

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

Allegiance Telecom, Inc., et al.,
Debtors.

**Chapter 11
Case No. 02-130507 (RDD)**

(Jointly Administered)

**ORDER (A) ESTABLISHING BIDDING
PROCEDURES AND BID PROTECTIONS IN CONNECTION
WITH THE SALE OF SUBSTANTIALLY ALL OF THE ASSETS
OF THE DEBTORS (B) APPROVING THE FORM AND MANNER
OF NOTICES, (C) APPROVING THE ASSET PURCHASE
AGREEMENT WITH QWEST COMMUNICATIONS
INTERNATIONAL, INC., SUBJECT TO HIGHER AND BETTER
OFFERS AND (D) SETTING A SALE HEARING DATE**

Upon the motion, dated December 18, 2003 (the “Motion”), of Allegiance Telecom, Inc. (“Allegiance”) and its direct and indirect subsidiaries, as debtors and debtors in possession (collectively, the “Debtors”), for orders (i) establishing bidding procedures and certain protections (the “Bidding Procedures”) payable to the Buyer including a break-up fee and expense reimbursement in connection with the sale of substantially all of the assets of the Debtors (the “Sale Assets”); (ii) approving the form and manner of notice related to the sale of the Sale Assets; (iii) approving the Purchase Agreement,¹ subject to higher and better offers; (iv) setting a hearing date to consider approval of the sale of the Sale Assets (the “Sale Hearing”); (v) approving the sale to the Buyer, subject to higher and better offers, free and clear of (a) all liens, claims and encumbrances and (b) certain transfer taxes; (vi) authorizing the assumption and

¹ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Motion or Purchase Agreement, as applicable.

assignment of certain executory contracts and unexpired leases; and (vii) granting certain related relief; and an interim hearing having been held (the “Procedures Hearing”) in respect of the relief requested in the Motion (as described in clauses (i) – (iv) above (the “Preliminary Relief”)); and it appearing that notice of the hearing has been provided to (i) the Office of the United States Trustee; (ii) the attorneys for Prepetition Lenders; (iii) the attorneys for the Creditors’ Committee; (iv) all nondebtor contracting and lease parties identified on Schedules 4.20 and 4.21 of the Disclosure Schedules, (v) all parties that provide telecom services to the Debtors pursuant to tariffs; (vi) the attorneys for the Buyer; (vii) all counterparties to the Assumed Contracts, (viii) all parties who have made written expressions of interest in acquiring the Sale Assets or the Business within two (2) months prior to the date of the Motion; (ix) all known persons holding a lien on any of the Sale Assets; (x) the Securities and Exchange Commission; (xi) all taxing authorities that have jurisdiction over the Sale Assets; (xii) all Governmental Agencies having jurisdiction over the Sale Assets with respect to Environmental Laws, (xiii) the attorneys general of all states in which the Sale Assets are located; (xiv) the Federal Communications Commission and applicable state public utility commissions; and (xv) all other parties that had filed a notice of appearance and demand for service of papers in these bankruptcy cases under Bankruptcy Rule 2002 as of the date of the Motion; and it appearing that such notice constitutes good and sufficient notice of the Motion and Preliminary Relief and that no other or further notice need be provided; and upon the hearing held on December 18, 2003 approving the Lock-Up Order; and upon the Motion and the record of the Procedures Hearing and all other proceedings had before the Court; and it appearing that an order granting the Preliminary Relief is in the best interest of the

Debtors and parties in interest; and it appearing that the Court has jurisdiction over this matter; and after due deliberation and sufficient cause appearing therefor.

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The Bidding Procedures as set forth and defined below, are fair, reasonable, and appropriate and are designed to maximize the recovery on the Sale Assets, including the Assumed Contracts.

B. The Debtors have demonstrated a compelling and sound business justification for authorizing the payment of the Break-Up Fee and the Expense Reimbursement to the Buyer under the circumstances, timing, and procedures set forth in the Motion and the Purchase Agreement.

C. The Break-Up Fee and the Expense Reimbursement are fair and reasonable, provide a benefit to the Debtors' estates and creditors, and were negotiated by the parties to the Purchase Agreement in good faith and at arm's-length.

D. The Debtors' payment to the Buyer (under the conditions of and as set forth in the Purchase Agreement), of the Breakup Fee and the Expense Reimbursement is (i) an actual and necessary cost and expense of preserving the Debtors' estates, (ii) of substantial benefit to the Debtors' estates, (iii) reasonable and appropriate, in light of, among other things, (a) the size and nature of the proposed sale under the Agreement, (b) the substantial efforts that have been and will be expended by the Buyer, and (c) the benefits the Buyer has provided to the Debtors' estates and creditors and all parties in interest herein, notwithstanding that the proposed sale is subject to higher or better offers, and (iv) necessary to ensure that the Buyer will continue to pursue its proposed acquisition of the Sale Assets. In particular, the Purchase Agreement was the

culmination of a process undertaken by the Debtors and their professionals to negotiate a transaction with a bidder who was prepared to pay the highest or otherwise best purchase price to date for the Sale Assets in order to maximize the value of the Debtors' estates.

