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Admi Heel  
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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
(SAN FRANCISCO DIVISION)

**FILED**  
NOV 08 2002  
UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA

In re:

Yipes Transmission, Inc., a California  
corporation and Yipes Transmission Virginia,  
Inc., a Virginia corporation.

Debtors.

In Proceedings Under Chapter 11

(Jointly Administered)

Case No. 02-30750-DM

Hon. Dennis Montali

**SECOND AMENDED JOINT PLAN OF REORGANIZATION OF YIPES  
TRANSMISSION, INC., AND YIPES TRANSMISSION VIRGINIA, INC.,  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

HENRY C. KEVANE (CALIF. BAR NO. 125757)  
PACHULSKI, STANG, ZIEHL, YOUNG & JONES, P.C.  
THREE EMBARCADERO CENTER, SUITE 1020  
SAN FRANCISCO, CA 94111-4023  
TELEPHONE: 415-263-7000  
COUNSEL TO DEBTORS, CO-PROponents OF THE  
PLAN

G. LARRY ENGEL (CALIF. BAR NO. 53484)  
ROBERTO J. KAMPFNER (CALIF. BAR NO. 179026)  
BROBECK, PHLEGER & HARRISON LLP  
ONE MARKET  
SPEAR TOWER  
SAN FRANCISCO, CA 94105  
TELEPHONE: 415-442-0900  
COUNSEL TO YIPES ENTERPRISE SERVICES, INC.,  
AND PHX HOLDINGS, INC., CO-PROponents OF THE  
PLAN

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Yipes Transmission, Inc. ("YTI") and Yipes Transmission Virginia, Inc., ("YTV") each a debtor and debtor-in-possession in the above-captioned chapter 11 cases (collectively referred to herein as, the "Debtors"), PHX Holdings, Inc. ("Holdings") and PHX Communications, Inc., now known as Yipes Enterprise Services, Inc. ("New Yipes"; and collectively with Holdings and the Debtors, the "Proponents") hereby jointly propose the following plan of reorganization (the "Plan") for the resolution of the Debtors' outstanding claims and equity interests. All creditors and other parties-in-interest should refer to the Disclosure Statement (as defined below) for a discussion of each Debtor's history, business, properties, results of operations, events leading up to the contemplated restructuring and for a summary and analysis of the Plan and certain related matters.

*All holders of Claims against, and Equity Interests in, the Debtors are encouraged to read the Plan, the Disclosure Statement and the related solicitation materials in their entirety before voting to accept or reject the Plan.*

**ALTHOUGH THIS PLAN CONTAINS AN "INTERSTATE SETTLEMENT" WHICH AFFECTS THE RIGHTS OF YIPES COMMUNICATIONS, INC., YIPES COMMUNICATIONS GROUP, INC., YIPES PROPERTIES, INC., AND YIPES WEB SERVICES, INC., TO THE APA PURCHASE PRICE AND EXCLUDED ASSETS, THIS PLAN ONLY RESOLVES THE TREATMENT OF CLAIMS AGAINST YIPES TRANSMISSION, INC. AND YIPES TRANSMISSION VIRGINIA, INC. IT IS NOT A PLAN FOR YIPES COMMUNICATIONS, INC., YIPES COMMUNICATIONS GROUP, INC., YIPES PROPERTIES, INC. OR YIPES WEB SERVICES, INC. THE PARTIES EXPECT THAT A PLAN FOR YIPES COMMUNICATIONS, INC., YIPES COMMUNICATIONS GROUP, INC., YIPES PROPERTIES, INC. AND YIPES WEB SERVICES, INC. WILL FOLLOW SHORTLY.**

Subject to the restrictions on modifications set forth in Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, and those restrictions on modifications set forth in Section 12.1 of this Plan, the Proponents expressly reserve the right to alter, amend, or modify the Plan one or more times before its substantial consummation.

#### ARTICLE 1. DEFINITIONS AND RULES OF INTERPRETATION

For purposes of this Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms not otherwise defined herein have the meanings ascribed to them in ARTICLE I of the Plan. Any term used in the Plan that is not defined herein, but is defined in the Bankruptcy Code or the Federal Bankruptcy Rules retains the meaning specified for such term in the Bankruptcy Code or the Federal Bankruptcy Rules, as applicable. Whenever the context requires, such terms include the plural as well as the singular, the masculine gender includes the feminine gender, and the feminine gender includes the masculine gender. Any reference herein to the "Reorganized Debtor" is a reference to either YTI, YTV, New Yipes (only if a Merger Election is made) or to any of them, as the context requires. Any action required to be taken by this Plan on the part of the Debtors or the Reorganized Debtors shall be deemed satisfied if taken by YTI, or if a Merger Election is made, by New Yipes with respect to any actions required to be taken after the Effective Date, and the actions of YTI or New Yipes (as the case may be) hereunder shall be binding upon YTV, whether or not such actions are independently authorized by YTV.

