

AGREEMENT BETWEEN
THE GOVERNMENT OF
THE CO-OPERATIVE REPUBLIC OF GUYANA

AND

ATLANTIC TELE-NETWORK, INC

for

The sale to Atlantic Tele-Network, Inc. of eighty percent of the shares in the Guyana Telephone and Telegraph Company proposed to be incorporated by the said Government to take over the business and the assets and liabilities of the Guyana Telecommunication Corporation.

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AGREEMENT made on the 18th day of June 1990 by and between the Government of the Co-operative Republic of Guyana (hereinafter referred to as "the Government") represented by the Honourable W.H.L. Parris, C.D.H., M.P., Deputy Prime Minister, Planning and Development of the First Part and the Atlantic Tele-network, Inc., a private limited company duly incorporated in the United States of America, whose principal office is situated in 48A Kronprinsens Gade, Thomas, U.S. Virgin Islands (hereinafter referred to as "ATN"), represented by Mr. Jeffrey J. Prosser, the Chairman thereof, of the Second Part.

SECTION 1. THE TRANSACTION

Subject to the representations, warranties and covenants by the Government and ATN herein contained and the other terms and conditions specified herein, including, but not limited to, the payment to the Government by ATN of the sum of money specified as consideration in Section 4, the Government hereby agrees to transfer to ATN, and ATN agrees to purchase from the Government, shares representing eighty percent (80%) of the issued share capital of the Guyana Telephone and Telegraph Company (hereinafter referred to as GT & T), a private limited company which shall be incorporated by the Government and shall take over the business and the assets and liabilities including a maximum of seven million two hundred thousand dollars (US\$7.2 million) of foreign currency liabilities of the Guyana Telecommunication Corporation (hereinafter referred to as GTC), a public corporation wholly owned by the Government. The credit of ten million, five hundred thousand United States dollars (US\$10.5 million) extended by Northern Telecoms to GTC shall not be a liability of Government or GTC under this agreement.

SECTION 2. REPRESENTATIONS AND WARRANTIES BY THE GOVERNMENT

The Government represents and warrants to ATN or its nominee that:

2.1 Organization of GTC - GTC is a public corporation, wholly owned by the Government and established by the Guyana Telecommunication Corporation Order (No. 11 of 1967) made under section 46 of the Public Corporations Act, Chapter 19:05 of the Laws of Guyana, and continued under the Public Corporations Act 1988 (Act No. 21 of 1988).

2.2 Formation of GT & T - The Government shall incorporate GT & T as a private limited company to provide, subject to the laws of Guyana and such International Telecommunication Conventions and any regulations made thereunder as are for the time being in force in Guyana, internal and external telecommunication services and to promote the economic development of the telecommunication services in accordance with, as far as practicable, standard practice recognized internationally and with public demand. In addition, Government shall dissolve GTC and transfer to GT & T all the assets, save and except such assets relating to those regulatory functions now vested in GTC as set out in Annexure "A", and liabilities including a maximum of seven million two hundred thousand dollars (US\$7.2 million) of foreign currency liabilities of GTC under sections 9 and 11 of the Public Corporations Act 1988 (Act No. 21 of 1988).

The Government of the State of New York, the Manufacturers and Merchants Association, and the Corporation of the State of New York, do hereby certify that the shares of the Corporation of the State of New York, as authorized by the Constitution of the State of New York, are hereby sold on behalf of the State of New York.

2.4. The Corporation of the State of New York, as authorized by the Constitution of the State of New York, do hereby certify that the shares of the Corporation of the State of New York, as authorized by the Constitution of the State of New York, are hereby sold on behalf of the State of New York.

2.5. The Corporation of the State of New York, as authorized by the Constitution of the State of New York, do hereby certify that the shares of the Corporation of the State of New York, as authorized by the Constitution of the State of New York, are hereby sold on behalf of the State of New York.

2.6. The Corporation of the State of New York, as authorized by the Constitution of the State of New York, do hereby certify that the shares of the Corporation of the State of New York, as authorized by the Constitution of the State of New York, are hereby sold on behalf of the State of New York.

2.3 Non-existence of Legal Impediments - There are no legal impediments that restrict, negate or impair the right of the Government to dissolve GTC, and to transfer its assets and liabilities to GT & T, under sections 9 and 11 of the Public Corporations Act 1988 (Act No. 21 of 1988), or to transfer any of the shares in GT & T held by the Government, or any other person on behalf of the Government, to ATN.

2.4 Authority, Permits and Licences - No person other than GTC at present has any Government authority, permit or licence in Guyana to legally carry on, conduct or participate in any of the businesses, or provide any of the services, specified in Section 6.1, except those expressly excluded by Section 6.3.

2.5 Financial Statements - The audited financial statements of GTC for the year 1989 and the interim financial statements for the quarter ending 31st March, 1990 are at Annexure "B". Subject to the observations in the Audit Report, they are correct and complete and fairly present the financial position of GTC as of 31st December 1989 and as of 31st March, 1990 (the dates of the Balance Sheet and the interim quarterly statements respectively), the results of its operations for the year ended 31st December 1989 and the quarter ended 31st March, 1990 and the assets and liabilities of GTC on those dates.

2.6 External Communications Settlements - At Annexure "C" is the most recent settlement for a twelve month period and at Annexure "D" is GTC's best estimate of the anticipated settlement for the most recent twelve month period not finally determined, of revenues from international data and voice

telecommunication services of GTC. Annexures "B" and "C" set forth complete and accurate information regarding gross and net settlements with each country or company constituting more than two and one-half per cent (2 1/2%) of GTC's volume of business expressed in revenue, for international data and voice telecommunications.

2.7 Interest in Transactions - Save as is normal as between a corporate body operating a telecommunications system and its subscribers and employees, no officer or director of GTC or Government official has, in his personal capacity, any direct or indirect interest in, or is a party to, any lease, licence, contract, agreement or other obligation of GTC or is the holder, beneficial owner, or the obligor of any note or other evidence of indebtedness of GTC.

2.8 Taxes - GTC has filed all returns relating to taxes and duties required to be filed by it under the laws of Guyana and paid the taxes and duties payable thereunder. The vesting of the assets and liabilities of GTC in GT & T will not attract any claim or assessment for additional taxes of any kind being asserted by the Government.

2.9 Corporate and Business Records - The corporate and business records of GTC are true and accurate in all material respects. These records will be transferred to GT & T.

2.10 Litigation - There are no material claims, actions, suits, proceedings, judgments or orders, pending or threatened against GTC.

2.11 Changes in Financial Condition - Since 31st December 1989, the date of the last Balance Sheet, there has not been any material change in the financial condition, assets, business or operations of GTC other than changes in the ordinary and normal course of business, none of which has had a material adverse effect on such financial condition, assets, business or operations.

2.12 Absence of Certain Changes or Events

(a) Since 31st December 1989, the date of the last Balance Sheet, GTC has not, except in the ordinary and normal course of its business, and consistent with good business practices -

- (i) Incurred any obligation or liability, fixed or contingent, other than those under contracts, agreements and leases entered into in the ordinary and normal course of business;
- (ii) Discharged or satisfied any lien or encumbrance or paid any obligation or liability, whether fixed or contingent;
- (iii) Mortgaged, pledged or subjected to lien, charge, security, interest or to any other encumbrance any of its assets or properties;

- (iv) Transferred, leased or otherwise disposed of any of its assets or properties, or acquired any assets or properties, other than for a fair consideration;
- (v) Cancelled or compromised any debt or claim;
- (vi) Waived or released any rights of material value;
- (vii) Transferred or granted any material rights under any concessions, leases, licenses, agreements, inventions, trade names, trade marks, service marks, copyrights, registrations or licenses thereof or applications therefor, or with respect to any know-how or other proprietary or trade rights;
- (viii) Made any increase in the compensation payable or to become payable by it to any of its employees, except for increases made in accordance with its established compensation policies applied on a basis consistent with previous practice, or increases made in connection with any Collective Bargaining Agreement;

- (ix) Paid or provided for any bonus, stock option, profit sharing, pension, retirement or other similar payment or arrangement for or on behalf of its employees other than in the normal administration of its existing incentive, welfare, pension or retirement plans or arrangements, or in connection with any Collective Bargaining Agreement;
- (x) Entered into any transaction of any nature with any of its officers or members;
- (xi) Entered into any transaction, contract or commitment with the Government or any Government agency or authority or any other party which by reason of its size, nature or otherwise is not in the ordinary course of its business;
- (xii) Undertaken any material borrowing, whether under existing or new borrowing arrangements, and entered into any material loan agreements except the credit referred to in Section 2.11; or
- (xiii) Terminated, discontinued, closed or disposed of any facility or business operation.

(b) , Since 31st March, 1990 (the date of the last quarterly statement), GTC has not -

- (i) Entered into any employment arrangement or other contract or arrangement with respect to the performance of personal services which either (a) is not terminable without liability by it on thirty (30) days notice or less or (b) involves an annual rate of compensation in excess of G\$84,000;
- (ii) Made any loan to any of its officers, members or employees, or to any party other than in the ordinary course of business;
- (iii) Suffered any material casualty loss or damage, whether or not such loss or damage shall have been covered by insurance, which materially affects its ability to conduct its business;
- (iv) Issued, sold or otherwise disposed of any evidence of indebtedness or other securities;
- (v) Granted or made any options, rights, commitments or any other agreements of any character obligating it to issue any evidence of indebtedness or other securities; or

- (vi) Acquired any equity interest in any other corporation, partnership, joint venture or other business association.

