

Edgar Filing: Masterbeat Corp - Form 10-Q

Masterbeat Corp
Form 10-Q
August 20, 2010

U.S. SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

(Mark One)

Quarterly report under Section 13 or 15 (d) of the Securities Exchange

Act of 1934

For the quarter ended June 30, 2010

Transition report under Section 13 or 15 (d) of the Securities Exchange

Act of 1934

For the transition period from _____ to _____

Commission file number 333-144982

MASTERBEAT CORPORATION

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or other jurisdiction of
Incorporation or Organization)

26-0252191
(IRS Employer
Identification No.)

222 East 31st Street - Main Level, New York, New York 10016
(Address of Principal Executive Office) (Zip Code)

(212) 532-1813
(Registrant's Telephone Number, Including Area Code)

N/A
(Former name, former address and former fiscal year,
if changed since last report)

Securities registered under Section 12(b) of the Act: None

Securities registered under Section 12(g) of the Act:

Common Stock par value \$.001 per share

Check whether the issuer: (1) filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the past 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Edgar Filing: Masterbeat Corp - Form 10-Q

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. Check one:

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in

Rule 12b-2 of the Act) Yes No

State the number of shares of outstanding of each of the issuer's classes of common equity, as of the latest practicable date: 13,008,815 shares of Common Stock as of August 19, 2010.

MASTERBEAT CORPORATION
TABLE OF CONTENTS

PART I

Item 1.	Financial Statements	3
	Condensed Balance Sheet at June 30, 2010 (unaudited) and December 31, 2009	3
	Condensed Statements of Operations for the three and six months ended June 30, 2010 and 2009 (unaudited)	4
	Condensed Statement of Stockholders' Equity for the six months ended June 30, 2010 (unaudited)	5
	Condensed Statements of Cash Flows for the six months ended June 30, 2010 and 2009 (unaudited)	6
	Notes to Condensed Financial Statements (unaudited)	7
Item 2.	Management's Discussion and Analysis of Financial Condition and Results of Operations	11
Item 4.	Controls and Procedures	17
PART II		17
Item 1.	Legal Proceedings	17
Item 2.	Unregistered Sales of Equity Securities and Use of Proceeds	17
Item 3.	Defaults Upon Senior Securities	17
Item 4.	(Removed and Reserved)	17
Item 5.	Other Information	17
Item 6.	Exhibits	17
	Signatures	18

PART I

Item 1. Financial Statements

MASTERBEAT CORPORATION
CONDENSED BALANCE SHEETS

	June 30, 2010 (unaudited)	December 31, 2009
ASSETS		
CURRENT ASSETS		
Cash	\$2,555	\$157,906
Accounts receivable,	10,770	81,524
Prepaid expenses	40,000	25,000
Total current assets	53,325	264,43
FIXED ASSETS, net	87,206	95,848
INTANGIBLE ASSETS, net	217,966	237,539
OTHER ASSETS	15,000	15,000
TOTAL ASSETS	\$373,497	\$612,817
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable and accrued liabilities	\$331,069	\$256,134
Short-term notes payable - related party	100,000	200,000
Total current liabilities	431,069	456,134
LONG TERM LIABILITIES		
Convertible notes payable	280,000	-
Liability for unissued shares	100,000	-
STOCKHOLDERS' EQUITY (DEFICIENCY)		
Preferred stock: \$.0001 par value; 20,000,000 shares authorized; no shares issued or outstanding		
Common stock: \$.0001 par value; 80,000,000 shares authorized; 13,008,815 (2010) and 10,000,000 (2009) shares issued and outstanding	1,301	1,000
Subscriptions receivable	-	75,000
Additional paid-in capital	3,582,591	2,636,342
Accumulated deficit	(4,021,466)	(2,555,659)
Total Stockholders' Equity (Deficiency)	(437,574)	156,683
Total Liabilities and Stockholders' Equity (Deficiency)	\$373,497	\$612,817

See notes to condensed financial statements

MASTERBEAT CORPORATION
CONDENSED STATEMENTS OF OPERATIONS
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2010	2009	2010	2009
Revenues	\$201,479	\$ 223,929	\$404,904	\$ 428,446
Cost Of Sales	171,587	104,585	344,187	173,959
Gross Profit	29,892	119,344	60,717	254,487
Operating Expenses				
Depreciation and amortization	19,392	21,295	38,709	41,697
General and administrative	889,778	327,477	1,487,815	680,605
Total Operating Expenses	909,170	348,772	1,526,524	722,302
Net Loss	\$ (879,278)	\$ (229,428)	\$ (1,465,807)	\$ (255,218)
Loss per share	\$ (0.08)	\$ (0.02)	\$ (0.14)	\$ (0.03)
Weighted average shares outstanding	11,574,371	10,000,000	10,803,164	10,000,000

See notes to condensed financial statements

MASTERBEAT CORPORATION
 CONDENSED STATEMENT OF STOCKHOLDERS' EQUITY (DEFICIENCY)
 (Unaudited)

Common Stock	Additional		Total				
\$.0001 Par value	paid-in	Subscriptions	Cash	paid	for	income	
Cash provided by (paid for) reorganization activities (included in net cash provided by operating activities):	paid-in	Subscriptions	Accumulated	taxes	280	140	76
Cash provided by (paid for) reorganization activities (included in net cash provided by operating activities):							
Payments to Leap Creditor Trust		(990)					
Payments for professional fees		(7,975)					
Cash received from vendor settlements, net of cure amounts paid		1,984					
Interest income		1,485					
Supplementary disclosure of non-cash investing and financing activities:							
Issuance of restricted stock awards under stock compensation plan	3,897						

See accompanying notes to condensed consolidated financial statements.

LEAP WIRELESS INTERNATIONAL, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

Note 1. The Company and Nature of Business

Leap Wireless International, Inc. (Leap), a Delaware corporation, together with its wholly owned subsidiaries, is a wireless communications carrier that offers digital wireless service in the United States of America under the brand Cricket®. Leap conducts operations through its subsidiaries and has no independent operations or sources of operating revenue other than through dividends, if any, from its operating subsidiaries. Cricket service is operated by Leap's wholly owned subsidiary, Cricket Communications, Inc. (Cricket). Leap, Cricket and their subsidiaries are collectively referred to herein as the Company. As of September 30, 2005, the Company provided wireless service in 19 states with networks covering a total potential customer base of 27.2 million. As of September 30, 2005, the Company and Alaska Native Broadband 1 License, LLC (ANB 1 License), a wholly owned subsidiary of Alaska Native Broadband 1, LLC (ANB 1), owned wireless licenses covering a total potential customer base of 70.3 million.

In November 2004, the Company acquired a 75% non-controlling membership interest in ANB 1 for the purpose of participating in the Federal Communication Commission's (FCC's) Auction #58 through ANB 1 License (Note 7). The Company consolidates its membership interest in ANB 1.

Note 2. Reorganization and Fresh-Start Reporting

On April 13, 2003 (the Petition Date), Leap, Cricket and substantially all of their subsidiaries filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code (Chapter 11) in the United States Bankruptcy Court for the Southern District of California (the Bankruptcy Court). On October 22, 2003, the Bankruptcy Court confirmed the Fifth Amended Joint Plan of Reorganization (the Plan of Reorganization) of Leap, Cricket and their debtor subsidiaries. All material conditions to the effectiveness of the Plan of Reorganization were resolved on August 5, 2004, and on August 16, 2004 (the Effective Date), the Plan of Reorganization became effective and the Company emerged from Chapter 11 bankruptcy. On that date, a new Board of Directors of Leap was appointed, Leap's previously existing stock, options and warrants were cancelled, and Leap issued 60 million shares of new Leap common stock for distribution to two classes of creditors. The Plan of Reorganization implemented a comprehensive financial reorganization that significantly reduced the Company's outstanding indebtedness. On the Effective Date of the Plan of Reorganization, the Company's long-term debt was reduced from a book value of more than \$2.4 billion to debt with an estimated fair value of \$412.8 million, consisting of new Cricket 13% senior secured pay-in-kind notes due 2011 with a face value of \$350 million and an estimated fair value of \$372.8 million, issued on the Effective Date, and approximately \$40 million of remaining indebtedness to the FCC (net of the repayment of \$45 million of principal and accrued interest to the FCC on the Effective Date). A summary of the material actions that occurred during the bankruptcy process and as of the Effective Date of the Plan of Reorganization is included in the Company's Annual Report on Form 10-K for the year ended December 31, 2004 filed with the Securities and Exchange Commission (SEC) on May 16, 2005.

As of the Petition Date and through the adoption of fresh-start reporting on July 31, 2004, the Company implemented American Institute of Certified Public Accountants' Statement of Position (SOP) 90-7, Financial Reporting by Entities in Reorganization under the Bankruptcy Code. In accordance with SOP 90-7, the Company separately reported certain expenses, realized gains and losses and provisions for losses related to the Chapter 11 filings as reorganization items. In addition, commencing as of the Petition Date and continuing while in bankruptcy, the Company ceased accruing interest and amortizing debt discounts and debt issuance costs for its pre-petition debt that was subject to compromise, which included debt with a book value totaling approximately \$2.4 billion as of the Petition Date.

The Company adopted the fresh-start reporting provisions of SOP 90-7 as of July 31, 2004. Under fresh-start reporting, a new entity is deemed to be created for financial reporting purposes. Therefore, as used in these condensed consolidated financial statements, the Company is referred to as the Predecessor Company

for periods on or prior to July 31, 2004 and is referred to as the Successor Company for periods after July 31, 2004, after giving effect to the implementation of fresh-start reporting. The financial statements of the Successor Company are not comparable in many respects to the financial statements of the Predecessor Company because of the effects of the consummation of the Plan of Reorganization as well as the adjustments for fresh-start reporting.

Under SOP 90-7, reorganization value represents the fair value of the entity before considering liabilities and approximates the amount a willing buyer would pay for the assets of the entity immediately after the reorganization. In implementing fresh-start reporting, the Company allocated its reorganization value to the fair value of its assets in conformity with procedures specified by Statement of Financial Accounting Standards (SFAS) No. 141, Business Combinations, and stated its liabilities, other than deferred taxes, at the present value of amounts expected to be paid. The amount remaining after allocation of the reorganization value to the fair value of the Company's identified tangible and intangible assets is reflected as goodwill, which is subject to periodic evaluation for impairment. In addition, under fresh-start reporting, the Company's accumulated deficit was eliminated and new equity was issued according to the Plan of Reorganization. The determination of reorganization value and the adjustments to the Predecessor Company's consolidated balance sheet at July 31, 2004 resulting from the application of fresh-start reporting are summarized in the Company's Annual Report on Form 10-K for the year ended December 31, 2004.

The fair values of goodwill and intangible assets reported in the Successor Company's consolidated balance sheet were estimated based upon the Company's estimates of future cash flows and other factors including discount rates. If these estimates or the assumptions underlying these estimates change in the future, the Company may be required to record impairment charges. In addition, a permanent and sustained decline in the market value of the Company's outstanding common stock could also result in the requirement to recognize impairment charges in future periods.

Note 3. Basis of Presentation and Significant Accounting Policies

Interim Financial Statements

The accompanying interim condensed consolidated financial statements have been prepared by the Company without audit, in accordance with the instructions to Form 10-Q and, therefore, do not include all information and footnotes required by accounting principles generally accepted in the United States of America for a complete set of financial statements. These condensed consolidated financial statements and notes thereto should be read in conjunction with the consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2004. In the opinion of management, the unaudited financial information for the interim periods presented reflects all adjustments necessary for a fair statement of the results for the periods presented, with such adjustments consisting only of normal recurring adjustments. Operating results for interim periods are not necessarily indicative of operating results for an entire fiscal year.

Principles of Consolidation

The condensed consolidated financial statements include the accounts of Leap and its wholly owned subsidiaries as well as the accounts of ANB 1 and its wholly owned subsidiary ANB 1 License. The Company consolidates its interest in ANB 1 in accordance with FASB Interpretation No. 46-R, Consolidation of Variable Interest Entities, because the Company will absorb a majority of ANB 1's expected losses. All significant intercompany accounts and transactions have been eliminated in the condensed consolidated financial statements.

Reorganization Items

Reorganization items represent amounts incurred by the Predecessor Company as a direct result of the Chapter 11 filings and are presented separately in the Predecessor Company's condensed consolidated statements of operations. For the one and seven month periods ended July 31, 2004, reorganization items consisted primarily of the net gain from the discharge of liabilities, the cancellation of equity upon the

Company's emergence from bankruptcy and the application of fresh-start reporting, income from the settlement of certain pre-petition liabilities and interest income earned while the Company was in bankruptcy, partially offset by professional fees for legal, financial advisory and valuation services directly associated with the Company's Chapter 11 filings and reorganization process.

Restricted Cash, Cash Equivalents and Short-Term Investments

Restricted cash, cash equivalents and short-term investments include funds set aside or pledged to satisfy remaining administrative claims and priority claims against Leap and Cricket following their emergence from bankruptcy, and cash restricted for other purposes.

Revenues and Cost of Revenues

Cricket's business revenues principally arise from the sale of wireless services, handsets and accessories. Wireless services are generally provided on a month-to-month basis. Amounts received in advance for wireless services from customers who pay in advance are initially recorded as deferred revenues and are recognized as service revenue as services are rendered. Service revenues for customers who pay in arrears are recognized only after the service has been rendered and payment has been received. This is because the Company does not require any of its customers to sign long-term service commitments or submit to a credit check, and therefore some of its customers may be more likely to terminate service for inability to pay than the customers of other wireless providers. The Company also charges customers for service plan changes, activation fees and other service fees. Revenues from service plan change fees are deferred and recorded to revenue over the estimated customer relationship period, and other service fees are recognized when received. Activation fees are allocated to the other elements of the multiple element arrangement (including service and equipment) on a relative fair value basis. Because the fair values of the Company's handsets are higher than the total consideration received for the handsets and activation fees combined, the Company allocates the activation fees entirely to equipment revenues and recognizes the activation fees when received. Activation fees included in equipment revenues during the three and nine months ended September 30, 2005 totaled \$5.2 million and \$14.1 million, respectively. Activation fees included in equipment revenues during the one month ended July 31, 2004, the two months ended September 30, 2004 and the seven months ended July 31, 2004 totaled \$1.6 million, \$2.9 million and \$11.8 million, respectively. Direct costs associated with customer activations are expensed as incurred. Cost of service generally includes direct costs and related overhead, excluding depreciation and amortization, of operating the Company's networks.

Equipment revenues arise from the sale of handsets and accessories, and activation fees as described above. Revenues and related costs from the sale of handsets are recognized when service is activated by customers. Revenues and related costs from the sale of accessories are recognized at the point of sale. The costs of handsets and accessories sold are recorded in cost of equipment. Amounts due from third-party dealers and distributors for handsets are recorded as deferred revenue upon shipment of the handsets by the Company to such dealers and distributors and are recognized as equipment revenues when service is activated by customers. Handsets sold by third-party dealers and distributors are recorded as inventory until they are sold to and activated by customers. Sales incentives offered without charge to customers and volume-based incentives paid to the Company's third-party dealers and distributors are recognized as a reduction of revenue and as a liability when the related service or equipment revenue is recognized. Customers have limited rights to return handsets and accessories based on time and/or usage. Returns of handsets and accessories have historically been insignificant.

Property and Equipment

Property and equipment are initially recorded at cost. Additions and improvements, including interest and certain labor costs incurred during the construction period, are capitalized, while expenditures that do not enhance the asset or extend its useful life are charged to operating expenses as incurred. Depreciation is applied using the straight-line method over the estimated useful lives of the assets once the assets are placed in service.