As used in this Plan, the following terms have the meanings specified below:

**1.1. Administrative Claim.** A Claim for any cost or expense of administration of the Chapter 11 Cases, other than the Inter-estate Administrative Allocation, allowed under Sections 503(b), 507(b) or 546(c)(2) of the Bankruptcy Code and entitled to priority under Section 507(a)(1) of the Bankruptcy Code, including, without limitation: (a) fees payable under 28 U.S.C. § 1930; (b) actual and necessary costs and expenses incurred in the ordinary course of the Debtors' businesses, including, without limitation, Preserved Ordinary Course Administrative Claims; (c) actual and necessary costs and expenses of preserving the Estates or administering the Chapter 11 Cases, including, without limitation, Non-Budgeted Administrative Claims; and (d) all Professional Fees to the extent Allowed by Final Order under Sections 330, 331, or 503 of the Bankruptcy Code. An Administrative Claim does not include Cures.

**1.2. Affiliate.** With respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person, any other Person defined as an "affiliate" under the Bankruptcy Code, and, with respect to any specified natural Person, any other Person having a relationship by blood, marriage, or adoption not more remote than first cousins with such natural Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with regards to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement, or otherwise, as well as any other "control" satisfying the definition for purposes of an "insider" classification pursuant to Bankruptcy Code § 101.

**1.3. Affiliate Debtors.** Collectively, Yipes, Yipes Properties, Inc., a California corporation, Yipes Group and Yipes Web Services, Inc., a California corporation.

**1.4. Allowed.** With respect to any Claim against, or Equity Interest in, the Debtor: (a) proof of which, requests for payment of which, or application for allowance of which, was filed or deemed filed on or before the Bar Date, Non-Budgeted Administrative Claim Bar Date, or the Professional Fee Bar Date, as applicable, for filing proofs of claim or equity interest or requests for payment for Claims of such type against the Debtor; (b) if no proof of claim or equity interest is filed, which has been or is ever listed by the Debtors in the Schedules as liquidated in amount and not disputed or contingent; or (c) a Claim or Equity Interest that is allowed in any contract, instrument, indenture, or other agreement entered into in connection with the Plan; and, in any case, a Claim as to which no objection to its allowance has been interposed (other than an objection that has been overruled) within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court. The term "Allowed," when used to modify a reference in the Plan to any Claim, Equity Interest, Class of Claims, or Class of Equity Interests, means a Claim or Equity Interest (or any Claim or Equity Interest in any such Class) that is so allowed.

**1.5. APA Purchase Price.** The Cash component of the purchase price paid by New Yipes, Holdings and E-xpedient Holdings, Ltd. for substantially all of the assets of the Debtors and the Affiliate Debtors pursuant to the Asset Purchase Agreement.

**1.6. Approval Order.** The Order Authorizing (1) Sale of Substantially All Assets of The Debtors Free and Clear of Encumbrances, Claims and Interests, and (2) Assumption and Assignment or, Alternatively, Rejection of Certain Executory Contracts and Unexpired Leases entered on June 25, 2002.

**1.7. Assets.** Collectively, each and every item of property and interest of the Debtors as of the Effective Date, whether tangible or intangible, real or personal, legal or equitable, liquidated or unliquidated, including, without limitation: (a) Cash; (b) any amounts owed to the Debtors, including accounts receivable and contract rights; (c) all of the Debtors' books and records; (d) all contracts, agreements, licenses and leases of the Debtors; (e) all certificates of public convenience and other licenses, franchises and government permits required to operate or build a telecommunications network; and (f) all other property of the estate under Section 541 of the Bankruptcy Code; provided, that the Assets shall not include the Excluded Assets.

**1.8. Asset Purchase Agreement.** The Asset Purchase Agreement dated as of May 21, 2002, by and among PHX Communications, Inc., now known as Yipes Enterprise Services, Inc., a Delaware corporation, PHX Holdings, Inc., a Delaware corporation, Yipes Communications Group, Inc., a Delaware corporation, Yipes Communications, Inc., a California corporation, Yipes Properties, Inc., a California corporation, Yipes Transmission, Inc., a California corporation, Yipes Transmission Virginia, a Virginia corporation, and E-xpedient Holdings, Ltd., a Florida limited liability company.