2.13 No Breach - The execution and delivery of this Agreement does not, and the consummation of the transactions contemplated hereby will not -

- (a) constitute a violation of any law of Guyana;
- (b) constitute a breach of, default under or result in the acceleration of, any obligation of GTC of any kind or character; and
- (c) violate or conflict with any other restriction of any kind or character to which GTC is subject.

2.14 Authority - The Government has taken all action required by law or otherwise required to authorize the execution and delivery of this Agreement, and this Agreement is a valid and binding Agreement of the Government in accordance with its terms. The undersigned party executing this Agreement on behalf of the Government has been duly authorized to execute this Agreement.

SECTION 3. REPRESENTATION AND WARRANTIES OF ATN

ATN represents and warrants to the Government that:

3.1 Corporate Structure of ATN - ATN is a private limited company duly established and incorporated, validly existing and in good standing under the laws in operation in the United States Virgin Islands.

3.2 Corporate Power and Action - ATN has corporate power to execute and deliver this Agreement and has taken all action required by law, its Certificate of Incorporation, its by-laws and otherwise to authorize such execution and delivery, and this Agreement is a valid and binding agreement of ATN in accordance with its terms.

3.3 Investment Interest - ATN is acquiring the shares of GT & T for its own account for investment and not with a view to the sale or distribution of the whole or part of it to any other person.

3.4 Capability - ATN has the requisite human resources and capital and ability to raise financing to perform all of its obligations and undertakings required by this Agreement.

3.5 Bankruptcy - ATN is not bankrupt, has not been and is not subject to any insolvency proceedings, nor has it filed for nor is it in any other way involved in any proceedings for re-organization of the Company or in any similar proceedings which would affect ATN's capacity to assume the obligations under this Agreement or its ability to perform its obligations hereunder.

SECTION 4. CONSIDERATION

4.1 Purchase Price of Shares - In consideration for the transfer to ATN of the shares in GT & T representing eighty percent (80%) of its issued share capital and in consideration of the vesting in ATN of 80% of its total assets and equity, ATN

shall pay to the Government a sum of United States Dollars sixteen million, five hundred thousand only (U.S.\$16,500,000).

4.2: Additional Payments - In addition to the sum of United States dollars sixteen million, five hundred thousand (U.S.\$16,500,000), referred to in paragraph 4.1. the following sums shall be paid by ATN to the Government -

- (a) An amount equivalent to twenty (20) per cent of the Liability Decrease. Liability Decrease means the difference between \$7.2 million, the amount of GTC's foreign currency liabilities for which GT & T assumes responsibility; and the settlement sum, the amount necessary to settle these foreign exchange liabilities.
- (b) Amounts equivalent to any sums made available by way of credit extended to the Government by any foreign Government or by any corporate body, agency or other person outside Guyana for the use and benefit of GTC or GT & T, if extended before Closing, or of GT & T, if extended after Closing, shall be paid to the Government in immediately available cash in United States dollars by ATN, if the credit was extended before Closing, or by GT & T if the credit was extended after Closing provided always that GT & T opts to make use of the credit so extended. All rights, title and interest in all equipment purchased with the credit so made available shall be transferred to GTC or to GT & T, if the purchase is before

Closing, or to GT & T, if the purchase is after Closing, free and clear of all liens. The sums referred to in this paragraph aggregate to United States dollars ten million only (US\$10,000,000/-) on the date of this Agreement. The Government of Guyana shall release GTC and GT & T of all liability in respect of any credits referred to in this paragraph; and

- (c) If, as a result of the participation of the Government as an owner of equity in GT & T, interest rates and loan terms are provided by lenders for the benefit and use of GT & T, at rates and upon terms more favourable than those that would be available commercially, GT & T will pay to the Government a commitment fee in United States dollars of two percent (2%) of the gross principal amount of such loan. The commitment fee shall be paid when ATN or GT & T becomes entitled to draw the principal of such loan.

SECTION 5. COVENANTS BY ATN

ATN covenants and undertakes that after 80% of the equity in GT & T is acquired by it pursuant to this Agreement, GT & T will comply with the covenants mentioned hereafter and ATN covenants and undertakes to secure such compliance.

5.1 Expansion and Service Improvement Plan - ATN shall prepare and implement through GT & T a comprehensive Expansion and Service Improvement Plan (an outline of which is

set out in Annexure "E") designed to provide national and international service of the highest quality and most general availability. The plan will be prepared and finalized in consultation with the Government before Closing. The plan will include, but not limited to, provision for the following -

- (a) connection of at least 20,000 additional subscriber lines to the existing number of lines estimated at 21,000, within three years of the date of Closing;
- (b) within twenty-four (24) months, achievement of contractually guaranteed quality of service performance as determined by measurement of service indexes recognized in the industry in accordance with Annexure "E";
- (c) within three (3) years, in accordance with the Schedule shown in Annexure "E", complete a high density backbone microwave (1800 channels) between Lathem and Georgetown, Georgetown and Crabwood Creek, and establish other facilities permitting telephone or radio telephone service along the entire coast from Crabwood Creek to Suddie, and in the interior at -
 - (i) Mahdia;
 - (ii) Issano;
 - (iii) Kurupung;
 - (iv) Kamarang, Enachu and Iebaimadai; and
 - (v) Aishalton, Dadanawa and Wichabai; and

(d) within three years, also extend the backbone microwave to include the Northwest areas; Port Kaituma, Matthews Ridge, and Mabaruma.

5.2 Maintaining and Upgrading Quality of Services -

ATN shall cause GT & T to keep its equipment and services maintained continuously in keeping with international standards. In addition ATN shall cause GT & T to introduce in a timely fashion current technological advances (wherever practical, applicable and relevant) to ensure that a high quality of service is always maintained to international standards.

5.3 Public Interest Services - ATN shall cause GT & T to provide full public interest services, including, but not limited to, inland telegraph services, public call box telephone services, public emergency telephone services and free telephone directories.

5.4 Releasing the Government from the Liabilities of GTC and GT & T - ATN and GT & T will take all measures to release the Government from every liability, including up to a maximum of seven million two hundred thousand dollars (US\$7.2 million) of foreign currency liabilities, incurred by GTC and GT & T before Closing, except any debt the favourable terms of which are conditioned on continuing a guarantee given by the Government, in which case, however, ATN and GT & T will indemnify and hold harmless the Government for such debt.

5.5 Taxes - Of the taxes and duties payable by GT & T under the laws of Guyana, ATN covenants and undertakes to cause GT & T to pay in foreign currency taxes attributable to its net income from international telecommunication services, to the extent such earnings are realised in foreign currency.

5.6 Employment - All the employees of GTC or GT & T employed by it immediately before Closing are guaranteed continued employment with GT & T, on terms which are not less favourable to each of such employees than the terms of employment enjoyed immediately before Closing, for a minimum period of eighteen months after Closing, subject only to GT & T's right to dismiss or discharge any employee for cause.

5.7 Training and Career Development - ATN shall cause GT & T to formulate and implement programmes for the training or re-training of its employees so as to meet its needs and to make the best use of the employees and to develop their career.

5.8 Welfare Plans - All employees of GT & T will be provided with health insurance and shall have the benefit of retirement plans (which may be funded or unfunded) established by GT & T. For the purposes of the retirement plans, all the years of the service of the employees with GTC shall be given credit to determine vesting and participation rights. However, nothing in this Agreement shall be deemed to obligate ATN or GT & T to assume unfunded retirement plan liability which accrued while the employees were employed by GTC unless such liability is reflected as a liability on the Balance Sheet and books of accounts of GTC and then only to the extent of such liability recorded on the books of account of GTC.

5.9 Rate Continuity - GT & T will not increase subscriber rates in operation on the date of this Agreement for a period of three years after Closing, except, and then only to the extent to which it becomes justified, on the occurrence of the following events -

- (a) in the event of a substantial increase in the average for a period of six months of the highest rate at which United States dollar is lawfully sold in Guyana, over the highest rate at which United States dollar is lawfully sold in Guyana during the month immediately before Closing;
- (b) in the event of a change in long distance charges payable to foreign correspondents;
- (c) if costs to provide service to interior areas specified in the Expansion and Service Improvement Plan referred to in paragraph 1 of this Section are proved to be substantially higher than as stated in that Plan; or
- (d) in the event of any natural disaster or other act of God leading to extensive destruction of plant and equipment, provided that GT & T has taken out and maintained full insurance coverage of property, plant, equipment and business interruption in accordance with Section 5.14 hereunder and the sums paid by the insurer are not sufficient to meet the expenses of restoring the services provided by GT & T or to compensate GT & T for its lost revenue due to business interruption affected by the natural disaster or other act of God.

5.10 Switch to Switch Access - In the case of cellular radio telephone service, in respect of which GT & T will be granted only a non-exclusive licence, ATN covenants and undertakes that it will cause GT & T to provide switch to switch access, at reasonable rates, for any other company or person, providing cellular radio telephone service, which has the necessary licence and permit therefor issued by the Government. ATN also covenants and undertakes to cause GT & T to provide switch to switch access, at reasonable rates, to terminal and customer premises equipment, including telefax and telex equipment acquired by any person otherwise than from ATN, GT & T or any agency specified by ATN or GT & T.

5.11 Privacy of Communications - ATN covenants and undertakes that it will, subject to the laws of Guyana, cause GT & T to secure fully that the privacy and confidentiality of communications through the services provided by GT & T are not impinged.

5.12 Assignment of Shares of ATN in GT & T - ATN covenants and undertakes that the whole or part of the equity holding of ATN in GT & T will not be assigned by it to any person without the prior permission of the Government and if ATN intends to assign the said equity holding, it shall first make an offer to sell the same to the Government whereupon the Government may buy the same at a price agreed to between the Government and ATN and in the absence of agreement at a price determined by arbitration under the International Centre for the Settlement of Investment Disputes (ICSID).

