ORIGINAL

NEW APPLICATION

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February 25, 2011

VIA OVERNIGHT DELIVERY

Docket Control Center
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007
(602) 542-2237

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2011 FEB 28 P 2: 19
AZ CORP COMMISSION
DOCKET CONTROL

T-20787A-11-0095

Re: GC Pivotal, LLC – Private Line Services

Dear Sir/Madam:

Enclosed please find for filing an original and thirteen (13) copies of GC Pivotal, LLC's Application and Petition for Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Services.

I have also enclosed an extra copy of this letter to be date stamped and returned to me in the enclosed, self-addressed, postage prepaid envelope.

If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me. Thank you for your attention to this matter.

Respectfully submitted,

Lance J.M. Steinhart
Attorney for Global Capacity Group, Inc.,
Global Capacity Direct, LLC and
Global Capacity Holdco, LLC

Enclosure
ec: Mr. Dan Kardatzke
Thomas H. Campbell, Esq.
Mr. Richard Garner

Arizona Corporation Commission
DOCKETED
FEB 28 2011
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ARIZONA CORPORATION COMMISSION

Application and Petition for Certificate of Convenience and Necessity to Provide Intrastate Telecommunications Services

Mail original plus 13 copies of completed application to:

For Docket Control Only:
(Please Stamp Here)

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

Please indicate if you have current applications pending in Arizona as an Interexchange reseller, AOS provider, or as the provider of other telecommunication services.

Type of Service: ______________________________

Docket No.: ____________ Date: ___________ Date Docketed: ________________________

Type of Service: ______________________________

Docket No.: ____________ Date: ___________ Date Docketed: ________________________

A. COMPANY AND TELECOMMUNICATION SERVICE INFORMATION

(A-1) Please indicate the type of telecommunications services that you want to provide in Arizona and answer the appropriate numbered items:

- ☐ Resold Long Distance Telecommunications Services (Answer Sections A, B).
- ☐ Resold Local Exchange Telecommunications Services (Answer Sections A, B, C).
- ☐ Facilities-Based Long Distance Telecommunications Services (Answer Sections A, B, D).
- ☐ Facilities-Based Local Exchange Telecommunications Services (Answer Sections A, B, C, D, E)
- ☐ Alternative Operator Services Telecommunications Services (Answer Sections A, B)
- ☒ Other Private Line (Please attach complete description)

(A-2) The name, address, telephone number (including area code), facsimile number (including area code), e mail address, and World Wide Web address (if one is available for consumer access) of the Applicant:

GC Pivotal, LLC
200 South Wacker Drive, Ste. 1650
Chicago, Illinois 60606
Telephone: (312) 673-2400
Fax: (312) 673-2422
E-Mail Address: regulatory@globalcapacity.com
Web Address: www.globalcapacity.com

(A-3) The d/b/a ("Doing Business As") name if the Applicant is doing business under a namedifferent from that listed in Item (A-2):

Not Applicable.

(A-4) The name, address, telephone number (including area code), facsimile number (including area code), and E-mail address of the Applicant's Management Contact:

Richard Garner, Secretary and Treasurer
3200 East Camelback Road, Suite 295
Phoenix, Arizona 85018
Telephone: (602) 956-7200
Fax: (602) 956-2313
E-Mail Address: rgarner@pivotalgroup.com

(A-5) The name, address, telephone number (including area code), facsimile number (including area code), and E-mail address of the Applicant's Attorney and/or Consultant:

Lance J.M. Steinhart, Esq.
Lance J.M. Steinhart, P.C.
1720 Windward Concourse, Suite 115
Alpharetta, Georgia 30005
Telephone: (770) 232-9200
Fax: (770) 232-9208
E-Mail Address: lsteinhart@telecomcounsel.com

(A-6) The name, address, telephone number (including area code), facsimile number (including area code), E-mail address of the Applicant's Complaint Contact Person:

Susan Naber, Customer Advocate Manager
200 South Wacker Drive, Ste. 1650
Chicago, Illinois 60606
Telephone: (312) 881-4824
Fax: (312) 673-2422
E-Mail Address: snaber@globalcapacity.com

(A-7) What type of legal entity is the Applicant?

☐ Sole proprietorship

☐ Partnership: _____ Limited, _____ General, _____ Arizona, _____ Foreign

☒ Limited Liability Company: _____ Arizona, __X__ Foreign

☐ Corporation: _____ "S", _____ "C", _____ Non-profit

☐ Other, specify: _______

(A-8) Please include "Attachment A":

Attachment "A" must include the following information:

1. A copy of the Applicant's Certificate of Good Standing as a domestic or foreign corporation, LLC, or other entity in Arizona.
2. A list of the names of all owners, partners, limited liability company managers (or if a member managed LLC, all members), or corporation officers and directors (specify).

Biographies of Applicant's corporate officers are attached as Exhibit A, along with a description of Global Capacity's business which is being purchased by Pivotal.

Applicant will also rely upon the technical expertise of its underlying carriers. In addition, Global Capacity Group, Inc. ("GCG") and Global Capacity Direct, LLC ("GCD") corporate officers and management team responsible for its day-to-day operations are expected to remain essentially the same immediately following the Proposed Transaction. The Proposed Transaction will not have an adverse effect on non-management employees of GCG and GCD. Finally, all existing customer service numbers/operations, contacts and procedures of GCG and GCD will also remain in place after the Proposed Transaction, including procedures relating to billing, repair and customer complaints.

3. Indicate percentages of ownership of each person listed in A-8.2.

(A-9) Include your Tariff as "Attachment B".

Your Tariff must include the following information:

1. Proposed Rates and Charges for each service offered (reference by Tariff page number).

   Rates are ICB. See Sheets 15 – 24 of the Company's Tariff.

2. Tariff Maximum Rate and Prices to be charged (reference by Tariff page number).

   None. Rates are ICB.

3. Terms and Conditions Applicable to provision of Service (reference by Tariff page number).

   See Sheet 7 of the Company's Tariff.

4. Deposits, Advances, and/or Prepayments Applicable to provision of Service (reference by Tariff page number).

   None.

5. The proposed fee that will be charged for returned checks (reference by Tariff page number).

   None.

(A-10) Indicate the geographic market to be served:

☒ Statewide. (Applicant adopts statewide map of Arizona provided with this application).

☐ Other. Describe and provide a detailed map depicting the area.

(A-11) Indicate if the Applicant or any of its officers, directors, partners, or managers has been or are currently involved in any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.

Describe in detail any such involvement. Please make sure you provide the following information:

1. States in which the Applicant has been or is involved in proceedings.
2. Detailed explanations of the Substance of the Complaints.
3. Commission Orders that resolved any and all Complaints.
4. Actions taken by the Applicant to remedy and/or prevent the Complaints from reoccurring.

Neither Applicant nor any of its officers, directors, partners, or managers has been or are currently involved in any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.

(A-12) Indicate if the Applicant or any of its officers, directors, partners, or managers has been or are currently involved in any civil or criminal investigation, or had judgments entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.

Describe in detail any such judgments or convictions. Please make sure you provide the following information:

1. States involved in the judgments and/or convictions.
2. Reasons for the investigation and/or judgment.
3. Copy of the Court order, if applicable.

Neither Applicant nor any of its officers, directors, partners, or managers has been or are currently involved in any civil or criminal investigation, or had judgments entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.

(A-13) Indicate if the Applicant's customers will be able to access alternative toll service providers or resellers via 1+101XXXX access.

☐ Yes ☒ No

(A-14) Is applicant willing to post a Performance Bond? Please check appropriate box(s).

☐ For Long Distance Resellers, a $10,000 bond will be recommended for those resellers who collect advances, prepayments or deposits.

☐ Yes ☐ No

If "No", continue to question (A-15).

☐ For Local Exchange Resellers, a $25,000 bond will be recommended.

☐ Yes ☐ No

If "No", continue to question (A-15).

☐ For Facilities-Based Providers of Long Distance, a $100,000 bond will be recommended.

☐ Yes ☐ No

If "No", continue to question (A-15).

☐ For Facilities-Based Providers of Local Exchange, a $100,000 bond will be recommended.

☐ Yes ☐ No

If any box in (A-14) is marked "No", continue to question (A-15).

Note: Amounts are cumulative if the Applicant is applying for more than onetype of service.

(A-15) If any box in (A-14) is marked "No", provide the following information. Clarify and explain the Applicant's deposit policy (reference by tariff page number). Provide a detailed explanation of why the Applicant's superior financial position limits any risk to Arizona consumers.

The Company will not collect advances, prepayments or deposits. In addition, the Applicant will offer resold data circuits by utilizing the facilities of incumbent local exchange carriers ("LECs") and other facilities-based carriers. Pivotal will not own its own circuits or fiber. Pivotal will resell Layer One (DS-1's & OCNs), Layer Two (ATM and Frame Relay), and Layer Three (MPLS) data circuits to business customers only. No voice services will be provided. All services will be provided pursuant to contracts between Pivotal and its customers. Pivotal has no plans to install either purchased or leased facilities in the State of Arizona.

(A-16) Submit copies of affidavits of publication that the Applicant has, as required, published legal notice of the Application in all counties where the Applicant is requesting authority to provide service.

Note: For Resellers, the Applicant must complete and submit an Affidavit of Publication Form as Attachment "C" before Staff prepares and issues its report. Refer to the Commission's website for Legal Notice Material (Newspaper Information, Sample Legal Notice and Affidavit of Publication). For Facilities-Based Service Providers, the Hearing Division will advise the Applicant of the date of the hearing and the publication of legal notice. Do not publish legal notice or file affidavits of publication until your are advised to do so by the Hearing Division.

(A-17) Indicate if the Applicant is a switchless reseller of the type of telecommunications services that the Applicant will or intends to resell in Arizona:

☒Yes ☐No

If "Yes", provide the name of the company or companies whose telecommunications services the Applicant resells.

Qwest, AT&T, Verizon, Global Crossing, Level 3, and other facilities-based carriers.

(A-18) List the States in which the Applicant has had an application approved or denied to offer telecommunications services similar to those that the Applicant will or intends to offer in Arizona:

Note: If the Applicant is currently approved to provide telecommunications services that the Applicant intends to provide in Arizona in less than six states, excluding Arizona, list the Public Utility Commission ("PUC") of each state that granted the authorization. For each PUC listed provide the name of the contact person, their phone number, mailing address including zip code, and e-mail address.

None.

(A-19) List the States in which the Applicant currently offers telecommunications services similar to those that the Applicant will or intends to offer in Arizona.

Note: If the Applicant currently provides telecommunication services that the Applicant intends to provide in Arizona in six or more states, excluding Arizona, list the states. If the Applicant does not currently provide telecommunications services that the Applicant intends to provide in Arizona in five or less states, list the key personnel employed by the Applicant. Indicate each employee's name, title, position, description of their work experience, and years of service in the telecommunications services industry.

None. Please see Attachment A for biographical information.

(A-20) List the names and addresses of any alternative providers of the service that are also affiliates of the telecommunications company, as defined in R14-2-801.

None.

(A-21) Check here if you wish to adopt as your petition a statement that the service has already been classified as competitive by Commission Decision:

☒ Decision # 64178 Resold Long Distance

☒ Decision # 64178 Resold LEC

☐ Decision # 64178 Facilities Based Long Distance

☐ Decision # 64178 Facilities Based LEC

B. FINANCIAL INFORMATION

(B-1) Indicate if the Applicant has financial statements for the two (2) most recent years.

☐ Yes ☒ No

If "No," explain why and give the date on which the Applicant began operations.

Applicant is a newly formed limited liability company and does not have historical financial statements.

(B-2) Include "Attachment D".

Provide the Applicant's financial information for the two (2) most recent years.

1. A copy of the Applicant's balance sheet.
2. A copy of the Applicant's income statement.
3. A copy of the Applicant's audit report.
4. A copy of the Applicant's retained earnings balance.
5. A copy of all related notes to the financial statements and information.

Note: Make sure "most recent years" includes current calendar year or current year reporting period.

See Pivotal's Financial Statements as of February 14, 2011, which is attached hereto as Exhibit D. In addition, by Court Order entered on January 26, 2011, the Bankruptcy Court for the District of Delaware approved the sale of substantially all of the assets of the jointly-administered Global Capacity debtors, including direct and indirect subsidiaries of Capital Growth Systems, Inc., to Pivotal Global Capacity, LLC or its wholly-owned subsidiary assignee GC Pivotal, LLC ("the Bankruptcy Order"). The Bankruptcy Court has determined that Pivotal has the financial ability to close the Proposed Transaction. A copy of the Bankruptcy Order is attached hereto as Exhibit E.

(B-3) Indicate if the Applicant will rely on the financial resources of its Parent Company, if applicable.

(B-4) The Applicant must provide the following information.

1. Provide the projected total revenue expected to be generated by the provision of telecommunications services to Arizona customers for the first twelve months following certification, adjusted to reflect the maximum rates for which the Applicant requested approval. Adjusted revenues may be calculated as the number of units sold times the maximum charge per unit.
2. Provide the operating expenses expected to be incurred during the first twelve months of providing telecommunications services to Arizona customers following certification.
3. Provide the net book value (original cost less accumulated depreciation) of all Arizona jurisdictional assets expected to be used in the provision of telecommunications service to Arizona customers at the end of the first twelve months of operation. Assets are not limited to plant and equipment. Items such as office equipment and office supplies should be included in this list. **$0.00**
4. If the projected value of all assets is zero, please specifically state this in your response. **$0.00**
5. If the projected fair value of the assets is different than the projected net book value, also provide the corresponding projected fair value amounts.

See "Attachment F"

C. RESOLD AND/OR FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

(C-1) Indicate if the Applicant has a resale agreement in operation,

☐ Yes ☒ No

If "Yes", please reference the resale agreement by Commission Docket Numberor Commission Decision Number.

D. FACILITIES-BASED LONG DISTANCE AND/OR FACILITIES BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

(D-1) Indicate if the Applicant is currently selling facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services in Arizona. This item applies to an Applicant requesting a geographic expansion of their CC&N:

☐ Yes ☐ No

If "Yes," provide the following information:

1. The date or approximate date that the Applicant began selling facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services in Arizona.
2. Identify the types of facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services that the Applicant sells in Arizona.

If "No," indicate the date when the Applicant will begin to sell facilities-based long distance telecommunications AND/OR facilities-based local exchange telecommunications services in Arizona:

E. FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

(E-1) Indicate whether the Applicant will abide by the quality of service standards that were approved by the Commission in Commission Decision Number 59241:

☐ Yes ☐ No

(E-2) Indicate whether the Applicant will provide all customers with 911 and E911 service, where available, and will coordinate with incumbent local exchange carriers ("ILECs") and emergency service providers to provide this service:

☐ Yes ☐ No

(E-3) Indicate that the Applicant's switch is "fully equal access capable" (i.e., would provide equal access to facilities-based long distance companies) pursuant to A.A.C. R14-2-1111 (A):

☐ Yes ☐ No

I certify that if the applicant is an Arizona corporation, a current copy of the Articles of Incorporation is on file with the Arizona Corporation Commission and the applicant holds a Certificate of Good Standing from the Commission. If the company is a foreign corporation or partnership, I certify that the company has authority to transact business in Arizona. I certify that all appropriate city, county, and/or State agency approvals have been obtained. Upon signing of this application, I attest that I have read the Commission's rules and regulations relating to the regulations of telecommunications services (A.A.C. Title 14, Chapter 2, Article 11) and that the company will abide by Arizona state law including the Arizona Corporation Commission Rules. I agree that the Commission's rules apply in the event there is a conflict between those rules and the company's tariff, unless otherwise ordered by the Commission. I certify that to the best of my knowledge the information provided in this Application and Petition is true and correct.

