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**ATTORNEYS FOR THE DEBTORS**

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

<b>IN RE:</b>	§	
	§	
<b>VARTEC TELECOM, INC., et al.,</b>	§	<b>CASE NO. 04-81694-HDH-11</b>
	§	
<b>DEBTORS.</b>	§	<b>(Chapter 11)</b>
	§	<b>(Jointly Administered)</b>
	§	
	§	<b>Hearing Requested for October 18,</b>
	§	<b>2005 at 1:30 p.m.</b>

**MOTION TO APPROVE STATEMENT OF WORK FOR FRAUD MANAGEMENT SERVICES OFFERED BY COMMUNICATIONS MANAGEMENT SERVICES, INC.**

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

The above-referenced debtors and debtors in possession (collectively, the “Debtors”)<sup>1</sup> file this Motion to Approve Statement of Work for Fraud Management Services Offered by Communications Management Services, Inc. (the “Motion”) and in support thereof the Debtors would show as follows:

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<sup>1</sup> 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) 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. Currently, the Debtors have a staff of five to ten employees (collectively, the "Fraud Staff") whose primary responsibility is to prevent revenue loss as a result of network fraud (the "Fraud Prevention Services"). All traffic processed on the Debtors' network is evaluated by software applications in relative "real time," which software analyzes trends that would indicate potential fraud. From reports generated by the software applications, the Fraud Staff identify potential fraud. When the activity warrants, the Fraud Staff installs a block on the subject account until the customer can be contacted to confirm that the "flagged" usage is valid. The Fraud Staff processes

approximately 23,000,000 to 25,000,000 call detail records per business day and 9,000,000 call detail records per non-business day.

7. The Debtors have determined that substantial cost savings may be realized by outsourcing the Fraud Prevention Services. To that end, VarTec Telecom, Inc. ("VarTec") and Communications Management Services, Inc. ("CMS") have executed a Statement of Work dated October 10, 2005 (the "Agreement"), a copy of which is attached hereto as **Exhibit A**, under which CMS agrees to provide the Fraud Prevention Services.<sup>2</sup> Most, if not all, of the Fraud Staff will be hired by CMS to provide those services. Under the Agreement, VarTec will pay a one-time charge of \$40,000 to compensate it for certain setup and configuration costs. In addition, VarTec will pay a monthly minimum charge of \$22,000 plus a variable rate if the number of call detail records exceeds 25,000,000.<sup>3</sup> The Debtors estimate that they will realize savings beginning three or four months after the Agreement is executed, which savings will aggregate to \$187,980 per year.

### **RELIEF REQUESTED**

8. Pursuant to Bankruptcy Code §§ 105 and 363, the Debtors request approval of the execution of the Agreement.

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<sup>2</sup> VarTec and CMS previously have executed a Master Professional Services Agreement dated March 29, 2005 (the "MPSA") under which CMS agreed to provide VarTec unrelated network operating center services. The MPSA was approved by the Court in its Order Approving Master Professional Services Agreement (Communications Management Services, Inc.) [Docket No. 1156]. The Agreement would be entered into under the MPSA.

<sup>3</sup> Under the Agreement, if the monthly call detail records exceed an average of 25,000,000 per day, CMS will charge an additional fee of \$750 for every incremental average of 1,000,000 of call detail records per day.

9. 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).

10. 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”).

11. In the exercise of their business judgment, the Debtors have determined that the execution of the Agreement will benefit their estates. The Debtors have had an excellent relationship with CMS, and its prices are competitive. The Debtors contacted several possible providers of Fraud Prevention Services and believe that CMS will best satisfy their needs. CMS has informed the Debtors that it intends to hire the Fraud Staff, and as a result, the Debtors will have the added benefit of working with service providers who are familiar with the Debtors’ business. By executing the Agreement and outsourcing the Fraud Prevention Services, the Debtors will realize cost savings in excess of \$187,000 per year, which they expect to increase profitability. The Debtors’ management has discussed the execution of the Agreement with representatives from Comtel Telcom Assets, L.P. (“Comtel”), and Comtel has indicated that it supports that

agreement. For these reasons, the Debtors have determined that the Agreement should be executed.

**PRAYER**

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

Dated: October 12, 2005

Respectfully submitted,

**VINSON & ELKINS L.L.P.**

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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 12, 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 and the following parties:

Communication Management Services,  
Inc.

Attn: Shane M. Hanes  
701 Presidential Drive  
Richardson, Texas 75081

*/s/ Richard H. London*

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One of Counsel

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