**1.9. Avoidance Actions.** All statutory causes of actions preserved for the Estate under Sections 506(c), 510, 542, 543, 544, 545, 547, 548, 549, 550, and 553 of the Bankruptcy Code.

**1.10. Ballot.** The form of ballot or ballots distributed with the Disclosure Statement to holders of Claims entitled to vote on the Plan on which an acceptance or rejection of the Plan is to be indicated.

**1.11. Bankruptcy Code.** Title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended from time to time and as applicable to the Chapter 11 Cases.

**1.12. Bankruptcy Court.** The United States Bankruptcy Court for the Northern District of California having jurisdiction over the Chapter 11 Cases and, to the extent of any reference under 28 U.S.C. § 157, the unit of such District Court under 28 U.S.C. § 151.

**1.13. Bankruptcy Rules.** Collectively, the Federal Rules of Bankruptcy Procedure as promulgated under 28 U.S.C. §2075 and any Local Rules of the Bankruptcy Court, as applicable to the Chapter 11 Cases.

**1.14. Bar Date.** August 26, 2002, which is the date fixed by the Bankruptcy Court by which Persons asserting a Claim against the Debtors (except Administrative Claims) must file a proof of claim or be forever barred from asserting a Claim against the Debtors or their property, from voting on the Plan, and sharing in distributions under the Plan.

**1.15. Budgeted Professional Fees.** Professional Fees incurred after July 1, 2002, which are subject to payment under the budget process set forth in Section 5 of the Interim Services Agreement, including, without limitation, Professional Fees incurred by the Debtors, the Committee, the Regulatory Officer and/or the Responsible Individual in connection with the drafting, confirmation, and consummation of the Plan.

**1.16. Business Day.** Any day other than a Saturday, Sunday, or legal holiday, as defined in Bankruptcy Rule 9006(a).

**1.17. Cash.** Currency, checks drawn on a bank insured by the Federal Deposit Insurance Corporation, certified checks, money orders, negotiable instruments, and wire transfers of immediately available funds.

**1.18. Chapter 11 Cases.** Collectively, the cases under Chapter 11 of the Bankruptcy Code in which the Debtors are debtors and debtors-in-possession, pending before the Bankruptcy Court.

**1.19. Claim.** A claim against a Person or its property as defined in Section 101(5) of the Bankruptcy Code, including, without limitation: (a) any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured arising at any time before the Effective Date; or (b) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

**1.20. Class.** A category of holders of Claims or Equity Interests which are substantially similar in nature to the Claims or Equity Interests of other holders placed in such category, as designated in ARTICLE 3 of this Plan.

**1.21. Comerica.** Comerica Bank—California.

**1.22. Comerica Claims.** The Secured Claims of Comerica in and to any certificates of deposit of the Debtors held by Comerica to secure (i) letters of credit issued by Comerica to certain regulatory agencies or to secure the Debtors' surety or other security bonds or deposits to third parties, or (ii) other obligations of the Debtors to Comerica.

**1.23. Committee.** The Official Committee of Unsecured Creditors, appointed by the United States Trustee in the chapter 11 case of Yipes in accordance with Section 1102(a)(1) of the Bankruptcy Code, as it may be reconstituted from time to time.

**1.24. Confirmation Date.** The date on which the Bankruptcy Court enters the Confirmation Order.

**1.25. Confirmation Hearing.** The hearing or hearings held by the Bankruptcy Court to consider confirmation of the Plan under Section 1129 of the Bankruptcy Code, as such hearing may be adjourned from time to time.

**1.26. Confirmation Order.** The order of the Bankruptcy Court confirming the Plan in accordance with the Bankruptcy Code.

**1.27. Contingent Claim.** Any Claim for which a proof of claim has been filed with the Bankruptcy Court: (a) which has not accrued and is dependent on a future event that has not occurred and may never occur, and (b) which has not been Allowed on or before the Confirmation Date, or such other date as the Bankruptcy Court may establish.

**1.28. Core Markets.** Collectively, the metropolitan areas of (1) San Francisco, California; (2) San Diego, California; (3) Dallas, Texas; (4) Houston, Texas; (5) Denver, Colorado; (6) New York, New York; (7) Philadelphia, Pennsylvania; (8) Chicago, Illinois; (9) Seattle, Washington; and (10) Washington, D.C.

