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BEFORE THE ARIZONA CORPORATION RECEIVED

COMMISSIONERS

JEFF HATCH-MILLER - CHAIRMAN
MARC SPITZER
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES

2005 DEC 22 P 4: 33

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE FORMAL
COMPLAINT OF ACCIPITER
COMMUNICATIONS, INC., AGAINST
VISTANCIA COMMUNICATIONS, L.L.C.,
SHEA SUNBELT PLEASANT POINT, L.L.C.,
AND COX ARIZONA TELCOM, LLC.

) DOCKET NO. T-03471A-05-0064

NOTICE OF FILING

Cox Arizona Telcom, LLC hereby files copies of the first pages of Exhibits 1A through 1F to the Settlement Agreement (Termination of Common Services Easements and Restrictions, Termination of Multi-Use Easements and Indemnity, Termination of Non-Exclusive License Agreement regarding the Property Access Agreement, Termination of Non-Exclusive License Agreement regarding the Co-Marketing Agreement, Roadway and Utility Easement and Second Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Vistancia) that indicate those documents have been recorded.

RESPECTFULLY SUBMITTED this 22^d day of December 2005.

COX ARIZONA TELCOM, LLC

By 
Michael W. Patten
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

ROSHKA HEYMAN & DEWULF, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1 Original and 13 copies of the foregoing
2 filed this 22nd day of December 2005 with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 Copy of the foregoing hand-delivered/mailed
8 this 22nd day of December 2005 to:

9 Martin A. Aronson
10 William D. Cleaveland
11 Morrill & Aronson, P.L.C.
12 One East Camelback Road, Suite 340
13 Phoenix, Arizona 85012

14 Michael Grant, Esq
15 Gallagher & Kennedy
16 2575 East Camelback
17 Phoenix, Arizona 85016

18 Dwight Nodes, Esq.
19 Administrative Law Judge
20 Hearing Division
21 Arizona Corporation Commission
22 1200 West Washington Street
23 Phoenix, Arizona 85007

24 Christopher C. Kempley, Esq.
25 Chief Counsel, Legal Division
26 Arizona Corporation Commission
27 1200 West Washington Street
Phoenix, Arizona 85007

Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

26
27 By Mary Spolits

WHEN RECORDED RETURN TO:

Vistancia, LLC
6720 N. Scottsdale Road
Suite 160
Scottsdale, AZ 85253-4424
Attention: Curtis E. Smith

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**COURTESY RECORDING
NO TITLE LIABILITY**

**TERMINATION
OF
COMMON SERVICES EASEMENTS AND RESTRICTIONS**

This Termination of Common Services Easements and Restrictions (the "Termination") is made and entered into as of the 20th day of December, 2005, by and between VISTANCIA COMMUNICATIONS, L.L.C., an Arizona liability company ("Access Entity") and VISTANCIA, LLC, a Delaware limited liability company (formerly known as Shea Sunbelt Pleasant Point, LLC) ("Master Developer").

RECITALS

A. WHEREAS, Access Entity and Master Developer have previously entered into that certain Common Services Easements and Restrictions dated June 10, 2003, and recorded June 27, 2003, in Instrument No. 2003-0837106, official records of Maricopa County, Arizona (the "CSER").

B. WHEREAS, Section 2.02 of Appendix A of the CSER provides that the CSER may be terminated by a written instrument signed by Access Entity and Master Developer (as the parties to the CSER).

C. WHEREAS, all agreements (other than the CSER) that incorporate Appendix A to the CSER have been terminated (or are concurrently herewith being terminated) by separate recorded instruments. Section 2.02 of Appendix A of the CSER provides that Appendix A of the CSER may be terminated by Access Entity and Master Developer (as the parties to the only remaining agreement that incorporates Appendix A of the CSER).

D. WHEREAS, Access Entity and Master Developer now desire to rescind, revoke, cancel and terminate the CSER and Appendix A to the CSER.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

The CSER and Appendix A to the CSER are hereby rescinded, revoked, cancelled and terminated, and shall be of no further force or effect. Without limiting the generality of the foregoing, it is specifically agreed and provided that Access Entity shall no longer have any approval or other rights under any document that references the CSER or Access Entity's rights thereunder including, but not limited to, the following: (a) that certain Declaration of Covenants,

WHEN RECORDED RETURN TO:

122058-7-1-1--
coatesk

City of Peoria
8401 West Monroe Street
Peoria, AZ 85345
Attention: Stephen Kemp, City Attorney

TERMINATION OF MULTI-USE EASEMENTS AND INDEMNITY

This Termination of Multi-Use Easements and Indemnity (the "**Termination**") is made and entered into as of the 13th day of December, 2005, by and between VISTANCIA COMMUNICATIONS, L.L.C., an Arizona liability company ("**Access Entity**"), VISTANCIA, LLC, a Delaware limited liability company (formerly known as Shea Sunbelt Pleasant Point, LLC) ("**Master Developer**"), and CITY OF PEORIA, ARIZONA, an Arizona chartered municipal corporation ("**City**").