Upon emergence from Chapter 11 and adoption of fresh-start reporting, the Company re-assessed the carrying values and useful lives of its property and equipment. As a result of this re-assessment, which included a review of the Company's historical usage of and expected future service from existing property and equipment, and a review of industry averages for similar property and equipment, the Company changed the depreciable lives for certain network equipment assets. These network equipment assets that were previously depreciated over periods ranging from two to five years are now depreciated over periods ranging from three to fifteen years. The estimated useful lives for the Company's other property and equipment, which have remained unchanged, are three to five years for computer hardware and software, and three to seven years for furniture, fixtures and retail and office equipment. Property and equipment to be disposed of by sale is not depreciated, and is carried at the lower of carrying value or fair value less costs to sell.

The Company's network construction expenditures are recorded as construction-in-progress until the network or assets are placed in service, at which time the assets are transferred to the appropriate property and equipment category. As a component of construction-in-progress, the Company capitalizes interest, rent expense and salaries and related costs of engineering and technical operations employees, to the extent time and expense are contributed to the construction effort, during the construction period. The Company capitalized \$3.6 million and \$4.3 million of interest to property and equipment during the three and nine months ended September 30, 2005, respectively.

At September 30, 2005 and December 31, 2004, there was no material property and equipment to be disposed of by sale.

Impairment of Long-Lived Assets

In accordance with SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, the Company assesses potential impairments to its long-lived assets, including property and equipment and certain intangible assets, when there is evidence that events or changes in circumstances indicate that the carrying value may not be recoverable. An impairment loss may be required to be recognized when the undiscounted cash flows expected to be generated by a long-lived asset (or group of such assets) is less than its carrying value. Any required impairment loss would be measured as the amount by which the asset's carrying value exceeds its fair value and would be recorded as a reduction in the carrying value of the related asset and charged to results of operations.

Wireless Licenses

Wireless licenses are initially recorded at cost. The Company has determined that its wireless licenses meet the definition of indefinite-lived intangible assets under SFAS No. 142, *Goodwill and Other Intangible Assets*. Wireless licenses to be disposed of by sale are carried at the lower of carrying value or fair value less costs to sell. At September 30, 2005, wireless licenses with a carrying value of \$9.8 million were classified in assets held for sale (see Note 7). At December 31, 2004, wireless licenses to be disposed of by sale were not significant. In connection with the adoption of fresh-start reporting, the Company increased the carrying value of its wireless licenses to their estimated fair market values.

Goodwill and Other Intangible Assets

Goodwill represents the excess of reorganization value over the fair value of identified tangible and intangible assets recorded in connection with fresh-start reporting. Other intangible assets were recorded upon adoption of fresh-start reporting and consist of customer relationships and trademarks, which are being amortized on a straight-line basis over their estimated useful lives of four and fourteen years, respectively. At September 30, 2005 and December 31, 2004, there were no intangible assets to be disposed of by sale.

Impairment of Indefinite-lived Intangible Assets

In accordance with SFAS No. 142, the Company assesses potential impairments to its indefinite-lived intangible assets, consisting of goodwill and wireless licenses, annually and when there is evidence that events or changes in circumstances indicate that an impairment condition may exist. An impairment loss is

recognized when the fair value of the asset is less than its carrying value, and would be measured as the amount by which the asset's carrying value exceeds its fair value. Any required impairment loss would be recorded as a reduction in the carrying value of the related asset and charged to results of operations. The Company currently conducts its annual tests for impairment during the third quarter of each year. As a result of the annual impairment test of wireless licenses, the Company recorded impairment charges of \$0.7 million in the third quarter of fiscal 2005 to reduce the carrying value of certain non-operating wireless licenses to their estimated fair market values. Estimates of fair market value of the Company's wireless licenses are based primarily on available market prices, including successful bid prices in FCC auctions and selling prices observed in wireless license transactions. The Company's wireless licenses in its operating markets are combined into a single unit of accounting for purposes of testing impairment because management believes that these wireless licenses as a group represent the highest and best use of the assets, and the value of the wireless licenses would not be significantly impacted by a sale of one or a portion of the wireless licenses, among other factors.

During the second quarter of fiscal 2005, the Company recorded impairment charges of \$11.4 million to reduce the carrying value of certain non-operating wireless licenses to their estimated fair values as a result of a potential sale transaction (see Note 7).

Basic and Diluted Net Income (Loss) Per Share

Basic earnings per share is calculated by dividing net income (loss) by the weighted average number of common shares outstanding during the reporting period. Diluted earnings per share reflect the potential dilutive effect of additional common shares that are issuable upon exercise of outstanding stock options, restricted stock awards and warrants calculated using the treasury stock method.

A reconciliation of weighted average shares outstanding used in calculating basic and diluted net income (loss) per share for the three and nine months ended September 30, 2005, the two months ended September 30, 2004 and the one and seven months ended July 31, 2004 is as follows (unaudited) (in thousands):

	Successor Company		Predecessor Company
	Three Months Ended September 30, 2005	Two Months Ended September 30, 2004	One Month Ended July 31, 2004
Weighted average shares outstanding			
per share	60,246	60,000	58,631
Effect of dilutive securities			
Adjusted weighted average shares outstanding			
diluted earnings per share	60,246	60,000	58,631

	Successor Company		Predecessor Company
	Nine Months Ended September 30, 2005	Two Months Ended September 30, 2004	Seven Months Ended July 31, 2004
Weighted average shares outstanding basic earnings per share	60,093	60,000	58,623
Effect of dilutive securities:			
Non-qualified stock options	62		
Restricted stock awards	327		
Warrants to MCG	245		
Adjusted weighted average shares outstanding diluted earnings per share	60,727	60,000	58,623

The number of shares not included in the computation of diluted net income (loss) per share because their effect would have been antidilutive totaled 3.3 million and 0.4 million for the three and nine months ended September 30, 2005, respectively, 0.6 million for the two months ended September 30, 2004 and 11.7 million for both the one and seven months ended July 31, 2004.

Stock-based Compensation

The Company measures compensation expense for its employee and director stock-based compensation plans using the intrinsic value method. All outstanding stock options of the Predecessor Company were cancelled upon emergence from bankruptcy in accordance with the Plan of Reorganization. The Board of Directors of the Company adopted the Leap Wireless International, Inc. 2004 Stock Option, Restricted Stock and Deferred Stock Unit Plan (the 2004 Plan) on December 30, 2004. A total of 4,800,000 shares of Leap common stock are reserved for issuance under the 2004 Plan. During the three months ended September 30, 2005, the Company granted a total of 390,975 non-qualified stock options and 125,781 shares of restricted common stock to directors, executive officers, and other employees of the Company. During the nine months ended September 30, 2005, the Company granted a total of 2,073,692 non-qualified stock options, 932,204 shares of restricted common stock and 246,484 deferred stock units to directors, executive officers and other employees of the Company. There were no stock options, restricted stock shares or deferred stock units issued during the three or nine months ended September 30, 2004.

The non-qualified stock options were granted with an exercise price equal to the market price of the common stock on the date of grant. The restricted shares of common stock were granted with an exercise price of \$0.0001 per share, and the weighted average grant date market price of the restricted common stock was \$30.98 per share. The stock options and restricted common stock vest in full three or five years from the grant date with no interim time-based vesting, but with provisions for annual accelerated performance-based vesting of a portion of the awards if the Company achieves specified performance conditions. The deferred stock units were immediately vested upon grant and allowed the holders to purchase common stock at an exercise price of \$0.0001 per share in a 30-day period commencing on the earlier of August 15, 2005 or the date the holder's employment was terminated. The weighted average grant date market price of the deferred stock units was \$27.87 per share.

The Company recorded \$2.7 million and \$9.9 million in stock-based compensation expense for the three and nine months ended September 30, 2005, respectively, resulting from the grant of the restricted common stock and deferred

stock units. The total intrinsic value of the deferred stock units of \$6.9 million was recorded as stock-based compensation expense during the nine months ended September 30, 2005 because the deferred stock units were immediately vested upon grant. The total intrinsic value of the restricted stock awards as of the measurement dates was recorded as unearned compensation, which is included in stockholders' equity in the unaudited condensed consolidated balance sheet as of September 30, 2005. The unearned compensation is amortized on a straight-line basis over the maximum vesting period of the awards of either three or five years.

Edgar Filing: Masterbeat Corp - Form 10-Q

For the three and nine months ended September 30, 2005, \$2.7 million and \$2.9 million, respectively, was recorded in stock-based compensation expense for the amortization of unearned compensation.

The following table shows the amount of stock-based compensation expense included in operating expenses (allocated to the appropriate line item based on employee classification) in the condensed consolidated statements of operations for the three and nine months ended September 30, 2005 (in thousands):

	Three Months Ended	Nine Months Ended
September 30, 2005		
Stock-based compensation expense included in:		
Cost of service	\$ 217	\$ 1,014
Selling and marketing expenses	203	896
General and administrative expenses	2,301	7,941
Total stock-based compensation expense	\$ 2,721	\$ 9,851

The following table shows the effects on net income (loss) and net income (loss) per share if the Company had applied the fair value provisions of SFAS No. 123, Accounting for Stock-Based Compensation in measuring compensation expense for its stock-based compensation plans (unaudited) (in thousands, except per share data):

	Successor Company		Predecessor Company
	Three Months Ended September 30, 2005	Two Months Ended September 30, 2004	One Month Ended July 31, 2004
As reported net income (loss)	\$ (7,562)	\$ (1,982)	\$ 959,365
Add back stock-based compensation expense included in net income (loss)	2,721		18
Less net pro forma compensation (expense) benefit	(4,962)		1,336
Pro forma net income (loss)	\$ (9,803)	\$ (1,982)	\$ 960,719
Basic net income (loss) per share:			
As reported	\$ (0.13)	\$ (0.03)	\$ 16.36
Pro forma	\$ (0.16)	\$ (0.03)	\$ 16.39
Diluted net income (loss) per share:			
As reported	\$ (0.13)	\$ (0.03)	\$ 16.36

Edgar Filing: Masterbeat Corp - Form 10-Q

Pro forma	\$	(0.16)	\$	(0.03)	\$	16.39
-----------	----	--------	----	--------	----	-------

	Successor Company		Predecessor Company
	Nine Months Ended September 30, 2005	Two Months Ended September 30, 2004	Seven Months Ended July 31, 2004
As reported net income (loss)	\$ 7,613	\$ (1,982)	\$ 913,190
Add back stock-based compensation (benefit) expense included in net income (loss)	9,851		(837)
Less net pro forma compensation (expense) benefit	(15,002)		6,209
Pro forma net income (loss)	\$ 2,462	\$ (1,982)	\$ 918,562
Basic net income (loss) per share:			
As reported	\$ 0.13	\$ (0.03)	\$ 15.58
Pro forma	\$ 0.04	\$ (0.03)	\$ 15.67
Diluted net income (loss) per share:			
As reported	\$ 0.13	\$ (0.03)	\$ 15.58
Pro forma	\$ 0.04	\$ (0.03)	\$ 15.67

The weighted average fair values per share on the grant date for stock options granted during the three and nine months ended September 30, 2005 was \$26.31 and \$20.58, respectively, which was estimated using the Black-Scholes option pricing model and the following weighted average assumptions:

	Three Months Ended	Nine Months Ended
	September 30, 2005	
Risk free interest rate	3.93%	3.61%
Expected dividend yield		
Expected volatility	87%	87%
Expected life (in years)	6.5	5.7

Employee Stock Purchase Plan

In September 2005, the Company commenced an Employee Stock Purchase Plan (the "ESP Plan") which allows eligible employees to purchase shares of common stock during a specified offering period. The purchase price is 85% of the lower of the fair market value of such stock on the first or last day of the offering period. Employees may authorize the Company to withhold up to 15% of their compensation during any offering period for the purchase of

shares of common stock under the ESP Plan, subject to certain limitations. The initial offering period under the ESP Plan is from September 15, 2005 through December 31, 2005. A total of 800,000 shares of common stock have been reserved for issuance under the ESP Plan. The ESP Plan is a non-compensatory plan under the provisions of Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees.

Reclassifications

Certain prior period amounts have been reclassified to conform to the current period presentation.

Recent Accounting Pronouncements

In October 2005, the FASB issued FASB Staff Position (FSP) No. FAS 13-1, Accounting for Rental Costs Incurred During a Construction Period. This FSP addresses whether a lessee may capitalize rental costs associated with ground and building operating leases incurred during a construction period. Rental costs associated with ground or building operating leases that are incurred during a construction period shall be

recognized as rental expense and included in income from continuing operations. A lessee shall cease capitalizing rental costs as of the effective date of this FSP for operating lease arrangements entered into prior to the effective date of this FSP. Adoption of this FSP is required for the Company's first quarter beginning January 1, 2006. The Company has not yet determined the impact that the adoption of FSP No. FAS 13-1 will have on its consolidated financial position or results of operations.

Note 4. Supplementary Balance Sheet Information (in thousands):

	Successor Company	
	September 30, 2005	December 31, 2004
	(Unaudited)	
Property and equipment, net:		
Network equipment	\$ 642,943	\$ 599,598
Computer equipment and other	33,247	26,285
Construction-in-progress	33,584	10,517
	709,774	636,400
Accumulated depreciation	(177,030)	(60,914)
	\$ 532,744	\$ 575,486
Accounts payable and accrued liabilities:		
Trade accounts payable	\$ 28,337	\$ 35,184
Accrued payroll and related benefits	11,557	13,579
Other accrued liabilities	36,291	42,330
	\$ 76,185	\$ 91,093
Other current liabilities:		
Accrued taxes	\$ 33,449	\$ 49,860
Deferred revenue	20,645	18,145
Accrued interest		1,025
Other	5,419	2,935
	\$ 59,513	\$ 71,965

Note 5. Debt

Credit Agreement

On January 10, 2005, Cricket entered into a senior secured credit agreement (the "Credit Agreement") with a syndicate of lenders and Bank of America, N.A. (as administrative agent and letter of credit issuer).

The new facilities under the Credit Agreement originally consisted of a six-year \$500 million term loan, which was fully drawn at closing, and an undrawn five-year \$110 million revolving credit facility. Under the Credit Agreement, the term loan bears interest at the London Interbank Offered Rate (LIBOR) plus 2.5 percent, with interest periods of one, two, three or six months, or bank base rate plus 1.5 percent, as selected by Cricket. Outstanding borrowings under the \$500 million term loan must be repaid in 20 quarterly payments of \$1.25 million each,

Edgar Filing: Masterbeat Corp - Form 10-Q

commencing March 31, 2005, followed by four quarterly payments of \$118.75 million each, commencing March 31, 2010. The maturity date for outstanding borrowings under the revolving credit facility is January 10, 2010. The commitment of the lenders under the revolving credit facility may be reduced in the event mandatory prepayments are required under the Credit Agreement and by one-twelfth of the original aggregate revolving credit commitment on January 1, 2008 and by one-sixth of the original aggregate revolving credit commitment on January 1, 2009 (each such amount to be net of all prior reductions) based on certain leverage ratios and other tests. The commitment fee on the revolving credit

facility is payable quarterly at a rate of 1.0 percent per annum when the utilization of the facility (as specified in the Credit Agreement) is less than 50 percent and at 0.75 percent per annum when the utilization exceeds 50 percent. Borrowings under the revolving credit facility would currently accrue interest at LIBOR plus 2.5 percent, with interest periods of one, two, three or six months, or bank base rate plus 1.5 percent, as selected by Cricket, with the rate subject to adjustment based on the Company's leverage ratio. The new credit facilities are guaranteed by Leap and all of its direct and indirect domestic subsidiaries (other than Cricket, which is the primary obligor, ANB 1 and ANB 1 License) and are secured by all present and future personal property and owned real property of Leap, Cricket and such direct and indirect domestic subsidiaries.

A portion of the proceeds from the term loan borrowing was used to redeem Cricket's 13% senior secured pay-in-kind notes, to pay approximately \$43 million of call premium and accrued interest on such notes, to repay approximately \$41 million in principal amount of debt and accrued interest owed to the FCC, and to pay transaction fees and expenses.