5.13 Rights of the Government as Minority Shareholder
in GT & T - ATN covenants and undertakes to fully recognize the
rights and interests of the Government as the holder of minority
share capital in GT & T, and in particular -

- (a) to recognize the right of the Government to choose such number of members of the Board of Directors of GT & T proportionate to its share holding, but in no case less than one; and
- (b) to provide the Government, at its request as minority shareholder, full and complete information and access to records, relating to the business and operations of GT & T, financial administrative, technical and otherwise, including but not limited to, the extent and condition of its business, the rates charged for telecommunication services, income and expenditure and financial position.

5.14 Insurance - ATN covenants and undertakes that it shall acquire and maintain such insurance on property, plants and equipment and for business interruption as would be reasonable for a prudent business to maintain, bearing in mind, the practice in the Industry.

SECTION 6. COVENANTS BY THE GOVERNMENT

The Government covenants and undertakes as follows -

6.1 Licences - The Government will grant, subject to the provisions of this Agreement, to GT & T licences under the Post and Telegraph Act, Cap. 47:01, of the Laws of Guyana, or any legislation enacted to replace it, to carry on, operations to provide the following services -

- (a) Public telephones, radio telephone (except private radio telephone systems which do not interconnect with GT & T network) and pay station telephone services, national and international voice and data transmission;
- (b) Sale of advertising in any directories of telephone subscribers;
- (c) Switched or non-switched private line service supported by facilities constructed over public right of way;
- (d) Terminal and customer premises equipment;
- (e) Telefax, telex and telegraph service and telefax network service, excluding the following operations:
 - (i) sale of telefax or teleprinter machines;
 - (ii) maintenance of telefax or teleprinter equipment; and

(iii) operation of any facility for the sending and receiving of telefax copies or teleprinter messages: and

(f) Cellular radio telephone service.

If any such licences have not been given to GT & T before Closing it will be given immediately after Closing. A licence referred to in this paragraph will be subject to the other paragraphs of this Section.

Notwithstanding the licence granted pursuant to Section 6.1(d) for terminal and customer premises equipment, ATN covenants and agrees that GT & T will allow customers on an individual basis to install such equipment purchased by the customer and imported for the customer's own use and to connect such equipment to GT & T's lines. To ensure compatibility of such equipment GT & T shall provide customers, on request, with GT & T's specifications regarding such equipment. The customer shall be responsible for the maintenance of such equipment. //

6.2 Terms of Licences - The licence granted to GT & T in respect of the service referred to in sub-paragraphs (a), (b) and (c) of Section 6.1 will be an exclusive licence for a period of twenty years and shall be renewable at the option of GT & T for a further period of twenty years. During the period of the exclusive licence, no other company, nor the Government, shall provide any services to which the licence relates. The licence granted to GT & T with respect to the services referred to in sub-paragraphs (d) and (e) of Section 6.1 shall be exclusive for a period of ten years, and shall be renewable at the option of GT & T on a non-exclusive basis.

6.3 Cellular Radio Telephone Licence - The Government shall grant to GT & T a non-exclusive licence to provide cellular radio telephone service anywhere within the country. The licence shall be for a period of twenty years and shall be renewable at the option of GT & T for a further period of twenty years.

6.4 Cancellation of Licence - The Government shall have the power, which may be exercised by any authorized person or authority on behalf of the Government, to cancel any licence or licences granted to GT & T for providing the services referred to in Section 6.1 if GT & T contravenes any of the material terms of the licence, or the material provisions of this Agreement, or the material provisions of the Post and Telegraph Act (Cap 47101) or any law enacted to replace it.

6.5 Failure to Achieve Agreed Levels of Quality or Expansion - Without prejudice to the provisions of Section 6.4, if GT & T fails to achieve the levels of quality of service, or the completion of any of the phases of the Expansion and Service Improvement Plan covenanted for and undertaken by ATN under this Agreement within the time allowed therefor, the Government shall have the power, exercised through the Regulatory Body referred to at Section 6.7 below, to examine the breach and the circumstances relating to it and to decide on an appropriate penalty, if any.

6.6 No Condonation of Breach - The Regulatory Body may at the request of the Government, or GT & T or ATN allow GT & T or ATN time or opportunity to rectify any breach of the provisions of this Agreement or to achieve agreed levels of quality of service or for the completion of any of the phases of

the Expansion and Service Improvement Plan, notwithstanding the failure to achieve or complete the same within the agreed time. Such action by the Government or the Regulatory Body, shall not be deemed to be a condonation of the breach or failure.

6.7 Establishment of Regulatory Body - The Government covenants and undertakes to establish an independent statutory authority (hereinafter referred to as the "Authority"); to regulate the operations of companies or other persons engaged in providing telecommunication services and operating in Guyana and with a view to securing compliance with the relevant laws of Guyana and to protecting the interests of persons making use of such services (hereinafter referred to as subscribers).

6.8 Subscriber Rates - Without prejudice to the generality of the foregoing, the Authority will be empowered to determine questions as to the reasonableness of the rates charged or to be charged by GT & T for services rendered by it and the decisions of the Authority will be binding on GT & T.

6.9 Rates of Return - In determining the rates to be charged the subscribers, the Authority shall take into account -

(a) in regard to the rates to be charged from subscribers during the first period of three years from Closing the covenant and undertaking of ATM in Section 5.9;

(b) subject to sub-paragraph (a), GT & T shall be entitled to a minimum rate of return of 15% on capital dedicated to public use. The revenue

requirement shall be calculated on a rate of return methodology to be mutually agreed to the Government and ATN prior to the establishment of a Regulatory Body or any other agency charged with the responsibility of regulating the rate of return for GT & T. Unless and until such mutual agreement is reached between the Government and ATN, the revenue requirement shall be calculated on the basis of GT & T's entire property, plant and equipment pursuant to a rate of return methodology consistent with the practices and procedures of the United States of America Federal Communication Commission. //

6.10 Management Services - Where GT & T has engaged ATN or any of its subsidiaries to render any management services, GT&T shall pay fees in foreign currency in such amounts as the Board of Directors of GT&T shall approve and the repatriation of such fees to the United States of America shall not be subject to currency restrictions, withholding taxes, or any other taxation by the Government.

6.11 Capital Dedicated to Telecommunications Business of GT & T - In this Agreement the expression "capital dedicated to telecommunications business of GT & T" means the capital assets of GT & T.

6.12) Foreign Exchange Controls - The Government covenants and undertakes to permit GT & T, without any restriction, to make payments in foreign currency to -

- (a) international correspondents;
- (b) creditors of GT & T of debt denominated in foreign currency;
- (c) suppliers of imported supplies of equipment, materials or services used and needed in GT & T's operations;
- (d) ATN by way of dividends declared on shareholdings or other sums due from GT & T. The repatriation of dividends to ATN shall not be subject to withholding taxes.

The repatriation of dividends to ATN and the payment of interest on debt denominated in foreign currency shall not be subject to withholding taxes. For the above purposes GT & T shall be permitted by the Government to retain outside of Guyana sufficient sums from foreign currency earned or collected by it from its international telecommunication operations.

6.13 Duties and Taxes - After Closing, GT & T shall be subject to the same tax, duty and exemption regime as applied to GTC or GT&T prior to Closing. This regime is described in Annexure "F".

6.14 Foreign Nationals - The Government covenants and undertakes to grant necessary visas and work permits to enable GT & T to employ foreign nationals eligible for such visas and work permits under the laws of Guyana (including the granting of visas to their family members) in posts required for carrying on

its activities as mentioned in this Agreement and for which suitably qualified Guyanese are not available and to enable foreign nationals to serve as directors of GT & T. This paragraph shall apply whether such visas and work permits are permanent or temporary in nature.

6.15 Conduct of Business before Closing - The Government covenants and undertakes that at all times after the date of this Agreement and including the Closing date, the Government will use its best efforts to cause GTC, and GT & T when it is established to take over the assets and liabilities of GTC, to comply with the following, except where the Government and ATN agree otherwise -

(a) GTC and GT & T shall conduct their business in the usual, regular and ordinary course, and in keeping with present business practices, and, to the extent consistent with such operations, use their best efforts to preserve the present business organization intact, and shall do nothing (otherwise than in the ordinary course of the management of the business, including suspension or dismissal of an officer or employee for cause) which shall have the effect of depriving them of the services of their present officers and employees or to adversely affect present relationships with persons having business dealings with GTC or GT & T;

(b) GTC or GT & T shall maintain to the best of their ability all the assets and properties at present

owned by GTC, and which are reasonably necessary for its business, in customary repair, order and condition;

(c) GTC and GT & T shall maintain the books, accounts and other records GTC has been maintaining in the past in connection with its business, in the usual, regular and ordinary manner, on a basis at least consistent with prior years, and endeavour to comply with all the laws applicable to GTC or GT & T, as the case may be, and to perform without default all the obligations of GTC or GT & T; and

(d) excepting any expenditure incurred or advances on equipment purchases under the contract already entered into by GTC with Northern Telecoms Corporation, without the prior consent in writing of ATN no individual capital expenditure or advance on equipment purchases in excess of G\$100,000 (one hundred thousand Guyana dollars only) will be incurred by GTC or GT & T.

6.16 Accounts Receivable - At or prior to Closing the Government shall pay to GT & T all amounts which are due from the Government to GTC and GT & T.

6.17 Right of Way - GT & T shall be allowed the gratuitous use of the streets, public roads, rivers and waters of Guyana required to be used by it for the purposes of placing

telephone poles and cables, for the purpose of providing service to subscribers. The said right of GT & T shall be subject to the restrictions and provisions of the Post and Telegraph Act (Cap. 47:01) of the Laws of Guyana, or any legislation enacted to replace it.