E. The payment of the Break-Up Fee and the Expense

Reimbursement should be approved because, among other things, (i) no other party to date has entered into a definitive agreement for the acquisition of the Sale Assets on terms acceptable to the Debtors, (ii) the execution of the Purchase Agreement is a necessary prerequisite to determining whether any party other than the Buyer is willing to enter into a definitive agreement for the acquisition of the Sale Assets on terms acceptable to the Debtors and their creditor constituencies, (iii) the protections afforded to the Buyer by the Break-Up Fee and the Expense Reimbursement were material inducements for, and express conditions of, the Buyer's willingness to enter into the Purchase Agreement, and (iv) the Buyer is unwilling to commit to hold open its offer to acquire the Sale Assets under the terms of the Purchase Agreement unless it is assured of the payment of the Break-Up Fee and the Expense Reimbursement.

F. The assurance of the payment of the Break-Up Fee and the

Expense Reimbursement has (i) promoted more competitive bidding by inducing the Buyer's bid, which otherwise would not have been made, without which competitive bidding would be limited, and which may be the highest and best available offer for the Sale Assets, (ii) induced the Buyer to research the value of the Sale Assets and propose the transactions contemplated by the Purchase Agreement, including, among other things, submission of a bid that will serve as a minimum or floor bid on which all other bidders

can rely, and (iii) provided a benefit to the Debtors' estates by increasing the likelihood that the price at which the Sale Assets are sold will reflect their true worth.

G. The payment of the Break-Up Fee and the Expense Reimbursement is an expense necessary to maximize the value of the Debtors' estates and the entry of this Order is in the best interests of the Debtors, their estates, creditors, and all other parties in interest.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. With respect to the Preliminary Relief, the Motion is granted.
2. The Auction shall be conducted on the following terms and conditions (the "Bidding Procedures"):

<u>PROVISION</u>	<u>DESCRIPTION</u>
<i>The Stalking Horse Bid</i>	<p>Under the terms of the Purchase Agreement, the Buyer has agreed to purchase the Sale Assets for approximately \$390 million, plus Assumed Liabilities (the "Stalking Horse Bid"), subject to the terms of the Purchase Agreement.</p> <p>Under the terms of the Purchase Agreement, beginning on the date the Bidding Procedures Order is entered by the Court and continuing until the conclusion of the Auction, the Debtors are entitled to, among other things, solicit and negotiate Competing Transactions.</p>
<i>Due Diligence</i>	<p>Unless otherwise determined by the Debtors, each potential bidder (a "Potential Bidder") must deliver (unless previously delivered) to the Debtors, c/o Jonathan S. Henes, Esq., Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, NY 10022-4611 and Michael A. Kramer, Greenhill & Co., LLC, 300 Park Avenue, 23rd Floor, New York, New York 10022, the following documents (the "Preliminary Bid Documents") in order to participate in the bidding process:</p> <ol style="list-style-type: none"> a. an executed confidentiality agreement in form and substance satisfactory to the Debtors; and b. preliminary proof by the Potential Bidder of its financial capacity to close a proposed transaction, the adequacy of

<u>PROVISION</u>	<u>DESCRIPTION</u>
	<p>which the Debtors and their advisors will determine in their sole discretion.</p> <p>Within two (2) business days after a Potential Bidder delivers the Preliminary Bid Documents, the Debtors shall determine, and shall notify the Potential Bidder, whether the Potential Bidder has submitted acceptable Preliminary Bid Documents so that such Potential Bidder may conduct due diligence with respect to the Sale Assets sought to be acquired. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents may submit bids for the Sale Assets.</p>
<i>Bid Deadline</i>	<p>Bids for the Sale Assets must (a) be in writing; (b) at a minimum, exceed the Stalking Horse Bid by \$40 million; (c) satisfy the Bid Requirements set forth herein and (d) be received by (i) the attorneys for the Debtors, Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022 (Attn: Matthew A. Cantor, Esq. and Jonathan S. Henes, Esq.), (ii) the financial advisors for the Debtors, Greenhill & Co., LLC, 300 Park Avenue, 23rd Floor, New York, New York 10022 (Attn: Michael A. Kramer), (iii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iv) the attorneys for the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), and (v) the attorneys for the statutory committee of unsecured creditors, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), so as to be actually received no later than 5:00 p.m. (prevailing Eastern Time) on February 9, 2004 (the "Bid Deadline"). Such bids shall be deemed "Qualified Bids" and those parties submitting such Qualified Bids shall be "Qualified Bidders." One (1) Business Day after the Debtors receive such Qualified Bids, the Debtors shall provide copies of such bids to Buyer, provided, that Buyer shall keep the Qualified Bids confidential and shall not contact or communicate with any Qualified Bidder with respect to any such bids or discuss the Qualified Bids with any party, except as required by law.</p> <p>Parties that do not submit a Qualified Bid by the Bid Deadline will not be permitted to participate at the Auction.</p>