Under the Credit Agreement, the Company is subject to certain limitations, including limitations on its ability to: incur additional debt or sell assets, with restrictions on the use of proceeds; make certain investments and acquisitions; grant liens; and pay dividends and make certain other restricted payments. In addition, the Company will be required to pay down the facilities under certain circumstances if it issues debt or equity, sells assets or property, receives certain extraordinary receipts or generates excess cash flow (as defined in the Credit Agreement). The Company is also subject to financial covenants which include a minimum interest coverage ratio, a maximum total leverage ratio, a maximum senior secured leverage ratio and a minimum fixed charge coverage ratio.

Affiliates of Highland Capital Management, L.P. (a beneficial stockholder of Leap and an affiliate of James D. Dondero, a director of Leap) participated in the syndication of the Credit Agreement in the following initial amounts: \$100 million of the \$500 million term loan and \$30 million of the \$110 million revolving credit facility.

On July 22, 2005, the Company amended the Credit Agreement to increase the six-year \$500 million term loan by \$100 million. The interest and related terms are substantially the same as the original term loan agreement. Outstanding borrowings under the incremental term loan must be repaid in 18 quarterly payments of approximately \$278,000 each, commencing September 30, 2005, followed by four quarterly payments of \$23.75 million each, commencing March 31, 2010. The Company also amended the terms of the facility to accommodate the planned expansion of the Company's business including: increasing certain leverage ratios and permitting the Company to invest up to \$325 million in ANB 1 and ANB 1 License and up to \$60 million in other joint ventures. The amendments also increased the amount of permitted purchase money security interests and capitalized leases and also allow the Company to provide limited guarantees for the benefit of ANB 1 License and other joint ventures.

Affiliates of Highland Capital Management, L.P. (a beneficial stockholder of Leap and an affiliate of James D. Dondero, a director of Leap) participated in the syndication of the additional term facility in the amount of \$9 million of the \$100 million term loan increase.

At September 30, 2005, the effective interest rate on the \$600 million term loan was 6.4%, including the effect of interest rate swaps, and the outstanding indebtedness was \$596.0 million. The terms of the Credit Agreement require the Company to enter into interest rate hedging agreements in an amount equal to at least 50% of its outstanding indebtedness. In accordance with this requirement, in April 2005 the Company entered into interest rate swap agreements with respect to \$250 million of its debt. These swap agreements effectively fix the interest rate on \$250 million of the outstanding indebtedness at 6.7% through June 2007. In July 2005, the Company entered into another interest rate swap agreement with respect to a further \$105 million of its outstanding indebtedness. This swap agreement effectively fixes the interest rate on \$105 million of the outstanding indebtedness at 6.8% through June 2009. The \$2.0 million fair value of the swap agreements at September 30, 2005 was recorded as an asset in the condensed consolidated balance sheet.

Senior Secured Pay-In-Kind Notes Issued Under Plan of Reorganization

On the Effective Date of the Plan of Reorganization, Cricket issued new 13% senior secured pay-in-kind notes due 2011 with a face value of \$350 million and an estimated fair value of \$372.8 million. As of December 31, 2004, the carrying value of the notes was \$371.4 million. A portion of the proceeds from the term loan facility under the new Credit Agreement was used to redeem these notes. Upon repayment of these notes, the Company recorded a loss from debt extinguishment of approximately \$1.7 million which was included in other income (expense) in the condensed consolidated statement of operations for the nine months ended September 30, 2005.

US Government Financing

The balance in current maturities of long-term debt at December 31, 2004 consisted entirely of debt obligations to the FCC incurred as part of the purchase price for wireless licenses. At July 31, 2004, the remaining principal of the FCC debt was revalued in connection with the Company's adoption of fresh-start reporting. The carrying value of this debt at December 31, 2004 was \$40.4 million. The balance was repaid in full in January 2005 with a portion of the term loan borrowing as noted above. Upon repayment of this debt, the Company recorded a gain from debt extinguishment of approximately \$0.4 million which was included in other income (expense) in the condensed consolidated statement of operations for the nine months ended September 30, 2005.

Note 6. Income Taxes

The Company estimates income taxes in each of the jurisdictions in which it operates. This process involves estimating the actual current tax liability together with assessing temporary differences resulting from differing treatments of items for tax and accounting purposes. These differences result in deferred tax assets and liabilities. The provision for income taxes during interim quarterly reporting periods is based on the Company's estimate of the annual effective tax rate for the full fiscal year. The Company must then assess the likelihood that its deferred tax assets will be recovered from future taxable income. To the extent that the Company believes that recovery is not likely, it must establish a valuation allowance. Significant management judgment is required in determining the provision for income taxes, deferred tax assets and liabilities and any valuation allowance recorded against net deferred tax assets. The Company has recorded a full valuation allowance on its net deferred tax asset balances for all periods presented because of uncertainties related to utilization of deferred tax assets. At such time as it is determined that it is more likely than not that the deferred tax assets are realizable, the valuation allowance will be reduced. Pursuant to SOP 90-7, future decreases in the valuation allowance associated with Predecessor Company deferred tax assets will be accounted for as a reduction in goodwill.

Note 7. Significant Acquisitions and Dispositions

In February 2005, Cricket's wholly owned subsidiary, Cricket Licensee (Reaction), Inc., was named the winning bidder in the FCC's Auction #58 for four wireless licenses for \$166.9 million. Cricket Licensee (Reaction), Inc. purchased these licenses, after approval by the FCC, in May 2005.

In February 2005, ANB 1 License was named the winning bidder in Auction #58 for nine wireless licenses for \$68.2 million. ANB 1 License purchased these licenses, after approval by the FCC, in September 2005.

On June 24, 2005, Cricket completed its purchase of a wireless license to provide service in Fresno, California and related assets for approximately \$27.6 million. The Company launched service in Fresno on August 2, 2005.

On August 3, 2005, subsidiaries of Leap completed the sale of 23 wireless licenses and substantially all of the Company's operating assets in its Michigan markets for \$102.5 million, resulting in a gain of \$14.6 million. The Company had not launched commercial operations in most of the markets covered by the licenses sold. The long-lived assets included in this transaction consisted of wireless licenses with a carrying value of

\$70.8 million, property and equipment with a net book value of \$14.9 million and intangible assets with a net book value of \$1.9 million.

In September 2005, the Company entered into an agreement to sell non-operating wireless spectrum licenses covering 0.9 million potential customers for a sales price of approximately \$10.0 million, subject to FCC approval of the transfer of the licenses. During the second quarter of fiscal 2005, the Company recorded impairment charges of \$11.4 million to adjust the carrying values of these licenses to their estimated fair values, which were based on the agreed upon sales prices. The aggregate carrying value of these wireless licenses of \$9.8 million has been classified in assets held for sale in the condensed consolidated balance sheet as of September 30, 2005.

In November 2005, the Company signed an agreement to sell its wireless licenses and operating assets in its Toledo and Sandusky, Ohio markets for approximately \$28.5 million and an equity interest in a new joint venture company which owns a wireless license in the Portland, Oregon market. The Company also agreed to contribute to the joint venture approximately \$25 million and certain of the Company's wireless licenses and related operating assets in Eugene and Salem, Oregon to increase its non-controlling membership interest in the joint venture to approximately 73%. Completion of these transactions is subject to customary closing conditions, including among others, FCC approval of the transfers of the wireless licenses, other third party consents and a financing condition for the benefit of one of the other parties. If the financing condition is not waived prior to December 15, 2005, the Company instead would transfer to the purchaser the same wireless licenses and operating assets in Ohio in exchange for \$12.4 million and the transfer of the Portland license to a different joint venture company. In this case, the Company would own a 75% non-controlling interest in the joint venture and would fund the joint venture's acquisition and build-out of the Portland license through a \$75.6 million secured credit facility between the Company and the joint venture.

Note 8. Commitments and Contingencies

Although the Company's Plan of Reorganization became effective and the Company emerged from bankruptcy in August 2004, several claims asserted against the Company in connection with the bankruptcy proceedings remain outstanding. The open items consist primarily of claims by governmental entities for payment of taxes relating to periods prior to the date the Company filed for bankruptcy, including claims aggregating approximately \$7.9 million asserted by foreign governmental entities. Generally, the Company has objected or intends to object to the amounts the various claimants assert is outstanding, and the Company is seeking to resolve the open issues through negotiation and appropriate court proceedings. The Company does not believe that the resolution of the outstanding claims will have a material adverse effect on its consolidated financial statements.

On December 31, 2002, several members of American Wireless Group, LLC, referred to as AWG, filed a lawsuit against various officers and directors of Leap in the Circuit Court of the First Judicial District of Hinds County, Mississippi, referred to herein as the Whittington Lawsuit. Leap purchased certain FCC wireless licenses from AWG and paid for those licenses with shares of Leap stock. The complaint alleges that Leap failed to disclose to AWG material facts regarding a dispute between Leap and a third party relating to that party's claim that it was entitled to an increase in the purchase price for certain wireless licenses it sold to Leap. In their complaint, plaintiffs seek rescission and/or damages according to proof at trial of not less than the aggregate amount paid for the Leap stock (alleged in the complaint to have a value of approximately \$57.8 million in June 2001 at the closing of the license sale transaction), plus interest, punitive or exemplary damages in the amount of not less than three times compensatory damages, and costs and expenses. Plaintiffs contend that the named defendants are the controlling group that was responsible for Leap's alleged failure to disclose the material facts regarding the third party dispute and the risk that the shares held by the plaintiffs might be diluted if the third party was successful in an arbitration proceeding. Defendants filed a motion to compel arbitration or in the alternative, dismiss the Whittington Lawsuit, noting that plaintiffs as members of AWG agreed to arbitrate disputes pursuant to the license purchase agreement, that they failed to plead facts that show that they are entitled to relief, that Leap made adequate disclosure of the relevant facts regarding the third party dispute, and that any failure to disclose such information did not cause any damage to the plaintiffs.

In a related action to the action described above, on June 6, 2003, AWG filed a lawsuit in the Circuit Court of the First Judicial District of Hinds County, Mississippi, referred to herein as the AWG Lawsuit, against the same individual defendants named in the Whittington Lawsuit. The complaint generally sets forth the same claims made by the plaintiffs in the Whittington Lawsuit. In its complaint, plaintiff seeks rescission and/or damages according to proof at trial of not less than the aggregate amount paid for the Leap stock (alleged in the complaint to have a value of approximately \$57.8 million in June 2001 at the closing of the license sale transaction), plus interest, punitive or exemplary damages in the amount of not less than three times compensatory damages, and costs and expenses. Defendants filed a motion to compel arbitration or in the alternative, dismiss the AWG Lawsuit, making arguments similar to those made in their motion to dismiss the Whittington Lawsuit.

Although Leap is not a defendant in either the Whittington or AWG Lawsuits, several of the defendants have indemnification agreements with the Company. Leap's D&O insurers have not filed a reservation of rights letter and have been paying defense costs. Management believes that the liability, if any, from the AWG and Whittington Lawsuits and the related indemnity claims of the defendants against Leap is neither probable nor reasonably estimable; therefore, no accrual has been made in the Company's condensed consolidated financial statements as of September 30, 2005 related to these contingencies.

A third party with a large patent portfolio has contacted the Company and suggested that the Company needs to obtain a license under a number of patents in connection with the Company's current business operations. The Company understands that the third party has initiated similar discussions with other telecommunications carriers. The Company does not currently expect that the resolution of this matter will have a material adverse effect on the Company's consolidated financial statements.

The Company is involved in certain other claims arising in the course of business, seeking monetary damages and other relief. The amount of the liability, if any, from such claims cannot currently be reasonably estimated; therefore, no accruals have been made in the Company's condensed consolidated financial statements as of September 30, 2005 for such claims. In the opinion of the Company's management, the ultimate liability for such claims will not have a material adverse effect on the Company's consolidated financial statements.

In October 2005, the Company agreed to purchase a minimum of \$90.5 million of products and services from Nortel Networks Inc. from October 11, 2005 through October 10, 2008, and the Company agreed to purchase a minimum of \$119 million of products and services from Lucent Technologies Inc. from October 1, 2005 through September 30, 2008. Separately, ANB 1 License is obligated to purchase a minimum of \$39.5 million and \$6.0 million of products and services from Nortel Networks Inc. and Lucent Technologies Inc., respectively, over the same three year terms as those for the Company.

The Company has entered into non-cancelable operating lease agreements to lease its administrative and retail facilities, certain equipment, and sites for towers, equipment and antennas required for the operation of its wireless networks. These leases typically include renewal options and escalation clauses. In general, site leases have five year initial terms with four five year renewal options. The following table summarizes the approximate future minimum rentals under non-cancelable operating leases, including renewals that are reasonably assured, in effect at September 30, 2005 (in thousands):

Year Ended December 31:

Remainder of 2005	\$	13,630
2006		39,144
2007		25,796
2008		23,092
2009		20,788
Thereafter		103,231
Total	\$	225,681

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

As used in this report, the terms we, our, ours, and us refer to Leap Wireless International, Inc., a Delaware corporation, and its subsidiaries, unless the context suggests otherwise. Leap refers to Leap Wireless International, Inc., and Cricket refers to Cricket Communications, Inc. Unless otherwise specified, information relating to population and potential customers, or POPs, is based on 2005 population estimates provided by Claritas Inc.

The following information should be read in conjunction with the unaudited condensed consolidated financial statements and notes thereto included in Item 1 of this Quarterly Report and the audited consolidated financial statements and notes thereto and Management's Discussion and Analysis of Financial Condition and Results of Operations included in our Annual Report on Form 10-K for the year ended December 31, 2004 filed with the Securities and Exchange Commission on May 16, 2005.

Except for the historical information contained herein, this document contains forward-looking statements reflecting management's current forecast of certain aspects of our future. These forward-looking statements are subject to a number of risks, uncertainties and assumptions that could cause actual results to differ materially from those anticipated or implied in our forward-looking statements. Such risks, uncertainties and assumptions include, among other things:

our ability to attract and retain customers in an extremely competitive marketplace;

changes in economic conditions that could adversely affect the market for wireless services;

the impact of competitors' initiatives;

our ability to successfully implement product offerings and execute market expansion plans;

our ability to comply with the covenants in our senior secured credit facilities;

our ability to attract, motivate and retain an experienced workforce;

failure of network systems to perform according to expectations; and

other factors detailed in the section entitled "Risk Factors" included in this report.

All forward-looking statements in this report should be considered in the context of these risk factors. We undertake no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this report may not occur and actual results could differ materially from those anticipated or implied in the forward-looking statements. Accordingly, readers of this report are cautioned not to place undue reliance on the forward-looking statements.

Overview

Our Business. We conduct our business primarily through Cricket. Cricket provides mobile wireless services targeted to meet the needs of customers who are under-served by traditional communications companies. Our Cricket service is a simple and affordable wireless alternative to traditional landline service. Through our affordable, flat-rate service plans, our Cricket service offers customers a choice of unlimited local voice minutes, unlimited domestic long distance voice minutes, unlimited text, instant and picture messaging and additional value added services over a high-quality, all-digital CDMA network. Our revenues come from the sale of wireless services, handsets and accessories to customers. Our liquidity and capital resources come primarily from our existing cash, cash equivalents and short-term investments, cash generated from operations, and cash available from borrowings under our revolving credit facility. In addition, in August 2005, we completed the sale of 23 wireless licenses and substantially all of our operating assets in our Michigan markets for \$102.5 million.

At September 30, 2005, we operated in 19 states and had approximately 1,623,000 customers, and the total potential customer base covered by our networks in our operating markets was approximately 27.2 million. As of September 30, 2005, we and Alaska Native Broadband 1 License, LLC, referred to in this report as ANB 1 License, owned wireless licenses covering a total potential customer base of 70.3 million in the aggregate. ANB 1 License is a wholly owned subsidiary of Alaska Native Broadband 1, LLC, referred to in this report as ANB 1, an entity in which we own a 75% non-controlling interest.