**1.29. Creditor.** Has the meaning set forth in Section 101(10) of the Bankruptcy Code.

**1.30. Creditor Fund.** A fund consisting of the Escrow Amount and the Deposit Payment which shall be deposited on the Effective Date into a segregated account at Wells Fargo Bank, N.A., for the benefit of the Affiliate Debtors to the extent of the Inter-estate Administrative Amount, the

holders of Non-Budgeted Administrative Claims, Non-Budgeted Professional Fees, Priority Tax Claims, Priority Claims, Secured Claims up to the Secured Creditor Limit and General Unsecured Claims as more particularly set forth herein.

**1.31. Cure.** The distribution on the Effective Date (or as otherwise provided herein) of Cash, or such other property as may be agreed on by the parties with respect to the assumption of an executory contract or unexpired lease of nonresidential real property, in accordance with Section 365(b) of the Bankruptcy Code, in an amount equal to all due but unpaid monetary obligations, without interest, or such other amount as may be agreed on by the parties, under such executory contract or unexpired lease, to the extent such obligations are enforceable under the Bankruptcy Code and applicable state law.

**1.32. D.C. Deposit.** One or more certificates of deposits in the aggregate amount of \$500,000 currently held at Comerica which secure a letter of credit issued by Comerica in favor of a party that has issued a security bond to the Virginia Department of Transportation in connection with YTV's status as a regulated entity.

**1.33. Debtors.** Collectively, Yipes Transmission, Inc., a California corporation and Yipes Transmission Virginia, Inc., a Virginia corporation.

**1.34. Deposit Payment.** Cash in the amount of \$500,000 to be deposited by Holdings or transferred by Yipes into the Creditor Fund in exchange for a waiver of all claims of the Affiliate Debtors to the D.C. Deposit.

**1.35. Deposit Rights.** All of the Debtors' and the Affiliate Debtors' rights pursuant to Section 1.7 of the Asset Purchase Agreement to refunds of "Deposits" (as defined in the Asset Purchase Agreement), other than any such rights related to the D.C. Deposit.

**1.36. Disputed.** With respect to Claims, any Claim: (a) that is listed in the Schedules as unliquidated, disputed, or contingent; or (b) as to which the Debtor or any other proper party-in-interest has interposed a timely objection or request for estimation, or has sought to equitably subordinate or otherwise limit recovery in accordance with the Bankruptcy Code and the Bankruptcy Rules, or which is otherwise disputed by the Debtor in accordance with applicable law, such objection, request for estimation, action to limit recovery or dispute has not been withdrawn or determined by a Final Order; or (c) that is a Contingent Claim.

**1.37. Distribution.** A payment of Cash to the holder of an Allowed Claim pursuant to the Plan.

**1.38. Distribution Record Date.** The Business Day on which the Reorganized Debtor determines in its discretion, in good faith and using best efforts, with reasonable certainty, taking into account litigation and settlement of objections to the allowance of Claims in Class 4, the total amount of Allowed Claims in such Class.

**1.39. Disclosure Statement.** The written disclosure statement relating to the Plan including, without limitation, all exhibits and schedules to such disclosure statement, in the form approved by the Bankruptcy Court under Section 1125 of the Bankruptcy Code and Bankruptcy Rule 3017.

**1.40. Effective Date.** The later of: (a) the first Business Day that is at least eleven days after the Confirmation Date and on which no stay of the Confirmation Order is in effect; and (b) the

Business Day on which all of the conditions set forth in Section 8.2 of the Plan have been satisfied or waived.

**1.41. Equity Interest.** Any interest in the Debtors represented by any class or series of common or preferred stock issued by the Debtors before the Effective Date, and any warrants, options, or rights to purchase, receive or otherwise acquire any such common or preferred stock.

**1.42. Escrow Agent.** Wells Fargo Bank, N.A. in its capacity as escrow agent for the Escrow Amount in connection with the Asset Purchase Agreement.

**1.43. Escrow Amount.** Cash in the amount of \$500,000 currently held in escrow at Wells Fargo Bank, N.A., Account No. 0001038377 pursuant to the Asset Purchase Agreement pending certain regulatory approvals.

**1.44. Estates.** The estates for the Debtors created in the Chapter 11 Cases in accordance with Section 541 of the Bankruptcy Code or otherwise.

**1.45. Excluded Assets.** Shall have the meaning ascribed to such term in the Asset Purchase Agreement.

**1.46. Final Order.** An order or judgment of the Bankruptcy Court: (a) as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired; or (b) as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing is pending; or (c) as to which any right to appeal, petition for certiorari, reargue, or rehear has been waived in writing in form and substance satisfactory to the Debtors or the Reorganized Debtors; or (d) if an appeal, writ of certiorari, or reargument or rehearing has been sought, as to which the highest court to which such order was appealed, or certiorari, reargument or rehearing has determined such appeal, writ of certiorari, reargument, or rehearing, or has denied such appeal, writ of certiorari, reargument, or rehearing, and the time to take any further appeal, petition for certiorari, or move for reargument or rehearing has expired; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed with respect to such order does not prevent such order from being a Final Order.

