

Daniel C. Stewart, SBT #19206500
William L. Wallander, SBT #20780750
Richard H. London, SBT #24032678
VINSON & ELKINS L.L.P.
Trammell Crow Center
2001 Ross Avenue, Suite 3700
Dallas, Texas 75201-2975
Tel: 214.661.7299
Fax: 214.220.7716
VarTec@velaw.com

ATTORNEYS FOR THE DEBTORS

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:

**VARTEC TELECOM, INC., *et al.*,

DEBTORS.**

§
§
§
§
§
§
§
§
§

CASE NO. 04-81694-SAF-11

**(Chapter 11)
(Jointly Administered)**

**Hearing Requested for March 23,
2005 at 1:30 p.m.**

**SECOND MOTION TO AMEND AND MODIFY TERMS OF RETENTION OF
ALVAREZ & MARSAL, LLC AS RESTRUCTURING OFFICERS OF THE DEBTORS**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The above-referenced debtors and debtors in possession (collectively, the "Debtors")¹ file this Second Motion to Amend and Modify Terms of Retention of Alvarez & Marsal, LLC as Restructuring Officers of the Debtors (the "Motion") and in support would respectfully show the Court as follows:

¹ The Debtors include VarTec Telecom, Inc., Excel Communications Marketing, Inc., Excel Management Service, Inc., Excel Products, Inc., Excel Telecommunications, Inc., Excel Telecommunications of Virginia, Inc., Excel Teleservices, Inc., Excelcom, Inc., Telco Communications Group, Inc., Telco Network Services, Inc., VarTec Business Trust, VarTec Properties, Inc., VarTec Resource Services, Inc., VarTec Solutions, Inc., VarTec Telecom Holding Company, VarTec Telecom International Holding Company, and VarTec Telecom of Virginia, Inc.

JURISDICTION AND PROCEDURAL BACKGROUND

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This Motion concerns the administration of the estate; and therefore, it is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. On November 1, 2004 (the "Petition Date"), the Debtors each filed a voluntary petition for relief (collectively, the "Cases") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

4. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors in possession pursuant to Bankruptcy Code §§ 1107(a) and 1108.

RELIEF REQUESTED

5. On November 4, 2004, the Debtors filed their Expedited Motion to Authorize the Retention of Alvarez & Marsal, LLC as Restructuring Officers of the Debtors [Docket No. 91] (the "Alvarez Motion"), in which they requested authority to retain certain personnel of Alvarez & Marsal, LLC ("Alvarez") to serve as officers of VarTec Telecom, Inc. ("VarTec"). On November 24, 2004, this Court entered its Final Order Approving the Employment of Alvarez & Marsal, LLC as Restructuring Officers of the Debtors [Docket No. 366] (the "Alvarez Order"), in which it approved the retention of the Alvarez personnel. The final decretal paragraph of the Alvarez Order provides that "the employment of other professionals of Alvarez is DENIED at this time" without prejudice to the Debtors' requested modification. *Alvarez Order* at 2.

6. Pursuant to the Letter Agreement regarding the employment of Alvarez, the Debtors retained the right to *modify* the employment of Alvarez personnel. On March 8, 2005, the Court entered its Amended Order Approving the Employment of Alvarez & Marsal, L.L.C. as Restructuring Officers of the Debtors [Docket No. 1058] (the “Amended Alvarez Order”), in which it authorized the Debtors to modify the scope and costs of the Alvarez engagement in accordance with paragraph 2(a) of the Letter Agreement. Pursuant to the Amended Alvarez Order, the Alvarez personnel authorized to be employed, and the titles and rate of compensation of those persons were modified to accommodate changes in such personnel, which lowered the overall cost and benefited the Debtors’ estates.

7. The Debtors have determined that the employment of the Alvarez personnel should be modified again. Beginning in late December, 2004, the Debtors determined that they should engage Alvarez personnel (the “Alvarez Real Estate Personnel”), including William W. McGuire, Martin McFarland, Arnold Adams, and Jason Morton, to provide real estate advisory services to the Debtors relating to a series of potential real estate matters with which the Debtors would need assistance, and including specifically, assistance with the analysis, marketing, and disposition of the Debtors’ two office buildings in Addison, Texas known generally as Addison I and Addison II.