In February 2005, a wholly owned subsidiary of Cricket was named the winning bidder in the FCC's Auction #58 for four wireless licenses covering approximately 11.1 million potential customers. We acquired these licenses in May 2005. We currently expect to launch commercial operations in the markets covered by these licenses and have commenced build-out activities. In addition, in February 2005, ANB 1 License was the winning bidder in Auction #58 for nine wireless licenses covering approximately 10.1 million potential customers. ANB 1 License purchased these licenses, after approval by the FCC, in September 2005. In July 2005, we increased the term loan portion of our senior secured credit facility by \$100 million to increase our liquidity and help assure we have sufficient funds for the build-out and initial operation of our new licenses and to finance the build-out and initial operation of the licenses acquired by ANB 1 License. For a further discussion of our arrangements with Alaska Native Broadband, see Item 1. Business Arrangements with Alaska Native Broadband in our Annual Report on Form 10-K for the year ended December 31, 2004 filed with the Securities and Exchange Commission on May 16, 2005.

Voluntary Reorganization Under Chapter 11. On April 13, 2003, Leap, Cricket and substantially all of their subsidiaries filed voluntary petitions for relief under Chapter 11 in the U.S. Bankruptcy Court for the Southern District of California. On August 5, 2004, all material conditions to the effectiveness of the Plan of Reorganization were resolved and, on August 16, 2004, the Plan of Reorganization became effective and the Company emerged from Chapter 11 bankruptcy. On that date, a new Board of Directors of Leap was appointed, our previously existing stock, options and warrants were cancelled, and Leap issued 60 million shares of new Leap common stock for distribution to two classes of creditors.

Our Plan of Reorganization implemented a comprehensive financial reorganization that significantly reduced our outstanding indebtedness. When the Plan of Reorganization became effective on August 16, 2004, our long-term debt was reduced from a book value of more than \$2.4 billion to debt with an estimated fair value of \$412.8 million, consisting of new Cricket 13% senior secured pay-in-kind notes due 2011 with a face value of \$350 million and an estimated fair value of \$372.8 million and approximately \$40 million of remaining indebtedness to the FCC. On January 10, 2005, we entered into new senior secured credit facilities and used a portion of the proceeds from the \$500 million term loan included as a part of such facilities to redeem Cricket's 13% senior secured pay-in-kind notes and to repay the remaining indebtedness to the FCC. The new facilities consisted of a six-year \$500 million term loan and a five-year \$110 million revolving credit facility, and we amended the facilities in July 2005 to increase the term loan by \$100 million.

Fresh-Start Reporting. In connection with our emergence from Chapter 11, we adopted the fresh-start reporting provisions of Statement of Position 90-7, Financial Reporting by Entities in Reorganization under the Bankruptcy Code, or SOP 90-7, as of July 31, 2004. Under SOP 90-7, reorganization value represents the fair value of the entity before considering liabilities and approximates the amount a willing buyer would pay for the assets of the entity immediately after the reorganization. In implementing fresh-start reporting, we allocated our reorganization value to the fair value of our assets in conformity with procedures specified by SFAS No. 141, Business Combinations, and stated our liabilities, other than deferred taxes, at the present value of amounts expected to be paid. The amount remaining after allocation of the reorganization value to the fair value of our identified tangible and intangible assets is reflected as goodwill, which is subject to periodic evaluation for impairment. In addition, under fresh-start reporting, our accumulated deficit was eliminated and new equity was issued according to the Plan of Reorganization. See further discussion of fresh-start reporting in our Annual Report on Form 10-K for the year ended December 31, 2004.

This overview is intended to be only a summary of significant matters concerning our results of operations and financial condition. It should be read in conjunction with the management discussion below and all of the

business and financial information contained in this report, including the condensed consolidated financial statements in Item 1 of this Quarterly Report, as well as our Annual Report on Form 10-K for the year ended December 31, 2004.

Results of Operations

As a result of our emergence from Chapter 11 bankruptcy and the application of fresh-start reporting, we are deemed to be a new entity for financial reporting purposes. In this report, the Company is referred to as the Predecessor Company for periods on or prior to July 31, 2004, and is referred to as the Successor Company for periods after July 31, 2004, after giving effect to the implementation of fresh-start reporting. The financial statements of the Successor Company are not comparable in many respects to the financial statements of the Predecessor Company because of the effects of the consummation of the Plan of Reorganization as well as the adjustments for fresh-start reporting. However, for purposes of this discussion, the Predecessor Company's results for the period from July 1, 2004 through July 31, 2004 have been combined with the Successor Company's results for the period from August 1, 2004 through September 30, 2004. These combined results are compared to the Successor Company's results for the three months ended September 30, 2005. In addition, these combined results for the three months ended September 30, 2004 also have been combined with the Predecessor Company's results for the six months ended June 30, 2004 and compared to the Successor Company's results for the nine months ended September 30, 2005.

Financial Performance

The following table presents the combined condensed consolidated statement of operations data for the periods indicated (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2005	2004	2005	2004
Revenues:				
Service revenues	\$ 193,675	\$ 170,386	\$ 569,360	\$ 511,462
Equipment revenues	36,852	36,521	116,366	107,968
Total revenues	230,527	206,907	685,726	619,430
Operating expenses:				
Cost of service (exclusive of items shown separately below)	(50,304)	(51,034)	(150,109)	(146,861)
Cost of equipment	(49,576)	(44,153)	(141,553)	(128,543)
Selling and marketing	(25,535)	(23,574)	(73,340)	(68,766)
General and administrative	(41,306)	(30,689)	(119,764)	(103,221)
Depreciation and amortization	(49,076)	(55,820)	(144,461)	(207,667)
Impairment of indefinite-lived intangible assets	(689)		(12,043)	
Total operating expenses	(216,486)	(205,270)	(641,270)	(655,058)
Gains on sale of wireless licenses and operating assets	14,593	532	14,593	532
Operating income (loss)	28,634	2,169	59,049	(35,096)
Interest income	2,991	608	6,070	608
Interest expense	(6,679)	(6,009)	(23,368)	(9,740)
Other income (expense), net	2,352	458	1,027	(138)
Income (loss) before reorganization items and income taxes	27,298	(2,774)	42,778	(44,366)
Reorganization items, net		963,156		962,444
Income before income taxes	27,298	960,382	42,778	918,078
Income taxes	(34,860)	(2,999)	(35,165)	(6,870)
Net income (loss)	\$ (7,562)	\$ 957,383	\$ 7,613	\$ 911,208

Three and Nine Months Ended September 30, 2005 Compared to the Three and Nine Months Ended September 30, 2004

At September 30, 2005, we had approximately 1,623,000 customers compared to approximately 1,539,000 customers at September 30, 2004. Gross customer additions during the three months ended September 30, 2005 and 2004 were approximately 234,000 and 200,000, respectively, and net customer additions (losses) during these periods

were approximately 23,000 and (8,000) respectively. Net customer additions for the three months ended September 30, 2005 exclude the effect of the transfer of approximately 19,000 customers as a result of the closing of the sale of our operating markets in Michigan. Gross customer additions during the nine months ended September 30, 2005 and 2004 were approximately 626,000 and 587,000, respectively, and net customer additions during these periods were approximately 72,000 and 67,000,

respectively, excluding the effect of customers transferred in August 2005 as a result of the sale of the Michigan markets mentioned previously. The weighted average number of customers during the three months ended September 30, 2005 and 2004 was approximately 1,605,000 and 1,536,000, respectively. The weighted average number of customers during the nine months ended September 30, 2005 and 2004 was approximately 1,602,000 and 1,524,000, respectively. At September 30, 2005, the total potential customer base covered by our networks in our operating markets was approximately 27.2 million.

During the three and nine months ended September 30, 2005, service revenues increased \$23.3 million, or 14%, and \$57.9 million, or 11%, respectively, compared to the corresponding periods of the prior year. These increases resulted from higher average number of customers and higher average revenues per customer, in each case compared with the corresponding periods of the prior year. The higher average revenues per customer primarily reflects increased customer adoption of higher-value, higher-priced service offerings and reduced utilization of service-based mail-in rebate promotions in 2005.

During the three and nine months ended September 30, 2005, equipment revenues increased \$0.3 million, or 1%, and \$8.4 million, or 8%, respectively, compared to the corresponding periods of the prior year. For the three months ended September 30, 2005, the increase in equipment revenue resulted from an increase in handset sales of 16%, offset by lower net revenue per handset sold due to increased use of instant rebates instead of mail-in rebates. Instant rebate incentives are accounted for as reductions to equipment revenue, while mail-in rebates offset both service and equipment revenue. For the nine months ended September 30, 2005, the increase in equipment revenues resulted from an 8% increase in handset sales and an increase in net revenue per handset sold, partially offset by a \$0.6 million reduction in activation fees.

During the three and nine months ended September 30, 2005, cost of service decreased \$0.7 million, or 1%, and increased \$3.2 million, or 2%, respectively, compared to the corresponding periods of the prior year. For the three months ended September 30, 2005, the decrease in cost of service was primarily attributable to reductions of \$1.9 million in backhaul and interconnect costs, \$1.7 million in software maintenance and \$1.2 million in property taxes, partially offset by an increase of \$2.3 million in variable costs associated with additional product usage arising from customer adoption of our new value-added products and an increase of \$1.8 million in employee and network-related costs. For the nine months ended September 30, 2005, the increase in cost of service was primarily attributable to an increase of \$6.6 million in additional product usage, an increase of \$2.5 million in lease and utility expense, and stock-based compensation expense of \$1.0 million, partially offset by reductions of \$2.8 million in software maintenance, \$1.1 million in property taxes and \$3.0 million in labor and network-related expenses. During 2005, we expect the variable costs associated with additional product usage to continue to increase as our customer base grows and customer adoption of our new value-added products accelerates.

Cost of equipment for the three and nine months ended September 30, 2005 increased by \$5.4 million, or 12%, and \$13.0 million, or 10%, respectively, compared to the corresponding periods of the prior year. The increase in cost of equipment for the three months ended September 30, 2005 consisted of \$5.7 million associated with higher handset sales volumes and \$3.6 million associated with increases in costs to support our handset replacement programs for existing customers partially offset by \$3.9 million associated with a lower average cost per handset sold. For the nine months ended September 30, 2005, the increase in cost of equipment consisted of \$8.8 million associated with higher handset sales volumes and \$4.4 million associated with increases in costs to support our handset replacement programs for existing customers.

During the three and nine months ended September 30, 2005, selling and marketing expenses increased by \$2.0 million, or 8%, and \$4.6 million, or 7%, respectively, compared to the corresponding periods of the prior year. For the three months ended September 30, 2005, the increase consisted primarily of \$0.2 million in stock-based compensation expense and \$1.9 million in labor-related and other costs, partially offset by a \$0.1 million reduction in media and advertising costs. For the nine months ended September 30, 2005, the increase consisted primarily of increases of \$1.5 million in media and advertising costs, \$0.9 million in stock-based compensation expense and \$2.2 million in labor-related and other costs.

During the three and nine months ended September 30, 2005, general and administrative expenses increased \$10.6 million, or 35%, and \$16.5 million, or 16%, respectively, compared to the corresponding periods of the prior year. For the three months ended September 30, 2005, the increase was primarily due to increases of \$4.0 million in professional services, \$2.3 million in stock-based compensation expense, \$2.2 million in labor and related costs, and \$2.1 million in other costs. Call center and billing expenses remained flat for the three months ended September 30, 2005. For the nine months ended September 30, 2005, the increase was primarily due to increases of \$8.6 million in professional services, \$7.9 million in stock-based compensation expense, \$1.0 million in labor and related costs, and \$2.8 million in other costs. These increases were partially offset by reductions in customer care and billing costs of \$3.8 million.

During the three and nine months ended September 30, 2005, we recorded stock-based compensation expense of \$2.7 million and \$9.9 million, respectively, in connection with the grant of restricted common shares during the second and third quarters and deferred stock units exercisable for common stock in the second quarter. The total intrinsic value of the deferred stock units of \$6.9 million was recorded as stock-based compensation expense during the three months ended June 30, 2005 because the deferred stock units were immediately vested upon grant. The total intrinsic value of the restricted stock awards as of the measurement date is recorded as unearned compensation in the consolidated balance sheets. The unearned compensation is amortized on a straight-line basis over the maximum vesting period of the awards of either three or five years. For the three and nine months ended September 30, 2005, \$2.7 million and \$2.9 million, respectively, was recorded in stock-based compensation expense for the amortization of the unearned compensation. The amount of stock-based compensation expense expected for the remainder of fiscal year 2005 is approximately \$2.5-\$3.0 million.

During the three and nine months ended September 30, 2005, depreciation and amortization expense decreased \$6.7 million, or 12%, and \$63.2 million, or 30%, respectively, compared to the corresponding periods of the prior year. The decreases in depreciation expense were primarily due to the revision of the estimated useful lives of network equipment and the reduction in the carrying value of property and equipment as a result of fresh-start reporting at July 31, 2004. In addition, depreciation and amortization expense for the three and nine months ended September 30, 2005 included amortization expense of \$8.6 million and \$25.9 million, respectively, related to identifiable intangible assets recorded upon the adoption of fresh-start reporting. As a result of the build-out and operation of our planned new markets, we expect a significant increase in depreciation and amortization expense in the future. In addition, we will record accelerated depreciation charges in the future related to the planned decommissioning or replacement of network assets as we upgrade our equipment and optimize our network.

As a result of our annual impairment test of wireless licenses, we recorded impairment charges of \$0.7 million during the three months ended September 30, 2005 to reduce the carrying value of certain non-operating wireless licenses to their estimated fair market values. During the second fiscal quarter of 2005, we recorded impairment charges of \$11.4 million in connection with an agreement to sell non-operating wireless licenses. We adjusted the carrying values of those licenses to their estimated fair values, which were based on the agreed upon sales prices.

During the three and nine months ended September 30, 2005, interest expense increased \$0.7 million, or 11%, and \$13.6 million, or 140%, respectively, compared to the corresponding period of the prior year. The increase in interest expense resulted from the application of SOP 90-7 until our emergence from bankruptcy, which required that, commencing on April 13, 2003 (the date of the filing of the Company's bankruptcy petition, or the Petition Date), we cease to accrue interest and amortize debt discounts and debt issuance costs on pre-petition liabilities that were subject to compromise, which comprised substantially all of our debt. Upon our emergence from bankruptcy, we began accruing interest on the newly issued 13% senior secured pay-in-kind notes. The pay-in-kind notes were repaid in January 2005 and replaced with a \$500 million term loan. The term loan was increased by \$100 million on July 22, 2005. At September 30, 2005, the effective interest rate on the \$600 million term loan was 6.4%, including the effect of interest rate swaps described below. The increase in interest expense resulting from our emergence from bankruptcy was partially offset by the capitalization of interest of \$3.6 million and \$4.3 million during the three and nine months ended

September 30, 2005, respectively. We capitalize interest costs associated with our wireless licenses and property and equipment during the build-out of a new market. The amount of such capitalized interest depends on the particular markets being built out, the carrying values of the licenses and property and equipment involved in those markets and the duration of the build-out. We expect capitalized interest to be significant during the build-out of our planned new markets.

During the three and nine months ended September 30, 2005, we completed the sale of 23 wireless licenses and substantially all of our operating assets in our Michigan markets for \$102.5 million, resulting in a gain of \$14.6 million.

During the three and nine months ended September 30, 2005, there were no reorganization items. Reorganization items for the three and nine months ended September 30, 2004 represented amounts incurred by the Predecessor Company as a direct result of the Chapter 11 filings and consisted primarily of the net gain on the discharge of liabilities, the cancellation of equity upon our emergence from bankruptcy and the application of fresh-start reporting, and income from the settlement of pre-petition liabilities and interest income earned while we were in bankruptcy, partially offset by professional fees for legal, financial advisory and valuation services directly associated with our Chapter 11 filings and reorganization process.