(Signature of Authorized Representative)

2/22/11
(Date)

Richard Garner
(Print Name of Authorized Representative)

Secretary and Treasurer
(Title)

SUBSCRIBED AND SWORN to before me this 22nd day of February, 2011

Michaelene Cornish
NOTARY PUBLIC

My Commission Expires 01-20-12

MICHAELENE CORNISH
Notary Public, State of Arizona
Maricopa County
My Commission Expires
January 20, 2012

ATTACHMENTS

A – Certificate of Good Standing
List of Officers and Directors or Owners
Percentage of Ownership
Biographical Information

B - Proposed Tariff

C - Legal Notice

D - Financial Information

E - Bankruptcy Court Order Approving Sale

F - Arizona Projections

Attachment A

Certificate of Good Standing
List of Officers and Directors or Owners
Percentage of Ownership
Biographical Information

Officers, Directors and Owners		**Percentage Ownership**
Officers:		
F. Francis Najafi	President	
Richard Garner	Secretary and Treasurer	
Owners:		
Pivotal Global Capacity, LLC		100%

STATE OF ARIZONA

Office of the

CORPORATION COMMISSION

CERTIFICATE OF REGISTRATION

To all to whom these presents shall come, greeting:

I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that

******GC PIVOTAL, LLC******

a foreign limited liability company organized under the laws of the jurisdiction of Delaware did obtain a Certificate of Registration in Arizona on the 11th day of February 2011.

This certificate relates only to the legal authority of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 17th Day of February, 2011, A. D.

Executive Director

By: ____________

STATE OF ARIZONA

Office of the
CORPORATION COMMISSION

CERTIFICATE OF GOOD STANDING

To all to whom these presents shall come, greeting:

I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that

******GC PIVOTAL, LLC******

a foreign limited liability company organized under the laws of the jurisdiction of Delaware did obtain a Certificate of Registration in Arizona on the 11th day of February 2011.

I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said limited liability company has not had its Certificate of Registration revoked for failure to comply with the provisions of A.R.S. section 29-601 et seq., the Arizona Limited Liability Company Act; and that the said limited liability company has not filed a Certificate of Cancellation as of the date of this certificate.

This certificate relates only to the legal authority of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 17th Day of February, 2011, A. D.

Executive Director

By: ______________

SEAL OF THE ARIZONA CORPORATION COMMISSION
DITAT DEUS
1912

AZ Corp. Commission
03372601

APPLICATION FOR REGISTR[ATION] OF A FOREIGN LIMITED LIABILIT[Y COMPANY]

Pursuant to A.R.S. §29-802 et seq.

1. The company name must contain an ending which may be "limited liability company," "limited company," or the abbreviations "L.L.C.", "L.C.", "LLC" or "LC". If you are the holder or assignee of a tradename, attach a copy of the tradename certificate. If your name is not available for use in Arizona, you must adopt a fictitious name and provide a resolution adopting the name, which must be signed by a manager, member or authorized agent.

2. Provide the name of the state or jurisdiction under whose laws your company was formed.

3. Provide the date on which your company organized in the state or jurisdiction under whose laws it was formed.

4. Provide the general character of business you plan to transact in Arizona.

5. The statutory agent must provide a street address. If statutory agent has a P.O. Box, then they must also provide a street address/location.

The agent must consent to the appointment by executing the consent.

1. The name of the foreign limited liability company is:
GC Pivotal, LLC

1. a. If the exact name of the foreign limited liability company is not available for use in this state, then the fictitious name adopted for use by the limited liability company in Arizona is:

__________ (FN) ____

2. The company is organized under the laws of: Delaware (State)

3. The date of the company's formation is: May 20, 2010

4. The purpose of the company or the general character of business it proposes to transact in Arizona is: Provide Telecommunication Services

5. The name and street address of the statutory agent for the foreign limited liability company in Arizona is:

Incorp Services, Inc.

2338 W. Royal Palm Rd., Ste. J, Phoenix, AZ 85021

ACCEPTANCE OF APPOINTMENT BY STATUTORY AGENT

X I, Incorp Services, Inc. (Print Name), having been designated to act as statutory agent, hereby consent to act in that capacity until removed or resignation is submitted in accordance with the Arizona Revised Statutes.

Incorp Services, Inc.

Signature

X

If signing on behalf of a company, ~~print company~~ name here

AZ CORPORATION COMMISSION
FILED

FEB 1 1 2011

6. Check which management structure will be applicable to your company. Provide name, title and address for each person.

7. If the jurisdiction under the law of which your company is formed, you must provide the address of the principle office of the company, in whatever state or jurisdiction it is located.

The application must be signed by a member, manager or duly authorized agent.

Attach a certificate of existence or document of similar import duly authenticated (within sixty (60) days) by the official having custody of corporate records in the state, province or county under whose laws the corporation is incorporated.

Your phone and fax numbers are optional.

6. Management Structure (select option A or B):

A ☐ <u>Management of the limited liability company is **vested in a manager or managers.**</u> The names and addresses of each person who is a manager <u>AND</u> each member who owns a twenty percent or greater interest in the capital or profits of the limited liability company are:

Name: ______________________ [] member [] manager
Address: ______________________
____
City, State, Zip: ______________________

Name: ______________________ [] member [] manager
Address: ______________________
____
City, State, Zip: ______________________

Name: ______________________ [] member [] manager
Address: ______________________
____
City, State, Zip: ______________________

Name: ______________________ [] member [] manager
Address: ______________________
____
City, State, Zip: ______________________

B X <u>Management of the limited liability company is **reserved to the members**</u>. The names and addresses of each person who is a member are:

Name: See Attached
Address: ______________________
____
City, State, Zip: ______________________

Name: ______________________
Address: ______________________
____
City, State, Zip: ______________________

Name: ______________________
Address: ______________________
____
City, State, Zip: ______________________

Name: ______________________
Address: ______________________
____
City, State, Zip: ______________________

7. The address of the office required to be maintained in the jurisdiction under the laws of which the company is organized, if required; or, if not required, the address of the principal office of the company is:

200 South Wacker Drive, Suite 1650, Chicago, Illinois 60606

Executed this 28 day of January 2011

GC Pivotal, LLC
By: Pivotal Global Capacity, LLC, Sole Member

By: F. Francis Najafi, Member

Signature

PHONE: (602) 956-7200 FAX: (602) 956-2313

Biographical Information

F. Francis Najafi, Chief Executive Officer and Founder

Francis Najafi is Founder and Chief Executive Officer of Pivotal Group, a twenty-five year old investment firm with extensive experience in private equity investments and all major real estate product types.

Mr. Najafi has substantial board level experience and currently serves as the Chairman of the Board of NxSystems and is an active Board Member of the EastWest Institute. Additionally, Mr. Najafi previously severed as a Board Member of both Network Solutions and Western Alliance Bancorporation. He is also active in the World President's Organization (WPO) Chief Executive's Organization (CEO), Urban Land Institute (ULI), and serves as Governor of the ULI Foundation

Locally, Mr. Najafi is a member of the Greater Phoenix Leadership (GPL), a Trustee of Thunderbird - The School of Global Management, and a Foundation Board member of Translational Genomics Research Institute (TGen). He is also a member of the President's Club at Arizona State University and serves on the ASU's Business School, Dean's Council. Mr. Najafi is also a patron of numerous cultural and civic organizations.

Mr. Najafi completed his Bachelor of Science degree in engineering at Arizona State University (ASU), followed by two Masters Degrees one from Thunderbird - The School of Global Management, and an additional Masters from the University of Southern California (USC). At USC, he began his entrepreneurial activities while a Ph.D. candidate in International Political Economy.

Richard Garner, Chief Financial Officer

Mr. Garner has been an integral part of Pivotal Group's management team for over ten years and is responsible for overseeing the accounting and finance requirements of Pivotal and its portfolio ventures. As a Certified Public Accountant, he has more than twenty years of accounting, finance and general business experience, including ten years as a consultant, auditor and business advisor with the national CPA firms of Ernst & Young and Kenneth Leventhal.

He enjoys community service, including serving as an active youth leader with the Boy Scouts of America to help shape the lives of America's youth.

Mr. Garner received a B.S. in accounting from Northern Arizona University

Business Information for Global Capacity Group, Inc.

ITEM 1. BUSINESS.

Capital Growth Systems, Inc., dba Global Capacity ("CGSI," "we," "our," "us," or the "Company"), is a publicly traded corporation that delivers telecom information and logistics solutions to a global client set consisting of systems integrators, telecommunications companies, and enterprise customers. These solutions enable clients to address the inefficiencies inherent in access networks globally. The global market for access networks, estimated at over $200 billion annually, is highly inefficient, plagued by market fragmentation, regionalized rules and regulations, and lack of transparency related to pricing and supply. This creates an environment where clients pay unnecessarily inflated prices due to inefficient procurement practices and margin stacking. The market is characterized by a large number of suppliers that offer piece parts of a customer's end-to-end network requirement that must be effectively combined with assets from other providers to deliver a complete network solution. This dynamic creates challenges for customers seeking to procure network connectivity globally. Lack of transparency relative to the supply and pricing of network assets creates inefficient procurement practices, and lack of expertise to effectively provision and manage these integrated services creates complex and costly operating environments.

Global Capacity addresses this market inefficiency through two lines of business – **Optimization Solutions** and **Connectivity Solutions** – each of which leverages the Company's core intellectual property to drive transparency and automation into the market.

Optimization Solutions provides clients license access to Global Capacity's automated quotation management platform, *CLM*, enabling them to automatically generate accurate quotes for access circuits based on tariffs appropriate for the particular service. *CLM* acts as an electronic trading platform, allowing customers to match their demand against a global catalog of pricing and supply data, creating a level of market transparency not available elsewhere. *CLM* may also be customized using a customer's specific infrastructure and contract data, creating an automated mechanism to generate customer pricing, reducing back office cost and accelerating sales. **Optimization Solutions** clients may also leverage the *CLM* platform, along with proprietary network optimization tools, to deliver network optimization consulting services, in which the Company assesses existing inventories of access networks, identifying opportunities to reduce cost through both financial and physical network grooming. Realized savings are typically between 10-40% of current spend. **Optimization Solutions** clients also leverage Global Capacity's engineering and remote network management services on a professional services basis, selectively deploying these services against specific opportunities to implement and manage private network solutions that increase efficiency and reduce cost.

Connectivity Solutions clients utilize Global Capacity's logistics expertise to implement access network solutions that improve efficiency and reduce cost. "One Marketplace," the Company's physical network trading platform, aggregates network capacity from multiple suppliers at strategically deployed pooling points, using Global Capacity switching equipment to efficiently deploy capacity against market demand. "One Marketplace" reduces network costs for clients, while delivering gross margin more similar to facilities-based providers than to resellers. Global Capacity's Network Novation practice offers outsourced access network operations, including pricing, procurement, and provisioning and network management. These solutions deliver lower access network costs by aggregating customer demand, while also reducing client SG&A associated with managing access network operations. Off-net extension services enable Global Capacity to identify, price, procure, provision and support competitive off-net access services for large clients, providing access to a broad universe of providers with transparency and efficiency.

ORGANIZATION

Going to market as Global Capacity, the Company has integrated the core systems, processes, and personnel of its five operating subsidiaries and organized them into two business units: Optimization Solutions and Connectivity Solutions. These business units leverage the systems, processes and expertise of the Company to deliver a set of offerings comprising tariff quotation management software, custom pricing software, network optimization consulting, engineering services, remote management services, "One Marketplace" network services, network novation services, and off-net extension services. Utilizing its depth of global telecom supply and pricing data in an automated fashion with powerful tools and expert analysis, the Company helps bring transparency to the fragmented and inefficient global telecom market – resulting in dramatically reduced cost and improved efficiency for the Company's clients, while producing revenue and margin for the Company.

To service its clients, CGSI has operating offices in several U.S. locations (Chicago, IL, Waltham, MA, New York, NY, Glastonbury, CT, and Houston, TX). It also has a presence in the European Union (Manchester, UK, and Lisbon, Portugal).

The Company is (and has been since its 2006 reorganization) investing its time, team resources, and capital in the development of its intellectual property and the scaling of its systems in order to meet the growing demand among its clients for its services. At the same time, expenses are managed closely and lower-cost outsource opportunities are given case-by-case consideration.

HISTORY AND ACQUISITIONS

Currently, CGSI consists of five core-operating entities that comprise the Company's go-forward assets and offerings: 20/20 Technologies, Inc. (20/20), Magenta netLogic, Ltd. (Magenta), CentrePath, Inc. (CentrePath), Global Capacity Group, Inc. (GCG), and Vanco Direct USA, LLC. Vanco Direct USA, LLC is now known as Global Capacity Direct, LLC (GCD).

Prior to 2004, CGSI was a publicly reporting shell corporation with no active business. In January 2004, the Company acquired, by way of subsidiary merger, Nexvu, a development-stage company in the network performance management business. During 2007, the Company determined the Nexvu product, though a valuable asset, was not core to the telecom information and logistics model it was pursuing. As a result, the Company shut down Nexvu's operations (eliminating all operating expense associated with the business). The Company sold Nexvu in August 2008.

In September 2004, CGSI acquired 100% of Frontrunner Network Systems Corporation (Frontrunner) via a subsidiary merger. Frontrunner is known as an "interconnect" company, which installs and services customer-premise voice, data, and video networks. During 2007, the Company determined Frontrunner was not core to its telecom logistics model. The Company sold Frontrunner in February 2008.

During 2006, the Company acquired 20/20, Magenta, CentrePath, and GCG. In November 2008, CGSI acquired all of the outstanding membership interests of GCD. See the Acquisitions note to the Company's consolidated financial statements for additional information.

BUSINESS OVERVIEW FOR 2009

CGSI and its management team adopted a strategy in 2009 by which it further integrated the assets of its subsidiary companies to create a suite of capabilities which management believes has never before been available from a single source telecom information and logistics provider. These capabilities include:

- Global market intelligence of telecom supply and pricing data;
- Automated quotation management;
- Customized access network pricing;
- Powerful network optimization algorithms, tools and practices;
- Robust network engineering process and expertise;
- World-class remote network management systems, processes, and expertise; and
- Strategically deployed network aggregation pooling points.

The successful execution of this strategy provides customers a suite of solutions that individually or collectively will help them address the challenges they face in managing the complex market for global networks. Significant customer contracts in both lines of business in 2009 demonstrate the acceptance by the market of the Company's telecom information and logistics model. For 2009, the Company provided services to a major customer that represented $9.7 million (15%) of total revenues.

CGSI's goal is to become the leading global telecom information and logistics company providing optimization and connectivity solutions to systems integrators, telecommunications companies, and enterprise customers.

SERVICES

Management believes organizing the Company and its offerings between Optimization Solutions and Connectivity Solutions provide the greatest opportunity to deliver targeted solutions that maximize value to the customer while simultaneously maximizing revenue and margin opportunities for the Company. Customers may buy Optimization Solutions only, Connectivity Solutions only, or they may buy both. Management believes there are significant opportunities to leverage offerings from one line of business to drive demand for the solutions of the other line of business. Furthermore, the mix of offerings and their different characteristics (non-recurring and monthly recurring revenue streams) provide diversity of revenue and protect the Company from being overly dependent or exposed by a single offering or line of business.