6.18 Banking - GT & T shall be permitted to retain net revenues from international telecommunication operations in one or more banks located outside Guyana. However, nothing in this Agreement is intended to release ATN, its nominee or GT & T of their respective obligations under this Agreement or the laws of Guyana regarding foreign currency derived from net settlements of international calls.

6.19 Overseas Private Investment Corporation (OPIC) - The Government shall support any application by ATN and/or GT & T to the Overseas Private Investment Corporation (OPIC) for investment insurance coverage in connection with ATN's obligations under this Agreement.

SECTION 7. COVENANTS BY THE GOVERNMENT AND ATN

The Government and ATN agree that:

7.1 GT & T Stock - GT & T shall have one class of stock which should consist of common stock. Each share of common stock shall have equal voting rights and the same rights to share in dividends. No shareholder in GT & T shall have the right to acquire authorized but unissued shares of GT & T common stock unless those shares are being offered to all shareholders upon terms that allow each shareholder to maintain their proportionate interest and ownership of GT & T.

7.2 Shareholdings in GT & T - ATN and the Government shall at all times after Closing hold GT & T shares in the following proportions:

ATN - Eighty percent (80%)

The Government or)
its nominee) - Twenty percent (20%)

Should it become necessary to increase the share capital of GT & T and should both parties hereto agree to the increase, the share capital of GT & T may be increased by the amount agreed upon by both Parties and the new shares shall be allotted to ATN and the Government in the proportion set out above unless otherwise agreed to by them.

7.3 Directors - GT & T shall have not less than six, but not more than twelve, directors. After Closing, the Government shall have the right to nominate twenty percent (20%) of the directors of GT & T, and ATN shall have the right to nominate the remainder (viz 80%) of the directors. There shall always be at least one director of GT & T who is a nominee of the holder of minority shares.

7.4 Board Meetings - All decisions in respect of important matters pertaining to GT & T and its business shall be discussed and decided at the meetings of the Board of Directors. There shall be at least one meeting of the Board of Directors each month.

7.5 Obligation to Provide Universal Service - GT & T shall have the obligation to provide universal service. This means that the business and development plans of GT & T will be designed to provide as many residents of Guyana as possible with the benefit of telephone service.

7.6 Access to GTC's Business Records - From the date of the execution of this Agreement until Closing, the Government and its authorized agents on the one hand and ATN and its attorneys, accountants, engineers, and its other agents and representatives, on the other hand as are reasonably required to review the corporate books and business records of GTC, shall be allowed access to the corporate and business records of GTC. To this end, the Government shall designate certain employees of GTC to facilitate the Government's and ATN's review of the corporate books and business records of GTC. All information requested by ATN and the Government and available to GTC or GT & T pertaining to GTC's and GT & T's operations will be made available provided that such request is made after reasonable notice and the examination of the records takes place during normal business hours. The Government and ATN will be entitled to make photostatic copies or otherwise duplicate copies of GTC's and GT & T's corporate records and books of account. After closing, both the Government and ATN shall have equal access to the corporate books and business records of GT & T.

7.7 Confidentiality of Information - Except for the purpose of carrying out the operations of GT & T or complying with the provisions of any law, information referred to in Section 5.13(b) or Section 7.6 shall be maintained in strict confidence and shall not be published or publicly made available without the written consent of the shareholders of GT & T.

Government and ATN covenants to use their best efforts to cause all the obligations imposed upon them by this Agreement to be duly complied with and to cause all conditions precedent to such obligations to be satisfied.

Telecommunications Administrations - ATN or GT & T may negotiate with foreign telecommunications administrations for reconciling or settling the net amounts due from those administrations to GTC or GT & T in respect of any period prior to Closing and if as a result of such reconciling or settling more amounts than mentioned in the financial statements and Annexures "C" and "D" are found due from those administrations to GTC or GT & T in respect of the said period, eighty-five (85) percent of that amount shall be paid by ATN to the Government and fifteen (15) percent may be retained by ATN.

SECTION 8. DUE DILIGENCE

For a period of sixty (60) days from the date of the execution of this Agreement, ATN's accountants, attorneys, engineers, and other agents and representatives, as are required, shall have a right to examine (as ATN deems relevant) the books of accounts and supporting records and other corporate books and records, and physical assets of GTC and GT & T. This examination shall take place during normal business hours. The Government represents and warrants its co-operation and the co-operation of the officers and employees of GTC and GT & T before Closing regarding the aforementioned examinations. ATN shall maintain all information obtained by it under this paragraph in strict confidence. The information shall not be published or publicly made available without the written consent of the Government.

Completion of the matters referred to in Sections 1 and 2.2 and the payment of the amount mentioned in Section 4.1 shall be effected no sooner than thirty days, and not later than forty-five days after the completion of the due diligence provided for in Section 8 of this Agreement. The Closing shall be held at Georgetown, Guyana, on a date mutually agreed to by the Government, GT & T and ATN.

SECTION 10. CONDITIONS PRECEDENT TO OBLIGATION OF ATN.

The obligation of ATN to purchase eighty percent (80%) of the shares in BT & T pursuant to this Agreement is subject to the satisfaction at or before Closing of all the following conditions -

10.1 Accuracy of Representations and Warranties - The representations and warranties of the Government contained in this Agreement shall be true in every material respect on and as of the Closing Date, with the same effect as though such representations and warranties had been made on and as of such date, except to the extent attributable to actions consented to in writing by ATN.

10.2 Performance of Agreements - The Government shall have performed all obligations and agreements required to be performed by it and complied with all covenants and other terms and conditions required to be complied with by it, hereunder, on or prior to the Closing Date.

(e) The covenants by the Government in Section 6 and the covenants by the Government and ATN in Section 7 of this Agreement will survive Closing and will remain a binding legal commitment throughout the initial term of the licences referred to in Section 6.1 and the term of any renewal thereof;

(f) GT & T has been granted all the necessary licences and permits and has all the requisite authorizations necessary to provide national and international telecommunications services pursuant to all the terms, conditions and obligations of the Parties to this Agreement.

Such opinion shall also include such other matters incidental to the transactions contemplated hereby as ATN or its counsel may reasonably request.

SECTION 11. CONDITIONS PRECEDENT TO OBLIGATION OF THE GOVERNMENT

The obligation of the Government to sell to ATN eighty percent (80%) of the shares in GT & T pursuant to this Agreement is subject to the satisfaction at or before Closing of all the following conditions -

11.1 Accuracy of Representations and Warranties - The representations and warranties of ATN contained in this Agreement shall be true in every material respect on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date, except to the extent attributable to actions consented to in writing by the Government.

11.2 Performance of Agreements - ATN shall have performed all obligations and agreements required to be performed by it and complied with all covenants and other terms and conditions required to be complied with by it, hereunder, on or prior to the Closing Date.

11.3 Certificate - ATN shall have furnished the Government with a certificate dated the Closing Date to the effect that ATN has fulfilled the conditions specified in paragraphs 1 and 2 of this Section.

11.4 Opinion of Counsel for ATN - The Government shall have received a favourable legal opinion of counsel to ATN, dated as of the Closing Date, in form and substance reasonably satisfactory to the Government and its counsel, to the effect that -

- (a) ATN is a corporation duly organized, validly existing and in good standing under the laws of the United States Virgin Islands;
- (b) ATN has the full right, power and authority to enter into this Agreement to purchase the shares of GT & T to be sold to it hereunder;
- (c) This Agreement has been duly executed and delivered by ATN and constitutes a legal, valid and binding obligation of ATN;
- (d) The covenants by ATN in Section 5 and the covenants by the Government and ATN in Section 7 of this Agreement shall survive Closing and shall

remain a binding legal commitment throughout the initial term of the licences referred to in Section 6.1 and the term of any renewal thereof.

Such opinion shall also include such other matters incidental to the transaction contemplated hereby as the Government or the counsel of the Government may reasonably request.

SECTION 12. RENEWAL OF LICENCES.

12.1 Notices and Applications for Renewal of Licences - Notice of intention to seek renewal any licence granted to GT & T shall be given by GT & T one year before the expiry of the term of the licence and the application for renewal of any such licence shall be made in accordance with the law applicable thereto.

12.2 Renewal of Exclusive Licence After Expiry of Term - After the expiry of the initial term of any exclusive licence granted to GT & T in respect of the services mentioned in Section 6.1(a), (b) and (c) and referred to in Section 6.2, the Government shall renew the licence on an exclusive basis in accordance with applicable laws of Guyana and the terms of this Agreement. Further, after the expiry of the initial term of any exclusive licence granted to GT & T in respect of the services mentioned in Section 6.1(d) and (e) and referred to in Section 6.2, the Government shall renew the licence on a non-exclusive basis in accordance with the laws of Guyana and the terms of this Agreement.

Termination of Licence - If on account of the non-renewal of any licence granted to GT & T for carrying on any of the activities referred to in Section 6.1 GT & T has to close its operations, the Government

shall be entitled to purchase the shares of ATN in GT & T or the assets of GT & T, on such terms as may be agreed between ATN and the Government or, on failure to reach such agreement, as determined by arbitration conducted by ICSID.

SECTION 13. FORCE MAJEURE

13.1 Definition - For the purpose of this Agreement, "force majeure" shall mean any event which could not have reasonably been foreseen, is beyond the reasonable control of the Party claiming to be affected by such event, has not been brought about at the instance of such Party and has caused non-performance or delay. Force Majeure may include but is not limited to such events as insurrection, war or other armed conflict, floods, earthquakes and other natural disasters.

