Suite 500  
Clayton, MO 63105

and

and

**AKIN GUMP STRAUSS HAUER & FELD  
LLP**

**WAGENFELD LEVINE**

By /s/ Jeffrey M Anapolsky  
Ira S Dizengoff, Esq (ID-9980)  
Phil C Dublin, Esq (PD-4919)  
Colin M Adams, Esq (CA-2913)  
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By /s/ Michael A Becker  
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9350 S Dixie Highway  
Penthouse-II  
Miami, Florida 33156  
Telephone (305) 670-0030

Counsel to Cornerstone West Park, LLC

Counsel to the Allegiance Telecom  
Liquidating Trust

SO ORDERED, this 6th day of December 2004

/s/Robert D Drain  
UNITED STATES BANKRUPTCY JUDGE