<u>PROVISION</u>	<u>DESCRIPTION</u>
<i>Bid Requirements</i>	<p>Qualified Bids must meet the following requirements (the “Bid Requirements”):</p> <ul style="list-style-type: none"> a. Each Qualified Bid must be on the same or better terms and conditions as those terms set forth in the Purchase Agreement and the documents set forth as exhibits thereto. The Debtors shall not entertain bids for the individual assets comprising their businesses. b. Each Qualified Bid must constitute a good faith, bona fide offer to acquire the Sale Assets. c. Each Qualified Bid shall not be conditioned on obtaining any of the following: financing, regulatory approval, shareholder approval, environmental contingencies, and/or the outcome of due diligence by the bidder. d. Each Qualified Bid must remain irrevocable until the Closing. e. As a condition to making a Qualified Bid, any competing bidder must provide the Debtors on or before the Bid Deadline, with sufficient and adequate information to demonstrate, to the satisfaction of the Debtors, that such competing bidder (i) has the financial wherewithal and ability to consummate the acquisition of the their business, and (ii) can provide all nondebtor contracting parties to the Assumed Contracts with adequate assurance of future performance as contemplated by section 365 of the Bankruptcy Code. f. In order for a bid to constitute a Qualified Bid, any bidder shall submit a deposit equal to the \$35 million (the “Good Faith Deposit”). The bidder shall, in immediately available funds, by wire transfer to an account or accounts designated by the Debtors, pay such amount on the date such bid is submitted.
<i>Auction and Overbids</i>	<p>If no Qualified Bid is received by the Bid Deadline, the Auction will not occur and the Debtors shall promptly pursue entry of an order by the Court authorizing the Sale to the Buyer.</p> <p>If the Debtors receive a Qualified Bid by the Bid Deadline, in addition to the Stalking Horse Bid, the Debtors shall conduct an auction (the “Auction”) with respect to the Sale Assets. The Auction shall commence at 9:00 a.m. (prevailing Eastern Time) on February 12, 2004, at the offices of Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022-4611, or such later time</p>

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	<p>or other place as the Debtors shall notify all Qualified Bidders who have submitted Qualified Bids. The Auction may be continued to a later date by the Debtors, with the reasonable consent of the Buyer, by making an announcement at the Auction. No further notice of any such continuance will be required to be provided to any party.</p> <p>Subsequent bids at the Auction shall be made in increments of at least \$5 million.</p> <p>At the Auction, the Buyer shall have the right to bid all or part of the Break-Up Fee (as defined herein) and the Expense Reimbursement (as defined herein).</p>
<i>Winning Bid</i>	<p>Upon conclusion of the Auction, the Debtors, in the exercise of their business judgment and after consulting with their advisors, shall identify the highest and best offer for the Sale Assets (the "Winning Bid") (the bidder having submitted a Winning Bid is the "Successful Bidder").</p>
<i>Sale Approval Hearing</i>	<p>The Sale Approval Hearing is presently scheduled to take place on February 17, 2004 at 10:00 a.m. (prevailing Eastern Time), before the Hon. Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004-1408. The Sale Approval Hearing may be continued to a later date by the Debtors, with the reasonable consent of the Buyer, by making an announcement at the Sale Approval Hearing; <u>provided</u>, that any such continuance shall not be later than the deadline set forth in Schedule J of the Purchase Agreement. No further notice of any such continuance will be required to be provided to any party. At the Sale Approval Hearing, the Debtors shall present to the Bankruptcy Court for approval the Winning Bid for the Sale Assets.</p>
<i>Return of Good Faith Deposit</i>	<p>The Good Faith Deposit of the Successful Bidder shall be credited to the price paid for the Sale Assets. The Good Faith Deposit of any unsuccessful bidders will be returned within fifteen (15) days after consummation of the Sale Transaction or upon permanent withdrawal by the Debtors of the proposed sale of such assets. The deposit of the Buyer, if not chosen as the Winning Bid, shall be returned in accordance with the Purchase Agreement.</p>
<i>Reservation of Right</i>	<p>The Debtors reserve the right to reject any (other than the Buyer's offer pursuant to the Purchase Agreement) Qualified Bid (as defined below) if the Debtors determine that such Qualified Bid is</p>

PROVISION	DESCRIPTION
	(i) inadequate or insufficient; (ii) not in conformity with the requirement of the Bankruptcy Code, any related rules or the terms set forth herein; or (iii) contrary to the best interests of the Debtors and their estates.
<i>Break-Up Fee and Expense Reimbursement</i>	In the event, among others set forth in the Purchase Agreement and as set forth below, that the Bankruptcy Court enters an order approving the Sale Transaction to a Successful Bidder other than Buyer, the Debtors shall pay to Buyer (i) a break-up fee in the amount of \$12.8 million (the “Break-Up Fee) and (ii) a reimbursement of Buyer’s expenses in connection with the transaction contemplated in the Purchase Agreement, not to exceed \$5 million (the “Expense Reimbursement”).

3. Pursuant to section 363(b) of the Bankruptcy Code, the Debtors are directed to pay (i) the Expense Reimbursement plus (ii) the Break-Up Fee immediately by wire transfer of immediately available funds to an account designated in writing by the Buyer in the event that: (i) the Purchase Agreement is terminated (A) by Buyer pursuant to Section 8.1(b) of the Purchase Agreement when ATI does not have the right to terminate the Agreement pursuant to Section 8.1(b) of the Purchase Agreement, (B) by Buyer pursuant to Section 8.1(c) or (d) of the Purchase Agreement, or (C) by Sellers pursuant to Section 8.1(f) of the Purchase Agreement; or (ii) Buyer terminates the Purchase Agreement pursuant to Section 8.1(e) as a result of Debtors’ gross negligence or willful, wanton or reckless action or inaction taken or not taken with an intent to cause the termination of the Agreement or otherwise negatively impact the transactions contemplated thereby (collectively, a “Sellers’ Intentional Breach”) or Buyer elects not to close because the condition set forth in Section 7.2(a) of the Purchase Agreement has not been satisfied as a result of a Sellers’ Intentional Breach.