Optimization Solutions

The Optimization Business provides five offerings:

- Automated quotation management;
- Customized access network pricing;
- Network optimization consulting;
- Network engineering services; and
- Remote network management services (RMS).

Automated quotation management software enables customers to use Global Capacity's CLM system to match customer demand against a global catalog of telecom supply and pricing data to generate an accurate, tariff-based quote for the selected services and locations. This automated process replaces the largely manual process most companies continue to rely on and dramatically reduces the amount of time it takes to generate an accurate quote, while increasing the accuracy of the quote. This serves as a baseline for the customer to obtain a competitive market price, which CLM supports through workflow management functionality. This results in a competitive sales advantage for our customers, while also reducing their operating costs. Automated quotation management software is sold as an annual software license.

Customized access network pricing software uses the CLM automated quotation management system as a baseline capability, but customizes the system to include customer specific information such as customer points of presence, negotiated / contracted rates, interconnect points, and business rules. This customization enables the customer to quickly and accurately generate an automated price, using the customer's contracts, infrastructure, and business rules, dramatically improving the speed and responsiveness to customer pricing requests. This capability reduces the cost of generating a customer price quote, automating the generation of customized pricing at a fraction of the cost of generating the same price manually. Customized access network pricing software is sold as an annual software license.

Network optimization consulting uses the CLM pricing functionality, coupled with powerful optimization algorithms, in a well-defined methodology to work with clients to collect, cleanse, implement, and analyze network data – including inventory, cost, and design data – in order to produce a network optimization report that identifies opportunities to improve the efficiency and reduce the cost of complex global networks. Recommendations include: financial grooming, where costs are reduced through identification of overcharges; contractual strategies, including moving services to new tariff structures and novating existing network contracts to more favorable vehicles; and physical grooming, where networks are moved to more favorable suppliers, re-homed to different points of presence, or aggregated to achieve better cost points. The Company then employs its logistics capabilities to help customers implement and realize the identified savings. The optimization process typically identifies savings of 2-5% for financial grooming and 15-40% for physical grooming. These savings can total many millions of dollars in large, complex network environments. The Company contracts for Optimization Consulting engagements on a base service fee plus contingent fee basis, where the Company is paid a non-recurring fee based upon a percentage of the savings achieved from the engagement.

Engineering services help customers implement optimized network infrastructure through a suite of services that include the design, engineering, build out, testing and turn-up of complex networks. These services leverage well-developed processes, repeatable methodologies, and deep expertise of the Company to deliver targeted engagements. The Company has built or augmented hundreds of customer networks. These engagements are delivered as non-recurring revenue on a statement of work (SOW) basis.

Remote Management Services employ the Company's highly-integrated Operations Support Systems (OSS) and state of the art Network Operations Center (NOC) to deliver network monitoring and management of customer networks. This service can be delivered as a stand-alone service for networks not provided by us or it can be bundled as part of a complete network solution delivered via the Connectivity Solutions business unit. Remote Management Services are proactive, 7X24 monitoring and management services that leverage automated fault and performance management systems, integrated trouble ticketing and reporting systems, and world-class network engineering and operations expertise to provide a premium level of service for a customer's most critical networks. Remote Management Services are contracted on a monthly recurring basis.

Connectivity Solutions

The Connectivity Solutions Business provides three offerings:

- "One Marketplace"
- Network Novations
- Off-net Extension

"One Marketplace," the Company's physical network trading platform, aggregates network capacity from multiple suppliers at strategically deployed pooling points, using Global Capacity switching equipment to efficiently deploy capacity against market demand. "One Marketplace" reduces network costs for clients, while delivering gross margin more similar to facilities-based providers than to resellers. The Company is continuously expanding "One Marketplace" by installing additional aggregation points, and creating interconnections with suppliers (national, regional, and local) to expand the reach and increase the capacity of the platform. Increased client demand, as evidenced by the 160% growth experienced on the platform in 2009, enables the continued, profitable expansion of the platform.

Global Capacity's Network Novation practice offers outsourced access network operations, including pricing, procurement, and provisioning and network management. These solutions deliver lower access network costs by aggregating customer demand, while also reducing client SG&A associated with managing access network operations solution. Global Capacity's network novation practice has developed proven processes to seamlessly assume the management of existing network contracts, freeing the client to focus on their core business, while reducing the overall cost of their access network.

Off-net extension services enable Global Capacity to identify, price, procure, provision and support competitive off-net access services for large clients, providing access to a broad universe of providers with transparency and efficiency. Using the Company's pricing systems, we generate an automated, accurate price quote. We then manage that quote from initial pricing through ordering, procurement, provisioning, test and turn up, and operations hand-off, utilizing the Company's proprietary Circuit Lifecycle Manager (CLM) system, which manages the entire circuit lifecycle. Networks are then monitored and managed by our 7X24 Network Operations Center (NOC). By leveraging automated systems across the entire telecom supply chain, the Company is able to accelerate the delivery of an optimal network

Significant progress in gaining customer acceptance of our offerings during 2009 underlies management's belief that our technology, systems, and logistics capabilities make the Company's business offerings more efficient, faster, and less expensive for systems integrators, telecommunications companies, and enterprise customers to manage the telecom supply chain for their complex global networks. By purchasing our solutions to create market-pricing transparency and improve the efficiency of the entire telecom supply chain, our customers are able to improve the responsiveness of sales, reduce operating expense, improve margins, and deliver better service.

MARKETS AND CUSTOMERS

The global market for access networks is estimated at over $200 billion annually and represents a significant percentage of the overall network cost that service providers and large systems integrators incur in delivering network solutions to their global customers. The global access market is served by over 900 primary suppliers, none of whom has a ubiquitous footprint. The market is further confused by varying business rules, customs, and regulations in different regions of the world. These factors, coupled with the rapid pace of technology change and advancement, result in an inefficient, fragmented market where cost structures are unnecessarily high – creating margin pressure on service providers and systems integrators. Because there is no market transparency relative to the supply and price of networks globally, most telecommunication companies and systems integrators have a lengthy, manual, inefficient process to design and price global networks. This results in extended sales cycles, high operating costs, and inefficient procurement of networks.

One of the fundamental challenges for corporations and other institutions with complex and/or geographically dispersed data communications networks is the number of service providers and pricing alternatives that must be pieced together in order to create an end-to-end data connectivity solution. Between any two locations, there are a varying number of service alternatives and we do not believe there is one single information source, other than our systems, that enables a buyer to determine the most cost-effective and technically sound alternative. Large multinational corporations are increasingly seeking to work with fewer vendors and a single network provider that they can look to for provisioning end-to-end network solutions fits that design. Additionally, service providers, particularly in regions where facilities-based competition has been introduced, actively market their services with price as the primary differentiator and network reach being the primary limiting factor. This price-based competition has stressed already challenged gross margins and, as a result, service providers are actively seeking means to reduce the costs associated with network quotation management and off-network procurement.

Beyond the telecommunication service providers, expanding enterprises, multi-national corporations, information service providers, and systems integrators are deploying and managing private network-based solutions that provide seamless connections in support of the ever-increasing demand for business continuity, disaster recovery, regulatory compliance, and collaboration capabilities. These private networks can rival the connections of network service providers. Procuring these networks is achieved utilizing negotiated pricing through a few "trusted" providers or via an expensive and often deficient bidding solicitation process. Because telecommunications is not the primary line of business for these private network operators, but rather a facilitator to their end business goals, inefficiencies in the procurement process result in most companies paying more than they should for connectivity. In a competitive environment, such a drain on profitability can be significant.

This confusion is increased by global deregulation, physical fragmentation of the network layer – whether copper, fiber, coaxial cable, or wireless spectrums – and geographic fragmentation. Due to financial and operational constraints, no one company can provide a ubiquitous global network. Competing entities therefore buy and sell from each other to extend their network reach and meet customer demands, which frequently extend globally outside their networks. Commonly, this buying and selling is done with little efficiency or transparency on an individual transaction basis or under the auspices of a supply agreement (often called a Master Services Agreement) negotiated at arm's-length between the principal parties. The absence of a global benchmarking source for regional, market-based pricing further impairs the ability to manage costs.

This market environment appears ideal for an information-driven logistics model focused on minimizing the confusion and inefficiency that plagues the telecom market. The Company believes that it has such a business model and operating capability, as well as a management team experienced in executing such an information-leveraged and technology-leveraged approach.

We have assembled a vast global knowledgebase of critical information with respect to tariffs, competitive pricing, physical locations of facilities, and carriers connected to such buildings and nearby points of presence. We also have combined this information with sophisticated software tools and algorithms to enable us to often obtain automated "best of breed" connectivity solutions in seconds, rather than weeks or months. This ability to automate the "supply chain" of connectivity provides the Company with a competitive advantage. This process also requires continuous refreshing, updating, and validation of data and is therefore a continually evolving process to stay current with changing information and new information. This requirement to constantly acquire and manage new and updated data sets, combined with the Company's investment in systems, tools, and processes, provides the basis for the Company's unique positioning as a telecom logistics company.

The Company believes its investment in market intelligence and efficiency tools, combined with the robust processes and deep expertise of its staff, make it uniquely positioned to capitalize on this market opportunity with its unique, telecom logistics business model.

SALES AND MARKETING

Optimization Solutions

Target Markets. Optimization Solutions are targeted at global, national, and regional telecommunications carriers, systems integrators, and enterprise customers with large, complex global network requirements.

Sales Approach. We have an international sales team that uses a consultative approach to sell Optimization Solutions to a financial buyer highly placed within our target customers. We employ a combination of direct and channel sales to maximize market penetration and coverage and we offer limited scope "pilot" engagements to quickly demonstrate the value of the solution. We then use a high-touch, relationship-based approach to extend and expand our pilot engagements into more meaningful engagements that provide a steady stream of revenue and margin for the Company.

Connectivity Solutions

Target Markets. Connectivity Solutions are targeted at enterprise, system integrator, and telecommunications companies seeking a simplified, turnkey network connectivity solution.

Sales Approach. We have an international sales team that employs a combination of direct and channel sales to maximize market penetration and coverage. The sales team is tasked with identifying and closing new business, which is then transitioned to account managers to maintain the ongoing relationship, creating additional revenue and margin from the account. The sales teams work closely with the carrier management teams to insure the most robust, cost effective solutions are sold and delivered.

COMPETITION

Management believes that the combination of capabilities and solutions the Company has integrated and organized into the Optimization Solutions business and the Connectivity Solutions business is unique in the marketplace. However, there are competitors in the market for some of the individual solutions that the Company brings to market.

Optimization Solutions

Optimization Consulting: There are a number of consulting firms that purport to offer network optimization services. Most of these, however, are focused on a specific area of network optimization – typically overcharge analysis. This narrow focus misses the largest opportunity to identify and implement network savings available from financial and physical grooming. Furthermore, Management is not aware of any other company that owns or deploys a database of global supply and pricing data along with proprietary network optimization tools to deliver an automated network optimization solution.

Automated Pricing Software: Management is not aware of any other company that has an automated pricing system that leverages a similar global base of supply and pricing data along with robust pricing algorithms. The primary competition that we encounter is the legacy pricing system and related processes that are entrenched in existing suppliers.

Remote Management Services and Professional Services: There is a wide range of telecommunications carriers, hardware manufacturers, and services firms that offer NOC services and network implementation services. Management believes that the unusually high degree of integration and automation used in the delivery of the Company's NOC services is a competitive differentiator in the marketplace. Further, the tight integration of the network management systems with the Company's unique pricing and provisioning systems and technologies make these solutions very valuable in the highly integrated service delivery model employed by Global Capacity.

Connectivity Solutions

The marketplace for connectivity solutions is highly competitive, including Facility-based Carriers, Virtual Network Operators (VNOs), and Systems Integrators. Despite this, the Company does provide services to carriers and VNOs and at times will collaborate with our competition to provide a seamless solution for their end users.

- Some examples of competition from the three sectors are the following:
- Facility-based Carriers: AT&T, Verizon, Sprint, and Level 3
- VNOs: Virtela; Global Telecommunications and Technology of America
- Systems Integrators: IBM

RESEARCH AND DEVELOPMENT

Research and development includes the cost of developers and system engineers, outside contractors, and overhead costs while developing our offerings. These costs are not directly borne by customers, but rather are inherently built into the pricing of our services to our customers. The Company did not incur any significant research and development costs during 2009 or 2008. Nevertheless, considerable progress was made in developing the Company Portal and Circuit Lifecycle Manager, key elements of our offerings moving forward.

PATENTS AND PROPRIETARY TECHNOLOGY

The Company does not currently hold any patents related to its pricing portal and database and related proprietary software code and relies on trade secrets and copyright laws for its protection.

EMPLOYEES

At December 31, 2009, we had a total of 76 employees who were employed in the following areas: product development, quality assurance, product marketing, management, and sales. This compares to a total of 106 at December 31, 2008. We depend on our ability to attract, retain, integrate, and motivate highly-qualified sales, technical, and management personnel – for whom competition is intense. After the sale of Frontrunner in February 2008, our headcount was reduced to 65. Our headcount was increased to 106 as of December 31, 2008 with the acquisition of GCD. Due to the market downturn in 2009, we reduced our headcount to 76. We do not anticipate that this number will increase significantly in the near future. We believe all relations with our employees are satisfactory. Our employees are not covered by a collective bargaining agreement and are considered full-time.

GEOGRAPHIC INFORMATION

Financial information about geographic areas is incorporated by reference from the Notes to our Consolidated Financial Statements included elsewhere in this Form 10-K.

AVAILABLE INFORMATION

Our Web site is http://www.globalcapacity.com. We have made available through our Web site, free of charge, our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports, as soon as reasonably practicable after we electronically file such materials with, or furnish them to, the Securities and Exchange Commission (SEC). In addition, they are available directly on the SEC's website at http://www.sec.gov.

Attachment B

Proposed Tariff

ARIZONA INTEREXCHANGE AND LOCAL EXCHANGE TELECOMMUNICATIONS TARIFF

OF

GC Pivotal, LLC

This tariff contains the descriptions, regulations, and rates applicable to the provisions of local exchange telecommunications services provided by GC Pivotal, LLC with principal offices at 200 South Wacker Drive, Suite 1650, Chicago, Illinois 60606 for series furnished within the State of Arizona This Tariff is on file with the Arizona Corporation Commission and copies may be inspected during normal business hours, at the Company's principal place of business.

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CHECK LIST

The Title Page and pages listed below are inclusive and effective as of the date shown. Original and revised pages as named below contain all changes from the original tariff that are in effect on the date shown on each page.

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* signifies new tariff sheets or where sheets have been amended

1. EXPLANATION OF SYMBOLS

Whenever tariff sheets are revised, changes will be identified by the following symbols:

(C) To signify changed regulation.

(D) To signify deleted or discontinued rate or regulation.

(I) To signify increased rate.

(M) To signify a move in the location of text.

(N) To signify new rate or regulation.

(R) To signify reduced rate.

(S) To signify reissued matter.

(T) To signify a change in text but no change in rate or regulation.

2. APPLICATION OF TARIFF

The service rates and regulations set forth in this Tariff are for the provision of interexchange intrastate telecommunications services, and dedicated, non-switched local exchange private line telecommunications services for Customers of GC Pivotal, LLC ("Company").

The Company may, from time to time, engage in special promotional offerings designed to attract new Customers or to promote existing services. Such promotional service offerings shall be subject to specific dates, times, and/or locations, and shall be subject to prior notification to the Commission.