During the three months ended September 30, 2005, we recorded income tax expense of \$34.9 million compared to income tax expense of \$3.0 million for the three months ended September 30, 2004. During the nine months ended September 30, 2005, we recorded income tax expense of \$35.2 million compared to income tax expense of \$6.9 million for the nine months ended September 30, 2004. The effective tax rate in the third quarter of 2005 is significantly higher than the statutory tax rate due primarily to the impact of the non-recurring discrete sale of wireless licenses and Michigan operating assets completed during the third quarter. This sale resulted in large tax losses and we increased our valuation allowance by the amount of these losses. The effective tax rate in the first and second quarters of 2005 was below the statutory tax rate due primarily to the impact of non-recurring discrete items. The discrete item in the first quarter of 2005 was the repayment of the 13% senior secured pay-in-kind notes. The discrete item in the second quarter of 2005 was the impairment of wireless licenses. Tax expense for the comparable periods in the prior year consisted exclusively of the tax effect of the amortization of wireless licenses for income tax purposes.

The effective tax rate for the full year 2005 is expected to be higher than the statutory tax rate due primarily to the tax effect of the sale of wireless licenses and operating assets described above. We are currently forecasting a tax loss for the year due to tax deductions associated with the repayment of the 13% senior secured pay-in-kind notes and the tax losses on the sale of wireless licenses and operating assets. Therefore, we only expect to pay minimal cash taxes for 2005.

Performance Measures

In managing our business and assessing our financial performance, management supplements the information provided by financial statement measures with several customer-focused performance metrics that are widely used in the telecommunications industry. These metrics include average revenue per user per month (ARPU), which measures service revenue per customer; cost per gross customer addition (CPGA), which measures the average cost of acquiring a new customer; cash costs per user per month (CCU), which measures the non-selling cash cost of operating our business on a per customer basis; and churn, which measures turnover in our customer base. CPGA and CCU are non-GAAP financial measures. A non-GAAP financial measure, within the meaning of Item 10 of Regulation S-K promulgated by the Securities and Exchange Commission, is a numerical measure of a company's financial performance or cash flows that (a) excludes amounts, or is subject to adjustments that have the effect of excluding amounts, that are included in the most directly comparable measure calculated and presented in accordance with generally accepted accounting principles in the consolidated balance sheet, consolidated statement of operations or consolidated statement of cash flows; or (b) includes amounts, or is subject to adjustments that have the effect of including amounts, that are excluded from the most directly comparable measure so calculated and

presented. See Reconciliation of Non-GAAP Financial Measures below for a reconciliation of CPGA and CCU to the most directly comparable GAAP financial measures.

ARPU is an industry metric that measures service revenue divided by the weighted average number of customers, divided by the number of months during the period being measured. Management uses ARPU to identify average revenue per customer, to track changes in average customer revenues over time, to help evaluate how changes in our business, including changes in our service offerings and fees, affect average revenue per customer, and to forecast future service revenue. In addition, ARPU provides management with a useful measure to compare our subscriber revenue to that of other wireless communications providers. We believe investors use ARPU primarily as a tool to track changes in our average revenue per customer and to compare our per customer service revenues to those of other wireless communications providers.

CPGA is an industry metric that represents selling and marketing costs, excluding applicable stock-based compensation expense, and the gain or loss on sale of handsets (generally defined as cost of equipment less equipment revenue), excluding costs unrelated to initial customer acquisition, divided by the total number of gross new customer additions during the period being measured. Costs unrelated to initial customer acquisition include the revenues and costs associated with the sale of handsets to existing customers as well as costs associated with handset replacements and repairs (other than warranty costs which are the responsibility of the handset manufacturers). We deduct customers who do not pay their first monthly bill from our gross customer additions, which tends to increase CPGA because we incur the costs associated with this customer without receiving the benefit of a gross customer addition. Management uses CPGA to measure the efficiency of our customer acquisition efforts, to track changes in our average cost of acquiring new subscribers over time, and to help evaluate how changes in our sales and distribution strategies affect the cost-efficiency of our customer acquisition efforts. In addition, CPGA provides management with a useful measure to compare our per customer acquisition costs with those of other wireless communications providers. We believe investors use CPGA primarily as a tool to track changes in our average cost of acquiring new customers and to compare our per customer acquisition costs to those of other wireless communications providers.

CCU is an industry metric that measures cost of service and general and administrative costs, excluding applicable stock-based compensation expenses, gain or loss on sale of handsets to existing customers and costs associated with handset replacements and repairs (other than warranty costs which are the responsibility of the handset manufacturers), divided by the weighted average number of customers, divided by the number of months during the period being measured. CCU does not include any depreciation and amortization expense. Management uses CCU as a tool to evaluate the non-selling cash expenses associated with ongoing business operations on a per customer basis, to track changes in these non-selling cash costs over time, and to help evaluate how changes in our business operations affect non-selling cash costs per customer. In addition, CCU provides management with a useful measure to compare our non-selling cash costs per customer with those of other wireless communications providers. We believe investors use CCU primarily as a tool to track changes in our non-selling cash costs over time and to compare our non-selling cash costs to those of other wireless communications providers.

Churn, an industry metric that measures customer turnover, is calculated as the net number of customers that disconnect from our service divided by the weighted average number of customers divided by the number of months during the period being measured. As noted above, customers who do not pay their first monthly bill are deducted from our gross customer additions; as a result, these customers are not included in churn. Management uses churn to measure our retention of customers, to measure changes in customer retention over time, and to help evaluate how changes in our business affect customer retention. In addition, churn provides management with a useful measure to compare our customer turnover activity to that of other wireless communications providers. We believe investors use churn primarily as a tool to track changes in our customer retention over time and to compare our customer retention to that of other wireless communications providers.

The following table shows metric information for the three months ended September 30, 2005 and 2004:

	Three Months Ended September 30,	
	2005	2004
ARPU	\$ 40.22	\$ 36.97
CPGA	\$ 142	\$ 141
CCU	\$ 19.52	\$ 18.38
Churn	4.4%	4.5%

Reconciliation of Non-GAAP Financial Measures

We utilize certain financial measures, as described above, that are calculated based on industry conventions and are not calculated based on GAAP. Certain of these financial measures are considered non-GAAP financial measures within the meaning of Item 10 of Regulation S-K promulgated by the SEC.

CPGA The following table reconciles total costs used in the calculation of CPGA to selling and marketing expense, which we consider to be the most directly comparable GAAP financial measure to CPGA. The financial data for the three months ended September 30, 2004 presented below represents the combination of the Predecessor and Successor Companies' results for that period (in thousands, except gross customer additions and CPGA):

	Three Months Ended September 30,	
	2005	2004
Selling and marketing expense	\$ 25,535	\$ 23,574
Less stock-based compensation expense included in selling and marketing expense	(203)	
Plus cost of equipment	49,576	44,153
Less equipment revenue	(36,852)	(36,521)
Less net loss on equipment transactions unrelated to initial customer acquisition	(4,917)	(2,971)
Total costs used in the calculation of CPGA	\$ 33,139	\$ 28,235
Gross customer additions	233,699	200,315
CPGA	\$ 142	\$ 141

CCU The following table reconciles total costs used in the calculation of CCU to cost of service, which we consider to be the most directly comparable GAAP financial measure to CCU. The financial data for the three months ended September 30, 2004 presented below represents the combination of the

Predecessor and Successor Companies results for that period (in thousands, except weighted-average number of customers and CCU):

	Three Months Ended September 30,	
	2005	2004
Cost of service	\$ 50,304	\$ 51,034
Plus general and administrative expense	41,306	30,689
Less stock-based compensation expense included in cost of service and general and administrative expense	(2,518)	
Plus net loss on equipment transactions unrelated to initial customer acquisition	4,917	2,971
Total costs used in the calculation of CCU	\$ 94,009	\$ 84,694
Weighted-average number of customers	1,605,222	1,536,314
CCU	\$ 19.52	\$ 18.38

Liquidity and Capital Resources

Our principal sources of liquidity are our existing cash, cash equivalents and short-term investments, cash generated from operations, and cash available from borrowings under our \$110 million revolving credit facility (which was undrawn at September 30, 2005). From time to time, we may also generate additional liquidity through the sale of assets that are not material to or are not required for the ongoing operation of our business. We may also generate liquidity from offerings of debt and/or equity in the capital markets. At September 30, 2005, we had a total of \$391.8 million in unrestricted cash, cash equivalents and short-term investments. As of September 30, 2005, we also had restricted cash, cash equivalents and short-term investments of \$21.6 million that included funds set aside or pledged to satisfy remaining administrative claims and priority claims against Leap and Cricket, and cash restricted for other purposes. On July 22, 2005, we amended our credit agreement to increase the term loan by \$100 million. On August 3, 2005, we completed the sale of our Michigan markets and 23 wireless licenses for \$102.5 million. We believe that our existing cash and investments and anticipated cash flows from operations will be sufficient to meet our operating and capital requirements through at least the next 12 months.

Cash provided by operating activities was \$191.2 million during the nine months ended September 30, 2005 compared to \$147.7 million during the nine months ended September 30, 2004. The increase was primarily attributable to higher net income (net of income from reorganization items, depreciation and amortization expense and non-cash stock-based compensation expense) in the nine months ended September 30, 2005, partially offset by the timing of payments on accounts payable and by interest payments on Cricket's 13% senior secured pay-in-kind notes and FCC debt.

Cash used in investing activities was \$340.3 million during the nine months ended September 30, 2005 compared to \$54.8 million during the nine months ended September 30, 2004. This increase was due primarily to an increase in payments by subsidiaries of Cricket and ANB 1 for the purchase of wireless licenses totaling \$244.0 million, an increase in purchases of property and equipment of \$34.2 million, a net increase in the purchase of investments of \$77.7 million and a decrease in restricted investment activity of \$21.2 million, partially offset by an increase in proceeds from the sale of wireless licenses and operating assets of \$97.1 million.

Cash provided by financing activities during the nine months ended September 30, 2005 was \$176.3 million, which consisted of borrowings under our new term loan of \$600.0 million, less amounts which were used to repay the FCC debt of \$40.0 million, to repay the pay-in-kind notes of \$372.7 million, to make quarterly payments under the

term loan totaling \$4.0 million and to pay debt issuance costs of \$7.0 million.

New Credit Agreement

On January 10, 2005, we entered into a new senior secured Credit Agreement with a syndicate of lenders and Bank of America, N.A. (as administrative agent and letter of credit issuer).

The facilities under the new Credit Agreement originally consisted of a six-year \$500 million term loan, which was fully drawn at closing, and an undrawn five-year \$110 million revolving credit facility. Under the Credit Agreement, the term loan bears interest at LIBOR plus 2.5 percent, with interest periods of one, two, three or six months, or bank base rate plus 1.5 percent, as selected by Cricket. Outstanding borrowings under the \$500 million term loan must be repaid in 20 quarterly payments of \$1.25 million each, commencing March 31, 2005, followed by four quarterly payments of \$118.75 million each, commencing March 31, 2010. The maturity date for outstanding borrowings under the revolving credit facility is January 10, 2010. The commitment of the lenders under the \$110 million revolving credit facility may be reduced in the event mandatory prepayments are required under the Credit Agreement and by one-twelfth of the original aggregate revolving credit commitment on January 1, 2008 and by one-sixth of the original aggregate revolving credit commitment on January 1, 2009 (each such amount to be net of all prior reductions) based on certain leverage ratios and other tests. The commitment fee on the revolving credit facility is payable quarterly at a rate of 1.0 percent per annum when the utilization of the facility (as specified in the Credit Agreement) is less than 50 percent and at 0.75 percent per annum when the utilization exceeds 50 percent. Borrowings under the revolving credit facility will accrue interest at LIBOR plus 2.5 percent, with interest periods of one, two, three or six months, or bank base rate plus 1.5 percent, as selected by Cricket, with the rate subject to adjustment based on our leverage ratio. The new credit facilities are guaranteed by Leap and all of its direct and indirect domestic subsidiaries (other than Cricket, which is the primary obligor, ANB 1 and ANB 1 License) and are secured by all present and future personal property and owned real property of Leap, Cricket and such direct and indirect domestic subsidiaries.

A portion of the proceeds from the term loan borrowing was used to redeem Cricket's \$350 million 13% senior secured pay-in-kind notes, to pay approximately \$43 million of call premium and accrued interest on such notes, to repay approximately \$41 million in principal amount of debt and accrued interest owed to the FCC, and to pay transaction fees and expenses.

Under the Credit Agreement, we are subject to certain limitations, including limitations on our ability: (1) to incur additional debt or sell assets, with restrictions on the use of proceeds; (2) to make certain investments and acquisitions; (3) to grant liens; and (4) to pay dividends and make certain other restricted payments. In addition, we will be required to pay down the facilities under certain circumstances if we issue debt or equity, sell assets or property, receive certain extraordinary receipts or generate excess cash flow (as defined in the Credit Agreement). We are also required to maintain compliance with financial covenants which include a minimum interest coverage ratio, a maximum total leverage ratio, a maximum senior secured leverage ratio and a minimum fixed charge coverage ratio.

Affiliates of Highland Capital Management, L.P. (a beneficial stockholder of Leap and an affiliate of James D. Dondero, a director of Leap) participated in the syndication of the Credit Agreement in the following initial amounts: \$100 million of the \$500 million term loan and \$30 million of the \$110 million revolving credit facility.

On July 22, 2005, we amended our credit agreement to increase the term loan by \$100 million. The interest and related terms under the amended term loan agreement are substantially the same as the original term loan agreement. Outstanding borrowings under the incremental term loan must be repaid in 18 quarterly payments of approximately \$278,000 each, commencing September 30, 2005, followed by four quarterly payments of \$23.75 million each, commencing March 31, 2010. We also amended the terms of the facility to accommodate the planned expansion of our business including: increasing certain leverage ratios and permitting us to invest up to \$325 million in ANB 1 and ANB 1 License and up to \$60 million in other joint ventures. The amendments also increased the amount of permitted purchase money security interests and capitalized leases and also allow us to provide limited guarantees for the benefit of ANB 1 License and other joint ventures.

Affiliates of Highland Capital Management, L.P. (a beneficial stockholder of Leap and an affiliate of James D. Dondero, a director of Leap) participated in the syndication of the additional term facility in the amount of \$9 million of the \$100 million term loan increase.

The terms of the Credit Agreement require us to enter into interest rate hedging agreements in an amount equal to at least 50% of our outstanding indebtedness. In accordance with this requirement, in April 2005 we entered into interest rate swap agreements with respect to \$250 million of our debt. These swap agreements effectively fix the interest rate on \$250 million of the outstanding indebtedness at 6.7% through June 2007. In July 2005, we entered into an interest rate swap agreement with respect to a further \$105 million of our outstanding indebtedness. This swap agreement effectively fixes the interest rate on \$105 million of the outstanding indebtedness at 6.8% through June 2009. The \$2.0 million fair value of the swap agreements at September 30, 2005 was recorded as an asset in the condensed consolidated balance sheet.

At September 30, 2005, the effective interest rate on the \$600 million term loan was 6.4%, including the effect of interest rate swaps, and the outstanding indebtedness was \$596.0 million.

Capital Expenditures and Other Asset Acquisitions and Dispositions

2005 Capital Expenditures

During the nine months ended September 30, 2005, we incurred approximately \$82.3 million in capital expenditures. We currently expect to incur between \$150 million and \$200 million in capital expenditures, excluding capitalized interest, for the year ending December 31, 2005. These capital expenditures are primarily for: (i) maintenance and improvement of our existing wireless networks, (ii) the build-out and launch of the Fresno, California market and the related expansion and network change-out of the Company's existing Visalia and Modesto/Merced markets, (iii) costs associated with the initial development of markets covered by licenses acquired in Auction #58, (iv) costs to be incurred by ANB 1 License in connection with the initial development of licenses ANB 1 License acquired in Auction #58, and (v) initial expenditures for EDVO technology. We expect to finance the remaining capital expenditures for 2005 with our existing cash, cash equivalents and short-term investments.