8. Specifically, the Alvarez Real Estate Personnel have rendered and will render the following services:

- review possible lease transactions for Addison I with Overhead Door (Addison I Pending Lease);

- modify Addison I Pending Lease, where appropriate, to ensure maximum value on ultimate sale of Addison I;
- review Build-Out plans for Addison I Pending Lease;
- review VarTec lease for Addison I space;
- evaluate offers for Addison II;
- coordinate and oversee fair market value calculations for Addison I and Addison II;
- determine whether to engage broker for Addison II;
- prepare marketing packages for Addison I and Addison II;
- interview, select, and negotiate compensation for brokers for Addison I and/or Addison II;
- coordinate brokers' activities and attend and chair meetings;
- oversee disposition process for Addison I and Addison II, including the negotiation of closing price and terms, and assist in communications and approvals, as needed by creditors, other stakeholders, and their representatives;
- evaluate Marsh Lane lease;
- address other issues related to real estate evaluation, as requested and agreed upon with the Debtors; and
- oversee disposition process for DeSoto real property and certain switch facilities, including, but not limited to, the calculation of fair market value, preparation of marketing packages, coordination of brokers' activities, if any, and negotiation of price and terms.

9. Soon after beginning to provide services in early January 2005, the Alvarez Real Estate Personnel identified a potential purchaser, SPI IH II, L.P. (the "Purchaser") to purchase Addison I and Addison II. Following significant negotiations, the Debtors finalized a Letter of Intent which was followed by continuing negotiation with respect to a Contract of Sale and related bid procedures, and on February 22, 2005, the Debtors filed their Motion for Approval of the Sale of Real and Personal Property in Addison, Texas (Addison I and Addison II Properties), Free and Clear of Liens, Interests, Encumbrances, and Taxes, and Waiving the Automatic Stay Imposed Under Federal Rule of Bankruptcy Procedure 6004(g) [Docket No. 976] in which they have requested authority to sell Addison I and Addison II to the Purchaser, or such other party providing a higher and better offer at an auction. Following a well-advertised sale process, at a highly competitive auction of Addison I and Addison II in which two bidders participated, the Purchaser was named as the highest and best bidder with a purchase price of \$18,550,000. A hearing on the sale motion is set for March 21, 2005 at 10:30 a.m.

10. The Debtors have determined that they should adjust the Alvarez team to add to it, as officers of the Debtors, the members of the Real Estate Advisory Services Group of Alvarez, as follows:

Alvarez Officer	Position	Hourly Rate
William W. McGuire	Assistant Vice	\$550
	President	
Martin McFarland	Assistant Vice	550
	President	
Arnold Adams	Assistant	350
	Treasurer	
Jason Morton	Assistant	350
	Treasurer	

11. The personnel shifts made as a result of these changes have been such that the Debtors request a modification of the Amended Alvarez Order to be certain such changes are consistent with the Orders of this Court and effective as of the date of such changes.

12. In the exercise of their business judgment, the Debtors have determined that the modifications provided herein are in their best interests and those of their creditors.

13. The Debtors anticipate considerable net savings to the estates by virtue of the enlargement of the scope of the Alvarez personnel and in light of the avoidance of a real estate commission in conjunction with the sale of Addison I and Addison II.

PRAYER

The Debtors respectfully request that this Court enter an Order modifying the Amended Alvarez Order authorizing the modification to the Alvarez personnel as described above effective as of January 1, 2005 and granting them other relief to which they may justly be entitled.

Dated: March 21, 2005

Respectfully submitted,

VINSON & ELKINS L.L.P.

Trammell Crow Center
2001 Ross Avenue, Suite 3700
Dallas, Texas 75201
Tel: 214.661.7299
Fax: 214.220.7716

By: /s/ Richard H. London
Daniel C. Stewart, SBT #19206500
William L. Wallander, SBT #20780750
Richard H. London, SBT #24032678

ATTORNEYS FOR THE DEBTORS

944907_2.DOC

CERTIFICATE OF SERVICE

This is to certify that on March 21, 2005, a copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas. A separate certificate of service shall be filed with respect to those parties on the Clerk's list who do not receive electronic e-mail service.

/s/ Richard H. London
One of Counsel