3. DEFINITIONS

As used in this Tariff, the following terms shall have the following meanings unless the context otherwise require:

A. Bit - The smallest amount of information in the binary system of notation.

B. Cable Facilities - A copper, coaxial and/or fiber optic cable network with associated repeater amplifiers and coupling devices which provides the path for transmission of signals to or from the Customer's or User's Premises.

C. Customer - The person, firm, corporation or other legal entity which contracts with the Company to receive telecommunications services from the Company.

D. Circuit - A communications path of a specific bandwidth or transmission speed between two or more points of termination.

E. Facilities - All Company-owned or operated equipment and Cable Facilities used to provide telecommunications services.

F. Individual Case Basis - A service arrangement for private line or private circuit services the Company will make available to Customers in a non-discriminatory manner. Rates for interexchange dedicated access, private line or circuit, non-switched services will be determined on an Individual Customer Basis (ICB). ICB rates will be structured to recover the Company's cost of providing the service and will be made available to Commission Staff upon request on a proprietary basis. ICB rates will not be used for switched services.

G. Premises - A building or structure on property not separated by a public right-of-way. The property may be divided by a private right-of-way or easement, such as a railroad right-of-way.

H. Private Line Service - An unswitched full-time transmission service utilizing the Facilities to connect two or more designated Customer or User locations.

I. Terminating Facilities - All equipment placed in a structure that converts the transmitted signal to a requested service type, connects the structure to the Company's network and provides a point of interface/connection to which the Customer can connect its equipment. This equipment may include electronic equipment, cable, wiring, connecting panels and blocks.

J. User - A person, firm, or corporation designated as a user of common carrier services furnished to the Customer. A User must be specifically named in the Customer's application for services.

4. PROVISION OF SERVICE

The Company shall provide service to Customers which enter into a written contract with the Company specifying the services to be provided by the Company, the rates to be charged, and other terms and conditions of service. Certain general terms and conditions applicable to the provision of service by the Company are set forth in this Tariff. Contract terms not specifically governed by the Tariff will be individually negotiated with each prospective Customer. The Company will not provide services to any Customer until a contract has been executed.

5. CUSTOMER OBLIGATIONS AND RESPONSIBILITIES

A. Conditions for Use: Service may be used for the transmission of information of the Customer provided that:

1. The Customer has entered into a written contract with the Company;
2. The Customer shall not use service for any purpose or in any manner directly or indirectly in violation of the law or in aid of any unlawful act or undertaking; and
3. The Customer, upon request, shall furnish such information and access to its location(s) and/or User's location(s) as may be required to permit the Company to design and maintain the Facilities to provide service and to assure that the service arrangement is in accordance with the provisions of this Tariff and the contract entered into between the Customer and the Company.

B. Customer is Responsible for:

1. Ensuring compatibility, installation, and maintenance of equipment and systems provided by the Customer or User with the interface equipment provided and/or sanctioned by the Company.
2. Damage to, or destruction of, Facilities caused by the negligence or willful act of the Customer or User or their agents.
3. Reimbursing the Company for any loss caused by the theft of Facilities installed on the Customer's or User's premises.
4. The provision of the power, wiring, and outlets required to operate the Facilities installed on the Customer's or User's Premises.

5. CUSTOMER OBLIGATIONS AND RESPONSIBILITIES (cont.)

5. The provision, installation and maintenance of sealed conduit with explosive-proof fittings between equipment furnished by the Company in explosive atmosphere and points outside the hazardous area where connection may be made with the Facilities. The Customer may be required to install and maintain the Company's equipment within the hazardous area if, in the opinion of the Company, injury or damage to its employees or property might result from installation or maintenance by the Company.

6. Obtaining permission for the Company's agents or employees to enter the Premises of the Customer or User at any reasonable hour for the purpose of installing, inspecting, repairing or, upon termination of service, removing the Facilities.

7. Making the Company's service components and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer, and providing for reasonable access to those facilities and equipment.

8. All actions or omissions of a person, firm or corporation appointed by the Customer as its agent. Any limitations of agent's authority shall not be binding on the Company.

9. Any breach of the terms and conditions contained in this Tariff or in the contract between the Customer and the Company governing service.

C. Payment of Rates and Charges: The Customer is responsible for payment of all rates and charges as specified in this Tariff and/or the contract with the Company, for services furnished by the Company to the Customer or User. The Company will submit invoices to the Customer by the fifteenth of each month at the Customer's general office or at such other places as may be designated by the Customer, which are due and payable upon receipt at the Customer's general office or at such other places as may be designated by the Customer. Undisputed invoices not paid after thirty (30) days are subject to interest compounded monthly at 1.5% per month, or such other amount otherwise allowed by law. In addition, failure to pay any past or currently due amounts may result in termination of service as described in Section 9 of this Tariff. Any billing errors shall be adjusted to the known date of error or for a period of one year, whichever is shorter.

5. CUSTOMER OBLIGATIONS AND RESPONSIBILITIES (cont.)

D. Complaint Procedures: Unless the parties to the written contract agree to different process, which terms shall govern over this tariff, a Customer may initiate a complaint with the Company on any matter by telephone, in writing or in person at any of the Company's offices. The Company's response to the complaint will generally be in the same format used by the Customer. The Customer may, at any point during the resolution of the complaint, seek review by a supervisor or manager. If the Customer is still not satisfied, Customer should document the complaint with sufficient detail to investigate the complaint and send the complaint to:

Customer Service Department
Susan Naber, Customer Advocate Manager
GC Pivotal, LLC
200 South Wacker Drive, Suite 1650
Chicago, Illinois 60606
Telephone: (866) 226-4244
Facsimile: (312) 673-2422

The Company shall further direct such supervisory personnel to inform such Customer who expresses nonacceptance of the decision of such supervisory personnel of their right to have the problem reviewed by the Commission and shall furnish them with the telephone number and address of the Consumer Services Division of the Arizona Corporation Commission as follows:

Arizona Corporation Division
1020 West Washington Street, Phoenix, Arizona 85007
Within Metro Phoenix: (602) 542-4251
Within Metro Tucson: (520) 628--6550
Toll-free Phoenix Office: (800) 222-7000
Toll-free Tucson Office8005350148

6. OBLIGATIONS OF THE COMPANY

A. Undertakings: The undertaking of the Company is to furnish service as ordered and specified by the Customer, and as limited by the terms and conditions of this Tariff and the contract entered into between the Customer and the Company. This offering is subject to the availability of Facilities. The Company undertakes to maintain and repair any equipment which it furnished to the Customer, unless otherwise specified in the contract entered into between the Customer and the Company. The Customer or User may not rearrange, disconnect, remove, or attempt to repair any equipment installed by the Company without the prior written consent of the Company.

B. Limitations: The Company shall not be responsible for installation, operation or maintenance of any Terminating Facilities or communications systems purchased or connected to service by a Customer, unless otherwise specified in the contract entered into between the Customer and the Company. Service is not represented as adapted to the use of any specific equipment or system. The Responsibility of the Company shall be limited to the furnishing of service and maintenance and operation of such service. The furnishing of service will require certain physical arrangements of the facilities of the Company and is therefore subject to the availability of such facilities.

C. Liability and Indemnification:

1. The Company shall not be liable for damage arising out of mistakes, omissions, interruptions, delays or errors, or defects in transmission occurring in the course of furnishing service. The Company will not be liable for any direct, indirect, incidental, special, consequential, exemplary, or punitive damages to a Customer or User as a result of any service provided by the Company or use of the Facilities, or the acts, omissions or negligence of the Company's employees or agents. The Company's liability for gross negligence or willful misconduct is not limited by this tariff.

2. The sole remedy for a Customer or User with respect to failure of the Company to maintain proper standards or maintenance and operation or failure to exercise reasonable supervision shall in no event exceed an amount equivalent to the credit for a service interruption specified in the contract between the Company and the Customer or User. To the extent such regulations are applicable to the particular service at issue, or unless the parties to the written contract agree to different process, which terms shall govern over this tariff, the Company follows the Credits and Credit Allowances procedures as established in 83 Ill. Adm. Code Part 732.

6. OBLIGATIONS OF THE COMPANY (cont.)

C. Liability and Indemnification (cont.)

3. The Company does not guarantee or make any warranty with respect to equipment provided by it for use in an explosive atmosphere. The Customer or User indemnifies and holds the Company harmless from any and all loss, claims, suits, or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or User or by any other party or persons, and for any loss, damage or destruction of any property, whether owned by the Customer or User or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to maintain, removal, presence, condition, location or use of said equipment so provided.

4. The Company shall not be liable for any defacement of or damage to the Premises of a Customer or User resulting from the furnishing of Facilities or the attachment of the instruments, apparatus and associated wiring furnished by the Company on such Premises or by the installation or removal thereof, when such defacement or damage is not the result of negligence of the agents or employees of the Company.

5. The Company shall be indemnified and saved harmless by the Customer or User against:

   (a) Claims for libel, slander and infringement or copyright arising from the material transmitted over the Facilities.

   (b) Claims for infringement of patents arising from, combining with, or using in connection with, the Facilities and systems or apparatus of the Customer or User; and

   (c) All other claims arising out of any act or omission of the Customer or User or their agents in connection with the Facilities, or information transmitted over the Facilities.

D. Provision of Facilities:

1. Upon agreement between the Company and the Customer, the Company will provide all Facilities necessary for service.

2. Provided the necessary Facilities are available, service will be furnished by the Company. Where Facilities are not available, terms for provision of service will be individually negotiated with the Customer.

7. SPECIAL CONSTRUCTION

Provision of service may require special construction of Facilities and equipment by the Company. Special construction arrangements of Facilities may be undertaken by the Company at the request of the Customer or User and upon determination by the Company that such charge should apply in the particular instance.

A. Survey and Design. Prior to engaging in any special construction, survey and design studies may be required. Should that be the case, the Company and the Customer may agree to arrange for the performance of those studies, the review and acceptance thereof by both the Company and the Customer, and the appropriate charges therefore. Failure to agree on the performance of such studies, the acceptability thereof, or the charges therefore, shall constitute grounds for denial of the requested service by the Company.

B. Charges for Special Construction. All recurring and non-recurring charges for special construction shall be set forth in the contract between the Company and the Customer, and shall be the responsibility of the Customer, regardless of the projected charges for the provision of service by the Company.

8. SPECIAL CHARGES

A. Out-of-Normal Work Hours: The charges specified in this Section 7 do not contemplate work being performed by Company employees at a time when overtime wages apply, due to the request of the Customer, nor do they contemplate work once begun being interrupted by the Customer. If the Customer requests labor be performed at hours of the day or days of the week other than during normal working hours or days (8:00 a.m. to 4:30 p.m., Monday through Friday), or during holidays, or if the Customer interrupts work once begun, an additional charge may be imposed, equal to the actual higher costs incurred by the Company for overtime and materials.

B. Maintenance and Service Charge: The Customer may be responsible for the cost incurred by the Company in connection with a maintenance and/or service visit to the Customer's or User's Premises when the difficulty or trouble results from the equipment or Facilities provided by the Customer or User, or when failure in the Company's equipment or Facilities is attributable to the Customer or User or their agents. Said cost shall be based upon the current labor rate and material costs of the Company in effect at the time of the visits.

9. SERVICE CANCELLATIONS

A. Discontinuance of Service by the Company:

The Company, by such written notice to the Customer as specified in the contract between the Customer and the Company, may discontinue furnishing service without incurring any liability beyond that stated in the contract, upon:

1. Non-payment of any sum due to the Company by a Customer; or

2. A breach of any of Customer's representations or warranties contained in the contract between the Customer and Company, or a violation by the Customer of any term or condition governing the furnishing of service as specified in this Tariff or in the contract for service between the Customer and the Company.

B. Cancellation of Service by the Customer Prior to End of the Contract Period:

When the Customer cancels the service prior to the end of the term of the contract, the Customer may be required to pay a cancellation charge in the amount specified in the contract between the Customer and the Company.

C. Cancellation of Application for Service:

When the prospective Customer cancels an application for service prior to the start of installation or special construction of Facilities by the Company, no charge shall be made to the prospective Customer. Where the installation of Facilities has been started prior to the cancellation, the prospective Customer shall pay a cancellation charge in the amount specified in the contract between the Customer and the Company. Installation or special construction of facilities for a Customer is considered to have started from the latest contract date or when the Company incurs any expense in connection therewith, whichever occurs earlier.

10. SERVICE INTERRUPTIONS

A. General: The Company agrees to use its best efforts to assure continuous full time operation of the service. The Customer is considered to have experienced a service interruption when the Circuit becomes unavailable for use or the quality of transmission is such that the Circuit is effectively unusable.

B. Service Restoration: The Company agrees to use its best efforts to respond to the Customer's reasonable request for maintenance in connection with the service as soon as reasonably possible. The Company shall have no obligation to perform maintenance which requires access to the Customer's or other premises or buildings when that access cannot be provided to the Company by the Customer. The Company agrees to use its best efforts to minimize the duration of any service interruption.

C. Liability: The Company will not be liable for any direct, indirect, incidental, special, consequential, exemplary, or punitive damages as the result of any service interruption. The Company's liability for gross negligence or willful misconduct is not limited by this Tariff.

D. Credits: The amount of credit for any service interruption, if any, shall be specified in the contract between the Customer and the Company.

11. PRIVATE LINE SERVICES RATES AND CHARGES

1. Private Line Service

Private line service provides a dedicated transmission path on a point-to-point basis that does not interfere with a Company switch. Private line is offered on a DC-n and OC-n level. DC-n Services include DS-1 and DS-3 level. OC-n Services include OC-3, OC-12, OC-48 and OC-192 level.

Frame Relay and ATM Services also available.