Auction #58 Properties and Build-Out

In February 2005, our wholly owned subsidiary, Cricket Licensee (Reauction), Inc., was named the winning bidder in the FCC's Auction #58 for four wireless licenses covering approximately 11.1 million potential customers. Cricket Licensee (Reauction), Inc. purchased these licenses in May 2005 for \$166.9 million.

In February 2005, ANB 1 License was named the winning bidder in Auction #58 for nine wireless licenses covering approximately 10.1 million potential customers. ANB 1 License purchased these licenses in September 2005 for \$68.2 million. During the six months ended June 30, 2005, we made loans under our senior secured credit facility with ANB 1 License in the aggregate amount of \$56.3 million. ANB 1 License paid these borrowed funds, together with \$4.0 million of equity contributions, to the FCC to increase its total FCC payments to \$68.2 million. Under our senior secured credit facility with ANB 1 License, as amended, we have committed to loan ANB 1 License up to \$24.8 million in additional funds to finance its initial build-out costs and working capital requirements. However, ANB 1 License will need to obtain additional capital from Cricket or another third party to build out and launch its networks. Under Cricket's Credit Agreement, we are permitted to invest up to an aggregate of \$325 million in loans to and equity investments in ANB 1 and ANB 1 License.

We currently expect to launch commercial operations in the markets covered by the licenses we have acquired as a result of Auction #58 and we have commenced build-out activities. Pursuant to a management services agreement, we are also providing services to ANB 1 License with respect to the build-out and launch of the licenses it acquired in connection with Auction #58. See Item 1. Business-Arrangements with Alaska

Native Broadband in our Annual Report on Form 10-K for the year ended December 31, 2004 for further discussion of our arrangements with Alaska Native Broadband.

Other Acquisitions and Dispositions

On June 24, 2005, we completed the purchase of a wireless license to provide service in Fresno, California and related assets for approximately \$27.6 million. We launched service in Fresno on August 2, 2005.

On August 3, 2005, we completed the sale of 23 wireless licenses and substantially all of the operating assets in our Michigan markets for \$102.5 million, resulting in a gain of \$14.6 million. We had not launched commercial operations in most of the markets covered by the licenses sold.

In September 2005, we entered into an agreement to sell non-operating wireless licenses covering 0.9 million potential customers for a sales price of approximately \$10.0 million, subject to FCC approval of the transfer of the licenses. During the second quarter of fiscal 2005, we recorded impairment charges of \$11.4 million to adjust the carrying values of these licenses to their estimated fair values, which were based on the agreed upon sales prices.

In November 2005, we signed an agreement to sell our wireless licenses and operating assets in our Toledo and Sandusky, Ohio markets for approximately \$28.5 million and an equity interest in a new joint venture company which owns a wireless license in the Portland, Oregon market. We also agreed to contribute to the joint venture approximately \$25 million and certain of our wireless licenses and related operating assets in Eugene and Salem, Oregon, which would increase our non-controlling membership interest in the joint venture to approximately 73%. Completion of these transactions is subject to customary closing conditions, including among others, FCC approval of the transfers of the wireless licenses, other third party consents and a financing condition for the benefit of one of the other parties. If the financing condition is not waived prior to December 15, 2005, we instead would transfer to the purchaser the same wireless licenses and operating assets in Ohio in exchange for \$12.4 million and the transfer of the Portland license to a different joint venture company. In this case, we would own a 75% non-controlling interest in the joint venture and would fund the joint venture's acquisition and build-out of the Portland license through a \$75.6 million secured credit facility between the joint venture and Cricket. Although we expect to receive FCC approval of the transfers and satisfy such conditions, we cannot assure you that the FCC will grant such approval or that the other conditions will be satisfied.

Certain Contractual Obligations and Commitments

The table below summarizes information as of September 30, 2005 regarding certain future minimum contractual obligations and commitments for Leap and Cricket for the next five years and thereafter (in thousands):

	Year Ended December 31,						
	Total	Remainder of 2005	2006	2007	2008	2009	Thereafter
Long-term debt(1)	\$ 595,972	\$ 1,528	\$ 6,111	\$ 6,111	\$ 6,111	\$ 6,111	\$ 570,000
Origination fees for ANB 1 investment	4,700		750	1,000	1,000	1,000	950
Contractual interest(2)	186,875	9,900	39,352	38,729	38,106	37,560	23,228
Operating leases	225,681	13,630	39,144	25,796	23,092	20,788	103,231
Total	\$ 1,013,228	\$ 25,058	\$ 85,357	\$ 71,636	\$ 68,309	\$ 65,459	\$ 697,409

(1)

Amounts shown for Cricket's term loan include principal only. Interest on this term loan, calculated at the current interest rate, is stated separately.

- (2) Contractual interest is based on the current interest rates in effect at September 30, 2005 for debt outstanding as of that date.

Subsequent to September 30, 2005, we incurred the following additional contractual obligations which are not included in the table above:

Contractual obligations to purchase a minimum of \$90.5 million of products and services from Nortel Networks Inc. from October 11, 2005 through October 10, 2008.

Contractual obligations to purchase a minimum of \$119 million of products and services from Lucent Technologies Inc. from October 1, 2005 through September 30, 2008.

The table above also does not include the following contractual obligations relating to ANB 1, a company which we consolidate under FASB Interpretation No. 46-R: (1) Cricket's obligation, as amended in June 2005, to loan to ANB 1 License up to \$24.8 million to finance its initial build-out costs and working capital requirements, of which approximately \$2.9 million was drawn at September 30, 2005, (2) Cricket's obligation to pay \$2.0 million to ANB if ANB exercises its right to sell its membership interest in ANB 1 to Cricket following the initial build-out of ANB 1 License's wireless licenses, and (3) ANB 1's obligation to purchase a minimum of \$39.5 million and \$6.0 million of products and services from Nortel Networks Inc. and Lucent Technologies Inc., respectively, over the same three year terms as those for the Company.

Off-Balance Sheet Arrangements

We had no material off-balance sheet arrangements at September 30, 2005.

Recent Accounting Pronouncements

In October 2005, the FASB issued FASB Staff Position (FSP) No. FAS 13-1, Accounting for Rental Costs Incurred During a Construction Period. This FSP addresses whether a lessee may capitalize rental costs associated with ground and building operating leases incurred during a construction period. Rental costs associated with ground or building operating leases that are incurred during a construction period shall be recognized as rental expense and included in income from continuing operations. A lessee shall cease capitalizing rental costs as of the effective date of this FSP for operating lease arrangements entered into prior to the effective date of this FSP. Adoption of this FSP is required for our first quarter beginning January 1, 2006. We have not yet determined the impact that the adoption of FSP No. FAS 13-1 will have on our consolidated financial position or results of operations.

RISK FACTORS

Risks Related to Our Business and Industry

We Have Experienced Net Losses And We May Not Be Profitable In The Future

We experienced losses of \$8.6 million and \$49.3 million (excluding reorganization items, net) for the five months ended December 31, 2004 and the seven months ended July 31, 2004, respectively. In addition, we experienced net losses of \$597.4 million for the year ended December 31, 2003, \$664.8 million for the year ended December 31, 2002, \$483.3 million for the year ended December 31, 2001 and \$0.2 million for the year ended December 31, 2000. We may not generate profits in the future on a consistent basis or at all. If we fail to achieve consistent profitability, that failure could have a negative effect on our financial condition and on the value of the common stock of Leap.

We May Not Be Successful In Increasing Our Customer Base Which Would Force Us To Change Our Business Plans And Financial Outlook And Would Likely Negatively Affect The Price Of Our Stock

Our growth on a quarter by quarter basis has varied substantially in the past. We believe that this uneven growth generally reflects seasonal trends in customer activity, promotional activity, the competition in the wireless telecommunications market, our reduction in spending on capital investments and advertising while we were in bankruptcy, and varying national economic conditions. Our current business plans assume that we will increase our customer base over time, providing us with increased economies of scale. If we are unable to attract and retain a growing customer base, we would be forced to change our current business plans and financial outlook and there would likely be a material negative affect on the price of our common stock.

If We Experience High Rates Of Customer Turnover or Credit Card, Subscription or Dealer Fraud, Our Ability To Become Profitable Will Decrease

Customer turnover, frequently referred to as churn, is an important business metric in the telecommunications industry because it can have significant financial effects. Because we do not require customers to sign long-term commitments or pass a credit check, our service is available to a broader customer base than many other wireless providers and, as a result, some of our customers may be more likely to terminate service due to an inability to pay than the average industry customer, particularly during economic downturns. In addition, our rate of customer turnover may be affected by other factors, including the size of our calling areas, handset issues, customer care concerns, number portability and other competitive factors. Our strategies to address customer turnover may not be successful. A high rate of customer turnover would reduce revenues and increase the total marketing expenditures required to attract the minimum number of replacement customers required to sustain our business plan, which, in turn, could have a material adverse effect on our business, financial condition and results of operations.

Our operating costs can also increase substantially as a result of customer credit card and subscription fraud and dealer fraud. We have implemented a number of strategies and processes to detect and prevent efforts to defraud us, and we believe that our efforts have substantially reduced the types of fraud we have identified. However, if our strategies are not successful in detecting and controlling fraud in the future, it could have a material adverse impact on our financial condition and results of operations.

We Face Increasing Competition Which Could Have A Material Adverse Effect On Demand For The Cricket Service

In general, the telecommunications industry is very competitive. Some competitors have announced rate plans substantially similar to the Cricket service plan (and have also introduced products that consumers perceive to be similar to Cricket's service plan) in markets in which we offer wireless service. In addition, the competitive pressures of the wireless telecommunications market have caused other carriers to offer service plans with large bundles of minutes of use at low prices which are competing with the predictable and virtually unlimited Cricket calling plans. Some competitors also offer prepaid wireless plans that are being advertised heavily to demographic segments that are strongly represented in Cricket's customer base. These competitive

offerings could adversely affect our ability to maintain our pricing and market penetration. Our competitors may attract more customers because of their stronger market presence and geographic reach. Potential customers may perceive the Cricket service to be less appealing than other wireless plans, which offer more features and options.

We compete as a mobile alternative to landline service providers in the telecommunications industry. Wireline carriers are also offering unlimited national calling plans and bundled offerings that include wireless and data services. We may not be successful in our efforts to persuade potential customers to adopt our wireless service in addition to, or in replacement of, their current landline service.

The telecommunications industry is experiencing significant technological change. Other technologies may arise that may be perceived as more appealing than our Cricket service. In addition, existing carriers and potential non-traditional carriers are exploring or have announced the launch of service using new technologies and/or alternative delivery plans.

Many competitors have substantially greater financial and other resources than we have, and we may not be able to compete successfully. Because of their size and bargaining power, our larger competitors may be able to purchase equipment, supplies and services at lower prices than we can. As consolidation in the industry creates even larger competitors, any purchasing advantages our competitors have may increase.

We Have Identified Material Weaknesses In Our Internal Control Over Financial Reporting, And Our Business And Stock Price May Be Adversely Affected If We Do Not Remediate All Of These Material Weaknesses, Or If We Have Other Material Weaknesses In Our Internal Control Over Financial Reporting

In connection with their evaluation of our disclosure controls and procedures, our CEO and CFO concluded that certain material weaknesses in our internal control over financial reporting existed as of December 31, 2004, March 31, 2005, June 30, 2005 and September 30, 2005 with respect to turnover and staffing levels in our accounting and financial reporting departments (arising in part in connection with the Company's now completed bankruptcy proceedings), and as of December 31, 2004 and March 31, 2005 with respect to the application of lease-related accounting principles, fresh-start reporting oversight, and account reconciliation procedures. We believe we have adequately remediated the material weaknesses associated with lease accounting, fresh-start reporting oversight and account reconciliation procedures. We expect that the material weakness with respect to turnover and staffing levels will be remediated by the end of fiscal 2005. For a description of the material weakness with respect to staffing and the steps we have undertaken to remediate it, see Item 4. Controls and Procedures contained in Part I of this report. The existence of one or more material weaknesses could result in errors in our financial statements, and substantial costs and resources may be required to rectify any internal control deficiencies. If we cannot produce reliable financial reports, investors could lose confidence in our reported financial information, the market price of our stock could decline significantly, we may be unable to obtain additional financing to operate and expand our business, and our business and financial condition could be harmed.

If Our Internal Control Over Financial Reporting Does Not Comply With The Requirements Of The Sarbanes-Oxley Act Of 2002, Our Business And Stock Price May Be Adversely Affected

Section 404 of the Sarbanes-Oxley Act of 2002 requires companies to do a comprehensive evaluation of their internal control over financial reporting. To comply with this statute, we will be required to document and test our internal control over financial reporting; our management will be required to assess and issue a report concerning our internal control over financial reporting; and our independent registered public accounting firm will be required to attest to and report on management's assessment. Reporting on our compliance with Section 404 of the Sarbanes-Oxley Act will first be required in connection with the filing of our Annual Report on Form 10-K for the fiscal year ending December 31, 2005. We have been conducting a rigorous review of our internal control over financial reporting in order to become compliant with the requirements of Section 404. However, the standards that must be met for management to assess our internal control over financial reporting are new and require significant documentation and testing. Our assessment

may identify the need for remediation of our internal control over financial reporting. Our internal control over financial reporting has been subject to certain material weaknesses in the past and is currently subject to a material weakness related to staffing as described in Item 4. Controls and Procedures in Part I of this report. If management cannot favorably assess the effectiveness of our internal control over financial reporting as of December 31, 2005, or if our independent registered public accounting firm cannot timely attest to management's assessment or if they identify material weaknesses in our internal control over financial reporting as of December 31, 2005, investors could lose confidence in our reported financial information, the market price of our stock could decline significantly, we may be unable to obtain additional financing to operate and expand our business, and our business and financial condition could be harmed.

Our Primary Business Strategy May Not Succeed In The Long Term

A major element of our business strategy is to offer consumers a service that allows them to make virtually unlimited calls within their Cricket service area and receive unlimited calls from any area for a flat monthly rate without entering into a long-term service commitment or passing a credit check. This strategy may not prove to be successful in the long term. From time to time, we also evaluate our service offerings and the demands of our target customers and may modify, change or adjust our service offerings or offer new services. We cannot assure you that these service offerings will be successful or prove to be profitable.

Our Indebtedness Could Adversely Affect Our Financial Health, And If We Fail To Maintain Compliance With The Covenants Under Our Senior Secured Credit Facilities, Any Such Failure Could Materially Adversely Affect Our Liquidity And Financial Condition

As of October 31, 2005, we had approximately \$596 million of outstanding indebtedness and, to the extent we raise additional capital in the future, we expect to obtain much of such capital through debt financing. This existing indebtedness bears interest at a variable rate, but we have entered into interest rate swap agreements with respect to \$250 million of our debt in April, 2005 and an additional \$105 million of our debt in July 2005, which mitigates the interest rate volatility. Our present and future debt financing could have important consequences. For example, it could:

Increase our vulnerability to general adverse economic and industry conditions;

Require us to dedicate a substantial portion of our cash flows from operations to payments on our indebtedness, thereby reducing the availability of our cash flows to fund working capital, capital expenditures, acquisitions and other general corporate purposes;

Limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate; and

Reduce the value of stockholders' investments in Leap because debt holders have priority regarding our assets in the event of a bankruptcy or liquidation.

In addition, the Credit Agreement governing our senior secured credit facilities contains restrictive covenants that limit our ability to engage in activities that may be in our long-term best interest. The Credit Agreement also contains various affirmative and negative covenants, including covenants that require us to maintain compliance with certain financial leverage and coverage ratios. Our failure to comply with any of these covenants could result in an event of default that, if not cured or waived, could result in the acceleration of all of our debt. Any such acceleration would have a material adverse affect on our liquidity and financial condition and on the value of the common stock of Leap. Our failure to timely file our Annual Report on Form 10-K for the year ended December 31, 2004 and our Quarterly Report on Form 10-Q for the period ended March 31, 2005 constituted defaults under the Credit Agreement. Although we were able to obtain a limited waiver of these defaults, we cannot assure you that we will be able to obtain a waiver in the future should a default occur.