**1.47. General Unsecured Claim.** Any Claim, against the Debtors as of the Petition Date not secured by a Lien or charge against or interest in property of the Estates, excluding: (a) Secured Claims, except that portion, if any, that is unsecured in accordance with Section 502 or 506 of the Bankruptcy Code; (b) Administrative Claims; (c) Priority Tax Claims; (d) Priority Claims; and (e) the Intercompany Claims.

**1.48. Holdings.** PHX Holdings, Inc., a Delaware corporation.

**1.49. Intercompany Claims.** Any and all Claims (whether arising from contract, tort or otherwise) of Yipes Group or any Affiliate thereof against any Debtor, whenever incurred, except the Inter-estate Administrative Allocation.

**1.50. Inter-estate Administrative Allocation.** Has the meaning set forth in Section 5.6.1 hereof.

**1.51. Inter-estate Settlement.** The Inter-estate settlement set forth in Section 5.6 herein.

**1.52. Interim Services Agreement.** The Interim Services Agreement dated as of June 30, 2002 by and among the Debtors, Yipes, the other Affiliate Debtors and Holdings, as amended from time to time.

**1.53. Lien.** A lien as defined in Section 101(37) of the Bankruptcy Code, except a lien that has been avoided in accordance with Sections 544, 545, 546, 547, 548, 553, or 549 of the Bankruptcy Code.

**1.54. Merger.** The merger to be consummated pursuant to the Merger Election.

**1.55. Merger Agreement.** An agreement providing for the merger of YTI into New Yipes (with New Yipes to be the surviving corporation) in form and substance satisfactory to New Yipes and the Debtors.

**1.56. Merger Election.** An election to be made by New Yipes and Holdings on or before the Effective Date pursuant to which YTI shall be merged into New Yipes (with New Yipes to be the surviving corporation) on the Effective Date pursuant to the Merger Agreement.

**1.57. New Yipes.** Yipes Enterprise Services, Inc., a Delaware corporation, purchaser of substantially all of the assets of the Debtors and the Affiliate Debtors under the Asset Purchase Agreement.

**1.58. Non-Budgeted Administrative Claim.** An Administrative Claim against the Debtors which is not a Preserved Ordinary Course Administrative Claim or a Professional Fee.

**1.59. Non-Budgeted Administrative Claim Bar Date.** The date or dates established by the Bankruptcy Court for the filing of Non-Budgeted Administrative Claims.

**1.60. Non-Budgeted Professional Fees.** Professional Fees incurred after July 1, 2002, of the Debtors not subject to payment by Holdings pursuant to Section 5 of the Interim Services Agreement.

**1.61. Note Purchase Agreement.** The Amended and Restated Note Purchase Agreement dated as of March 5, 2001, by and among Yipes Group, Norwest Venture Partners VII, L.P., as collateral agent, and the noteholders from time to time party thereto.

**1.62. Person.** Any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated association or organization, or other "person" as defined in Bankruptcy Code § 101 as well as any governmental agency, governmental unit or associated political subdivision.

**1.63. Petition Date.** April 19, 2002.

**1.64. Plan.** This Plan of Reorganization, either in its present form or as it may be amended, supplemented or modified from time to time, including all of its annexed exhibits and schedules, the Plan Supplement, and the Plan Documents.

**1.65. Plan Documents.** The material documents referenced as implementing or necessary to implement the provisions of the Plan.

**1.66. Plan Supplement.** The supplement, including, without limitation, the Plan Documents, that is to be filed with the Bankruptcy Court as early as is practicable (but in no event later than five Business Days before the Confirmation Hearing), or on such other date as the Bankruptcy Court may determine. The Plan Supplement is incorporated into the Plan as if fully set forth in the Plan, and all references to the Plan refer also to the Plan Documents contained in the Plan Supplement.

**1.67. Preserved Avoidance Actions.** Has the meaning set forth in Section 5.7 hereof.

**1.68. Preserved Ordinary Course Administrative Claims.** Administrative Claims, other than Claims for Budgeted Professional Fees, which are valid, enforceable and subject to payment under the budget process set forth in Section 5 of the Interim Services Agreement.