2. DS1 Service

2.1 Non-Channelized

(A) Installation and Ancillary/Administrative Charges

	Charge Per DS1			
Rate Element	Out of Term	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Installation Charge	ICB	ICB	ICB	ICB
Service Order Change Charge	ICB	ICB	ICB	ICB
Service Order Cancellation Charge	ICB	ICB	ICB	ICB

(B) Monthly Recurring Charge – Fixed

	Fixed Monthly Recurring Charges			
	Out of Term	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Circuit	ICB	ICB	ICB	ICB

(C) Interoffice Channel Charge - Per Mile

The per mile interoffice Channel charge is as follows:

	Per Mile Charge			
	Out of Term	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Mile	ICB	ICB	ICB	ICB

11. PRIVATE LINE SERVICES RATES AND CHARGES (cont.)

3. DS3 Service

3.1 Non-Channelized

(A) Installation and Ancillary/Administrative Charges

	Charge Per DS3		
Rate Element	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Installation Charge	ICB	ICB	ICB
Service Order Change Charge	ICB	ICB	ICB
Service Order Cancellation Charge	ICB	ICB	ICB

(B) Monthly Recurring Charge - Fixed

	Fixed Monthly Recurring Charges		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Circuit	ICB	ICB	ICB

(C) Interoffice Channel Charge - Per Mile

The per mile interoffice Channel charge is as follows:

	Per Mile Charge		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per mile	ICB	ICB	ICB

11. PRIVATE LINE SERVICES RATES AND CHARGES (cont.)

4. OC3 Service

4.1 Non-Channelized

(A) Installation and Ancillary/Administrative Charges

	Charge Per OC3		
Rate Element	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Installation Charge	ICB	ICB	ICB
Service Order Change Charge	ICB	ICB	ICB
Service Order Cancellation Charge	ICB	ICB	ICB

(B) Monthly Recurring Charge - Fixed

	Fixed Monthly Recurring Charges		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Circuit	ICB	ICB	ICB

(C) Interoffice Channel Charge - Per Mile

The per mile interoffice Channel charge is as follows:

	Per Mile Charge		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Mile	ICB	ICB	ICB

11. PRIVATE LINE SERVICES RATES AND CHARGES (cont.)

5. OC12 Service

5.1 Non-Channelized

(A) Installation and Ancillary/Administrative Charges

	Charge Per OC12		
Rate Element	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Installation Charge	ICB	ICB	ICB
Service Order Change Charge	ICB	ICB	ICB
Service Order Cancellation Charge	ICB	ICB	ICB

(B) Monthly Recurring Charge - Fixed

	Fixed Monthly Recurring Charges		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Circuit	ICB	ICB	ICB

(C) Interoffice Channel Charge - Per Mile

The per mile interoffice Channel charge is as follows:

	Per Mile Charge		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Mile	ICB	ICB	ICB

11. PRIVATE LINE SERVICES RATES AND CHARGES (cont.)

6. OC 48 Service

6.1 Non-Channelized

(A) Installation and Ancillary/Administrative Charges

	Charge Per OC12		
Rate Element	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Installation Charge	ICB	ICB	ICB
Service Order Change Charge	ICB	ICB	ICB
Service Order Cancellation Charge	ICB	ICB	ICB

(B) Monthly Recurring Charge - Fixed

	Fixed Monthly Recurring Charges		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Circuit	ICB	ICB	ICB

(C) Interoffice Channel Charge - Per Mile

The per mile interoffice Channel charge is as follows:

	Per Mile Charge		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Mile	ICB	ICB	ICB

11. PRIVATE LINE SERVICES RATES AND CHARGES (cont.)

7. OC 192 Service

7.1 Non-Channelized

(A) Installation and Ancillary/Administrative Charges

	Charge Per OC12		
Rate Element	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Installation Charge	ICB	ICB	ICB
Service Order Change Charge	ICB	ICB	ICB
Service Order Cancellation Charge	ICB	ICB	ICB

(B) Monthly Recurring Charge – Fixed

	Fixed Monthly Recurring Charges		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Circuit	ICB	ICB	ICB

(C) Interoffice Channel Charge - Per Mile

The per mile interoffice Channel charge is as follows:

	Per Mile Charge		
	1 Yr Term Plan	3 Yr Term Plan	5 Yr Term Plan
Per Mile	ICB	ICB	ICB

11. PRIVATE LINE SERVICES RATES AND CHARGES (cont.)

8. Domestic Frame Relay Service

8.1 FRS UNI Port Termination - Per Port

(A) DSO

	Monthly Recurring Charges			
Port Speed	1 Year	3 Year	5 Year	One Time Charge*
56/64 Kbps	ICB	ICB	ICB	ICB

* One Time Charge does not apply with 5 Year Term.

(B) DS1/Fractional DS1

	Monthly Recurring Charges			
Port Speed	1 Year	3 Year	5 Year	One Time Charge*
128 Kbps	ICB	ICB	ICB	ICB
192 Kbps	ICB	ICB	ICB	ICB
256 Kbps	ICB	ICB	ICB	ICB
320 Kbps	ICB	ICB	ICB	ICB
384 Kbps	ICB	ICB	ICB	ICB
448 Kbps	ICB	ICB	ICB	ICB
512 Kbps	ICB	ICB	ICB	ICB
576 Kbps	ICB	ICB	ICB	ICB
640 Kbps	ICB	ICB	ICB	ICB
704 Kbps	ICB	ICB	ICB	ICB
768 Kbps	ICB	ICB	ICB	ICB
1024 Kbps	ICB	ICB	ICB	ICB
1536 Kbps	ICB	ICB	ICB	ICB

* One Time Charge does not apply with 5 Year Term.

11. PRIVATE LINE SERVICES RATES AND CHARGES (cont.)

8. Domestic Frame Relay Service (cont.)

8.2 FRS NNI Access Gateway - Cumulative CIR Per Customer Site

Allocated Bandwidth	Monthly Recurring Charges	One Time Charges **
4 to 16 Kbps	ICB	ICB
17 to 32 Kbps	ICB	ICB
33 to 48 Kbps	ICB	ICB
49 to 64 Kbps	ICB	ICB
65 to 128 Kbps	ICB	ICB
129 to 192 Kbps	ICB	ICB
193 to 256 Kbps	ICB	ICB
257 to 320 Kbps	ICB	ICB
321 to 384 Kbps	ICB	ICB
385 to 448 Kbps	ICB	ICB
449 to 512 Kbps	ICB	ICB
513 to 576 Kbps	ICB	ICB
577 to 640 Kbps	ICB	ICB
641 to 704 Kbps	ICB	ICB
705 to 768 Kbps	ICB	ICB
769 to 832 Kbps	ICB	ICB
833 to 896 Kbps	ICB	ICB
897 to 960 Kbps	ICB	ICB
961 to 1024 Kbps	ICB	ICB
1.025 to 2 Mbps	ICB	ICB
Each Add'l Mbps Over 2 Mbps***	ICB	ICB

**Charged only once per Customer site for Access Gateway set-up.
***Portions of Mbps over 2 Mbps will be charged the corresponding portion of the 1.025 to 2 Mbps charge.

11. PRIVATE LINE SERVICES RATES AND CHARGES (cont.)

8. Domestic Frame Relay Service (cont.)

8.3 PVCs – Duplex

CIR/PVC	Monthly Recurring Charges	One Time Charges
4 Kbps	ICB	ICB
8 Kbps	ICB	ICB
16 Kbps	ICB	ICB
32 Kbps	ICB	ICB
48 Kbps	ICB	ICB
64 Kbps	ICB	ICB
128 Kbps	ICB	ICB
192 Kbps	ICB	ICB
256 Kbps	ICB	ICB
320 Kbps	ICB	ICB
384 Kbps	ICB	ICB
448 Kbps	ICB	ICB
512 Kbps	ICB	ICB
576 Kbps	ICB	ICB
640 Kbps	ICB	ICB
704 Kbps	ICB	ICB
768 Kbps	ICB	ICB
832 Kbps	ICB	ICB
896 Kbps	ICB	ICB
960 Kbps	ICB	ICB
1024 Kbps	ICB	ICB

8.4 Ancillary/Administrative Charges

Rate Element	Charge
FRS Configuration Change Charge	ICB
FRS Port Order Change Charge	ICB
PVC Order Change Charge	ICB
Service Order Cancellation Charge	ICB

12. INDIVIDUAL CASE BASIS (ICB) ARRANGEMENTS

Arrangements will be developed on a case-by-case basis in response to a bona fide special request from a Customer or prospective Customer to develop a competitive bid for a service not generally offered under this tariff. Rates quoted in response to such competitive requests may be different than those specified for such services in this tariff. ICB rates will be offered to the Customer in writing and on a nondiscriminatory basis.

ICB will be filed with the Communications Division of the Commission.

13. PROMOTIONAL OFFERINGS

13.1 Special Promotions

The Company may, from time to time, offer services in this Tariff at special promotional rates and/ or terms. Such promotional arrangements shall be filed with the Commission when so required. All rates and terms contained in this Tariff shall continue to apply unless specifically addressed in the promotional agreements.

Attachment C

Legal Notice

Will be submitted when Docket No. Assigned by Commission.

Attachment D

Financial Information

See Pivotal's Financial Statements as of February 14, 2011, which is attached hereto. In addition, by Court Order entered on January 26, 2011, the Bankruptcy Court for the District of Delaware approved the sale of substantially all of the assets of the jointly-administered Global Capacity debtors, including direct and indirect subsidiaries of Capital Growth Systems, Inc., to Pivotal Global Capacity, LLC or its wholly-owned subsidiary assignee GC Pivotal, LLC ("the Bankruptcy Order"). The Bankruptcy Court has determined that Pivotal has the financial ability to close the Proposed Transaction. A copy of the Bankruptcy Order is attached hereto as Exhibit E.

Financial Statements
(unaudited)

GC Pivotal, LLC

(a Delaware Limited Liability Company)

February 14, 2011

GC Pivotal, LLC
(a Delaware Limited Liability Company)

Balance Sheet
(unaudited)
February 14, 2011

Assets		
Cash	$	1,000,000
	$	1,000,000
Liabilities and members' capital		
Accounts payable	$	105
Members' capital		999,895
	$	1,000,000

GC Pivotal, LLC
(a Delaware Limited Liability Company)

Statement of Operations
(unaudited)
For the Period Ended February 14, 2011

Revenues and (expenses)	
General and administrative	$ (105)
Net loss	$ (105)

GC Pivotal, LLC

(a Delaware Limited Liability Company)

Statement of Members' Capital

(unaudited)

For the Period Ended February 14, 2011

		Pivotal Global Capacity, LLC
Member's capital, January 1, 2011	$	-
Contributions		1,000,000
Net loss (1)		(105)
Members' capital, February 14, 2011	$	999,895

(1) Net loss allocated to the members is based on estimates and will be finalized after review by the Company's tax advisors.

Attachment E

Bankruptcy Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	(Jointly Administered)
GLOBAL CAPACITY HOLDCO, LLC, et al.[1]	)	Case No. 10-12302 (PJW)
Debtors.	)	**Re: Docket No. 171, 288, 292, 305, 316, 325, 369 and 561**

ORDER APPROVING (1) BID OF PIVOTAL GLOBAL CAPACITY, LLC OR SUBSIDIARY AS THE HIGHEST AND BEST SALE QUALIFYING BID FOR THE PURCHASE OF SUBSTANTIALLY ALL OF DEBTORS' ASSETS UNDER AND IN CONJUNCTION WITH ITS PLAN OF REORGANIZATION; AND (2) CONSUMMATION OF THE SALE TRANSACTION WITH PIVOTAL GLOBAL CAPACITY, LLC OR ITS SUBSIDIARY, GC PIVOTAL, LLC

On August 11, 2010, Global Capacity Holdco, LLC and the other above-captioned debtors in possession (collectively, the "Debtors")[2] filed and served a motion for entry of an order approving bidding procedures in connection with the sale of substantially all of the Debtors' assets (the "Sale"), approving procedures relating to assumption and assignment of executory contracts and unexpired leases, approving stalking horse bid protections, approving the form and manner of notice of a sale hearing, and for entry of an order approving and authorizing the sale of substantially all of the Debtors' assets free and clear of liens, claims, interests and encumbrances and authorizing the assumption and assignment of executory contracts and unexpired leases as part of the sale [DE 115, 142] (the "Sale Motion"). The Sale

[1] The Debtors in these cases, along with their case numbers, addresses, and the last four digits of each Debtor's federal tax identification number, are: Global Capacity Holdco, LLC, 200 S. Wacker Drive, Suite 1650, Chicago, IL 60606 (10-12302)(8858); Global Capacity Group, Inc., 730 North Post Oak Road, Houston, TX 77024 (10-12303)(0073); 20/20 Technologies, Inc., 200 South Wacker, Suite 1650, Chicago, IL 60606 (10-12304)(5612); Centrepath, Inc., 275 Winter Street, Waltham, MA 02451 (10-12305)(9034); Capital Growth Systems, Inc., 200 South Wacker Drive, Suite 1650, Chicago, IL 60606 (10-12306)(3505); Global Capacity Direct, LLC (f/k/a Vanco Direct USA, LLC), 200 South Wacker Drive, Suite 1650, Chicago, IL 60606 (10-12307)(1970); FNS 2007, Inc. (f/k/a Frontrunner Network Systems, Corp.), 200 South Wacker Drive, Suite 1650, Chicago, IL 60606 (10-12308)(7892); Nexvu Technologies, LLC, 200 South Wacker Drive, Suite 1650, Chicago, IL 60606 (10-12309)(4626); and 20/20 Technologies I, LLC, 200 South Wacker Drive, Suite 1650, Chicago, IL 60606 (10-12310)(5514).

[2] All capitalized terms not defined herein have the meaning in the documents referenced thereby, including the Modified Pivotal APA and the Bidding Procedures.

Motion was filed in conjunction with the Joint Chapter 11 Plan of Reorganization for Global Capacity Holdco, LLC and Its Filed Affiliates Dated as of August 11, 2010 [DE 113] (the "Plan"), which provided for Plan funding through the Sale.

On August 24, 2010, the Court entered an order approving sale and contract assumption and assignment procedures (as amended thereafter, the "Bidding Procedures"), scheduling an auction (the "Auction") for October 14, 2010 and a sale approval hearing (the "Sale Hearing") for October 19, 2010, and granting related relief (the "Sale Procedures Order") [DE 171]. The Debtors filed a Notice of Proposed Asset Purchase Agreement with Stalking Horse Bidder on October 1, 2010 [DE 288], which was served that day on all required parties [DE 306], then filed a Notice of Termination of Stalking Horse Bidder Status of Global Acquisition NewCo Corp. ("GC Newco"), Modification of Bidding Procedures and Revised Asset Purchase Agreement on October 4, 2010 [DE 292], which was served that day on all Required Parties [DE 307], to which GC Newco objected [DE 300] ("GC Newco Objection"). Further notices were filed with respect to Auction procedures and timing. [DE 305, 316, 325, 369], and timely served [DE 317, 327, 337, 390].

On November 8, 2010, the Debtors filed a Motion to Approve Debtors' Selection of the Bid of Pivotal Global Capacity LLC ("Pivotal GC") as the Qualifying Bid for the Purchase of Substantially all of the Debtors' Assets Under or in Conjunction with its Plan of Reorganization and Consummation of the Sale Transaction with Pivotal Global Capacity LLC [DE 392] (the "Pivotal GC Bid Motion"). Objections to the Pivotal GC Bid Motion were filed by Universal Service Administrative Company ("USAC") [DE 414], supplementing prior objections [DE 136, 310], with an additional supplemental objection by USAC on January 24, 2011 [DE 592] (collectively, "USAC Objection"), by the Prepetition Debenture Holders, Tranche B DIP Lenders and Stalking Horse Bidder [DE 419] ("Debenture Holders Objection"), in which Global Telecom & Technology joined [DE 420] ("GTT Joinder"), and by Capstone Investments [DE 429], supplemented on January 24, 2011 [DE 588] ("Capstone Objection"). On January 24, 2011, an Opposition and Reservation of Rights was filed by Vanco US, LLC [DE 583] ("Vanco

Objection"). Objections to Cure Amounts were also filed, as described below. A hearing was commenced on November 8, 2010, and continued on November 19, 2010. On December 2, 2010, the Debtors filed a Notice of Withdrawal of the Pivotal Bid Motion [DE 479] after the deadline for Court approval of the Pivotal Bid Motion expired.