4. In the event the Buyer terminates the Purchase Agreement pursuant to Section 8.1(e) of the Purchase Agreement or elects not to close, in each case

because the condition set forth in Section 7.2(a) of the Purchase Agreement has not been satisfied as a result of some reason other than a Sellers' Intentional Breach, the Buyer shall be entitled to immediate payment of the Expense Reimbursement (which Expense Reimbursement shall not exceed \$5 million).

5. In the event of a Sale Delay that the Buyer does not agree to waive or extend, the Debtors shall pay to the Buyer, within two (2) Business Days following the Buyer's termination of the Purchase Agreement pursuant to Section 8.1(g) thereof, the Break Up Fee and the Expense Reimbursement. In the event of any waiver of any default in Exhibit J to the Purchase Agreement, the Break Up Fee and the Expense Reimbursement, otherwise payable, shall be payable at such extended date if such extended deadline has not been met and the Buyer terminates the Purchase Agreement as a result thereof.

6. The Debtors are authorized and empowered to pay the Break-Up Fee and the Expense Reimbursement to the Buyer, as required under and pursuant to the Purchase Agreement, without further order of the Court.

7. Pursuant to section 364(c)(1) of the Bankruptcy Code, the Break-Up Fee and the Expense Reimbursement shall receive superpriority administrative claim status and shall have priority over any and all administrative expenses of the kinds specified in sections 503(b), 506(c), 507(a), or 507(b) of the Bankruptcy Code; provided, however, that the Break Up Fee and Expense Reimbursement shall not prime the Liens held by Sellers' senior secured lenders and any such amounts payable shall be subordinated to this carve out for professionals fees and fees under 28 U.S.C. § 1930 as

provided in the Bankruptcy Court's order authorizing Debtors to use cash collateral that was entered in these cases.

8. The rights of the Buyer to the Break-Up Fee and the Expense Reimbursement and the superpriority administrative status of such claims shall all survive rejection or breach of the Purchase Agreement, and shall be unaffected thereby.

9. Following the Sale Order Approval Date, and so long as the Purchase Agreement has not been terminated in accordance with its terms, the Debtors are directed not to enter or solicit a Competing Transaction as set forth in Section 6.17 of the Purchase Agreement.

10. Pursuant to Bankruptcy Rule 2002(a)(2), (a) the Sale Hearing shall be held on February 17, 2004, before the Hon. Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004-1408 at 10:00 a.m. (EST), and (b) objections to approval of the relief requested in the Motion (other than the Preliminary Relief provided herein), if any, shall be in writing, shall state the name of the objecting party, shall state with particularity the reasons and basis for the objection, and shall be filed with the Court and served upon (i) the attorneys for the Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022 (Attn: Matthew A. Cantor, Esq. and Jonathan S. Henes, Esq.), (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iii) the attorneys for the agent for the Debtors' prepetition lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin,

III, Esq.), (iv) the attorneys for the Creditors' Committee, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), and (v) the attorneys for the Buyer, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Paul M. Basta, Esq.), so as to be actually received by such persons no later than February 9, 2004 at 4:00 p.m. (EST).

11. Pursuant to Bankruptcy Rule 2002(1), the Debtors are authorized to publish, at least seven (7) days prior to the Auction, Notice of the Auction and Sale Approval Hearing, once, in the form annexed hereto as Exhibit 1, in each of the national editions of The New York Times and The Wall Street Journal.

12. Pursuant to Bankruptcy Rule 2002, within two (2) Business Days following entry of the Bidding Procedures Orders, notice of the proposed Auction and the Sale Approval Hearing in the form annexed hereto as Exhibit 1, shall be sent by first class mail to (i) the United States Trustee, (ii) the attorneys for the agent for the Debtors' prepetition lenders, (iii) the attorneys for the Creditors' Committee, (iv) all nondebtor contracting and lease parties listed on Schedules 4.20 and 4.21 of the Disclosure Schedules, (v) all parties that provide telecommunications services to the Debtors pursuant to a tariff, (vi) all parties who have made written expressions of interest in acquiring the Sale Assets or the Business within two (2) months prior to the date of this Bidding Procedures Order (vii) all appropriate federal, state and local taxing authorities, (viii) all known persons holding a lien on any of the Sale Assets, and (ix) all parties having filed a notice of appearance in the Debtors' chapter 11 cases pursuant to Bankruptcy Rule 2002, shall constitute good and sufficient notice of the Sale Transaction, Auction and Sale Hearing.

13. Pursuant to Bankruptcy Rule 2002, notice of the proposed assumption and assignment of the Assumed Contracts (the “Cure Procedures”), in the form annexed hereto as Exhibit “2” which shall reflect the Cure Amounts that the Debtors believe must be paid to cure all defaults under the Assumed Contracts, shall constitute good and sufficient notice of the Debtors’ intent to assume and assign the Assumed Contracts, and shall (i) be served, at Buyer’s direction, at least 20 days prior to the hearing to confirm the Bankruptcy Plan, to all counterparties to the Assumed Contracts or (ii) in the event of an Early Closing Notice, be served on all counterparties to the Assumed Contracts within four (4) Business Days of such Early Closing Notice. Buyer and the Debtors shall keep confidential the Executory Contracts as set forth in Section 3.5(d) of the Purchase Agreement. With respect to the Assumed Contracts, Buyer shall cooperate with Sellers to provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code.