13.2 Liability in the event of Force Majeure - No Party shall be held liable or deemed to be in default under this Agreement for any failure to perform obligations and duties hereunder if such failure has resulted directly or indirectly from force majeure, provided that that Party had taken all precautions to minimize the consequences of the force majeure.

13.3 Notice of Force Majeure - In the event of force majeure, the Party so claiming shall notify the other Party in writing of the circumstances and the Parties shall meet forthwith to determine the action to be taken.

13.4 Extention of Time for Force Majeure - Any period, during which the event of force majeure continues shall be added to the time allowed to any Party to perform any act or undertake any obligation.

SECTION 14. INDEMNIFICATION.

14.1 Indemnification by Government - The Government agrees to indemnify and hold ATN and GT & T, or any one of them, and their respective directors, officers, employees and agents, harmless from and against all judgments, damages, losses, claims, liens, penalties, obligations, liabilities, settlements and expenses, including reasonable attorney's fees, arising out of -

- (a) any breach of any warranty or covenant or any inaccurate or erroneous representations of the Government contained herein, in any Annexure attached hereto or in any certificate, agreement or other instrument duly executed and delivered by the Government pursuant to this Agreement; and
- (b) any failure of the Government to perform or comply with any provision, obligation or duty contained in this Agreement and required to be performed or complied with by the Government.

14.2 Indemnification by ATN - ATN agrees to indemnify and hold the Government and its officers, employees and agents harmless from and against all judgments, damages, losses, claims, liens, penalties, obligations, liabilities, settlements and expenses, including reasonable attorney's fees, arising out of -

(a) any breach of any warranty or covenant or any inaccurate or erroneous representations of ATN contained herein, in any Annexure attached hereto or in any certificate, agreement or other instrument duly executed and delivered by ATN pursuant to this Agreement; and

(b) any failure of ATN or GT & T to perform or comply with any provision, obligation or duty contained in this Agreement and required to be performed or complied with by ATN or GT & T or both.

14.3 Making of Claims - All claims for indemnification under this Agreement shall be made within the time specified in Section 15 hereof. All claims for indemnification shall be made in writing.

SECTION 15. SURVIVAL OF AGREEMENT TERMS.

15.1 Representations and Warranties - The representations and warranties which are included herein or in any Annexure attached hereto, certificate, agreement or other instrument duly executed and delivered pursuant to this Agreement, and the indemnities which are provided for herein to the extent that they relate to the said representations and warranties, shall survive the Closing.

15.2 Covenants and Certain Other Provisions - Any covenant or other provision of this Agreement which by its nature and content is applicable to the operation of GT & T and ATN, or any one of them, shall be effective and survive Closing, and shall be binding on the Parties for a period equal to the initial term of the licence, or any renewals thereof, granted in respect of such operations plus two (2) years.

15.3 Other Provisions - Any provision of this Agreement not included in paragraphs 1 and 2 of this Section shall survive Closing, and shall be binding on the Parties, for a three (3) year period after Closing.

SECTION 16. GOVERNING LAW; WAIVER OF SOVEREIGN IMMUNITY; SUBMISSION TO JURISDICTION.

16.1 Governing Law - This Agreement shall be construed under and in accordance with the laws of Guyana.

16.2 Waiver of Sovereign Immunity - The Government agrees to waive any defence of sovereign immunity and consents to suit, if necessary, to resolve disputes concerning the interpretation of this Agreement.

16.3 Submission to Jurisdiction - For the purpose of resolving disputes regarding this Agreement, or arising therefrom, the Government, ATN and GT & T shall submit themselves to the jurisdiction of the courts of Guyana. Without prejudice to the above, and any other provision of this Agreement, the Parties may agree in writing to resolve any dispute between them regarding this Agreement, or arising therefrom, by arbitration conducted by ICSID and when they so agree the dispute shall be referred to ICSID.

SECTION 17. WAIVERS.

17.1 Extension of Time and Waivers - Any Party to whom any obligations is due under this Agreement may by written notice to the Party from whom performance of the obligation is due -

(a) extend the time for the performance of any of the obligations or the taking of other action under this Agreement;

(b) waive inaccuracies in the representations and warranties of the other contained in this Agreement, in any Annexure hereto, or in any certificate issued hereunder;

(c) waive compliance with any of the covenants or conditions contained in this Agreement; or

(d) waive or modify performance of any of the obligations under this Agreement.

Except as provided in the preceding sentence, no action taken pursuant to this Agreement, including, but without any limitation, any investigation by or on behalf of any Party, shall be deemed to constitute a waiver, by the Party taking such action, or compliance with, or performance of, any representations, warranties, covenants, conditions or obligations contained in or under this Agreement.

Breach - Any waiver by a Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

SECTION 18. EFFECT OF HEADINGS.

The headings of the various Sections and paragraphs herein are inserted merely as a matter of convenience and for reference and any such heading shall not be construed as in any manner defining, limiting or describing the scope or intent of the particular Section or paragraph to which it refers, or as affecting the meaning or construction of the language in the body thereof.

SECTION 19. NOTICES.

All notices which are required or may be given pursuant to this Agreement shall be in writing and shall be sufficient in all respects if delivered in person or mailed by registered, certified or express mail, postage prepaid, as follows -

To the Government:

The Minister for the time being assigned responsibility for telecommunications, at the address of his office in Georgetown, Guyana;

To ATN:

Atlantic Tele-Network Inc,
P.O. Box 6100,
St. Thomas,
U.S. Virgin Islands 00801,
Attention: Jeffrey J. Prosser

To GT & T:

When incorporated, at the address of its
registered office,

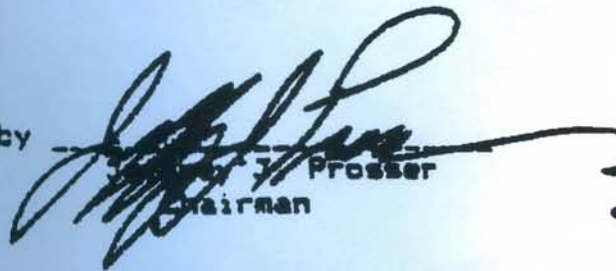
or at such other address as any of the above parties shall have
designated by notice in writing to the other parties.

IN WITNESS WHEREOF, the Government of the Co-operative
Republic of Guyana, and Atlantic Tele-Network, Inc. have each
caused this Agreement to be executed on its behalf by its officer
or representative thereunto duly authorized, all as of the day
and year first above written.

ATLANTIC TELE-NETWORK INC

GOVERNMENT OF THE COOPERATIVE
REPUBLIC OF GUYANA

by


Jeffrey J. Prosser
Chairman


W.A.H.L. Parris
Deputy Prime Minister Planning
and Development

ARTICLE II - GENERAL PRINCIPLES

This Agreement is a bilateral agreement between the United States and the Government of the Republic of Cuba, entered into on the 12th day of August, 1961, at Washington, D.C., by and between the undersigned representatives of the United States and the undersigned representatives of the Government of the Republic of Cuba, who are duly authorized to negotiate and execute such agreements on behalf of their respective governments.

WHEREAS, the Government of the Republic of Cuba and the United States have agreed to enter into a bilateral agreement...

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AND, WHEREAS, it is the policy of the United States to foster good and valuable trade relations with all countries and territories of this area hereby, and it is the policy of the Government of the Republic of Cuba to foster such relations, and the Government of the Republic of Cuba and the United States have agreed that the agreement shall be subject to ratification by the respective legislatures of the United States and the Government of the Republic of Cuba.

1. **ED ADJUSTMENTS.** No adjustments shall be given pursuant to Section 4.3(a) of the Agreement, and all such adjustments of the Agreement is hereby deleted.

2. **BILLING FOR TELEPHONE SERVICES.** The Government of the Republic of Cuba will permit the Cuban Telephone and Telegraph Company (CTT) to bill any company located in Cuba which, without the authorization of the Government of the Republic of Cuba, is entitled to bill for telephone services in foreign currency, or any special category of persons or entities agreed to by the Government for all telephonic services of CTT in United States currency. The special category of persons or entities who will be permitted or entitled to bill for long distance calls purchased by them and the special category of persons or entities who will be permitted or entitled to bill for long distance calls purchased by them shall be determined with respect to the ratio of the rate of the date of the purchase of the long distance calls.

3. **MANAGEMENT AND REGISTRATION.** The Government of the Republic of Cuba reserves the right of the CTT to manage the affairs of the company in accordance with normal practice in the industry. It is further understood that the Government has the right and responsibility to supervise the methodology in providing the services requested by the Cuban entities operating from Cuba or elsewhere.

4. **OTHER BUSINESS MATTERS.** As expeditiously as possible after signing this Agreement, the Government and CTT shall agree on the specific business matters of CTT. At the time of the preparation of the specific business matters it is intended that the foreign currency

FIRST ADDENDUM TO AGREEMENT

THIS FIRST ADDENDUM TO AGREEMENT. Dated as of December 20th 1990, by and between THE GOVERNMENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA (the "Government"), represented by the Honourable W.A.L.H. Parris, C.C.R., M.P., Deputy Prime Minister, Planning and Development, and ATLANTIC TELE-NETWORK, INC., a private limited company duly incorporated in the United States of America, whose principal office is situated in 48A Kronprindsens Gade, St. Thomas, U.S. Virgin Islands ("ATN"), represented by Mr. Jeffrey J. Prosser, the Chairman thereof.

