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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.**

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CASE NO. 04-81694-HDH-11

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

**Hearing Set for November 1, 2005 at
1:30 p.m.**

**MOTION TO APPROVE AMENDMENT NUMBER 8 TO THE ORDER FORM AND
ADDENDUM WITH COMPUTER ASSOCIATES INTERNATIONAL, INC.**

**A HEARING WILL BE CONDUCTED ON THIS MATTER ON
NOVEMBER 1, 2005 AT 1:30 P.M. IN THE COURTROOM OF THE
HONORABLE HARLIN D. HALE, UNITED STATES BANKRUPTCY
JUDGE, 1100 COMMERCE STREET, 14TH FLOOR, DALLAS, TEXAS.
IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST
RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH
PARAGRAPH OF THIS PLEADING. UNLESS OTHERWISE DIRECTED
BY THE COURT, YOU MUST FILE YOUR RESPONSE WITH THE
CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY (20) DAYS
FROM THE DATE YOU WERE SERVED WITH THIS PLEADING. YOU
MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO
SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE
PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.**

TO THE HONORABLE HARLIN D. HALE, UNITED STATES BANKRUPTCY JUDGE:

The above-referenced debtors and debtors in possession (collectively, the

“Debtors”)¹ file this Motion to Approve Amendment Number 8 to the Order Form and Addendum with Computer Associates International, Inc. (the “Motion”) and in support thereof the Debtors would show as follows:

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) and (M).

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.

5. The Debtors’ Cases are jointly administered under the Case styled *In re VarTec Telecom, Inc.*; Case No. 04-81694-HDH-11.

FACTUAL BACKGROUND

6. On August 31, 2002, VarTec Telecom, Inc. (“VarTec”) and Computer Associates International, Inc. (“CA”) executed that certain Order Form and Addendum (as amended, modified, and supplemented, the “Agreement”) under which CA agreed to

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.

provide non-exclusive, perpetual licenses to use software applications (the “Applications”) and support and maintenance services (the “Services”) to VarTec. The Applications are used to provide real-time monitoring of the Debtors’ servers, network components, and mission-critical business applications. The Applications provide proactive monitoring services and alerts the Debtors’ personnel of potential problems that, among other things, negatively would impact the Debtors’ customers. In addition, the Applications are used to schedule and automate over 1,300 job sets (each of which includes approximately 20 tasks) needed to monitor the Debtors’ computer systems. The Applications are an important tool to the Debtors’ information technology group.

7. The Services are renewed on an annual basis, and the most recent renewal expired on August 31, 2005. To that end, VarTec and CA have agreed to amend the Agreement under that certain Amendment Number 8 to the Order Form and Addendum (the “Amendment”). Under the Amendment, CA agrees to provide certain Services to VarTec, including software maintenance, support, and subscription services (e.g. new versions as released). VarTec agrees to pay CA \$492,720 plus tax – a reduction of approximately \$160,000 versus last year’s cost – which is payable in four equal installments. In addition, CA consents to VarTec’s assignment of its rights under the Agreement and Amendment under certain circumstances.

RELIEF REQUESTED

8. Pursuant to Bankruptcy Code §§ 105, 363, and 364, the Debtors request approval of the execution of the Amendment and the payment of the costs associated therewith in four equal installments. Bankruptcy Code § 363(b)(1) provides, “The

trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1).

9. The proposed use, sale or lease of property of the estate may be approved under Bankruptcy Code § 363(b) if it is supported by sound business justification. *See, e.g., In re Crutcher Resources Corp.*, 72 B.R. 628, 631 (Bankr. N.D. Tex. 1987); *The Institutional Creditors of Continental Air Lines, Inc. v. Continental Air Lines, Inc. (In re Continental Air Lines)*, 780 F.2d 1223, 1226 (5th Cir. 1986) (“[F]or a debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business”).

10. In the exercise of their business judgment, the Debtors have determined that the execution of the Amendment will benefit their estates. The Applications and Services are needed to monitor properly the Debtors’ computer systems, and the tasks performed by the Applications cannot be replaced with manual processes because those tasks are complex and the Debtors do not have adequate availability of their employees.

11. Other viable alternatives to CA’s Application and Services do not exist. To utilize an alternative service provider, the Debtors would be required to purchase new licenses to use software applications and pay for services relating to the implementation of those applications and product maintenance. These costs would be prohibitive. Further, the de-installation of the Applications and the implementation of the new software solutions could take up to six months. Given these facts, the renewal of the

Services and execution of the Amendment are the most cost-effective solution available to the Debtors at this time.

12. The Debtors have discussed the Amendment with Comtel Telcom Assets, L.P. ("Comtel"), the purchaser of substantially all of the Debtors' assets subject to regulatory approval, and Comtel agrees that the Amendment should be executed.

13. For these reasons, the Debtors have determined in their business judgment that the Amendment should be executed.

PRAYER

The Debtors respectfully request that the Court enter an Order approving VarTec's execution of the Amendment and granting them such other and further relief to which they may be justly entitled.

Dated: October 7, 2005

Respectfully submitted,

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By: /s/ Richard H. London
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ATTORNEYS FOR THE DEBTORS

CERTIFICATE OF SERVICE

This is to certify that on October 7, 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

CERTIFICATE OF CONFERENCE

The relief requested in this Motion has been discussed with counsel for the Rural Telephone Finance Cooperative and counsel for the Official Committee of Unsecured Creditors, and they have indicated that they do not oppose the same.

/s/ Richard H. London

One of Counsel

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