14. With respect to the proposed assumption and assignment of the Assumed Contracts, Cure Amounts that must be paid to cure defaults under the Assumed Contract shall be determined in accordance with the following procedures (the “Cure Procedures”):

<u>Procedure</u>	<u>Description</u>
<i>Notice of Assumption and Assignment Objection Deadline</i>	At least 20 days prior to the hearing to confirm the Bankruptcy Plan (or, in the event of an Early Closing Notice, within four Business Days of such Early Closing Notice), the Debtors, or the Debtors’ noticing agent, shall serve a copy of the Bidding Procedures Order together with the Notice of the Debtors’ Intent to Assume and Assign Executory Contracts and Unexpired Leases (the “Contract Assignment Notice”), substantially in the form of Exhibit 2 attached to the Bidding Procedures Order, by first class mail to the Contract Parties notifying them of the Debtors’ intent to assume and assign each agreement listed on Schedule (a) of the Disclosure Schedules (as it may be modified by that time) and of

<u>Procedure</u>	<u>Description</u>
	the Cure Amount determined by the Debtors for each such Assumed Contract to be necessary for such assumption and assignment on the Closing Date.
<i>Assumption and Assignment Objections</i>	Any Contract Party seeking to (a) assert a Cure Amount based on defaults, conditions or pecuniary losses under its Assumed Contract (collectively, the “Cure Obligation”) different from that set forth on any of the Contract Assignment Notices or (b) object to the potential assumption and assignment of its Assumed Contract on any other grounds, shall be required to file and serve an objection (an “Assumption and Assignment Objection”), in writing, setting forth with specificity (i) any and all Cure Obligations that the Contract Party asserts must be cured or satisfied with respect to such Assumed Contract and/or (ii) if the objection to the potential assignment of such Assumed Contract is based on adequate assurance issues, the information required regarding the Buyer to satisfy the Contract Party’s adequate assurance concerns.
<i>Assumption and Assignment Objection Deadline</i>	To be considered a timely Assumption and Assignment Objection, the Assumption and Assignment Objection must be filed with the Court and a copy delivered to (i) the attorneys for the Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53 rd Street, New York, NY 10022-4611, Attn: Michael J. Frishberg, Esq., (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iii) the attorneys for the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), (iv) the attorneys for the statutory committee of unsecured creditors, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), (v) the attorneys for the Buyer, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Paul M. Basta, Esq.) and (vi) any other party or partner set forth in the Contract Assignment Notice so as to be received no later than 15 days after service of the Contract Assignment Notice (the “Assumption and Assignment Objection Deadline”).
<i>Failure to File Assumption and Assignment Objection</i>	Unless an Assumption and Assignment Objection is timely filed and served by a Contract Party by the Assumption and Assignment Objection Deadline, the assumption and assignment of the applicable Assumed Contract at the Sale Approval Hearing may occur without regard to any objection such party may have or any provisions to the contrary in the applicable Assumed Contract.

<u>Procedure</u>	<u>Description</u>
<i>Waiver of Assumption and Assignment Objection</i>	Contract Parties that fail to file and serve Assumption and Assignment Objections as provided above shall be deemed to have waived and released any and all Cure Obligations and shall be forever barred and estopped from asserting or claiming against the Debtors, the Buyer or any other Successful Bidder of the relevant contract or lease that any additional amounts are due or defaults exist, or prohibitions or conditions to assignment exist or must be satisfied, under such Assumed Contract for the period prior to the closing date.

15. The Debtors are hereby authorized to take any and all actions necessary or appropriate to implement the Bidding Procedures and Cure Procedures.

Dated: New York, New York
 _____, 2004

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

In re

Allegiance Telecom, Inc., et al.,
Debtors.

Chapter 11
Case No. 02-130507 (RDD)
(Jointly Administered)

**NOTICE OF AUCTION AND HEARING
TO CONSIDER APPROVAL OF THE SALE
OF SUBSTANTIALLY ALL OF THE ASSETS OF THE DEBTORS**

NOTICE IS HEREBY GIVEN, as follows:

1. On December __, 2003, Allegiance Telecom, Inc. (“Allegiance”) and its direct and indirect subsidiaries, as debtors and debtors-in-possession (collectively, the “Debtors”) filed a motion (the “Motion”) with the United States Bankruptcy Court for the Southern District of New York for or orders (i) establishing bidding procedures and certain protections (the “Bidding Procedures”) payable to the Buyer including a break-up fee and expense reimbursement in connection with the sale of substantially all of the assets of the Debtors (the “Sale Assets”); (ii) approving the form and manner of notice related to the sale of the Sale Assets; (iii) approving the Purchase Agreement,¹ subject to higher and better offers; (iv) setting a hearing date to consider approval of the sale of the Sale Assets (the “Sale Hearing”); (v) approving the sale to the Buyer, subject to higher and better offers, free and clear of (a) all liens, claims and encumbrances and (b) certain transfer taxes; (vi) authorizing the assumption and assignment of certain executory contracts and unexpired leases; and (vii) granting certain related relief. The successful

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bidder at the Auction will agree to purchase the Sale Assets, free and clear of all liabilities, obligations, claims, liens, and encumbrances on the same terms and conditions as those set forth in the Purchase Agreement entered into between the Debtors and the Buyer.

2. By order dated [inset date, 2004] (the “Bidding Procedures Order”), the Court authorized the Debtors, among other things, to conduct an Auction of the Sale Assets at Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022, on [inset date, 2004] at --:00 --.m. (prevailing Eastern Time).