The Debtors filed a Motion to Approve Modified Asset Purchase Agreement of Pivotal Global Capacity LLC ("Pivotal GC") for the Acquisition of the Debtors' Assets Under or in Conjunction with its Plan of Reorganization, Consummation of a Transaction with Pivotal GC and Assumption and Assignment of Mission Critical Vendor Contracts ("Motion") January 12, 2011 [DE] (the "Pivotal GC Sale Motion"). In conjunction with the Pivotal GC Sale Motion, the Debtors filed a Notice of Non-Material Plan Modifications and Modified Pivotal APA, and Classes 1-5 Vote for Plan as Modified on January 12, 2011 [DE 560] (the "Modification Notice" and attached "Modified Pivotal APA" and "Modified Plan"). The Debtors also filed the Plan Supplement required by the Plan, attaching the Wind Down Budget, on January 12, 2011 [DE] (the "Plan Supplement"). The Debtors also filed a Motion for Order Under 11 U.S.C. §§ 105, 363, 364(c)(1) & (2), and 364(e), Fed. R. Bankr. P. 2002, 4001, and 9014: Authorizing Debtors to Obtain Increased Postpetition Sale Closing Financing on Superpriority and Secured Basis, and Authorizing the Use of Cash Collateral on January 12, 2011 [DE] (the "Sale Facility Motion"). The Pivotal GC Sale Motion, Plan Supplement, Plan Modification Notice and the Sale Facility Motion were timely served on all parties in interest, including all shareholders of record in the Debtors [DE 575] A Second Notice of Non-Material Modifications to Amended Plan and Modified Pivotal APA was filed and served on January 21, 2011 [DE 579, 600] ("Second Modification Notice").

A hearing on the Pivotal GC Sale Motion, the Sale and Plan Confirmation and the Sale Facility Motion was held on January 26, 2011 ("Sale/Confirmation Hearing"), with appearances as noted on the record at the Sale/Confirmation Hearing. In accordance with the Bidding Procedures and the Sale-related provisions in the Plan, and the Court having considered the filings listed above, arguments, evidence, and representations made at the Sale/Confirmation

Hearing, and having considered the other matters submitted to the Court in connection with the approval of the Sale, and good cause appearing,

THE COURT FINDS AND CONCLUDES AS FOLLOWS:

A. The Court has jurisdiction to consider the Sale Motion and Pivotal GC Sale Motion in accordance with 28 U.S.C. §§ 157 and 1334. The Sale Motion and Pivotal GC Sale Motion constitute core proceedings pursuant to 28 U.S.C. §§ 157(b)(2)(A), (N), and (O), and venue before this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

B. The Debtors served the notices required by the Sale Procedures Order on August 30, 2010 on the parties required by and in accordance with the terms and conditions of the Sale Procedures Order, *i.e.* (i) the U.S. Trustee; (ii) the members of and counsel to the Committee; (iii) the DIP Lenders (as defined in that certain Final Order Granting Emergency Motion for Order Under 11 U.S.C. §§ 105, 363, 364(c)(1) & (2), and 364(e), Fed. R. Bankr. P. 2002, 4001, and 9014, and the Court's General Orders on Complex Chapter 11 Cases: (I) Authorizing Debtors to Obtain Postpetition Financing on Superpriority and Secured Basis, (II) Permitting the Use of Cash Collateral, and (III) Granting Final Relief [DK 125] the "Final DIP Order")); (iv) counsel to the agent for the DIP Lenders; (v) the Debtors' Pre-Petition Debenture Holders; (vi) the attorneys general for each of the States in which the Debtors conduct operations; (vii) all taxing authorities having jurisdiction over any of the Purchased Assets, including the Internal Revenue Service; (viii) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002; (ix) any parties who have expressed a written interest in the Purchased Assets; (x) parties who are known or reasonably believed to have asserted any lien, encumbrance, claim or other interest in the Purchased Assets; and (xi) all governmental agencies that are an interested party with respect to the Sale and transactions proposed thereunder, with notices regarding assumption and assignment of executory contracts and unexpired leases also served on all counter-parties to such contracts and leases (the "Required Parties") and as reflected in the Certificates of Service filed with this Court on September 4, 2010 [DE 208]. Further notices with respect to the Auction and Sale and Pivotal

GC Sale Motion and Modification Notice, and Second Modification Notice were timely served as set forth above.

C. Mission Critical Vendors and other parties to contracts, executory contracts and leases were notified on August 31, 2010 of procedures to be followed in connection with the assumption and assignment to the Court-approved buyer in conjunction with the Sale, including objections to cure amounts and terms to be set forth on a Cure Schedule [DE 218] (the "Cure Motion"). On September 15, 2010, the Debtors served the Notice of Filing of Cure Schedule Incident to the Debtors' Sale Motion, the Cure Scheduled and Notice of Debtors' Procedures with Respect to Assumption and/or Assignment of Certain Executory Contracts and Leases and the Establishment of Cure Costs and Payments Associated Therewith, [DE 218, DE 224]. On October 18, 2010 of an amended deadline for objections of October 25, 2010 was noticed [DE 325, 337]. On October 31, 2010, the Debtor filed the Notice of Debtors' Designation of Successful Bidder in Conjunction with Reorganization Plan, Rescheduled Sale Hearing, and Assumption and Assignment of Contracts, Executory Contracts and Unexpired Leases and Objection Deadline [DE 369] ("Cure Schedule"), and timely served it on all counter-parties to contracts, executory contracts and unexpired leases proposed to be assumed and assigned to Pivotal GC [DE 390].

D. Objections or reservations of rights with respect to the Cure Motion were filed by ColoSpace, Inc. [DE 268], ITS Communications, Inc. [DE 269, 334], Level 3 Communications, LLC and its affiliates [DE 270], Qwest Communications Company LLC and Qwest Corporation, as supplemented [DE 273], Hobbs Brook Management LLC and 265 Winter LLC, as supplemented [DE 274, 384, 586], Verizon Communications, Inc., as supplemented [DE 276, 416, 581], AboveNet Communications, Inc. [DE 277], Orbitz, LLC [DE 278], Oracle America, Inc., as supplemented [DE 279, 415, 585], AT&T Corp., as supplemented [DE 281, 589], and BCE Nexxia Corporation [DE 282] (collectively, "Cure Amount Objections"). Objections to the Cure Schedule were filed by Verizon Communications, Inc. [DE 416], AboveNet Communications, Inc. [DE 375, 402], Oracle America, Inc. [DE 415], and AT&T Corp. [DE 387] (collectively, "Cure Schedule Objections").

E. Good and sufficient notice of the Bidding Procedures, as amended; the Sale Motion; Auction; the Sale Hearing; the Pivotal GC Bid Motion, Pivotal GC Plan/Sale Motion and Plan provisions concerning the Sale have been given so as to provide all creditors and parties in interest entitled to notice with such notice and such opportunity for hearing as is appropriate under the facts and circumstances of this bankruptcy case within the meaning of section 102(1) of the Bankruptcy Code and as required by 11 U.S.C. § 363(b)(1), and Fed. R. Bank. P. 2002(a)(2), (c)(1), and (k), and 6004(a) and (c), and no additional or further notice is required for entry of this Order.

F. Pivotal GC has acquired the Interests and Claims held by the Debenture Holders and DIP Lenders, and has withdrawn the Debenture Holders Objection, GC Newco Objection, and the Stalking Horse Bid, and withdrawn the support of the Debenture Holders and Tranche B DIP Lenders for a sale to Global Telecom & Technology, Inc. ("GTT"). The GTT Joinder has no effect upon withdrawal of the Debenture Holders Objection.

G. Pivotal GC has requested authority to transfer the Purchased Assets immediately upon acquisition to its wholly-owned subsidiary, GC Pivotal, LLC, an Arizona limited liability company ("GC Pivotal" and, unless separately referenced hereafter, included within the defined term "Pivotal GC"), which has already received certain regulatory approvals to conduct business in locations where the Debtors operate, reducing the time period required for obtaining all regulatory approvals required for Closing.

H. The USAC Objection to treatment of its administrative expense claim is resolved as follows: Subject to, and without waiver or limitation of, the Debtors' and Pivotal GC's and/or Reorganized Debtors' rights to dispute invoiced amounts in the ordinary course, which the parties will work in good faith to resolve, and with existing contract remedies if they are unable to resolve any such dispute,

1. Debtors shall continue to pay USF Obligations[3] incurred post-petition but prior to the Sale Closing when invoiced and due in the ordinary course. Within 10 days of the Sale Closing, the Debtors shall pay to USAC any and all invoiced and unpaid USF Obligations which arose on or after the Petition Date through the date of the Closing;

2. Debtors shall treat USAC's pre-petition claim for unpaid USF Obligations with other unsecured claims under Debtors' Plan.

3. All USF Obligations invoiced by USAC prior to the Sale Closing which arise as a result of Annual True-Ups will be allocated between pre-petition and post-petition periods; the pre-petition portion of any such USF Obligations arising as a result of Annual True-Ups will be included in the USAC unsecured claim, and the portion allocated to the post-petition period will be paid by the Debtors when due.

4. The Buyer shall pay when due any and all post-Closing USF Obligations as invoiced by USAC including, without limitation:

   a. all USF Obligations invoiced by USAC on or after the date of the Closing;

   b. all USF Obligations invoiced by USAC after the date of the Closing which may arise as a result of the Annual True-Ups, regardless of the revenue period covered, provided that only the portion of USF Obligations determined by Annual True-Ups allocated to the post-petition period will be paid, while the portion due pre-petition will be included in the USAC unsecured claim; and

[3] USF Obligations, Annual True-Ups and Annual Revenue Reports have the meanings ascribed thereto in the USAC Limited Objection.

c. all USF Obligations invoiced by USAC after the Closing which arise as a result of revised or amended Annual Revenue Reports submitted by or on behalf of the Debtors, regardless of the revenue period covered, provided that only the portion of USF Obligations determined by revised or amended Annual Revenue Reports allocated to the postpetition period will be paid, while the portion due prepetition will be included in the USAC unsecured claim.

5. In the event that any Annual True-Up conducted by USAC after the date of the Closing results in the issuance of credits toward USF Obligations, the Buyer shall be entitled to the full value of those credits, regardless of the revenue period covered (except that USAC shall first apply any such credits to its outstanding pre-petition or post-petition claims, if any, as applicable);

6. In the event that the Buyer, the Debtors, or any entity on the Debtors' behalf timely submits a revised or amended Annual Revenue Report that results in the issuance of credits toward USF Obligations, the Buyer shall be entitled to the full value of those credits regardless of the revenue period covered by that revised or amended Annual Revenue Report (except that USAC shall first apply any such credits to its outstanding pre-petition or post-petition claims, if any, as applicable);

7. The Debtors shall timely submit all Quarterly and Annual Revenue Reports which become due on or before the date of the Closing;

8. The Buyer shall timely submit all Quarterly and Annual Revenue Reports that become due after the date of the Closing and, if those Annual Revenue Reports cover revenue periods prior to the Closing date, the Buyer shall include the Debtors' pre-Closing revenues; and

9. Nothing in this Sale Order or in connection with the Sale shall prohibit, alter or limit USAC's rights to (i) audit the Debtors' reported contributor revenues, including with respect to pre-sale and pre-petition periods, (ii) assess and invoice any USF Obligations resulting from any such audit, and (iii) pursue all of USAC's rights related to any such audit including, without limitation, amending previously filed claims against the Debtors.

10. Notwithstanding the Administrative Bar Date in the Plan, nothing herein shall be deemed to limit or restrict USAC's right to amend or supplement its administrative claim and USAC shall have the right to amend or supplement its administrative claim in the event that (1) the Debtors or the Buyer submits upwardly revised revenue to USAC and/or (ii) USAC determines through audit or otherwise that the Debtors' revenue must be upwardly revised.

The USAC Objection to the Sale is overruled in all other respects, as the remainder of the USAC Objection concerns Plan confirmation issues.

I. The Capstone Objection is overruled as it is a fee allowance issue rather than a Sale objection. All claims and defenses regarding fee allowance are reserved. To the extent Capstone objects to sufficiency of funds to pay all Administrative Expenses as finally approved or agreed upon by the claimants, the Court overrules the Capstone Objection to the Sale, as it is a Plan confirmation objection.

J. The Vanco Objection is overruled insofar as it seeks a Cure payment, since the Vanco contract is being rejected under the Modified Pivotal APA. Insofar as Vanco asserts that the amount for Mission Critical Vendors must be increased to cover Vanco's constructive trust claim, on the Closing Date, Pivotal GC will set aside $1,085,535.78 to satisfy Vanco's claim as a Mission Critical Vendor claim only <u>if Vanco wins</u> its constructive trust litigation, in accordance with the October 8, 2010 stipulated order [Adv. Pro. 10-53164 DE 11], which funds shall be owned by Pivotal GC and not be property of the Debtors' estates, and shall be held in a segregated account pending further order of the Court. Such amount shall not be set aside if Vanco loses its constructive trust litigation before the Closing Date.

K. The Debtors extensively marketed the Sale Assets in good faith, and the Debtors' investment bankers sought equity or debt financing to support the Stalking Horse Bid.

L. By the deadline for submitting bids in the Bidding Procedures, (1) GC Newco, initially designated as the Stalking Horse Bidder, was a Qualified Bidder; (2) Pivotal GC submitted a bid (as amended, the "Pivotal GC Bid") with attached form of Asset Purchase Agreement, evidence of financial ability to close, and all other documents required to be a Qualified Bidder; and (3) GTT also submitted a bid without a form of Asset Purchase Agreement or schedules and without evidence of financial ability to close. The Debtors notified GC Newco, Pivotal GC, GTT and other required parties on October 20, 2010 that Pivotal GC was determined to be the lead bidder.

M. On October 21, 2010, the Debtors commenced the Auction over the objection of GC Newco. During the Auction, GTT submitted an additional bid, a form of Asset Purchase Agreement (without schedules), and certain evidence related to its financial ability to close. The Auction was continued to October 25, 2010 to allow all parties in interest to evaluate the additional GTT documents.

N. On October 25, 2010, the Auction continued. GTT and GC Newco submitted a combined bid. Pivotal GC submitted an amendment to the Pivotal GC Bid. On October 26, 2010, Pivotal GC provided the Debtors with a formal, written amendment to the Pivotal GC Bid. On October 26, 2010, the Debtors considered and evaluated the bids, and determined that Pivotal GC was the Successful Bidder.

O. The Debtors selected the Pivotal GC as the Successful Bidder based upon criteria that included, without limitation, the following:

1. The bid was structured in such a fashion that could confirm a plan;

2. The documentation provided by Pivotal relative to financial ability to close had the least risk of default;

3. the offer was a highest and best offer for the greatest number of classes of creditors; and

4. the indication from one of the largest Mission Critical Vendor was that Pivotal was the purchaser of choice.

P. The Pivotal GC Bid was withdrawn when it was not approved by the deadline set forth in the Pivotal GC Bid. However, the Debtors have sought approval of the Modified Pivotal APA which is substantially similar to the Pivotal GC Bid, with modifications described in the Pivotal GC Sale Motion and Plan Modification Notice.

Q. Based on the record presented, the Debtors have exercised sound and considered business judgment in deciding that the Modified Pivotal APA is the best and highest bid susceptible of plan confirmation to acquire the Purchased Assets. Based upon such evidence, the Court finds that it is in the best interests of the Debtors and the Debtors' estates: (1) to consummate the Sale to Pivotal GC in accordance with the Modified Pivotal APA; and (2) to assume and assign to Pivotal GC the Assumed Liabilities, as set forth on the Schedules to the Modified Pivotal APA.

R. The Modified Pivotal APA and all schedules and exhibits thereto fully complied with all of the requirements set forth in the Bidding Procedures, as modified, and the Plan provisions regarding the Sale. The Contracts and the Real Property Leases defined in the Modified Pivotal APA are agreements or are executory contracts and unexpired leases within the meaning of Bankruptcy Code section 365. The Sale and the assumption and assignment of the Contracts and Real Property Leases and Assumed Liabilities to Pivotal GC are approved and authorized under the Bankruptcy Code, including Sections 105, 363, 365 and 1123 of the Bankruptcy Code.

