

**EXHIBIT A**



**ENTERED**

TAWANA C. MARSHALL, CLERK  
THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

**The following constitutes the order of the Court.**

Signed January 18, 2005.

**United States Bankruptcy Judge**

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

In re:	§	
	§	
VARTEC TELECOM, INC., <i>et al.</i> ,	§	CASE NO. 04-81694-SAF-11
	§	
Debtors.	§	(Chapter 11)
	§	(Jointly Administered)

**ORDER GRANTING MOTION TO INITIATE AND IMPLEMENT THE  
KEY EMPLOYEE RETENTION AND SEVERANCE PROGRAM**

On January 7, 2005, the Court considered the Motion to Initiate and Implement the Key Employee Retention and Severance Program [Docket No. 338] (the "Motion") filed by the above-referenced debtors and debtors in possession (the "Debtors"), the objections thereto filed by the Official Committee of Unsecured Creditors (the "Official Committee") and the Official Committee of Excel Independent Representatives (the "IR Committee"), and the agreement of the Debtors and the Official Committee. The Court finds that the relief requested in the Motion is necessary, is in the best interest of the Debtors' estates and creditors, and is a proper exercise of the Debtors' business

judgment. The Court further finds that adequate notice has been given and no other notice needs to be given. Based on, among other things, the pleadings filed, testimony of the witnesses offered by the Debtors, arguments made and law presented, the representations of counsel, and the agreement of the Debtors, the Official Committee, and the RTFC, the Court finds that the relief requested in the Motion should be granted. Therefore, it is

**ORDERED** that the Motion is **GRANTED** subject to the entry of a Final DIP Financing Order that reflects the RTFC overline commitment of at least \$10MM, and the filing of a revised DIP budget that demonstrates that there is sufficient liquidity to meet the cash needs of the Debtors (the “Budget”), including payments proposed under this KERP Plan for the relevant period (the “Final DIP Financing Order”). It is further

**ORDERED** that the objection filed by the Official Committee is deemed withdrawn. It is further

**ORDERED** that the objection filed by the IR Committee is overruled. It is further

**ORDERED** that the Debtors are authorized to make the payments as provided herein as summarized on Schedule A hereto (the “Payment Schedule”). It is further

**ORDERED** that Debtors are authorized to make initial retention bonus payments for Key Employee Tiers 2, 3 and 4, plus the accrued and unpaid vacation from Tiers 1, 2, 3 and 4 as set forth on the Payment Schedule (see column [A]) on a date which is the second business day following entry of the Final DIP Financing Order and the delivery of the Budget to both the Official Committee and the IR Committee. It is further

**ORDERED** that all other retention bonus payments to Key Employee Tiers 2, 3 and 4 (approximately 73% of such retention bonus) as set forth on the Payment

Schedule (see column [E]) shall be made on a schedule tied to reasonably and realistically achievable milestones to be established by Debtors and the Official Committee of Unsecured Creditors following delivery and review of the completed business plan (the "Milestones"). It is further

**ORDERED** that Key Employee Tier 1 retention bonus shall be payable as set forth on the Payment Schedule (see column [D]), that is, (i) \$438,750 (or 75% of such retention bonus) tied to achievement of the Milestones and (ii) \$146,250 (or 25% of such retention bonus) paid in two equal quarterly payments of \$73,125 in arrears, commencing as of the quarter ended March 31, 2005, and ending on the quarter ended June 30, 2005 (see columns [B] and [C]).

**ORDERED** that the severance component of the KERP is approved in the amounts set forth on the Payment Schedule, subject to the entry of the Final DIP Financing Order as described above, provided that the Severance component will not be paid to any employee who is terminated for cause. It is further

**ORDERED** that in the event of a conversion of these cases to Chapter 7, any claims on account of the unpaid severance component will be entitled to chapter 11 administrative expense status. It is further

**ORDERED** that if a conversion to Chapter 7 occurs prior to the achievement of the Milestones, all retention bonuses not yet earned by achievement of the Milestones shall not be triggered or payable. It is further

**ORDERED** that if the Debtors and the Official Committee of Unsecured Creditors are unable to agree on the terms and conditions of the Milestones, this Court shall establish the Milestones after notice and a hearing. It is further

**ORDERED** that, in the event that any Key Employee is terminated for cause prior to the achievement of a Milestone, such Key Employee will be ineligible to receive any payment under the KERP for any amounts tied to the occurrence of any Milestone that will occur following that Key Employee's termination. It is further

**ORDERED** that the payments contemplated herein shall be in addition to the Key Employees' salary, wages, commissions, unpaid accrued vacation, and other forms of compensation to which he or she is entitled in the ordinary course of the Debtors' businesses. It is further

**ORDERED** that in addition to the proposed payments under the KERP, the Debtors are authorized, but not directed, to establish a discretionary bonus pool of an aggregate amount of up to \$250,000 in recognition of the fact that certain employees will be asked to perform duties beyond their ordinary responsibilities. Such funds will be allocated by the Debtors in their business judgment, in order to accomplish tasks necessary to the operations of the Debtors' businesses. It is further

**ORDERED** that the Debtors may substitute a replacement employee into the KERP to the extent of available KERP benefits for a Key Employee that has resigned from or been terminated by the Debtors. The Committee shall have the right to review and comment on such substitute replacement. It is further

**ORDERED** that the Debtors shall be authorized to execute any and all documents contemplated by the Motion or necessary or appropriate to effectuate the terms and provisions of this Order.

**### END OF ORDER ###**

**Schedule A – Table of Key Employee Retention Plan Payments**

VarTec Telecom, Inc. - Key Employee Retention Plan Summary					
Retention Summary					
	[A]	[B]	[C]	[D]	[E]
<u>Tier</u>	<u>2 Business Days After Final DIP Order</u>	<u>03/31/05 – Tier 1 Payment</u>	<u>06/30/05- Tier 1 Payment</u>	<u>Milestones Related Payments</u>	<u>Total KERP Payments</u>
Tier 1 Retention	\$0	\$73,125	\$73,125	\$438,750	\$585,000
Tier 1 Accr. Vacation	\$45,000	\$0	\$0	\$0	\$45,000
Tier 2 Retention	\$176,700	\$0	\$0	\$706,800	\$883,500
Tier 3 Retention	\$98,309	\$0	\$0	\$393,237	\$491,546
Tier 4 Retention	\$4,115	\$0	\$0	\$16,460	\$20,575
Tiers 2, 3,4 Accr. Vacation	\$104,746	\$0	\$0	\$0	\$104,746
<b>Retention Totals:</b>	<b>\$428,870</b>	<b>\$73,125</b>	<b>\$73,125</b>	<b>\$1,555,247</b>	<b>\$2,130,367</b>
<i>% of Total Retention Costs</i>	<i>20%</i>	<i>3.5%</i>	<i>3.5%</i>	<i>73%</i>	<i>100%</i>
<b>Discretionary Bonus Pool</b>					<b>\$250,000</b>
Severance Summary					
<u>Tier</u>					<u>Amount</u>
Tier 1 Severance					\$585,000
Tier 2 Severance					\$883,500
Tier 3 Severance					\$491,547
Tier 4 Severance					\$3,165
<b>Severance Total:</b>					<b>\$1,963,212</b>

*After entry, return copy to:*

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