We Expect To Be Able To Incur Substantially More Debt; This Could Increase The Risks Associated With Our Leverage

The covenants in our Credit Agreement allow us to incur substantial additional indebtedness in the future. If we incur additional indebtedness, the risks associated with our leverage could increase substantially.

The Wireless Industry Is Experiencing Rapid Technological Change, And We May Lose Customers If We Fail To Keep Up With These Changes

The wireless communications industry is experiencing significant technological change, as evidenced by the ongoing improvements in the capacity and quality of digital technology, the development and commercial acceptance of wireless data services, shorter development cycles for new products and enhancements and changes in end-user requirements and preferences. The cost of implementing future technological innovations may be prohibitive to us, and we may lose customers if we fail to keep up with these changes.

The Loss Of Key Personnel And Difficulty Attracting And Retaining Qualified Personnel Could Harm Our Business

We believe our success depends heavily on the contributions of our employees and on maintaining our experienced workforce. We do not, however, generally provide employment contracts to our employees and the uncertainties associated with our bankruptcy and our emergence from bankruptcy have caused many employees to consider or pursue alternative employment. Since we announced reorganization discussions and filed for Chapter 11, we have experienced higher than normal employee turnover, including turnover of individuals at the chief executive officer, president and chief operating officer, senior vice president, vice president and other management levels. The loss of key individuals, and particularly the cumulative effect of such losses, may have a material adverse impact on our ability to effectively manage and operate our business.

Risks Associated With Wireless Handsets Could Pose Product Liability, Health And Safety Risks That Could Adversely Affect Our Business

We do not manufacture handsets or other equipment sold by us and generally rely on our suppliers to provide us with safe equipment. Our suppliers are required by applicable law to manufacture their handsets to meet certain governmentally imposed safety criteria. However, even if the handsets we sell meet the regulatory safety criteria, we could be held liable with the equipment manufacturers and suppliers for products we sell if they are later found to have design or manufacturing defects. We generally have indemnification agreements with the manufacturers who supply us with handsets to protect us from direct losses associated with product liability, but we cannot guarantee that we will be fully protected against all losses associated with a product that is found to be defective.

Media reports have suggested that the use of wireless handsets may be linked to various health concerns, including cancer, and may interfere with various electronic medical devices, including hearing aids and pacemakers. Certain class action lawsuits have been filed in the industry claiming damages for alleged health problems arising from the use of wireless handsets. In addition, interest groups have requested that the FCC investigate claims that wireless technologies pose health concerns and cause interference with airbags, hearing aids and other medical devices. The media has also reported incidents of handset battery malfunction, including reports of batteries that have overheated. Malfunctions have caused at least one major handset manufacturer to recall certain batteries used in its handsets, including batteries in a handset sold by Cricket and other wireless providers.

Concerns over radio frequency emissions and defective products may discourage the use of wireless handsets, which could decrease demand for our services. In addition, if one or more Cricket customers were harmed by a defective product provided to us by the manufacturer and subsequently sold in connection with our services, our ability to add and maintain customers for Cricket service could be materially adversely affected by negative public reactions.

There also are some safety risks associated with the use of wireless handsets while driving. Concerns over these safety risks and the effect of any legislation that has been and may be adopted in response to these risks could limit our ability to sell our wireless service.

We Rely Heavily On Third Parties To Provide Specialized Services; A Failure By Such Parties To Provide The Agreed Services Could Materially Adversely Affect Our Business, Results Of Operations And Financial Condition

We depend heavily on suppliers and contractors with specialized expertise in order for us to efficiently operate our business. In the past, our suppliers, contractors and third-party retailers have not always performed at the levels we expect or at the levels required by their contracts. If key suppliers, contractors or third-party retailers fail to comply with their contracts, fail to meet our performance expectations or refuse or are unable to supply us in the future, our business could be severely disrupted. Generally, there are multiple sources for the types of products we purchase. However, some suppliers, including software suppliers, are the exclusive sources of their specific products. In addition, we currently purchase a substantial majority of the handsets we sell from one supplier. Because of the costs and time lags that can be associated with transitioning from one supplier to another, our business could be substantially disrupted if we were required to replace the products or services of one or more major suppliers with products or services from another source, especially if the replacement became necessary on short notice. Any such disruption could have a material adverse affect on our business, results of operations and financial condition.

We May Be Subject To Claims Of Infringement Regarding Telecommunications Technologies That Are Protected By Patents And Other Intellectual Property Rights

Telecommunications technologies are protected by a wide array of patents and other intellectual property rights. As a result, third parties may assert infringement claims against us from time to time based on our general business operations or the specific operation of our wireless networks. We generally have indemnification agreements with the manufacturers and suppliers who provide us with the equipment and technology that we use in our business to protect us against possible infringement claims, but we cannot guarantee that we will be fully protected against all losses associated with an infringement claim. Whether or not an infringement claim was valid or successful, it could adversely affect our business by diverting management attention, involving us in costly and time-consuming litigation, requiring us to enter into royalty or licensing agreements (which may not be available on acceptable terms, or at all), or requiring us to redesign our business operations or systems to avoid claims of infringement.

A third party with a large patent portfolio has contacted us and suggested that we need to obtain a license under a number of its patents in connection with our current business operations. We understand that the third party has initiated similar discussions with other telecommunications carriers. We are evaluating the third party's position but have not yet reached a conclusion as to the validity of its position. If we cannot reach a mutually agreeable resolution with the third party, we may be forced to enter into a licensing or royalty agreement with the third party. We do not currently expect that such an agreement would materially adversely affect our business, but we cannot provide assurance to our investors about the effect of any such license.

Regulation By Government Agencies May Increase Our Costs Of Providing Service Or Require Us To Change Our Services

Our operations are subject to varying degrees of regulation by the FCC, the Federal Trade Commission, the Federal Aviation Administration, the Environmental Protection Agency, the Occupational Safety and Health Administration and state and local regulatory agencies and legislative bodies. Adverse decisions or regulations of these regulatory bodies could negatively impact our operations and costs of doing business. State regulatory agencies are increasingly focused on the quality of service and support that wireless carriers provide to their customers and several agencies have proposed or enacted new and potentially burdensome regulations in this area. Governmental regulations and orders can significantly increase our costs and affect our competitive position compared to other telecommunications providers. We are unable to predict the scope,

pace or financial impact of regulations and other policy changes that could be adopted by the various governmental entities that oversee portions of our business.

If Call Volume Under Our Cricket Flat Price Plans Exceeds Our Expectations, Our Costs Of Providing Service Could Increase, Which Could Have A Material Adverse Effect On Our Competitive Position

Cricket customers currently use their handsets approximately 1,450 minutes per month, and some markets are experiencing substantially higher call volumes. We own less spectrum in many of our markets than our competitors, but we design our networks to accommodate our expected high call volume, and we consistently assess and implement technological improvements to increase the efficiency of our wireless spectrum. However, if future wireless use by Cricket customers exceeds the capacity of our networks, service quality may suffer. We may be forced to raise the price of Cricket service to reduce volume or otherwise limit the number of new customers, or incur substantial capital expenditures to improve network capacity.

We offer service plans that bundle certain features, long distance and virtually unlimited local service for a fixed monthly fee to more effectively compete with other telecommunications providers. If customers exceed expected usage, we could face capacity problems and our costs of providing the services could increase. Further, long distance rates and the charges for interconnecting telephone call traffic between carriers can be affected by governmental regulatory actions (and in some cases are subject to regulatory control) and, as a result, could increase with limited warning. If we are unable to cost-effectively provide our products and services to customers, our competitive position and business prospects could be materially adversely affected.

Future Declines In The Fair Value Of Our Wireless Licenses Could Result In Future Impairment Charges

During the three months ended June 30, 2003, we recorded an impairment charge of \$171.1 million to reduce the carrying value of our wireless licenses to their estimated fair value. However, as a result of our adoption of fresh-start reporting under SOP 90-7, we increased the carrying value of our wireless licenses to \$652.6 million at July 31, 2004, the fair value estimated by management based in part on information provided by an independent valuation consultant. During the three and nine months ended September 30, 2005, we recorded impairment charges of \$0.7 million and \$12.1 million, respectively.

The market values of wireless licenses have varied dramatically over the last several years, and may vary significantly in the future. In particular, valuation swings could occur if:

consolidation in the wireless industry allowed or required carriers to sell significant portions of their wireless spectrum holdings;

a sudden large sale of spectrum by one or more wireless providers occurs; or

market prices decline as a result of the bidding activity in recently concluded or upcoming FCC auctions.

In addition, the price of wireless licenses could decline as a result of the FCC's pursuit of policies designed to increase the number of wireless licenses available in each of our markets. If the market value of wireless licenses were to decline significantly in the future, the value of our wireless licenses could be subject to non-cash impairment charges in the future. A significant impairment loss could have a material adverse effect on our operating income and on the carrying value of our wireless licenses on our balance sheet.

Declines In Our Operating Performance Could Ultimately Result In An Impairment Of Our Indefinite-Lived Assets, Including Goodwill, Or Our Long-Lived Assets, Including Property and Equipment

We assess potential impairments to our long-lived assets, including property and equipment and certain intangible assets, when there is evidence that events or changes in circumstances indicate that the carrying value may not be recoverable. We assess potential impairments to indefinite-lived intangible assets, including goodwill and wireless licenses, annually and when there is evidence that events or changes in circumstances indicate that an impairment condition may exist. If we do not achieve our planned operating results, this may

ultimately result in a non-cash impairment charge related to our long-lived and/or our indefinite-lived intangible assets. A significant impairment loss could have a material adverse effect on our operating results and on the carrying value of our goodwill or wireless licenses and/or our long-lived assets on our balance sheet.

Because Our Consolidated Financial Statements Reflect Fresh-Start Reporting Adjustments Made Upon Our Emergence From Bankruptcy, Financial Information In Our Current And Future Financial Statements Will Not Be Comparable To Our Financial Information From Periods Prior To Our Emergence From Bankruptcy

As a result of adopting fresh-start reporting on July 31, 2004, the carrying values of our wireless licenses and our property and equipment, and the related depreciation and amortization expense, among other things, changed considerably from that reflected in our historical consolidated financial statements. Thus, our current and future balance sheets and results of operations will not be comparable in many respects to our balance sheets and consolidated statements of operations data for periods prior to our adoption of fresh-start reporting. You are not able to compare information reflecting our post-emergence balance sheet data, results of operations and changes in financial condition to information for periods prior to our emergence from bankruptcy, without making adjustments for fresh-start reporting.

Risks Related to Ownership of Our Common Stock

Our Stock Price May Be Volatile, And You May Lose All Or Some Of Your Investment

The trading prices of the securities of telecommunications companies have been highly volatile. Accordingly, the trading price of our common stock is likely to be subject to wide fluctuations. Factors affecting the trading price of our common stock may include, among other things:

variations in our operating results;

announcements of technological innovations, new services or service enhancements, strategic alliances or significant agreements by us or by our competitors;

recruitment or departure of key personnel;

changes in the estimates of our operating results or changes in recommendations by any securities analysts that elect to follow our common stock; and

market conditions in our industry and the economy as a whole.

The 17,198,252 Shares Of Our Common Stock Registered For Resale By Our Shelf Registration Statement on Form S-1 May Adversely Affect The Market Price Of Our Common Stock.

As of November 10, 2005, 61,160,538 shares of our common stock were issued and outstanding. Our resale shelf Registration Statement on Form S-1, which was declared effective on August 29, 2005, registered for resale 17,198,252 shares, or approximately 28.1%, of our outstanding common stock. We are unable to predict the potential effect that sales into the market of any material portion of such shares may have on the then prevailing market price of our common stock. We also have registered all shares of common stock that we may issue under our stock option, restricted stock and deferred stock unit plan and under our employee stock purchase plan. When we issue shares under these stock plans, they can be freely sold in the public market. If any of these holders cause a large number of securities to be sold in the public market, these sales could reduce the trading price of our common stock. These sales also could impede our ability to raise future capital.

Our Directors and Affiliated Entities Have Substantial Influence Over Our Affairs

Our directors and entities affiliated with them beneficially own in the aggregate approximately 28.4% of our common stock as of November 10, 2005. These stockholders have the ability to exert substantial influence over all matters requiring approval by our stockholders. These stockholders will be able to influence the

election and removal of directors and any merger, consolidation or sale of all or substantially all of our assets and other matters. This concentration of ownership could have the effect of delaying, deferring or preventing a change in control or impeding a merger or consolidation, takeover or other business combination.

Provisions In Our Amended And Restated Certificate Of Incorporation And Bylaws Or Delaware Law Might Discourage, Delay Or Prevent A Change In Control Of Our Company Or Changes In Our Management And Therefore Depress The Trading Price Of Our Common Stock.

Our amended and restated certificate of incorporation and bylaws contain provisions that could depress the trading price of our common stock by acting to discourage, delay or prevent a change in control of our company or changes in our management that the stockholders of Leap may deem advantageous. These provisions:

require super-majority voting to amend some provisions in our amended and restated certificate of incorporation and bylaws;

authorize the issuance of blank check preferred stock that our board of directors could issue to increase the number of outstanding shares to discourage a takeover attempt;

prohibit stockholder action by written consent, and require that all stockholder actions be taken at a meeting of our stockholders;

provide that the board of directors is expressly authorized to make, alter or repeal our bylaws; and

establish advance notice requirements for nominations for elections to our board or for proposing matters that can be acted upon by stockholders at stockholder meetings.

Additionally, we are subject to Section 203 of the Delaware General Corporation Law, which generally prohibits a Delaware corporation from engaging in any of a broad range of business combinations with any interested stockholder for a period of three years following the date on which the stockholder became an interested stockholder and which may discourage, delay or prevent a change in control of our company.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Interest Rate Risk. Pursuant to the Plan of Reorganization, we emerged from bankruptcy with fixed rate debt only. In January 2005 we refinanced our fixed rate debt with \$500 million in floating rate debt, and in July 2005 we increased the floating rate debt by another \$100 million. As a result, changes in interest rates would not significantly affect the fair value of the outstanding debt. The terms of the Credit Agreement require that we enter into interest rate hedging agreements in an amount equal to at least 50% of our outstanding indebtedness. In accordance with this requirement, we entered into interest rate swap agreements with respect to \$250 million of our debt in April 2005, and with respect to an additional \$105 million of our debt in July 2005. The swap agreements effectively fix the interest rate on \$250 million of debt at 6.7% through June 2007, and on \$105 million of debt at 6.8% through June 2009.

As of September 30, 2005, net of the effect of the interest rate swap agreements described above, our outstanding floating rate debt totaled \$241.0 million. The primary base interest rate is the three month LIBOR. Assuming the outstanding balance on the new floating rate debt remains constant over a year, a 100 basis point increase in the interest rate would decrease pre-tax income and cash flow, net of the effect of the swap agreements, by approximately \$2.4 million.

Hedging Policy. Leap's policy is to maintain interest rate hedges when required by credit agreements. Leap does not currently engage in any hedging activities against foreign currency exchange rates or for speculative purposes.

Item 4. Controls and Procedures.

(a) Evaluation of Disclosure Controls and Procedures

The Company maintains disclosure controls and procedures that are designed to ensure that information required to be disclosed in the Company's Exchange Act reports is recorded, processed, summarized and reported within the time periods specified by the SEC and that such information is accumulated and communicated to management, including its chief executive officer (CEO) and chief financial officer (CFO), as appropriate, to allow for timely decisions regarding required disclosure. Management, with participation by the Company's CEO and CFO, has designed the Company's disclosure controls and procedures to provide reasonable assurance of achieving the desired objectives. As required by SEC Rule 13a-15(b), in connection with filing this Form 10-Q, management conducted an evaluation, with the participation of the Company's CEO and CFO, of the effectiveness of the design and operation of the Company's disclosure controls and procedures as of September 30, 2005, the end of the period covered by this report. Based upon that evaluation, the Company's CEO and CFO concluded that a control deficiency which constituted a material weakness, as discussed below, existed in the Company's internal control over financial reporting as of September 30, 2005. As a result of the material weakness, the Company's CEO and CFO concluded that the Company's disclosure controls and procedures were not effective at the reasonable assurance level as of September 30, 2005.