**1.69. Priority Claim.** Any Claim (or portions of such Claim) entitled to priority under Section 507(a) of the Bankruptcy Code other than Priority Tax Claims and Administrative Claims.

**1.70. Priority Tax Claim.** Any Claim of a governmental unit entitled to priority under Section 507(a)(8) of the Bankruptcy Code.

**1.71. Professionals.** Those Persons (a) employed in accordance with an order of the Bankruptcy Court under Sections 327 or 1103 of the Bankruptcy Code and to be compensated for services under Sections 327, 328, 329, 330, and 331 of the Bankruptcy Code, or (b) for which compensation and reimbursement has been Allowed by the Bankruptcy Court under Section 503(b) of the Bankruptcy Code.

**1.72. Professional Fees.** The Administrative Claims for compensation and reimbursement of expenses submitted in accordance with Sections 330, 331, or 503(b) of the Bankruptcy Code of Professionals.

**1.73. Professional Fee Bar Date.** The date by which all applications for compensation or expense reimbursement, including Professional Fees, must be filed with the Bankruptcy Court in accordance with Section 2.5 of the Plan.

**1.74. Proponents.** Collectively, the Debtors, Holdings and New Yipes.

**1.75. Pro Rata Share.** With respect to any Allowed Claim, the ratio (carried out to the third decimal place) of such Allowed Claim to all Allowed Claims for the class in which such Allowed Claim arises.

**1.76. Provisional Distribution.** With respect to a General Unsecured Claim, a Distribution made by the Reorganized Debtors prior to the Distribution Record Date, withholding such reserves and allowances in respect of Claims that have not yet been Allowed, as is reasonable in the sole discretion of the Reorganized Debtors in order to permit each Allowed General Unsecured Claim to receive its applicable Pro Rata Share.

**1.77. Regulated Executory Contracts.** All executory contracts and unexpired leases assumed (or assumable) by the Debtors and assigned (or assignable) to Holdings pursuant to the Asset Purchase Agreement, the Approval Order or any other order of the Bankruptcy Court entered prior to the Confirmation Date.

**1.78. Regulatory Approvals.** Any and all governmental approvals (whether federal, state or local) required (i) to transfer ownership of the Equity Interests to Holdings and/or (ii) for the

Reorganized Debtors to conduct their business as such business was conducted by the Debtors prior to the filing of the Chapter 11 Cases.

**1.79. Regulatory Officer.** The Regulatory Officer appointed by the Bankruptcy Court in the Approval Order and designated by Holdings in the Interim Services Agreement to implement the transfer of "Regulated Assets" contemplated by the Asset Purchase Agreement.

**1.80. Reorganized Debtors.** The Debtors, or any successor to the Debtors, on and after the Effective Date, or, if the Merger Election is made, New Yipes.

**1.81. Reorganized Officers and Directors.** The officers and directors of the Reorganized Debtors to be designated by Holdings in writing pursuant to the Plan Supplement.

**1.82. Responsible Individual.** The Responsible Individual appointed as of July 1, 2002, to oversee the Estates.

**1.83. Schedules.** The schedules of assets and liabilities, the list of holders of interests, and the statements of financial affairs filed by the Debtors on May 10, 2002, under Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, as such schedules, lists, and statements may have been or may be supplemented or amended from time to time.

**1.84. Secured Claim.** Any Claim, to the extent reflected in the Schedules or a proof of claim as a Secured Claim, which is secured by a Lien on collateral to the extent of the value of such collateral, as determined in accordance with Section 506(a) of the Bankruptcy Code, or, if such Claim is subject to setoff under Section 553 of the Bankruptcy Code, to the extent of such setoff.

**1.85. Secured Creditor Limit.** An amount of Cash not to exceed \$100,000.

**1.86. Securities Act.** The Securities Act of 1933, as amended, and its applicable regulations.

**1.87. Supplemental Contracts.** Has the meaning set forth in Section 6.2 hereof.

**1.88. Transaction Documents.** Collectively, the Security Agreement dated as of June 30, 2002, by and among the Debtors, New Yipes and Holdings, the Pledge Agreement dated as of June 30, 2002, by and between Yipes Group and Holdings, the Pledge Agreement dated as of June 30, 2002, by and between YTI and Holdings and the Purchaser Transition Agreement dated as of June 30, 2002, by and among the Affiliate Debtors, the Debtors, New Yipes and Holdings.

**1.89. Unsecured Deficiency Claims.** Any Claim by a Person holding a Secured Claim to the extent the value of such Creditor's Collateral, as determined in accordance with Section 506(a) of the Bankruptcy Code, is less than the Allowed amount of such Creditor's Claims as of the Petition Date, after taking into account any elections made pursuant to Section 1111(b) of the Bankruptcy Code.