WHEREAS. The Government and ATN entered into an Agreement, dated June 18, 1990 (the "Agreement"); and

WHEREAS. The Government and ATN desire to amend the Agreement;

NOW, THEREFORE. In consideration of the premises, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties agree that the Agreement shall be modified and amended and the same hereby is modified and amended as follows:

- 1. NO ADJUSTMENTS.** No adjustments shall be made pursuant to Section 4.2(a) of the Agreement, and Section 4.2(a) of the Agreement is hereby deleted.
- 2. BILLING FOR TELECOMMUNICATIONS SERVICES.** The Government will permit the Guyana Telephone and Telegraph Company Limited (GT&T) to bill any company located in Guyana which, pursuant to Government authorization, is entitled to bill GT&T for goods or services in foreign currency, or any special category of persons or entities agreed to by the Government for all telecommunication services of GT&T in United States currency. The special category of persons or entities who will be permitted to be billed in foreign currency shall be determined with regard to volume of long distance calls generated by these entities and material change in the ratio at the date of closing, of incoming calls to outgoing calls.
- 3. MANAGEMENT AND REGISTRATION MATTERS.** The Government recognises the right of the GT&T to manage the affairs of the company in accordance with normal practice in the industry. It is further understood that the management has the right and responsibility to determine the methodology in pursuing the objectives determined by the Public Utilities Commission from time to time.
- 4. OPENING BALANCE SHEET.** As expeditiously as possible after closing, the Government and ATN shall agree on the opening Balance Sheet of GT&T. Where at the time of the preparation of the Opening Balance Sheet it is found that the foreign currency

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(d) In Sections 68 and 69 -

To incorporate the following elements, that is the consequences provided for in these Sections will be attracted only if non-compliance with the orders referred to therein is in respect of any material particular and without lawful excuse, after opportunity was given for compliance.

8. **LIABILITIES.** The Government and ATN agreed that, notwithstanding anything contained in Section 1, 2.2 or 5.4 or any other Section of the Agreement, the only foreign currency liabilities that are to be transferred from the Guyana Telecommunications Corporation (GTC) to GT&T are the foreign currency liabilities of GTC due and owed to the following creditors:

- (i) Western Union
- (ii) AT&T
- (iii) F.T. Business Info. London
- (iv) Crown Agents
- (v) Harris Parinon (Canada)
- (vi) Embratel Brazil
- (vii) Keith Byrne Associates
- (viii) Trinidad and Tobago external Telecoms
- (ix) Cable and Wireless
- (x) Barbados External Telecoms.

The aggregate of these liabilities is as on this date approximately US\$4.138 million. The deposits under the External Payment Deposit Scheme of the Bank of Guyana in relation to the aforesaid liabilities amounting to approximately 0.048 million US dollars, will also be transferred to GT&T.

It is further agreed that the foreign currency liabilities transferred to GT&T will not exceed US\$4.3 million as on the date of transfer.

All other foreign currency liabilities of GTC, along with the deposits made under the External Payment Deposit Scheme in relation to any such liabilities, will be transferred to the Government.

9. **ADJUSTMENT OF PREPAYMENT.** At vesting of the assets and liabilities of GTC in GT&T the Government will treat as a prepayment by GT&T the sum of Guyana dollars one hundred and seventy million transferred from GTC to the Government. This liability will be discharged by the Government by the set off of taxes, fees and other charges and imposts payable by GT&T to the Government.

10. **OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC).** The Government agrees that in the event of a claim being made by ATN against OPIC for payment under any policy of insurance issued by OPIC to or in favour of ATN, the Government will give its consent to the assignment or transfer by ATN to OPIC of the shares held by ATN in Guyana Telephone and Telegraph Company Limited.

The Government further agrees that after any such assignment of shares to OPIC, any disputes between the Government and OPIC with regard to the said shares shall be resolved by arbitration conducted by ICSID.

11. **SUPPLEMENTARY COVENANTS.** The Government covenants that between June 30, 1990 and the date of closing:

- (i) no dividends have been or will be paid to the shareholders of GTC or GT&T;
- (ii) no transfers of moneys have been or will be made from the GTC or GT&T to the Government other than in the normal course of business;
- (iii) all GTC or GT&T receipts denominated in foreign currency collected by or paid to the Central Bank have been or will be credited to the account of GTC or GT&T in The Bank of Guyana;
- (iv) receipts related to toll settlements for periods prior to closing but not received by GTC or GT&T prior to closing, will not after closing, be subject to existing deposit requirements but may be deposited in a GT&T foreign currency account of GT&T's choosing.

12. **EFFECT OF ADDENDUM.** The provisions of the Agreement are ratified and reaffirmed except to the extent such provisions are inconsistent with this First Addendum, in which case the First Addendum shall control the interpretation of the Agreement. In all respects, this First Addendum shall be interpreted and given the same consideration as if it were part of and set forth in the Agreement.

13. **DEFINITIONS.** All terms defined in the Agreement and used but not defined herein have the meanings given thereto in the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this First Addendum to be executed as of the date and year hereinabove first set forth.

ATLANTIC TELE-NETWORK, INC.

GOVERNMENT OF THE
CO-OPERATIVE REPUBLIC
REPUBLIC OF GUYANA

By *Jeff Prosser*
Jeffrey J. Prosser,
Chairman.

By *W.A.L.H. Parris*
W.A.L.H. Parris,
Deputy Prime Minister,
Planning & Development.

Witnesses:
1. *J. Keen*
2. *J. Paris*

Witnesses:
1. *E. Wayne*
2. *Francis Sarah Parris*

ARTICLE 1. Name and Purpose. The Corporation shall have an office in the City of Williamsport, Pennsylvania.

ARTICLE 2. Officers. The Corporation shall have an office in the City of Williamsport, Pennsylvania, and shall have an office in each place or places, to be determined by the Board of Directors, in the State of Pennsylvania, for the purpose of conducting the business of the Corporation.

ARTICLE 3. Board of Directors. The Board of Directors shall consist of not less than five nor more than ten members, to be elected by the stockholders at the annual meeting of the Corporation, and shall hold office until the next annual meeting.

ARTICLE 4. Annual Meeting. The annual meeting of the Corporation shall be held at the City of Williamsport, Pennsylvania, on the first day of January of each year, and shall be held at such other place or places as shall be determined by the Board of Directors and may be adjourned from time to time.

ARTICLE 5. Special Meetings. Special meetings of the Corporation may be called by the Board of Directors or the Chairman of the Board, and shall be held at the City of Williamsport, Pennsylvania, or at such other place or places as shall be determined by the Board of Directors.

BY-LAWS OF
ATLANTIC TELE-NETWORK, INC.
(A Delaware Corporation)

FINANCIAL
Public Utilities Commission

ARTICLE I

Offices

SECTION 1. Registered Office. The registered office of the Corporation within the State of Delaware shall be in the City of Wilmington, County of New Castle.

SECTION 2. Other Offices. The Corporation may also have an office or offices other than said registered office at such place or places, either within or without the State of Delaware, as the Board of Directors shall from time to time determine or the business of the Corporation may require.

ARTICLE II

Meetings of Stockholders

SECTION 1. Place of Meetings. All meetings of the stockholders for the election of directors or for any other purpose shall be held at any such place, either within or without the State of Delaware, as shall be designated from time to time by the Board of Directors and stated in the notice of meeting or in a duly executed waiver thereof.

SECTION 2. Annual Meeting. The annual meeting of stockholders, commencing with the year 1990, shall be held at such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of meeting or in a duly executed waiver thereof. At such annual meeting, the stockholders shall elect, by a plurality vote, a Board of Directors and transact such other business as may properly be brought before the meeting.

SECTION 3. Special Meetings. Special meetings of stockholders, unless otherwise prescribed by statute, may be called at any time by the Board of Directors or the Chairman of the Board, if one shall have been elected, or the President and shall be called by the Secretary upon the request in writing of a stockholder or stockholders holding of record at least fifty

percent of the voting power of the issued and outstanding shares of stock of the Corporation entitled to vote at such meeting.

SECTION 4. Notice of Meetings. Except as otherwise expressly required by statute, written notice of each annual and special meeting of stockholders stating the date, place and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each stockholder of record entitled to vote thereat not less than ten nor more than sixty days before the date of the meeting. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice. Notice shall be given personally or by mail or facsimile machine and, if by mail, shall be sent in a postage prepaid envelope, addressed to the stockholder at his address as it appears on the records of the Corporation. Notice by mail shall be deemed given at the time when the same shall be deposited in the United States mail, postage prepaid. Notice of any meeting shall not be required to be given to any person who attends such meeting, except when such person attends the meeting in person or by proxy for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened, or who, either before or after the meeting, shall submit a signed written waiver of notice, in person or by proxy. Neither the business to be transacted at, nor the purpose of, an annual or special meeting of stockholders need be specified in any written waiver of notice.

SECTION 5. List of Stockholders. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, showing the address of and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city, town or village where the meeting is to be held, which place shall be specified in the notice of meeting, or, if not specified, at the place where the meeting is to be held. The list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

SECTION 6. Quorum. Adjournments. The holders of a majority of the voting power of the issued and outstanding

stock of the Corporation entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of stockholders, except as otherwise provided by statute or by the Certificate of Incorporation. If, however, such quorum shall not be present or represented by proxy at any meeting of stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented by proxy. At such adjourned meeting at which a quorum shall be present or represented by proxy, any business may be transacted which might have been transacted at the meeting as originally called. If the adjournment is for more than thirty days, or, if after adjournment a new record date is set, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

SECTION 7. Organization. At each meeting of stockholders, the Chairman of the Board, if one shall have been elected, or, in his absence or if one shall not have been elected, the President shall act as chairman of the meeting. The Secretary or, in his absence or inability to act, the person whom the chairman of the meeting shall appoint secretary of the meeting shall act as secretary of the meeting and keep the minutes thereof.