3. The Debtors will conduct the Auction pursuant to the following terms and conditions (the “Bidding Procedures”):

<u>PROVISION</u>	<u>DESCRIPTION</u>
<i>The Stalking Horse Bid</i>	<p>Under the terms of the Purchase Agreement, the Buyer has agreed to purchase the Sale Assets for approximately \$390 million, plus Assumed Liabilities (the “Stalking Horse Bid”), subject to the terms of the Purchase Agreement.</p> <p>Under the terms of the Purchase Agreement, beginning on the date the Bidding Procedures Order is entered by the Court and continuing until the conclusion of the Auction, the Debtors are entitled to, among other things, solicit and negotiate Competing Transactions.</p>
<i>Due Diligence</i>	<p>Unless otherwise determined by the Debtors, each potential bidder (a “Potential Bidder”) must deliver (unless previously delivered) to the Debtors, c/o Jonathan S. Henes, Esq., Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, NY 10022-4611 and Michael A. Kramer, Greenhill & Co., LLC, 300 Park Avenue, 23rd Floor, New York, New York 10022, the following documents (the “Preliminary Bid Documents”) in order to participate in the bidding process:</p> <ul style="list-style-type: none"> a. an executed confidentiality agreement in form and substance satisfactory to the Debtors; and b. preliminary proof by the Potential Bidder of its financial capacity to close a proposed transaction, the adequacy of which the Debtors and their advisors will determine in their

<u>PROVISION</u>	<u>DESCRIPTION</u>
	<p style="text-align: center;">sole discretion.</p> <p>Within two (2) business days after a Potential Bidder delivers the Preliminary Bid Documents, the Debtors shall determine, and shall notify the Potential Bidder, whether the Potential Bidder has submitted acceptable Preliminary Bid Documents so that such Potential Bidder may conduct due diligence with respect to the Sale Assets sought to be acquired. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents may submit bids for the Sale Assets.</p>
<i>Bid Deadline</i>	<p>Bids for the Sale Assets must (a) be in writing; (b) at a minimum, exceed the Stalking Horse Bid by \$40 million; (c) satisfy the Bid Requirements set forth herein and (d) be received by (i) the attorneys for the Debtors, Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022 (Attn: Matthew A. Cantor, Esq. and Jonathan S. Henes, Esq.), (ii) the financial advisors for the Debtors, Greenhill & Co., LLC, 300 Park Avenue, 23rd Floor, New York, New York 10022 (Attn: Michael A. Kramer), (iii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iv) the attorneys for the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), and (v) the attorneys for the statutory committee of unsecured creditors, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), so as to be actually received no later than 5:00 p.m. (prevailing Eastern Time) on [insert date] (the “Bid Deadline”). Such bids shall be deemed “Qualified Bids” and those parties submitting such Qualified Bids shall be “Qualified Bidders.” One (1) Business Day after the Debtors receive such Qualified Bids, the Debtors shall provide copies of such bids to Buyer, provided, that Buyer shall keep the Qualified Bids confidential and shall not contact or communicate with any Qualified Bidder with respect to any such bids or discuss the Qualified Bids with any party, except as required by law.</p> <p>Parties that do not submit a Qualified Bid by the Bid Deadline will not be permitted to participate at the Auction.</p>

<u>PROVISION</u>	<u>DESCRIPTION</u>
<i>Bid Requirements</i>	<p>Qualified Bids must meet the following requirements (the “Bid Requirements”):</p> <ul style="list-style-type: none"> a. Each Qualified Bid must be on the same or better terms and conditions as those terms set forth in the Purchase Agreement and the documents set forth as exhibits thereto. The Debtors shall not entertain bids for the individual assets comprising their businesses. b. Each Qualified Bid must constitute a good faith, bona fide offer to acquire the Sale Assets. c. Each Qualified Bid shall not be conditioned on obtaining any of the following: financing, regulatory approval, shareholder approval, environmental contingencies, and/or the outcome of due diligence by the bidder. d. Each Qualified Bid must remain irrevocable until the Closing. e. As a condition to making a Qualified Bid, any competing bidder must provide the Debtors on or before the Bid Deadline, with sufficient and adequate information to demonstrate, to the satisfaction of the Debtors, that such competing bidder (i) has the financial wherewithal and ability to consummate the acquisition of the their business, and (ii) can provide all nondebtor contracting parties to the Assumed Contracts with adequate assurance of future performance as contemplated by section 365 of the Bankruptcy Code. f. In order for a bid to constitute a Qualified Bid, any bidder shall submit a deposit equal to the \$35 million (the “Good Faith Deposit”). The bidder shall, in immediately available funds, by wire transfer to an account or accounts designated by the Debtors, pay such amount on the date such bid is submitted.
<i>Auction and Overbids</i>	<p>If no Qualified Bid is received by the Bid Deadline, the Auction will not occur and the Debtors shall promptly pursue entry of an order by the Court authorizing the Sale to the Buyer.</p> <p>If the Debtors receive a Qualified Bid by the Bid Deadline, in addition to the Stalking Horse Bid, the Debtors shall conduct an auction (the “Auction”) with respect to the Sale Assets. The Auction shall commence at 10:00 a.m. (prevailing Eastern Time) on [INSERT], at the offices of Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022-4611, or such later time or other</p>