**1.90. YTI.** Yipes Transmission, Inc., a California corporation.

**1.91. YTV.** Yipes Transmission Virginia, Inc., a Virginia corporation.

**1.92. Yipes.** Yipes Communications, Inc., a California corporation.

1.93. **Yipes Group.** Yipes Communications Group, Inc., a Delaware corporation.

## ARTICLE 2. TREATMENT OF UNCLASSIFIED CLAIMS

**2.1. Unclassified Claims.** As provided in Section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, including, without limitation, Preserved Ordinary Course Administrative Claims, Claims for Professional Fees, Non-Budgeted Administrative Claims and Priority Tax Claims against the Debtors are not classified for purposes of voting on, or receiving distributions under, the Plan. Holders of such Claims are not entitled to vote on the Plan. All such Claims are instead treated separately in accordance with this ARTICLE 2 and in accordance with the requirements set forth in Section 1129(a)(9)(A) of the Bankruptcy Code.

### **2.2. Non-Budgeted Administrative Claims.**

**2.2.1 Generally.** Each Allowed Non-Budgeted Administrative Claim shall be paid in full in Cash by the Reorganized Debtors from the Creditor Fund on the latest of: (a) the Effective Date, or as soon thereafter as practicable; (b) such date as may be fixed by the Bankruptcy Court, or as soon thereafter as practicable; (c) the tenth Business Day after such Claim is Allowed, or as soon thereafter as practicable; and (d) such date as the holder of such Claim and the Reorganized Debtors may agree.

**2.2.2 Requests for Payment.** All requests for payment of Non-Budgeted Administrative Claims must be filed by the Non-Budgeted Administrative Claim Bar Date or the holders thereof shall be forever barred from asserting such Non-Budgeted Administrative Claims against the Debtors or the Reorganized Debtors.

**2.3. Preserved Ordinary Course Administrative Claims.** Each Preserved Ordinary Course Administrative Claim is to be paid by the Reorganized Debtors from funds other than the Creditor Fund in accordance with (a) the terms and conditions under which such Claim arose, or (b) in the ordinary course of Reorganized Debtors' business. Such payments are to be made by the Reorganized Debtors without further action by the holder of any such Claim.

**2.4. Allowed Priority Tax Claims.** Any Allowed Priority Tax Claim shall be paid in full in Cash by the Reorganized Debtors from the Creditor Fund on the latest of: (a) the Effective Date, or as soon thereafter as practicable; (b) such date as may be fixed by the Bankruptcy Court, or as soon thereafter as practicable; (c) the tenth (10<sup>th</sup>) Business Day after such Claim is Allowed, or as soon thereafter as practicable; and (d) such date as the holder of such Claim and the Reorganized Debtors may agree.

**2.5. Claims for Professional Fees.** Each Person seeking an award by the Bankruptcy Court of Professional Fees: (a) must file its final application for allowance of compensation for services rendered and reimbursement of expenses incurred through the Effective Date within thirty days (30) after the Effective Date; and (b) if the Bankruptcy Court grants such an award, each such Person must be paid in full in Cash in such amounts as are allowed by the Bankruptcy Court as soon thereafter as practicable. All final applications for allowance and disbursement of Professional Fees must be in compliance with all of the terms and provisions of any applicable order of the Bankruptcy Court, including the Confirmation Order, and all other orders governing payment of Professional Fees. Non-Budgeted Professional Fees shall be paid from the Creditor Fund. Budgeted Professional Fees shall be paid by the Reorganized Debtors from sources other than the Creditor Fund.

**2.6. Post-Effective Date Professional Fees.** All Professional Fees for services rendered in connection with the Chapter 11 Cases and the Plan after the Effective Date are to be paid by Reorganized Debtors from sources other than the Creditor Fund, upon receipt of an invoice for such services, or on such other terms to which the Reorganized Debtors may agree, without the need for further Bankruptcy Court authorization or entry of a Final Order. Reorganized Debtors shall have ten days after the receipt of any such invoice to object to any item contained in such invoice. If the Reorganized Debtors and any Professional cannot agree on the amount of post-Effective Date fees and expenses to be paid to such Professional, such amount will be determined by the Bankruptcy Court.