S. In connection with the Pivotal GC Bid, Pivotal GC submitted sufficient and satisfactory written evidence that Pivotal GC has the financial wherewithal to close the Sale and to satisfy Cure obligations and Assumed Liabilities when such obligations become due for the purpose of demonstrating feasibility (as required by Bankruptcy Code section 1129(a)(11)), adequate assurance of future performance with respect to the Assumed Liabilities (as required by section 365) under the Plan and in compliance with the Sale Procedures Order.

T. Schedule 2.3(c) to the Modified Pivotal APA and the subparagraphs below set forth the Debtors' proposed payments and payment terms, if any, that are required pursuant to sections 365(b)(1)(A) and 365(b)(1)(B) of the Bankruptcy Code and the satisfaction of Claims of Mission Critical Vendors that are not executory contracts and unexpired leases (collectively, the "Cure"), all of which are included in the Debtors' assumption and assignment of the Assumed Liabilities (the "Agreed Cures"). The Agreed Cures set forth the amounts and Cure terms reflected in the Cure Schedule, and amounts and terms agreed to by the holders of Cure Schedule Objections, as set forth in the Pivotal GC Sale Motion, except as set forth in the following subparagraphs. Other than as set forth in the Pivotal APA Schedule 2.3(c) and the subparagraphs below, or separate order of the Court, no other Cure amounts are due or need be satisfied in order for the Debtors to assume, and assign to Pivotal GC the Assumed Liabilities. The Assumed Liabilities include, and Pivotal GC shall pay current accrued and unbilled obligations under assumed Contracts and Real Property Leases when invoiced and due post-Closing in the ordinary course.

1. Level 3 Communications, LLC and its affiliates: The Debtors will pay $805,794.88 to satisfy all pre-petition undisputed amounts, of which $252,458.21 will be in the form of application of the adequate assurance deposit held by Level 3 against the total amounts due, with the net due in cash on the Closing Date/Plan Effective Date. Level 3 will receive and Pivotal GC will maintain an adequate assurance deposit going forward of $134,548 (one month current MRC).

2. Qwest Communications Company, LLC f/k/a Qwest Communications Corporation and Qwest Corporation: Qwest's objection is resolved pursuant to a separate stipulation with Qwest.

3. Verizon Communications, Inc. and its subsidiaries: Verizon Communications, Inc. and its subsidiaries: Debtors will pay $1,663,157.91 to satisfy all pre-petition undisputed amounts, satisfied in part by applying the

unused portion of the $603,285.88 adequate assurance deposit held by Verizon against the total amounts due, with the net due in cash on the Closing Date/ Plan Effective Date. To ensure proper application, the Debtors will tender the cure amount through Verizon's counsel and not through the payment lockbox. The Cerner escrow agreement will be maintained, as requested. Debtors and Pivotal GC will separately reach an agreement with Verizon on the requirements for future deposits and/or minimal cash balances, given the structure, backing and health of the new company. Debtors have reached an agreement with Verizon on the offset of any pre-petition amounts owed by Verizon against Verizon's prepetition non-cure Claim. Per the stipulation between the parties, Verizon may, without further court order or relief from stay, immediately offset the pre-petition amounts owed by Verizon against Verizon's prepetition non-cure Claim. Verizon shall amend its proof of claim to reflect the results of any offset and to further reflect the payment of cure amounts ordered herein.

4. AT&T Corp. and its affiliates: Debtors will pay $4,489,000 to meet AT&T cure obligations, which shall be satisfied in part by applying the $1,021,006.42 adequate assurance deposit held by AT&T against the total amounts due, with the net due in cash on the Closing Date/ Plan Effective Date. Debtors and Pivotal GC after Closing will keep the Cerner escrow agreement in place, as requested.

5. AboveNet Communications, Inc. [DE 277, 375, 402]: The Debtors are hereby authorized to assume and assign to the Purchaser, effective upon the payment of the cure amount set forth herein, that certain Master Products and Services Agreement by and between the Debtors and AboveNet Communications, Inc. ("AboveNet") and the supplements, order forms, exhibits and related agreements executed thereunder (collectively, the "AboveNet Contacts"). Within three (3) business days of the Closing, the Debtors and the Purchaser shall pay

AboveNet the prepetition cure amount of $18,313.74 (the "Prepetition Cure Amount") by sending a check to AboveNet Communications, Inc., Attn: Thomas Kelly, 360 Hamilton Avenue, White Plains, NY 10601. The Prepetition Cure Amount is net of certain deposits in the amount of $11,733.77 paid by the Debtors to AboveNet, which AboveNet is hereby authorized to utilize in satisfaction of the balance of the prepetition cure amount. The Debtors and the Purchaser shall also pay AboveNet for any and all outstanding postpetition invoices issued under the AboveNet Contracts prior to Closing in the ordinary course of business in compliance with the terms of the outstanding invoices. In the event the Debtors and the Purchaser fail to timely do so, AboveNet may move this Court for enforcement of this Order and this Court retains jurisdiction to enforce this provision.

6. Oracle America, Inc. [DE 279, 415]: The Debtors have clarified with Oracle the specific agreement being assumed and assigned, *i.e.* Oracle service contract #4961155, which is current and has no pre-petition amounts due. The other Oracle service agreement will expire in the ordinary course prior to Closing. The On Demand contracts referenced in the Oracle Objection are not assumed, and are accordingly rejected as of the Closing Date. The licenses referenced in the Oracle Objection are held by Debtors, and will be assumed and assigned at the Sale Closing. A list of the Oracle licenses so assumed and assigned is attached as **Exhibit 1**, and Schedule 2.1(c)(i) is deemed amended to include such list.

U. The Cure Objections not addressed and satisfied through the foregoing treatment are resolved or overruled as follows:

1. ColoSpace [DE 268]: Schedule 2.3(c) includes the Cure Amount sought by ColoSpace.

2. ITS Communications, Inc. [DE 269, 334]: The Contract expired by its terms in accordance with a stipulated order [DE 156], mooting assumption and Cure objections. An ITS security deposit of $79,321.96 was erroneously listed on Schedule 2.1(d) as a Purchased Asset. ITS may retain and apply such security deposit to its prepetition Claim after ITS and the Debtors reconcile the Claim amount and security deposit amount.

3. 265 Winter LLC and Hobbs Brook Management LLC [DE 274, 384]: The objection will be resolved pursuant to a separate stipulation and order.

4. Orbitz, LLC [DE 278]: Contract rejected, as shown on Schedule 2.1(c)(ii), which does not include Orbitz, mooting assumption Cure objections.

5. BCE Nexxia [DE 282, 602]: The assumption and assignment objection will be separately addressed in conjunction with resolution of Debtors' motion to assume and assign this Contract [DE 438]

V. The evidence on record regarding the ability of Pivotal GC to pay the Purchase Price and to fund the operating expenses of the Debtors' business on a going forward basis is sufficient evidence of adequate assurance of future performance by Pivotal GC with respect to the Assumed Liabilities that constitute executory contracts and unexpired leases, as required pursuant to sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code and the Bidding Procedures.

W. Effective as of the Closing, the Debtors' bankruptcy estates shall be relieved pursuant to Section 365(k) of the Bankruptcy Code from any liability for any obligations under and with respect to the Assumed Liabilities that constitute executory contracts and unexpired leases.

X. The Pivotal GC Bid and Modified Pivotal APA were proposed by Pivotal GC under the same procedures available to all bidders and were entered into in good faith between Pivotal GC and the Debtors after review and approval by the Court and are in good faith within the meaning of section 363(m) of the Bankruptcy Code. There was no evidence of collusion, fraud, control of the Purchase Price by any agreement among bidders, or actions prohibited by Bankruptcy Code section 363(n) raised or admitted in connection with the Pivotal GC Bid, the Modified Pivotal APA or the Sale. Pivotal GC is acquiring the Purchased Assets in good faith and is a good faith purchaser within the meaning of and is entitled to the protections of Bankruptcy Code section 363(m). Pivotal GC is a "disinterested" party within the meaning of 11 U.S.C. § 101(14), and is not an insider of the Debtors or related to the Debtors in any way.

Y. The purchase price offered by Pivotal GC under the Modified Pivotal APA constitutes the best offer and, under the circumstances, is the highest and best offer for the Purchased Assets received by the Debtors, and is, and shall be deemed, to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States and any State.

Z. The transfer of any assets from Magenta netLogic Limited, UK ("Magenta") to the Debtors, in consideration for release and extinguishment of intercompany notes, if applicable, is for fair value. Magenta has not received any prepetition or post-petition advances from any prepetition or post petition lender of the Debtors.

AA. Predicates exist under one or more applicable subsections of Section 363(f) as well as Section 1123 of the Bankruptcy Code to authorize the Sale to Pivotal GC of the Purchased Assets free and clear of all liens, Encumbrances, Claims and Interests of any nature and of all parties in the Purchased Assets.

BB. No third party consents are needed for Closing the Modified Pivotal APA other than consents from Governmental Bodies as set forth in the Modified Pivotal APA.

CC. Pivotal GC would not have entered into the Modified Pivotal APA and would not consummate the transactions contemplated thereby if the sale of the Purchased Assets to Pivotal GC or (to the extent permitted) its respective assignees, the assumption, assignment and sale of the Assumed Contracts and Real Property Leases to Pivotal GC or (to the extent permitted by the Agreement) its respective assignees, and the assumption of the Assumed Liabilities by Pivotal GC or (to the extent permitted by the Agreement) its respective assignees were not, except as otherwise provided in the Modified Pivotal APA with respect to the Assumed Liabilities and Permitted Encumbrances, free and clear of all Claims, Interests and Encumbrances of any kind or nature whatsoever, or if Pivotal GC would, or in the future could (except and only to the extent expressly provided in the Modified Pivotal APA or any amendments thereto, and with respect to the Assumed Liabilities), be liable for any of such Claims, Interests or Encumbrances or other future liabilities arising out of past conduct of the Debtors or the Debtors' past ownership of the Purchased Assets (such other liabilities or obligations being referred to collectively as the "Successor Liabilities"), including, but not limited to, Encumbrances or Successor Liabilities in respect of the following (the following being referred to collectively as the "Successor Liability Documents, Statutes and Claims"): (1) any employment or labor agreements; (2) all deeds of trust and security interests; (3) any pension or medical benefit plan of the Debtors, compensation or other employee benefit plan of the Sellers, welfare, agreements, practices and programs; (4) any other employee, worker's compensation, occupational disease or unemployment or temporary disability related claim, including, without limitation, claims that might otherwise arise under or pursuant to: (a) the Employee Retirement Income Security Act of 1974, as amended, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Worker Adjustment and Retraining Act of 1988, (g) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (h) the Americans with Disabilities Act of 1990, (i) the Consolidated Omnibus Budget Reconciliation Act of 1985, (j) state discrimination laws, (k) state unemployment compensation laws or any other similar state laws, or (l) any other state or federal benefits or claims relating to any employment with the Sellers or any predecessors; (5) environmental or other claims or Liens arising from existing conditions on or prior to the Closing (including, without limitation, the presence of hazardous, toxic, polluting or contaminating substances or waste) that may be asserted on any basis, including, without limitation, under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601, et seq., or other state statute; (6) any bulk sales or similar law; and (7) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended, and (8) any theories of successor liability, including any theories on successor products liability grounds.

DD. Pivotal GC as the Purchaser is not merely a continuation of the Debtors, and no common identity of incorporators, directors or stockholders exists between Pivotal GC and the Debtors. The Sale is not being entered into fraudulently. If the Sale is consummated as a direct transfer of Purchased Assets, Pivotal GC will not be, as a result of any action taken in connection with the Sale or otherwise, (i) a successor to the Debtors or their bankruptcy estates (other than with respect to the Assumed Obligations and any obligations arising under the relevant Assumed Contracts and Real Property Leases from and after the Closing); or (2) de facto or otherwise, have merged or consolidated with or into the Debtors. If the Sale is consummated through a Reorganization Alternative, Pivotal GC will be the owner of equity securities of one of more of the Debtors who will continue for regulatory and operational purposes, or Pivotal will be the successor to one or more of the Debtors for regulatory and operational purposes, but all Claims and liabilities of the Debtors and their bankruptcy estates through the Closing Date and all Interests in the Shares, except for the Assumed Liabilities, are still discharged under the Plan, and Pivotal GC will have no Successor Liabilities except to the extent of the Assumed Liabilities. A transfer of Shares in the Debtors under the Reorganization Alternative through a direct purchase of the Shares of one or more of the Debtors, or by the cancellation of all existing shares and issuance of new equity interests in the Debtors, or pursuant to the terms of one or more mergers, consolidations, share exchanges, recapitalizations, reorganizations or other similar transactions will vest in Pivotal GC all right, title and interest in such transferred Shares free and clear of any and all rights, Interests, Encumbrances and Claims of any kind or nature, whether imposed by agreement, understanding, law, equity or otherwise, all of which shall attach to the net proceeds of the Sale in the order of their priority, with the same validity, force and effect which they now have and to all claims and defenses the Debtors or other parties may possess with respect thereto.

EE. The Modified Pivotal APA and the assumption and assignment of the Assumed Liabilities by the Debtors to Pivotal GC are approved and authorized under the Bankruptcy Code, including Sections 105, 363, 365 and 1123 of the Bankruptcy Code.

FF. Nothing contained in the Plan or any plan of reorganization or liquidation will alter, conflict with, or derogate from, the provisions of the Modified Pivotal APA or this Order, and the terms of the Plan shall be conformed to the extent that any provision of the Pivotal APA is inconsistent with the Plan.

GG. Pivotal GC, as successor to the DIP Lenders, has been authorized by order granting the Sale Facility Motion to advance additional amounts under the DIP Loan Documents (as defined in the Final DIP Order), secured by the collateral pledged thereunder, as a DIP "Sale Facility" (as defined in the Sale Facility Motion) for the Purchase Price, including through a credit bid of all amounts advanced.

HH. All findings of fact and conclusions of law made by the Court at the hearing on the Sale Facility Motion and Plan Confirmation are incorporated herein.

II. The Debtors have satisfied the applicable provisions of the Sale Procedures Order, the Bidding Procedures, and the Bankruptcy Code.

ACCORDINGLY, IT IS HEREBY ORDERED that:

1. The Sale Motion and the Pivotal GC Sale Motion are hereby granted and any objections or oppositions with respect thereto not previously withdrawn are hereby overruled.

2. The Debtors are authorized pursuant to (without limitation) Sections 1123(a)(5), 363(b), 363(f), 363(k), 363(1) and 365(b) of the Bankruptcy Code to enter into and perform the Modified Pivotal APA. The Debtors are authorized to (i) consummate the Sale to Pivotal GC or its assignee GC Pivotal in accordance with and subject to the terms and conditions of the Modified Pivotal APA and the provisions thereof; (b) execute and deliver, and to perform fully under, consummate and implement the Modified Pivotal APA, together with all additional instruments and documents contemplated by the Modified Pivotal APA or that may be reasonably necessary or desirable to implement the Modified Pivotal APA, and (iii) take any and

all actions necessary or useful to effectuate and comply with the terms of the Modified Pivotal APA and all other applicable documents, if any, in order to complete the Sale, including the transfer of the equity interests in Magenta to Pivotal GC or its assignee GC Pivotal or the transfer of assets of Magenta to such Debtors holding intercompany claims against Magenta, in consideration for release of those intercompany claims, which transfer will be free and clear of any liens and claims, and to take any other action with respect to the equity interests and assets of Magenta as may be deemed appropriate or desirable by Debtors, and to take any other action with respect to the equity interests and assets of Magenta as may be deemed appropriate or desirable by the Debtors and Pivotal GC. One or more of the Debtors are authorized to cancel all existing shares and issue or transfer shares of stock to Pivotal GC or its assignee GC Pivotal to evidence the direct purchase of such shares, or the issuance of new shares, or the acquisition of shares pursuant to the terms of one or more mergers, consolidations, share exchanges, recapitalizations, reorganizations or other similar transactions if an Alternative Transaction under the Modified Pivotal APA/Reorganization Election under the Plan is effected, and the Interests in the Shares are deemed to terminate whether or not documentation of the Shares is surrendered to the Debtors or transferred to Pivotal GC or GC Pivotal.