<u>PROVISION</u>	<u>DESCRIPTION</u>
	<p>place as the Debtors shall notify all Qualified Bidders who have submitted Qualified Bids. The Auction may be continued to a later date by the Debtors, with the reasonable consent of the Buyer, by making an announcement at the Auction. No further notice of any such continuance will be required to be provided to any party.</p> <p>Subsequent bids at the Auction shall be made in increments of at least \$5 million.</p> <p>At the Auction, the Buyer shall have the right to bid all or part of the Break-Up Fee (as defined herein) and the Expense Reimbursement (as defined herein).</p>
<i>Winning Bid</i>	<p>Upon conclusion of the Auction, the Debtors, in the exercise of their business judgment and after consulting with their advisors, shall identify the highest and best offer for the Sale Assets (the "Winning Bid") (the bidder having submitted a Winning Bid is the "Successful Bidder").</p>
<i>Sale Approval Hearing</i>	<p>The Sale Approval Hearing is presently scheduled to take place on [insert date] at [_____] (prevailing Eastern Time), before the Hon. Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004-1408. The Sale Approval Hearing may be continued to a later date by the Debtors, with the reasonable consent of the Buyer, by making an announcement at the Sale Approval Hearing; <u>provided</u>, that any such continuance shall not be later than the deadline set forth in Schedule J of the Purchase Agreement. No further notice of any such continuance will be required to be provided to any party. At the Sale Approval Hearing, the Debtors shall present to the Bankruptcy Court for approval the Winning Bid for the Sale Assets.</p>
<i>Return of Good Faith Deposit</i>	<p>The Good Faith Deposit of the Successful Bidder shall be credited to the price paid for the Sale Assets. The Good Faith Deposit of any unsuccessful bidders will be returned within fifteen (15) days after consummation of the Sale Transaction or upon permanent withdrawal by the Debtors of the proposed sale of such assets. The deposit of the Buyer, if not chosen as the Winning Bid, shall be returned in accordance with the Purchase Agreement.</p>
<i>Reservation of Right</i>	<p>The Debtors reserve the right to reject any (other than the Buyer's offer pursuant to the Purchase Agreement) Qualified Bid (as defined below) if the Debtors determine that such Qualified Bid is</p>

PROVISION	DESCRIPTION
	(i) inadequate or insufficient; (ii) not in conformity with the requirement of the Bankruptcy Code, any related rules or the terms set forth herein; or (iii) contrary to the best interests of the Debtors and their estates.
<i>Break-Up Fee and Expense Reimbursement</i>	In the event, among others set forth in the Purchase Agreement and as set forth below, that the Bankruptcy Court enters an order approving the Sale Transaction to a Successful Bidder other than Buyer, the Debtors shall pay to Buyer (i) a break-up fee in the amount of \$12.8 million (the “Break-Up Fee) and (ii) a reimbursement of Buyer’s expenses in connection with the transaction contemplated in the Purchase Agreement, not to exceed \$5 million (the “Expense Reimbursement”).

4. The Bidding Procedures Order further provides that the Sale Hearing will be held following the Auction on **[insert date]**, at :00 a.m. (EST), before the Honorable Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408.

5. At the Sale Hearing, the Debtors shall request that the Court enter an order approving the Purchase Agreement and approving the sale of the Sale Transaction to the Successful Bidder.

6. At the Sale Hearing, the Court may enter such orders as it deems appropriate under applicable law and as required by the circumstances and equities of these cases. Objections, if any, to the relief requested in the Motion, other than the relief granted in the Bidding Procedures Order, shall be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court for the Southern District of New York, shall set forth the name of the objectant, the nature and amount of any claims or interests held or asserted against the Debtors’ estates or properties, the basis for the objection and the specific grounds therefor, and shall be

served upon (i) the attorneys for the Debtors, Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022 (Attn: Matthew A. Cantor, Esq. and Jonathan S. Henes, Esq.), (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iii) the attorneys for the agent for the Debtors' prepetition lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), (iv) the attorneys for the statutory committee of unsecured creditors, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), and (v) the attorneys for the Buyer, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Paul M. Basta, Esq.), so as to be actually received no later than **[insert date]** at 4:00 p.m. (EST).

7. A copy of the Purchase Agreement is annexed as Exhibit A to the Motion. All requests for information concerning the sale of the Sale Assets should be directed by written request to Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022 (Attn: Jonathan S. Henes, Esq.).

Dated: New York, New York
[insert date]

KIRKLAND & ELLIS LLP

By: _____
Matthew A. Cantor, Esq. (MC-7727)
Jonathan S. Henes, Esq. (JH-1979)
Kirkland & Ellis LLP
Citigroup Center
153 East 53rd Street
New York, New York 10022-4675
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Attorneys for Debtors and Debtors in Possession

EXHIBIT 2

In re

Allegiance Telecom, Inc., et al.,
Debtors.

Chapter 11
Case No. 02-130507 (RDD)
(Jointly Administered)

**NOTICE OF DEBTORS' INTENT TO ASSUME AND
ASSIGN CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

NOTICE IS HEREBY GIVEN, as follows:

1. On December __, 2003, Allegiance Telecom, Inc. (“Allegiance”) its direct and indirect subsidiaries, as debtors and debtors in possession (collectively, the “Debtors”) filed a motion (the “Motion”) with the United States Bankruptcy Court for the Southern District of New York for or orders (i) establishing bidding procedures and certain protections (the “Bidding Procedures”) payable to the Buyer including a break-up fee and expense reimbursement in connection with the sale of substantially all of the assets of the Debtors (the “Sale Assets”); (ii) approving the form and manner of notice related to the sale of the Sale Assets; (iii) approving the Purchase Agreement,¹ subject to higher and better offers; (iv) setting a hearing date to consider approval of the sale of the Sale Assets (the “Sale Hearing”); (v) approving the sale to the Buyer, subject to higher and better offers, free and clear of (a) all liens, claims and encumbrances and (b) certain transfer taxes; (vi) authorizing the assumption and assignment of certain executory contracts and unexpired leases; and (vii) granting certain related relief.