**ARTICLE 3. CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS**

**3.1. Summary of Classification.** In accordance with Section 1123(a)(1) of the Bankruptcy Code, all Claims of Creditors (except those Claims receiving treatment as set forth in ARTICLE 2) and holders of Equity Interests are placed in the Classes described below for all purposes, including voting on, confirmation of, and distribution under, the Plan:

Class 1	Priority Claims	Unimpaired, deemed to accept
Class 2	Comerica Claims	Unimpaired, deemed to accept
Class 3	Miscellaneous Secured Claims (each secured creditor in a separate class identified as Class 3A, Class 3B etc.)	Impaired, entitled to vote
Class 4	General Unsecured Claims	Impaired, entitled to vote
Class 5	Intercompany Claims	Impaired, entitled to vote
Class 6	Equity Interests	Unimpaired, deemed to accept

**3.2. Specific Classification.**

**3.2.1 Class 1 - Priority Claims.** Class 1 consists of all Priority Claims.

**3.2.2 Class 2 – Comerica Claims.** Class 2 consists of the Comerica Claims.

**3.2.3 Class 3 – Miscellaneous Secured Claims.** Class 3 consists of all Secured Claims, other than the Comerica Claims. Each holder of a Secured Claim is considered to be in its own separate subclass within Class 3, and each such subclass is deemed to be a separate Class for purposes of the Plan and is numbered Class 3A, Class 3B, etc.

**3.2.4 Class 4 - General Unsecured Claims.** Class 4 consists of all General Unsecured Claims.

**3.2.5 Class 5 – Intercompany Claims.** Class 5 consists of the Intercompany Claims.

**3.2.6 Class 6 - Equity Interests.** Class 6 consists of all Equity Interests.

## **ARTICLE 4. TREATMENT OF CLAIMS AND EQUITY INTERESTS**

### **4.1. Class 1 - Priority Claims.**

**4.1.1 Impairment and Voting.** Class 1 is unimpaired by the Plan; consequently, all holders of Allowed Claims in Class 1 are deemed to accept the Plan and are not entitled to vote on the Plan.

**4.1.2 Treatment.** Each holder of an Allowed Priority Claim shall receive Cash from the Creditor Fund in an amount equal to such Allowed Priority Claim on the latest of: (a) the Effective Date, or as soon thereafter as practicable; (b) such date as may be fixed by the Bankruptcy Court, or as soon thereafter as practicable; (c) the tenth (10<sup>th</sup>) Business Day after such Claim is Allowed, or as soon thereafter as practicable; and (d) such date as the holder of such Claim and the Reorganized Debtors may agree.

### **4.2. Class 2 – Comerica Claims.**

**4.2.1 Impairment and Voting.** Class 2 is not impaired under the Plan. Accordingly, holders of Comerica Claims are deemed to have accepted the Plan.

**4.2.2 Treatment.** The Plan shall leave unimpaired the legal, equitable, and contractual rights constituting the Comerica Claims, including, without limitation, any Liens related thereto, and, consequently, the Comerica Claims shall be assumed by the Reorganized Debtors without impairment.

### **4.3. Class 3 – Miscellaneous Secured Claims.**

**4.3.1 Impairment and Voting.** The holders of Allowed Secured Claims in Class 3 are impaired pursuant to the Plan, and, therefore, a holder of an Allowed Secured Claim in Class 3 is entitled to vote on the Plan. For purposes of voting and receiving distributions under the Plan, each holder of an Allowed Secured Claim in Class 3 is considered to be in its own separate subclass within Class 3, and each such subclass is deemed to be a separate Class for purposes of the Plan.

**4.3.2 Options; Treatment.** On or before five (5) Business Days prior to the Confirmation Hearing, with respect to each holder of an Allowed Secured Claim in Class 3, New Yipes and Holdings shall cause the Debtors to elect one of the following alternative treatments for each such Allowed Secured Claim in a particular subclass.

**4.3.2.1 Abandonment.** Pursuant to the Plan, on the Effective Date, New Yipes and Holdings may cause the Reorganized Debtors to agree to abandon or surrender to the holder of such Allowed Secured Claim in Class 3 the Collateral securing such Allowed Secured Claim. Any Unsecured Deficiency Claim asserted by a holder of an Allowed Secured Claim in Class 3 shall be filed with the Bankruptcy Court within thirty (30) days following the date of the surrender or abandonment of such Creditor's collateral. Any such Allowed Unsecured Deficiency Claim shall be treated in accordance with Section 4.4 of the Plan.

**4.3.2.2 Cash.** Pursuant to the Plan, on the Effective Date, New Yipes and Holdings may cause the Reorganized Debtors to pay to the holder of an Allowed Secured Claim in Class 3, on account of such Allowed Secured Claim, Cash equal to such holder's Allowed Secured Claim,