RECITALS

A. WHEREAS, Access Entity, Master Developer and the City have previously entered into that certain Multi-Use Easements and Indemnity, dated July 2, 2003, and recorded July 23, 2003, in Instrument No. 2003-0975499, official records of Maricopa County, Arizona (the "**MUEI**").

B. WHEREAS, Access Entity, Master Developer and the City now desire to terminate the MUEI.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

The MUEI is hereby terminated and shall be of no further force or effect.

This Termination (a) shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns; (b) may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Termination; and (c) shall be governed by and construed in accordance with the laws of the State of Arizona.

WHEN RECORDED RETURN TO:

Vistancia, LLC
6720 N. Scottsdale Road
Suite 160
Scottsdale, AZ 85253-4424
Attention: Curtis E. Smith

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**TERMINATION OF NON-EXCLUSIVE LICENSE AGREEMENT
(re Property Access Agreement)**

This Termination of Non-Exclusive License Agreement (the "**Termination**") is made and entered into as of the 20th day of December, 2005, by and between VISTANCIA COMMUNICATIONS, L.L.C., an Arizona liability company ("**Access Entity**") and COXCOM, INC., a Delaware corporation d/b/a Cox Communications Phoenix, on behalf of itself and its affiliates ("**Cox**").

RECITALS

A. WHEREAS, Access Entity and Cox have previously entered into that certain Non-Exclusive License Agreement dated as of December 31, 2003, and recorded March 2, 2004, in Instrument No. 2004-0212876, official records of Maricopa County, Arizona (the "**NELA**"), whereby (i) Access Entity licensed to Cox certain rights and easements held by Access Entity pursuant to that certain Common Services Easements and Restrictions entered into by Vistancia, LLC, a Delaware limited liability company (formerly known as Shea Sunbelt Pleasant Point, LLC) (the "**Master Developer**") and Access Entity, dated June 10, 2003, and recorded June 27, 2003, in Instrument No. 2003-0837106, official records of Maricopa County, Arizona (the "**CSER**"), and (ii) certain obligations were imposed on Cox as required under that certain that certain Multi-Use Easements and Indemnity entered into by the Master Developer, the City of Peoria, Arizona, an Arizona chartered municipal corporation (the "**City**") and Access Entity, dated July 2, 2003, and recorded July 23, 2003, in Instrument No. 2003-0975499, official records of Maricopa County, Arizona (the "**MUEI**").

B. WHEREAS, the CSER is being terminated concurrently with the recordation of this Termination, pursuant to that certain Termination of Common Services Easements and Restrictions dated of even date herewith and recorded concurrently herewith in the official records of Maricopa County, Arizona.

C. WHEREAS, the MUEI has been terminated (or is being terminated concurrently with the recordation of this Termination) pursuant to that certain Termination of Multi-Use Easements and Indemnity dated of even date herewith and recorded concurrently herewith in the official records of Maricopa County, Arizona.

D. WHEREAS, Access Entity and Cox now desire to rescind, revoke, cancel and terminate the NELA.

**COURTESY RECORDING
NO TITLE LIABILITY**

**COURTESY RECORDING
NO TITLE LIABILITY**

WHEN RECORDED RETURN TO:

Vistancia, LLC
6720 N. Scottsdale Road
Suite 160
Scottsdale, AZ 85253-4424
Attention: Curtis E. Smith

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**TERMINATION OF NON-EXCLUSIVE LICENSE AGREEMENT
(re Co-Marketing Agreement)**

This Termination of Non-Exclusive License Agreement (the "**Termination**") is made and entered into as of the 20th day of December, 2005, by and between VISTANCIA COMMUNICATIONS, L.L.C., an Arizona liability company ("**Access Entity**") and COXCOM, INC., a Delaware corporation d/b/a Cox Communications Phoenix, on behalf of itself and its affiliates ("**Cox**").

RECITALS

A. WHEREAS, Access Entity and Cox have previously entered into that certain Non-Exclusive License Agreement dated as of December 31, 2003, and recorded March 2, 2004, in Instrument No. 2004-0212877, official records of Maricopa County, Arizona (the "**NELA**"), whereby (i) Access Entity licensed to Cox certain rights and easements held by Access Entity pursuant to that certain Common Services Easements and Restrictions entered into by Vistancia, LLC, a Delaware limited liability company (formerly known as Shea Sunbelt Pleasant Point, LLC) (the "**Master Developer**") and Access Entity, dated June 10, 2003, and recorded June 27, 2003, in Instrument No. 2003-0837106, official records of Maricopa County, Arizona (the "**CSER**"), and (ii) certain obligations were imposed on Cox as required under that certain that certain Multi-Use Easements and Indemnity entered into by the Master Developer, the City of Peoria, Arizona, an Arizona chartered municipal corporation (the "**City**") and Access Entity, dated July 2, 2003, and recorded July 23, 2003, in Instrument No. 2003-0975499, official records of Maricopa County, Arizona (the "**MUEI**").