¹ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Motion or Purchase Agreement, as applicable.

2. Pursuant to the Motion and sections 363 and 365 of the Bankruptcy Code, the Debtors intend to assume and assign to the Buyer, on the later of (i) the Closing or (ii) State PUC Consent or FCC Consent, the Assumed Contracts listed on Exhibit A annexed hereto.

3. The Debtors have identified on Exhibit A annexed hereto the cure amounts that the Debtors believe must be paid to cure all defaults under the Assumed Contracts to which you are a party (in each instance, the “Cure Amount”). The Debtors believe that there are no non-monetary defaults (other than the filing of these chapter 11 cases) that will not be cured by payment of the Cure Amount. Pursuant to the Purchase Agreement, the Buyer has no liability to the Debtors or any party to an Assumed Contract for any Cure Amounts that arise from any Excluded Liabilities (including any unrecorded liabilities of the Debtors).

4. The Buyer’s obligation to pay the amounts arising under the Assumed Contracts after the Closing constitutes adequate assurance of future performance of the Assumed Contracts in accordance with section 365(f)(2)(b) of the Bankruptcy Code.

5. If you seek to (a) assert a Cure Amount based on defaults, conditions or pecuniary losses under its Assumed Contract (collectively, the “Cure Obligation”) different from that set forth on any of the Contract Assignment Notices or (b) object to the potential assumption and assignment of its Assumed Contract on any other grounds, you are required to file and serve an objection (an “Assumption and Assignment Objection”), in writing, setting forth with specificity (i) any and all Cure Obligations that you assert must be cured or satisfied with respect to such Assumed

Contract and/or (ii) if the objection to the potential assignment of such Assumed Contract is based on adequate assurance issues, the information required regarding the Buyer to satisfy your adequate assurance concerns.

6. To be considered a timely Assumption and Assignment Objection, the Assumption and Assignment Objection must be filed with the Court and a copy delivered to the attorneys for the Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, NY 10022-4611, Attn: Michael J. Frishberg, Esq., (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iii) the attorneys for the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), (iv) the attorneys for the statutory committee of unsecured creditors, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), (v) the attorneys for the Buyer, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Paul M. Basta, Esq.) so as to be received no later than **15** days after service of the Contract Assignment Notice (the “Assumption and Assignment Objection Deadline”).

7. Unless your Assumption and Assignment Objection is timely filed and served by the Assumption and Assignment Objection Deadline, the assumption and assignment of the applicable Assumed Contract at the Sale Approval Hearing may occur without regard to any objection you may have or any provisions to the contrary in the applicable Assumed Contract.

8. If you fail to file and serve Assumption and Assignment

Objections as provided above you shall be deemed to have waived and released any and all Cure Obligations and shall be forever barred and estopped from asserting or claiming against the Debtors, the Buyer or any other Successful Bidder of the relevant contract or lease that any additional amounts are due or defaults exist, or prohibitions or conditions to assignment exist or must be satisfied, under such Assumed Contract for the period prior to the closing date.

9. Hearings with respect to the Assumption and Assignment

Objections may be held at such other date as the Court may designate upon motion by the Debtors and the Buyer, provided, that, if the subject Assumed Contracts are assumed and assigned, the cure amount asserted by the objecting party (or such lower amount as may be agreed to by the parties or fixed by the Court) shall be deposited by the Debtors or the Buyer, in accordance with the Debtors and Buyer's respective liabilities for Cure Amounts pursuant to the Purchase Agreement, and held in a segregated account by the Debtors or Buyer, applicable, pending further order of the Court or mutual agreement of the parties. The fact that any Assumption and Assignment Objections are not resolved shall not prevent or delay the occurrence of the date of assumption and assignment of any Assumed Contracts, and the objector's only recourse after the relevant assumption date shall be to the segregated amounts.

10. If you agree that there are no cure amounts due under the Assumed

Contract, and otherwise do not object to the Debtors' assumption and assignment of your Assumed Contract, you need not take any further action.

11. The Buyer reserves the right to exclude or add any Assumed Contract from or to the proposed sale and to withdraw the request to assume and assign any Assumed Contract pursuant to the terms of the Purchase Agreement.

12. The Debtors' decision to assume and assign to the Buyer the Assumed Contracts is subject to Court approval, the Closing and State PUC Approval or FCC Approval. Accordingly, the Debtors shall be deemed to have assumed and assigned each of the Assumed Contracts as of the later of (i) the Closing or (ii) State PUC Consent or FCC Consent. Absent such Closing, State PUC Consent or FCC Consent, any of the affected Assumed Contracts shall not be deemed assumed nor assigned, and shall in all respects be subject to further administration under the Bankruptcy Code. The inclusion of any document on the list of Assumed Contracts shall not constitute or be deemed to be a determination or admission by the Debtors or the Buyer that such document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code (all rights with respect thereto being expressly reserved).

Dated: New York, New York
[insert date], 2004

KIRKLAND & ELLIS LLP

By: _____
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Attorneys for Debtors and Debtors in Possession