SECTION 8. Order of Business. The order of business at all meetings of the stockholders shall be as determined by the chairman of the meeting.

SECTION 9. Voting. Except as otherwise provided by statute or the Certificate of Incorporation, each stockholder of the Corporation shall be entitled at each meeting of stockholders to one vote for each share of capital stock of the Corporation standing in his name on the record of stockholders of the Corporation:

(a) on the date fixed pursuant to the provisions of Section 7 of Article V of these By-Laws as the record date for the determination of the stockholders who shall be entitled to notice of and to vote at such meeting; or

(b) if no such record date shall have been so fixed, then at the close of business on the day next preceding the day on which notice thereof shall be given, or, if notice is waived, at the close of business on the date next preceding the day on which the meeting is held.

Each stockholder entitled to vote at any meeting of stockholders may authorize another person or persons to act for him by a proxy signed by such stockholder or his attorney-in-fact, but no proxy shall be voted after three years from its date, unless the proxy provides for a longer period. Any such proxy shall be delivered to the secretary of the meeting at or prior to the time designated in the order of business for so delivering such proxies: When a quorum is present at any meeting, the vote of the holders of a majority of the voting power of the issued and outstanding stock of the Corporation entitled to vote thereon, present in person or represented by proxy, shall decide any question brought before such meeting, unless the question is one upon which by express provision of statute or of the Certificate of Incorporation or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question. Unless required by statute, or determined by the chairman of the meeting to be advisable, the vote on any question need not be by ballot. On a vote by ballot, each ballot shall be signed by the stockholder voting, or by his proxy, if there be such proxy, and shall state the number of shares voted.

SECTION 10. Inspectors. The Board of Directors may, in advance of any meeting of stockholders, appoint one or more inspectors to act at such meeting or any adjournment thereof. If any of the inspectors so appointed shall fail to appear or act, the chairman of the meeting shall, or if inspectors shall not have been appointed, the chairman of the meeting may, appoint one or more inspectors. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality and according to the best of his ability. The inspectors shall determine the number of shares of capital stock of the Corporation outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, the validity and effect of proxies, and shall receive votes, ballots or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots or consents, determine the results, and do such acts as are proper to conduct the election or vote with fairness to all stockholders. On request of the chairman of the meeting, the inspectors shall make a report in writing of any challenge, request or matter determined by them and shall execute a certificate of any fact found by them. No director or candidate for the office of director shall act as an inspector of an election of directors. Inspectors need not be stockholders.

SECTION 11. Action by Consent. Whenever the vote of stockholders at a meeting thereof is required or permitted to be taken for or in connection with any corporate action, by any provision of statute or of the Certificate of Incorporation or of these By-Laws, the meeting and vote of stockholders may be dispensed with, and the action taken without such meeting and vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares of stock of the Corporation entitled to vote thereon were present and voted.

ARTICLE III

Board of Directors

SECTION 1. General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The Board of Directors may exercise all such authority and powers of the Corporation and do all such lawful acts and things as are not by statute or the Certificate of Incorporation directed or required to be exercised or done by the stockholders.

SECTION 2. Number, Qualifications, Election and Term of Office. The number of directors constituting the initial Board of Directors shall be one. Thereafter, the number of directors may be fixed, from time to time, by the affirmative vote of a majority of the entire Board of Directors or by action of the stockholders of the Corporation. Any decrease in the number of directors shall be effective at the time of the next succeeding annual meeting of stockholders unless there shall be vacancies in the Board of Directors, in which case such decrease may become effective at any time prior to the next succeeding annual meeting to the extent of the number of such vacancies. Directors need not be stockholders. Except as otherwise provided by statute or these By-Laws, the directors (other than members of the initial Board of Directors) shall be elected at the annual meeting of stockholders. Each director shall hold office until his successor shall have been elected and qualified, or until his death, or until he shall have resigned, or have been removed, as hereinafter provided in these By-Laws.

SECTION 3. Place of Meetings. Meetings of the Board of Directors shall be held at such place or places, within or without the State of Delaware, as the Board of Directors may

from time to time determine or as shall be specified in the notice of any such meeting.

SECTION 4. Annual Meeting. The Board of Directors shall meet for the purpose of organization, the election of officers and the transaction of other business, as soon as practicable after each annual meeting of stockholders, on the same day and at the same place where such annual meeting shall be held. Notice of such meeting need not be given. In the event such annual meeting is not so held, the annual meeting of the Board of Directors may be held at such other time or place (within or without the State of Delaware) as shall be specified in a notice thereof given as hereinafter provided in Section 7 of this Article III.

SECTION 5. Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and place as the Board of Directors may fix. If any day fixed for a regular meeting shall be a legal holiday at the place where the meeting is to be held, then the meeting which would otherwise be held on that day shall be held at the same hour on the next succeeding business day. Notice of regular meetings of the Board of Directors need not be given except as otherwise required by statute or these By-Laws.

SECTION 6. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board, if one shall have been elected, or by two or more directors of the Corporation or by the President.

SECTION 7. Notice of Meetings. Notice of each special meeting of the Board of Directors (and of each regular meeting for which notice shall be required) shall be given by the Secretary as hereinafter provided in this Section 7, in which notice shall be stated the time and place of the meeting. Except as otherwise required by these By-Laws, such notice need not state the purposes of such meeting. Notice of each such meeting shall be mailed, postage prepaid, to each director, addressed to him at his residence or usual place of business, by first class mail, at least two days before the day on which such meeting is to be held, or shall be sent addressed to him at such place by telegraph, cable, telex, telecopier, facsimile or other similar means, or be delivered to him personally or be given to him by telephone or other similar means, at least twenty-four hours before the time at which such meeting is to be held. Notice of any such meeting need not be given to any director who shall, either before or after the meeting, submit a signed waiver of notice or who shall attend such meeting, except when he shall attend for the express

purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

SECTION 8. Quorum and Manner of Acting. A majority of the entire Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, and, except as otherwise expressly required by statute or the Certificate of Incorporation or these By-Laws, the act of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors. In the absence of a quorum at any meeting of the Board of Directors, a majority of the directors present thereat may adjourn such meeting to another time and place. Notice of the time and place of any such adjourned meeting shall be given to all of the directors unless such time and place were announced at the meeting at which the adjournment was taken, in which case such notice shall only be given to the directors who were not present thereat. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The directors shall act only as a Board of Directors and the individual directors shall have no power as such.

SECTION 9. Organization. At each meeting of the Board of Directors, the Chairman of the Board, if one shall have been elected, or, in the absence of the Chairman of the Board or if one shall not have been elected, the President (or, in his absence, another director chosen by a majority of the directors present) shall act as chairman of the meeting and preside thereat. The Secretary or, in his absence, any person appointed by the chairman shall act as secretary of the meeting and keep the minutes thereof.

SECTION 10. Resignations. Any director of the Corporation may resign at any time by giving written notice of his resignation to the Corporation. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon its receipt. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 11. Vacancies. Any vacancy in the Board of Directors, whether arising from death, resignation, removal (with or without cause), an increase in the number of directors or any other cause, may be filled by the vote of a majority of the directors then in office, though less than a quorum, or by the sole remaining director or by the stockholders at the next

annual meeting thereof or at a special meeting thereof. Each director so elected shall hold office until his successor shall have been duly elected and qualified.

SECTION 12. Removal of Directors. Any director may be removed, either with or without cause, at any time, by the holders of a majority of the voting power of the issued and outstanding capital stock of the Corporation entitled to vote at an election of directors.

SECTION 13. Compensation. The Board of Directors shall have authority to fix the compensation for their services as directors and members of committees of the Board of Directors, together with reimbursement of expenses for attendance at meetings of the Board of Directors and for attendance at meetings of committees of the Board of Directors when such committee meetings are held at a time other than in conjunction with the meetings of the Board of Directors. Any director may also serve the Corporation in any other capacity and may receive compensation therefor.

SECTION 14. Committees. The Board of Directors may, by resolution passed by a majority of the entire Board of Directors, designate one or more committees, including an executive committee, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In addition, in the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

Except to the extent restricted by statute or the Certificate of Incorporation, each such committee, to the extent provided in the resolution creating it, shall have and may exercise all the powers and authority of the Board of Directors and may authorize the seal of the Corporation to be affixed to all papers which require it. Each such committee shall serve at the pleasure of the Board of Directors and have such name as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors.

SECTION 15. Action by Consent. Unless restricted by the Certificate of Incorporation, any action required or permitted to be taken by the Board of Directors or any committee thereof may be taken without a meeting if all members of the Board of Directors or such committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of the proceedings of the Board of Directors or such committee, as the case may be.

SECTION 16. Telephonic Meeting. Unless restricted by the Certificate of Incorporation, any one or more members of the Board of Directors or any committee thereof may participate in a meeting of the Board of Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons present at the meeting are able to hear and participate in such meeting. Participation by such means shall constitute presence in person at a meeting.

ARTICLE IV

Officers

SECTION 1. Number and Qualifications. The officers of the Corporation shall be elected by the Board of Directors and shall include two Co-Chief Executive Officers, the President, one or more Vice-Presidents, the Chief Financial Officer, the Treasurer and the Secretary. If the Board of Directors wishes, it may also elect as an officer of the Corporation a Chairman of the Board and may elect other officers (including one or more Assistant Treasurers and one or more Assistant Secretaries) as may be necessary or desirable for the business of the Corporation. Any two or more offices may be held by the same person, and no officer except the Chairman of the Board need be a director. Each officer shall hold office until his successor shall have been duly elected and shall have qualified, or until his death, or until he shall have resigned or have been removed, as hereinafter provided in these By-Laws.