3. The Debtors are hereby authorized to: (a) assume and assign to Pivotal GC or GC Pivotal, effective upon the Closing, each of the Assumed Liabilities, with Cure obligations paid and Allowed Claims of the counterparties to Assumed Liabilities satisfied through treatment under the Plan and Confirmation Order and in accordance with the Agreed Cures set forth in Schedule 2.3(c) to the Modified Pivotal APA and paragraph T above; and (b) execute and deliver to Pivotal GC or GC Pivotal such documents or other instruments as may be necessary to assign and transfer each of such Assumed Liabilities to Pivotal GC or GC Pivotal. In accordance with Bankruptcy Code section 365(f), all of the Contracts and Real Property Leases provided for in the Modified Pivotal APA are transferrable notwithstanding any provisions prohibiting or restricting assignment.

4. The Debtors shall pay all Cure payments required for the Assumed Liabilities at

Closing and thereafter as set forth in paragraph R above under the terms of the Plan and Confirmation Order, and shall do so first from any estate funds deemed unencumbered to the extent such funds have not been used to satisfy Administrative Expenses. The Cure amounts and terms required for each Assumed Liability, if any, shall be the amount set forth in Modified Pivotal APA Schedule 2.3(c) and paragraph R above. As of the Closing, other than the Cure for a respective Assumed Liability, if any, the non-Debtor party to each Assumed Liability shall be, and hereby is, barred and estopped from asserting against the Debtors, their property, or assets, or Pivotal GC or GC Pivotal any obligation thereunder which arose or accrued prior to the Petition Date, whether by way of affirmative claim, counterclaim, defense, set-off or otherwise. Each counterparty to an assigned Contract or Real Property Lease is hereby forever barred, estopped, and permanently enjoined from raising or asserting against Pivotal GC or GC Pivotal or its property any assignment fee, default, breach, claim, pecuniary loss, liability or obligation (including whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinate) arising under or related to the assigned Contracts and Real Property Leases existing as of the Closing Date or arising by reason of the Closing, except for the Assumed Liability Cure, if applicable.

5. Except as expressly permitted or otherwise specifically provided for in the Modified Pivotal APA or this Order, pursuant to sections 105(a), 1123, and 363(f) of the Bankruptcy Code, Pivotal GC or its assignee GC Pivotal is acquiring the Purchased Assets on the terms and conditions set forth in the Modified Pivotal APA, and even if accomplished through a Reorganization Election (Alternative Transaction under the Modified Pivotal APA), upon Closing such Purchased Assets including Shares shall be free and clear of all liens, Claims, Interests, obligations and Encumbrances whatsoever, including all debts and claims arising in any way in connection with any agreements, acts, or failures to act, of any of the Debtors and whether imposed by agreement, understanding, law, equity or otherwise, including but not limited to claims otherwise arising under doctrines of successor liability or vicarious liability of any kind or character arising at any time prior to the Closing of the Sale, including the Successor

Liabilities. Except with respect to and limited to Assumed Liabilities, Pivotal GC or its assignee GC Pivotal shall take title to and possession of the Purchased Assets directly or indirectly free and clear of all liens, claims, obligations, setoff and recoupment interests and encumbrances and Interests of any kind or nature whatsoever, including all debts and claims arising in any way in connection with any agreements, acts, or failures to act, of any of the Debtors and whether imposed by agreement, understanding, law, equity or otherwise, including any avoidable transfer claims against any of the Debtors or their affiliates, including to the extent their Shares are Purchased Assets.

6. Upon the Closing of the Sale and the Effective Date of the Plan, Pivotal GC, GC Pivotal and the Debtors shall receive the full benefit of all discharge, releases and injunctions provided for in the Plan and section 1141(d) of the Bankruptcy Code. All liens, Claims, Encumbrances and Interests are deemed extinguished and terminated, except for Assumed Liabilities, but to the extent necessary or useful to establish clear title, parties in interest shall execute and deliver to the Debtors any instrument or document required to effect a release of liens, Claims, Encumbrances or Interests in accordance with this Order and the Plan, and Debtors may execute and deliver any such instruments and documents under power of attorney or otherwise. Pivotal GC and GC Pivotal are not liable for any pre- or post-petition debts of the Debtors other than with respect to payment of the Purchase Price and Assumed Liabilities as set forth in the Modified Pivotal APA, whether or not an Alternative Transaction under the Modified Pivotal APA/Reorganization Election under the Plan is exercised.

7. This Order (a) shall be effective as a determination, as of the Closing, that all Claims or Interests of any kind or nature whatsoever existing as to the Debtors or the Purchased Assets, including Shares, prior to the Closing have been unconditionally released, discharged and terminated as to the Shares and other Purchased Assets, and that the conveyances described herein have been effected, and (b) shall be binding upon and shall govern the acts of all entities, including, without limitation, all Governmental Bodies and all parties in interest in this case and their employees, principals and agents. Subject to the Claims and Interests attaching to the

proceeds of the Sale, each of the Debtors' creditors, equity interest holders and other parties in interest is authorized and directed to execute such documents and take all other actions as may be reasonably necessary to release its Claims and Interests in the Purchased Assets, if any, as such Interests may have been recorded or otherwise exist, and in the absence of such action, the Debtors are authorized as attorney in fact for such parties to take such actions.

8. Each and every federal, state, and local government agency or department, and each and every utility or provider of telephone or other service, is hereby authorized and directed to accept any and all documents and instrument, including without limitation a certified copy of this Order, which are necessary and appropriate to consummate the transactions contemplated by the Modified Pivotal APA, including without limitation the transfer of the Purchased Assets to Pivotal GC or its assignee GC Pivotal directly or indirectly through an Alternative Transaction under the Modified Pivotal APA/Reorganization Election under the Plan.

9. Neither Pivotal GC, GC Pivotal, nor any of their affiliates, owners, principals, agents, successors or assigns shall, as a result of the consummation of the Sale, (a) be as successor to the Debtors or their estates; (b) have, de facto or otherwise, merged or consolidated with any of the Debtors or their estates except to the extent the Reorganization Election is exercised through a direct purchase of shares of one or more Debtors or by the cancellation of all existing shares and issuance of new shares or pursuant to the terms of one or more mergers, consolidations, share exchanges, recapitalizations, reorganizations or other similar transactions, with a full discharge of all Interests, Claims, Encumbrances and liabilities through the Closing except for Assumed Liabilities; (c) be a continuation or substantial or mere continuation of the Debtors or any enterprise of the Debtors except to the extent the Reorganization Election is exercised through a direct purchase of shares of one or more Debtors or by the cancellation of all existing shares and issuance of new shares or pursuant to the terms of one or more mergers, consolidations, share exchanges, recapitalizations, reorganizations or other similar transactions with a full discharge of all Interests, Claims, Encumbrances and liabilities through the Closing except for Assumed Liabilities; (d) be deemed to have obtained the Purchased Assets via a

fraudulent transfer or conveyance. Except for the Assumed Liabilities, the transfer of the Purchased Assets to Pivotal GC or its assignee GC Pivotal under the Modified Pivotal APA shall not result in (i) Pivotal GC, GC Pivotal, or any of their affiliates, owners, members, principals, successors, assigns or agents or the Purchased Assets having any liability or responsibility for any claim against the Debtors or against an insider of the Debtors; (ii) Pivotal GC, GC Pivotal, any of their affiliates, members, owners, principals, successors, assigns, or agents or the Purchased Assets having any liability or responsibility whatsoever with respect to or be required to satisfy in any manner, whether at law or in equity, whether by payment, setoff or otherwise, directly or indirectly, any Interests or Excluded Liabilities; or (iii) Pivotal GC, GC Pivotal, any of their affiliates, members, owners, principals, successors, assigns or agents or the Purchased Assets having any liability or responsibility to the Debtors except as expressly set forth in the Modified Pivotal APA. Without limiting the effect or scope of the foregoing, as of the Closing, Pivotal GC and GC Pivotal shall have no successor or vicarious liabilities of any kind or character arising out of, in connection with, or in any way relating to, the operation of the Purchased Assets prior to the Closing, including no Successor Liabilities.

10. In the event of an Alternative Transaction/Reorganization Election, (i) the transfer of the Shares to the Buyer pursuant to, and subject to the terms of, the Alternative Transaction shall constitute a legal, valid and effective transfer of the Shares, and shall, upon the consummation of the Closing, vest in the Buyer good and marketable title in and to the Shares, free and clear of all Interests, Claims, liens and Encumbrances of any kind or nature whatsoever, (ii) all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax and other regulatory authorities, lenders, trade and other creditors holding any claims to the Shares, are forever barred and estopped from asserting against the Buyer, its successors or assigns (to the extent allowed by law), its property, its officers, directors and shareholders or the Shares, such persons' or entities' Claims and Interests, and (iii) all such Claims and Interests shall be unconditionally released and terminated as to the Shares.

11. To the extent administered by the Debtors and approved by the Court, any liens,

Encumbrances on, Claims against and Interests in the Purchased Assets not satisfied out of escrow in connection with the Closing of the Sale are deemed transferred solely to the proceeds of the Sale. Any such proceeds shall be distributed in accordance with Debtors' Plan, pursuant to an order of the Court, or as otherwise required by the Bankruptcy Code.

12. If any Governmental Bodies have not yet granted Regulatory Approval required for the consummation of the Modified Pivotal APA as of the Regulatory Approval Date defined in the Modified Pivotal APA, such that (i) certain of the Purchased Assets cannot be transferred to Pivotal GC or its assignee GC Pivotal, or Pivotal GC or GC Pivotal has not been authorized to provide telecommunications services, (ii) pending receipt of requisite telecommunications regulatory authorizations from State and Federal regulatory agencies and/or consent of State and Federal regulatory agencies to the transfer of such Purchased Assets, or (iii) if an attempted assignment of any Contract or Real Property Lease, without the consent of any other Person that is a party thereto, would constitute a breach thereof or in any way negatively affect the rights of Buyer (unless the restrictions on assignment would be rendered ineffective pursuant to sections 9-406 through 9-409, inclusive, of the Uniform Commercial Code, as amended), as the assignee of such Contract or Real Property Lease, as the case may be, thereunder, the Debtors shall retain title to such assets (the "Non-Transferred Assets") and any Assumed Liabilities related to such assets, pending receipt of such authorizations and consents, and shall hold and treat such assets in accordance with the terms set forth in a management agreement to be agreed upon between Pivotal GC, its assignee GC Pivotal, and Debtors. Upon receipt from time to time of any such necessary consents and approvals, such Non-Transferred Assets as are subject to the consents and approvals so received shall be transferred to Pivotal GC or GC Pivotal in accordance with the Modified Pivotal APA, and Pivotal GC or GC Pivotal shall assume all related Assumed Liabilities as if such Non-Transferred Assets and related Assumed Liabilities had been transferred to and assumed by Pivotal GC or GC Pivotal at the Closing.

13. The acquisition by Pivotal GC or its assignee GC Pivotal pursuant to this Order and the Modified Pivotal APA is held to be in good faith, as that term is used in section 363(m)

of the Bankruptcy Code, an d accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Pivotal APA shall not affect the validity of the Sale or any rights or protections accorded to Pivotal GC or GC Pivotal under the Modified Pivotal APA or this Order or the Confirmation Order, unless such authorization is duly stayed pending such appeal.

14. Pivotal GC is entitled to credit bid the Pre-Petition Debentures and DIP Facility as partial satisfaction of its Purchase Price obligations and to fund and utilize increases of the DIP Facility, *i.e.* the Sale Facility, to satisfy additional amounts payable under the Pivotal APA. The credit bid by Pivotal GC of the Interests and Claims held by the Debenture Holders and Tranche A and Tranche B DIP Lenders and the Pivotal GC-funded Sale Facility in satisfaction of Pivotal GC's Purchase Price obligations under the Modified Pivotal APA pursuant to Bankruptcy Code § 363(k), and § 1123 to the extent § 363(k) is incorporated therein, is approved.

15. The Modified Pivotal APA and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by such parties, and in accordance with the terms thereof, without further order of the Court, provided that any modification, amendment or supplement does not have a material adverse effect on the Debtors' estates. As and when requested by any party, each party shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as such other party may reasonably deem necessary or desirable to consummate the Sale, including such actions as may be necessary to vest, perfect or confirm, or record or otherwise, Pivotal GC's and GC Pivotal's right, title and interest in and to the Purchased Assets or to implement an Alternative Transaction under the Modified Pivotal APA/Reorganization Election under the Plan.

16. If the Reorganization Election is made, new common stock issued to Pivotal GC or GC Pivotal on and after the Closing need not be registered under the Securities Act or any state or local securities laws, except as provided in the Plan, and the Reorganized Debtors may amend their corporate and/or limited liability company structure, articles of incorporation, by-

laws, operating agreements and other operative documents.

This Court retains jurisdiction: (a) to enforce and implement the terms and provisions of the this Order and the Modified Pivotal APA, all amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith; (b) to resolve or adjudicate any disputes arising under or related to the Modified Pivotal APA, the DIP Loan Documents or the Pivotal GC DIP Facility and Sale Facility; (c) to interpret, implement and enforce the provisions of this Order; (d) protect Pivotal GC, GC Pivotal, and/or the Purchased Assets from or against any Claims or Interests asserted in the Purchased Assets or Pivotal GC or GC Pivotal, including by or through the Debtors; and (e) to the extent permitted by applicable law, grant injunctive relief, including permanently enjoining each and every holder of any Claim or Interest from commencing, continuing or otherwise pursuing or enforcing any remedy, claim, cause of action or encumbrance against Pivotal GC, GC Pivotal, or the Purchased Assets.

Dated Jan. 26, 2011

The Honorable Peter J. Walsh
United States Bankruptcy Judge

17. If the Plan does not go into effect because the requirements of the Confirmation Order are not met, the portion of the Purchase Price in Modified Pivotal APA 3.1 (b)(i)(B) remaining after payment of Mission Critical Vendors shall be distributed only upon entry of a further order of the Court and pursuant to such order

~~18. The stay~~

Attachment F

Arizona Projections

Arizona Pro Forma

Projected - Income Statements

	Arizona Financial Years			
	5/1/2011 - 12/31/2011		1/1/2012-12/31/2012	
TOTAL REVENUES	$ 1,532,849	0%	$ 2,540,667	100%
Cost of Goods Sold	$ 1,149,637	75%	$ 1,905,500	75%
OPERATING EXPENSES	$ 309,636	20%	$ 513,215	20%
OP. INCOME / (LOSS)	$ 73,577	5%	$ 121,952	5%
Interest Income / (Expense)	$ -	0%		0%
		0%		
Income / (Loss) Before Taxes	$ 73,577	5%	$ 121,952	5%
Provision for Taxes	$ (29,431)		$ (48,781)	
NET INCOME / (LOSS)	$ 44,146	3%	$ 73,171	3%