B. WHEREAS, the CSER is being terminated concurrently with the recordation of this Termination, pursuant to that certain Termination of Common Services Easements and Restrictions dated of even date herewith and recorded concurrently herewith in the official records of Maricopa County, Arizona.

C. WHEREAS, the MUEI has been terminated (or is being terminated concurrently with the recordation of this Termination) pursuant to that certain Termination of Multi-Use Easements and Indemnity dated of even date herewith and recorded concurrently herewith in the official records of Maricopa County, Arizona.

D. WHEREAS, Access Entity and Cox now desire to rescind, revoke, cancel and terminate the NELA.

WHEN RECORDED RETURN TO:

122057-21-1-1--
coatesk

Vistancia, LLC
6720 N. Scottsdale Road
Suite 160
Scottsdale, AZ 85253-4424
Attention: Curtis E. Smith

ROADWAY AND UTILITY EASEMENT

This Roadway and Utility Easement (the "Easement") is made and entered into as of the 13th day of December, 2005, by and between VISTANCIA COMMUNICATIONS, L.L.C., an Arizona liability company (the "Access Entity") and VISTANCIA, LLC, a Delaware limited liability company (the "Master Developer").

RECITALS

A. WHEREAS, defined terms appear in this Easement with the first letter of each word in the term capitalized. Unless otherwise defined herein, defined terms shall have the meanings as set forth in Exhibit A attached hereto and incorporated herein.

B. WHEREAS, the Master Developer is the master developer of the planned community located within the City of Peoria, Arizona (the "City"), known as "Vistancia" (the "Project"). In connection with its development of the Project, as of the date hereof the Master Developer has caused to be recorded (or consented to the recordation of) those final subdivision plats, maps of private tract dedication, and maps of dedication as described in Exhibit B attached hereto and incorporated herein (the "Existing Plats and Maps").

C. WHEREAS, the Access Entity and the Master Developer have previously entered into that certain Common Services Easements and Restrictions, dated June 10, 2003, and recorded June 27, 2003, in Instrument No. 2003-0837106, official records of Maricopa County, Arizona (the "CSER"), which, among other things, gives the Access Entity the exclusive right to (1) identify and contract with Communication Service Providers to provide or otherwise make available Communication Services within all or a portion of the In Gross Easement Area, and (2) determine who may locate communication Facilities within Service Easement Areas. As of the date hereof, the In Gross Easement Area does not include any property located outside the boundaries of the property described in the Existing Plats and Maps, and no Service Easement Areas have been created outside the boundaries of the property described in the Existing Plats and Maps.

D. WHEREAS, certain areas have been designated on the Existing Plats and Maps as "Multi-Use Easement," "M.U.E." or "MUE" (all areas on the Existing Plats and Maps that have been designated as "Multi-Use Easement," "M.U.E." or "MUE" being hereinafter collectively referred to as the "MUE Areas").

When recorded, return to:

Storey & Burnham PLC
3030 E. Camelback Road, Suite 265
Phoenix, Arizona 85016
Attn: Lesa J. Storey

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**SECOND CERTIFICATE OF AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR VISTANCIA**

RECITALS:

WHEREAS, Vistancia, LLC, a Delaware limited liability company ("**Declarant**"), executed and caused to be Recorded on July 9, 2003, that certain Declaration of Covenants, Conditions and Restrictions for Vistancia dated July 9, 2003, in Instrument No. 2003-0898772 (as the same may be amended from time to time, the "**Declaration**"); and

WHEREAS, that certain Common Services Easements and Restrictions dated June 10, 2003, and Recorded on June 27, 2003, in Instrument No. 2003-0837106, as amended, has been terminated of record (or is being terminated of record concurrently with the recordation of this Second Certificate of Amendment); and

WHEREAS, initially capitalized terms used but not otherwise defined herein shall have the meanings attributed to them in the Declaration; and

WHEREAS, Declarant desires to amend the Declaration in those respects set forth below (the "**Amendment**"), pursuant to Section 11.2 of the Declaration; and

WHEREAS, the required percentage of the Members of Vistancia Maintenance Corporation, an Arizona non-profit corporation (the "**Corporation**"), has approved the adoption of the Amendment in accordance with Section 11.2 of the Declaration.

AMENDMENT:

NOW THEREFORE, the Declaration is hereby amended as follows:

1. All references to the following terms in the Declaration, and all provisions of the Declaration specifically related thereto, are hereby deleted: "**CSER**"; "**Access Entity**"; "**Communication Service Provider(s)**"; "**Communication Services**"; "**Facilities**"; "**Utility Services**"; "**Service Easement Area**"; and "**Article XV**" (collectively, the "**Deleted Terms and Provisions**").

**COURTESY RECORDING
NO TITLE LIABILITY**