SECTION 2. Resignations. Any officer of the Corporation may resign at any time by giving written notice of his resignation to the Corporation. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon receipt. Unless otherwise specified therein, the acceptance of any such resignation shall not be necessary to make it effective.

SECTION 3. Removal. Any officer of the Corporation may be removed, either with or without cause, at any time, by the Board of Directors at any meeting thereof.

SECTION 4. Chairman of the Board. The Chairman of the Board, if one shall have been elected, shall be a member of the Board of Directors, an officer of the Corporation and, if present, shall preside at each meeting of the Board of Directors or the stockholders. He shall advise and counsel with the President, and, in the President's absence, with other executives of the Corporation, and shall perform such other duties as may from time to time be assigned to him by the Board of Directors.

SECTION 5. Co-Chief Executive Officers. The Co-Chief Executive Officers shall be the chief executive officers of the Corporation. The Co-Chief Executive Officers shall perform all duties incident to the office of chief executive officer and such other duties as may from time to time be assigned to them by the Board of Directors.

SECTION 6. The President. The President shall, in the absence of the Chairman of the Board or if a Chairman of the Board shall not have been elected, preside at each meeting of the Board of Directors or the stockholders. The President shall perform all duties incident to the office of President and such other duties as may from time to time be assigned to him by the Board of Directors.

SECTION 7. Vice-President. Each Vice-President shall perform all such duties as from time to time may be assigned to him by the Board of Directors or the President. At the request of the President or in the President's absence or in the event of the President's inability or refusal to act, the Vice-President, or if there shall be more than one, the Vice-Presidents in the order determined by the Board of Directors (or if there be no such determination, then the Vice-Presidents in the order of their election), shall perform the duties of the President, and, when so acting, shall have the powers of and be subject to the restrictions placed upon the President in respect of the performance of such duties.

SECTION 8. Chief Financial Officer. The Chief Financial Officer shall perform all such duties as may from time to time be assigned to him by the Board of Directors.

SECTION 9. Treasurer. The Treasurer shall

(a) have charge and custody of, and be responsible for, all the funds and securities of the Corporation;

(b) keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation;

(c) deposit all moneys and other valuables to the credit of the Corporation in such depositories as may be designated by the Board of Directors or pursuant to its direction;

(d) receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever;

(e) disburse the funds of the Corporation and supervise the investment of its funds, taking proper vouchers therefor;

(f) render to the Board of Directors, whenever the Board of Directors may require, an account of the financial condition of the Corporation; and

(g) in general, perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 10. Secretary. The Secretary shall

(a) keep or cause to be kept in one or more books provided for the purpose, the minutes of all meetings of the Board of Directors, the committees of the Board of Directors and the stockholders;

(b) see that all notices are duly given in accordance with the provisions of these By-Laws and as required by law;

(c) be custodian of the records and the seal of the Corporation and affix and attest the seal to all certificates for shares of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and affix and

attest the seal to all other documents to be executed on behalf of the Corporation under its seal;

(d) see that the books, reports, statements, certificates and other documents and records required by law to be kept and filed are properly kept and filed; and

(e) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 11. The Assistant Treasurer. The Assistant Treasurer, or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election), shall, in the absence of the Treasurer or in the event of his inability or refusal to act, perform the duties and exercise the powers of the Treasurer and shall perform such other duties as from time to time may be assigned by the Board of Directors.

SECTION 12. The Assistant Secretary. The Assistant Secretary, or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election), shall, in the absence of the Secretary or in the event of his inability or refusal to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties as from time to time may be assigned by the Board of Directors.

SECTION 13. Officers' Bonds or Other Security. If required by the Board of Directors, any officer of the Corporation shall give a bond or other security for the faithful performance of his duties, in such amount and with such surety as the Board of Directors may require.

SECTION 14. Compensation. The compensation of the officers of the Corporation for their services as such officers shall be fixed from time to time by the Board of Directors. An officer of the Corporation shall not be prevented from receiving compensation by reason of the fact that he is also a director of the Corporation.

ARTICLE V

Stock Certificates and Their Transfer

SECTION 1. Stock Certificates. Every holder of stock in the Corporation shall be entitled to have a certificate, signed by, or in the name of the Corporation by, the Chairman of the Board or the President or a Vice-President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares owned by him in the Corporation. If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restriction of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, provided that, except as otherwise provided in Section 202 of the General Corporation Law of the State of Delaware, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, a statement that the Corporation will furnish without charge to each stockholder who so requests the designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

SECTION 2. Facsimile Signatures. Any or all of the signatures on a certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

SECTION 3. Lost Certificates. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, stolen, or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen, or destroyed certificate or certificates, or his legal representative, to: (a) make proof in affidavit form that it has been lost, destroyed or

wrongfully taken; (b) give to the Corporation a bond in such sum as it may direct sufficient to indemnify it against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate; or (c) impose any other reasonable requirements.

SECTION 4. Transfers of Stock. Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its records; provided, however, that the Corporation shall be entitled to recognize and enforce any lawful restriction on transfer. Whenever any transfer of stock shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of transfer if, when the certificates are presented to the Corporation for transfer, both the transferor and the transferee request the Corporation to do so.

SECTION 5. Transfer Agents and Registrars. The Board of Directors may appoint, or authorize any officer or officers to appoint, one or more transfer agents and one or more registrars.

SECTION 6. Regulations. The Board of Directors may make such additional rules and regulations, not inconsistent with these By-Laws, as it may deem expedient concerning the issue, transfer and registration of certificates for shares of stock of the Corporation.

SECTION 7. Fixing the Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty nor less than ten days before the date of such meeting, nor more than sixty days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

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SECTION 8. Registered Stockholders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its records as the owner of shares of stock to receive dividends and to vote as such owner, shall be entitled to hold liable, in accordance with Sections 162-63 of the General Corporation Law of the State of Delaware, for calls and assessments a person registered on its records as the owner of shares of stock, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares of stock on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE VI

Indemnification of Directors and Officers

SECTION 1. General. The Corporation shall indemnify, to the fullest extent permitted by the General Corporation Law of the State of Delaware, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

SECTION 2. Derivative Actions. The Corporation shall indemnify, to the fullest extent permitted by the General Corporation Law of the State of Delaware, any person who was or is a party or is threatened to be made a party to any

threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, provided that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

SECTION 3. Indemnification in Certain Cases. To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 and 2 of this Article VI, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

SECTION 4. Procedure. Any indemnification under Sections 1 and 2 of this Article VI (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in such Sections 1 and 2. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (c) by the stockholders.

SECTION 5. Advances for Expenses. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an

undertaking by or on behalf of the director, officer, employee or agent to repay such amount if it shall be ultimately determined that he is not entitled to be indemnified by the Corporation as authorized in this Article VI.

SECTION 6. Rights Not-Exclusive. The indemnification and advancement of expenses provided by, or granted pursuant to, the other sections of this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any law, by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

SECTION 7. Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article VI.

SECTION 8. Definition of Corporation. For the purposes of this Article VI, references to "the Corporation" include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation so that any person who is or was a director, officer, employee or agent of such a constituent corporation or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this Article VI with respect to the resulting or surviving corporation as he would if he had served the resulting or surviving corporation in the same capacity.

SECTION 9. Survival of Rights. The indemnification and advancement of expenses provided by, or granted pursuant to this Article VI shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors may think conducive to the interests of the Corporation. The Board of Directors may modify or abolish any such reserves in the manner in which it was created.

SECTION 3. Seal. The seal of the Corporation shall be in such form as shall be approved by the Board of Directors. The Corporate Seal shall be affixed and attached by the Secretary or an Assistant Secretary upon such instruments or documents as may be deemed appropriate, but the presence or absence of such seal on any instrument shall not affect its character or validity or legal effect in any respect.

SECTION 4. Fiscal Year. The fiscal year of the Corporation shall be fixed, and once fixed, may thereafter be changed, by resolution of the Board of Directors.

SECTION 5. Checks, Notes, Drafts, Etc. All checks, notes, drafts or other orders for the payment of money of the Corporation shall be signed, endorsed or accepted in the name of the Corporation by such officer, officers, person or persons as from time to time may be designated by the Board of Directors or by an officer or officers authorized by the Board of Directors to make such designation.

SECTION 6. Execution of Contracts, Deeds, Etc. The Board of Directors may authorize any officer or officers, agent or agents, in the name and on behalf of the Corporation to enter into or execute and deliver any and all deeds, bonds, mortgages, contracts and other obligations or instruments, and such authority may be general or confined to specific instances.

SECTION 7. Voting of Stock in Other Corporations. Unless otherwise provided by resolution of the Board of Directors, the Chairman of the Board or the President, from time to time, may (or may appoint one or more attorneys or agents to) cast the votes which the Corporation may be entitled to cast as a shareholder or otherwise in any other corporation, any of whose shares or securities may be held by the Corporation, at meetings of the holders of the shares or other securities of such other corporation. In the event one or more attorneys or agents are appointed, the Chairman of the Board or the President may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent. The Chairman of the Board or the President may, or may instruct the attorneys or agents appointed to, execute or cause to be executed in the name and on behalf of the Corporation and under

its seal or otherwise, such written proxies, consents, waivers or other instruments as may be necessary or proper in the circumstances.

ARTICLE VIII

Amendments

These By-Laws may be amended or repealed or new by-laws adopted (a) by action of the stockholders entitled to vote thereon at any annual or special meeting of stockholders or (b) if the Certificate of Incorporation so provides, by action of the Board of Directors at a regular or special meeting thereof. Any by-law made by the Board of Directors may be amended or repealed by action of the stockholders at any annual or special meeting of stockholders.

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