As of September 30, 2005, June 30, 2005, March 31, 2005 and December 31, 2004, the Company's accounting and financial reporting functions required additional personnel with appropriate skills, training and Company-specific experience to identify and address the application of technical accounting literature.

During the last several months of fiscal 2004 and in the first few months of fiscal 2005, the Company had been unable to maintain a sufficient complement of qualified staff in its accounting and financial reporting functions and, as a result of staff turnover, the Company suffered from an associated lack of knowledge transfer to new employees within these functions. The Company believes that its insufficient complement of staffing and high turnover resulted, in large part, from (1) the significantly increased workload placed on its accounting and financial reporting staff during the Company's bankruptcy and the months after the Company's emergence from bankruptcy during which it was implementing fresh-start reporting, and (2) the departure of some staff members during the Company's bankruptcy and in the first several months after its emergence due to concerns about the Company's prospects.

The Company has actively addressed this material weakness and has hired a number of key new accounting personnel since February 2005 that management believes are appropriately qualified and experienced to identify and address the application of technical accounting literature. In May 2005, the Company hired a new vice president, chief accounting officer to serve as its controller. The new controller has 19 years of accounting experience, including over 13 years in public accounting and over five years as a senior manager with one of the big four public accounting firms. Also in May 2005, the Company hired a new accounting director to replace its former assistant controller, who left the Company in March 2005. The new accounting director has over 20 years of accounting experience, including seven years of experience as a controller and three years of experience as a divisional controller with a large wireless company. In February 2005, the Company hired a new director of general accounting to replace the outgoing director of general accounting. The new director of general accounting has over 14 years of accounting experience, including seven years as an accounting director. On the basis of their credentials and experience, and given the absence of their predecessors at critical times in the period up to the filing of the Company's Annual Report on Form 10-K for fiscal 2004, the Company believes these personnel represent significant improvements in the accounting department's technical accounting expertise. Overall, the Company currently has a vice president, three directors and nine managers in the accounting and tax areas, and all are considered experienced personnel well qualified for their respective positions. The Company has eight actively licensed certified public accountants among its accounting management.

Based on its new leadership and the timely completion of its Quarterly Reports on Form 10-Q for the fiscal quarters ended September 30, 2005 and June 30, 2005, the Company believes that it has made substantial progress in addressing this material weakness as of September 30, 2005. The Company expects

that this material weakness will be remediated by the end of fiscal 2005, as the new leadership described above gains further detailed knowledge of the Company's business, operations, accounting processes and related internal controls.

In addition to the material weakness related to insufficient staffing, the Company had previously reported in its Annual Report on Form 10-K for the year ended December 31, 2004 and its Quarterly Report on Form 10-Q for the quarter ended March 31, 2005 that it had material weaknesses related to the application of lease-related accounting principles, fresh-start reporting and account reconciliation procedures. These material weaknesses were remediated during the quarter ended June 30, 2005, as reported in the Company's Quarterly Report on Form 10-Q for that quarter.

The Company performed additional analyses and procedures in order to conclude that its audited consolidated financial statements included in its Annual Report on Form 10-K for fiscal 2004, as well as its unaudited interim condensed consolidated financial statements included in this Quarterly Report on Form 10-Q and the Quarterly Reports on Form 10-Q for the first and second quarters of fiscal 2005, were presented in accordance with accounting principles generally accepted in the United States of America for such financial statements. Accordingly, management believes that despite its material weaknesses, the Company's audited consolidated financial statements included in its Annual Report on Form 10-K for fiscal 2004, as well as its unaudited interim financial information included in this Quarterly Report and the Quarterly Reports on Form 10-Q for the quarters ended March 31, 2005 and June 30, 2005, reflect all adjustments necessary to state fairly the financial information set forth therein.

(b) Changes in Internal Control Over Financial Reporting

Except as described above, there were no changes in the Company's internal control over financial reporting during the Company's fiscal quarter ended September 30, 2005 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II
OTHER INFORMATION

Item 1. Legal Proceedings.

We are involved in certain legal proceedings that are described in our Annual Report on Form 10-K for the year ended December 31, 2004 filed with the Securities and Exchange Commission, or the SEC, on May 16, 2005 and in our Quarterly Report on Form 10-Q for the quarter ended June 30, 2005 filed with the SEC on August 12, 2005. There have been no material developments in the status of those legal proceedings during the three months ended September 30, 2005.

We are subject to other claims and legal actions that arise in the ordinary course of business. We do not believe that any of these other pending claims or legal actions will have a material adverse effect on our consolidated financial statements.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Submission of Matters to a Vote of Security Holders.

Our Annual Meeting of Stockholders was held on September 15, 2005. Two proposals were considered. The first proposal was to elect six directors to hold office until the next annual meeting of stockholders or until their successors have been elected and qualified, and each candidate received the following votes:

	For	Withheld
James D. Dondero	55,308,800	98,555
John D. Harkey, Jr.	55,386,100	21,555
S. Douglas Hutcheson	55,400,500	7,155
Robert V. LaPenta	55,386,100	21,555
Mark H. Rachesky, M.D.	55,097,800	309,855
Michael B. Targoff	54,754,615	653,040

All of the foregoing candidates were elected.

The second proposal was to approve the Leap Wireless International, Inc. Employee Stock Purchase Plan. This proposal received the following votes:

For	Against	Abstain	Broker Non-Votes
43,096,366	44,295	48,930	12,218,064

The foregoing proposal was approved.

Item 5. Other Information.*Severance Benefits Agreements with Senior Executives*

On November 8, 2005, the Company entered into Severance Benefits Agreements with its Executive Vice Presidents and Senior Vice Presidents (the "Severance Agreements"). The term of the Severance Agreements extends through December 31, 2006, with an automatic extension for each subsequent year unless notice of termination is provided to the executive no later than June 30th of the preceding year.

Pursuant to the Severance Agreements, executives who are terminated without cause (as defined in the Severance Agreement) or who resign for good reason (as defined in the Severance Agreement), will receive

severance benefits consisting of an amount equal to one year of base salary and target bonus. In addition, the Company will pay the cost of continuation health coverage (COBRA) for one year or, if shorter, until the time when the executive is eligible for comparable coverage with a subsequent employer.

In consideration for these benefits, the executives have agreed to provide a general release of the Company prior to receiving severance benefits, and have agreed not to compete with the Company for one year, and not to solicit any Company employee and to maintain the confidentiality of Company information for three years.

The form of the Severance Agreement is attached hereto as Exhibit 10.4, the terms of which are incorporated herein by reference.

Annual Meeting of Stockholders and Stockholder Proposals

The 2006 Annual Meeting of Stockholders will be held on Thursday, May 18, 2006. The record date for stockholders eligible to vote at the annual meeting is March 23, 2006. Proposals that stockholders wish to include in the proxy statement for the next annual stockholders meeting must be received by Leap no later than December 15, 2005 and must satisfy the conditions established by the Securities and Exchange Commission for such proposals. Proposals that stockholders wish to present at the 2006 Annual Meeting of Stockholders (but not to include in the related proxy statement) must be received by Leap at its principal executive office at 10307 Pacific Center Court, San Diego, California 92121, Attention: Secretary, not before February 17, 2006 and no later than 5:00 p.m. P.S.T. on March 9, 2006 and must satisfy the conditions for such proposals set forth in Article II, Section 8 of Leap's Amended and Restated Bylaws. Article II, Section 8 of Leap's Amended and Restated Bylaws, contains additional advance notice requirements, including requirements with respect to advance notice of stockholder proposals and director nominations.

Item 6. Exhibits.

Index to Exhibits:

Exhibit Number	Description of Exhibit
10.1.1(1)#	Form of Restricted Stock Award Grant Notice and Restricted Stock Award Agreement, dated as of July 8, 2005, between the Company and David B. Davis.
10.1.2(1)#	Form of Restricted Stock Award Grant Notice and Restricted Stock Award Agreement, dated as of July 8, 2005, between the Company and Robert J. Irving, Jr.
10.1.3(1)#	Form of Restricted Stock Award Grant Notice and Restricted Stock Award Agreement, dated as of July 8, 2005, between the Company and Leonard C. Stephens.
10.1.4(1)#	Agreement, dated as of July 8, 2005, between the Company and Harvey P. White.
10.2.1(2)	Amendment No. 1 to the Credit Agreement among Cricket Communications, Inc., Leap Wireless International, Inc., the lenders party to the Credit Agreement and Bank of American, N.A., as agent, dated as of July 22, 2005.
10.2.2(2)	Amendment No. 2 to the Credit Agreement among Cricket Communications, Inc., Leap Wireless International, Inc., the lenders party to the Credit Agreement and Bank of American, N.A., as agent, dated as of July 22, 2005.
10.3.1 *	

Edgar Filing: Masterbeat Corp - Form 10-Q

Amendment No. 3 to Amended and Restated System Equipment Purchase Agreement, effective as of October 11, 2005, between Cricket Communications, Inc. and Nortel Networks Inc.

- 10.3.2 * Amendment No. 8 to Amended and Restated System Equipment Purchase Agreement, effective as of October 1, 2005, between Cricket Communications, Inc. and Lucent Technologies Inc.
- 10.4*# Form of Executive Vice President and Senior Vice President Severance Benefits Agreement.
- 10.5* Amendment No. 3 to Credit Agreement by and among Cricket Communications, Inc., Alaska Native Broadband 1 License, LLC, and Alaska Native Broadband 1, LLC, dated August 26, 2005.

Exhibit Number	Description of Exhibit
31.1**	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2**	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32**	Certifications of Chief Executive Officer and Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

* Filed herewith.

** Not included in Prospectus Supplement.

Portions of this exhibit (indicated by asterisks) have been omitted pursuant to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act of 1934.

Management contract or compensatory plan or arrangement in which one or more executive officers or directors participates.

- (1) Filed as an exhibit to Leap's Current Report on Form 8-K, dated July 8, 2005, as filed with the SEC on July 14, 2005, and incorporated herein by reference.
- (2) Filed as an exhibit to Leap's Current Report on Form 8-K, dated July 22, 2005, as filed with the SEC on July 25, 2005, and incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this Quarterly Report to be signed on its behalf by the undersigned thereunto duly authorized.

LEAP WIRELESS INTERNATIONAL, INC.

Date: November 11, 2005

By: /s/ S. Douglas Hutcheson

S. Douglas Hutcheson
Chief Executive Officer and President
(Principal Executive Officer)

Date: November 11, 2005

By: /s/ Dean M. Luvisa

Dean M. Luvisa
Vice President, Finance, Treasurer and
Acting Chief Financial Officer
(Principal Financial Officer)

Exhibit 10.3.1

*** CERTAIN CONFIDENTIAL INFORMATION CONTAINED
IN THIS DOCUMENT (INDICATED BY ASTERISKS) HAS
BEEN OMITTED AND FILED SEPARATELY WITH THE
SECURITIES AND EXCHANGE COMMISSION PURSUANT
TO A REQUEST FOR CONFIDENTIAL TREATMENT UNDER
17 C.F.R. SECTIONS 200-.80(B)(4), 20083 AND 230.406

AMENDMENT NO. 3

**TO
AMENDED AND RESTATED
SYSTEM EQUIPMENT PURCHASE AGREEMENT
BETWEEN
CRICKET COMMUNICATIONS, INC.
AND
NORTEL NETWORKS INC.**

This Amendment No. 3 (this Amendment) is made effective as of October 11, 2005 (the Amendment No. 3 Effective Date), by and between **Cricket Communications, Inc.**, a Delaware corporation (the Owner), and **Nortel Networks Inc.**, a Delaware corporation (the Vendor).

WHEREAS, Owner and Vendor entered into an Amended and Restated System Equipment Purchase Agreement effective December 23, 2002, for the sale, licensing, and purchase of Vendor s Products and Services, as amended by Amendment No. 1, dated effective February 7, 2003 and Amendment No. 2, dated effective December 22, 2004 (together, the Contract); and,

WHEREAS, Owner and Vendor now wish to, among other things, modify the payment terms and add a new volume commitment to the Contract.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Owner and Vendor hereby agree to amend the Contract as follows:

1. Unless otherwise defined, capitalized terms herein shall have the same meaning as in the Contract.
2. Delete recital A of the Contract in its entirety and replace with the following:

WHEREAS, Owner desires to purchase Deliverables;

3. Amend Section 1.1 of the Contract as follows:

(a) Add the following definitions and re-alphabetize the definitions accordingly:

Amendment No. 3 means that certain Amendment No. 3 to this Contract.

Approved Affiliate Contract means any contract between an Affiliate and Vendor that Vendor has identified in writing to Owner as an Approved Affiliate Contract.

Deliverables means any Products, Services and Systems ordered under this Contract.

Existing Markets means the following Owner markets that are in existence as of the effective date of Amendment No. 3: *** and Central California (which includes Fresno, Merced, Modesto and Visalia).

Initial Build-Out means, for any New Market, the build-out of the New Market in the configuration set forth in Exhibit A03 (or, with respect to DORA Products, Exhibit A04) for that Market.

New Amendment No. 3 Markets means the following (i) Auction 58 basic trading markets of Owner: Houston, Temple, Killeen, and San Diego; and (ii) additional markets of Owner: ***.

Net Price means the price after all discounts, credits, other incentives, but excluding any freight, taxes, shipping, handling, insurance and similar charges.

(b) Delete the definition of Contract Term as modified by Amendment No. 1 to the Contract and replace it with the following:

Contract Term means the period commencing on the Amendment No. 3 Effective Date and ending three (3) years therefrom, unless terminated earlier in accordance with the terms and conditions hereof, or unless extended by mutual written consent of the parties hereto.

(c) Delete the definition of Expansions in its entirety and replace all references in the Contract to an Expansion to a Deliverable, and replace all other references in the Contract to Expansion or Expansions to Deliverable or Deliverables, respectively.

(d) Delete the definition of System and replace it with the following:

System means a wireless system comprising Products purchased by Owner for any of the Existing Markets or any of the New Amendment No. 3 Markets, plus any additional Products agreed by the parties as included in any such System.

(e) Modify the definition of OEM Equipment by inserting the words private labeled by Vendor as a Vendor product or before integrated.

(f) Modify the definition of Purchase Order by replacing in compliance with with under this Contract and in compliance with .

4. In the second paragraph of Section 2.1 of the Contract replace the words with respect to the respective purchases made by such entities with the following: with respect to the respective purchases made by such entities under this Contract .

5. Delete the existing Section 2.4 (Deliverables) to the Contract and replace it with the following:

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

- 2.4 Deliverables. During the Contract Term, Owner may, from time to time, order Deliverables from Vendor, subject to the provisions of Section 12 and other terms and conditions of the Contract. The price and terms of such Deliverables shall be as set forth in Exhibit A01, A02, A03 and A04 or via a valid Nortel written quote.
6. In Section 2.8(a) of the Contract, replace Vendor's receipt from Owner of full payment for with shipment of . In Section 2.8(a)(i) of the Contract replace from any and all claims, liens with from any and all claims, liens (other than any PMSI in effect in accordance with Section 5.3(b)).
7. In Sections 2.4 and 5.1 of the Contract, replace the words A01 and A02 with the following: A01, A02, A03 and A04 .
8. In Section 3.2, insert the word accepted in front of the words Purchase Order.
9. Delete the existing Section 3.7 (Amendment No. 2 Volume Commitment) to the Contract and replace it with the new Section 3.7 (Amendment No. 3 Volume Commitment) as follows:
- 3.7 Amendment No. 3 Volume Commitment. (a) Between the effective date of Amendment No. 3 and the date that is three years thereafter (Amendment No. 3 Volume Commitment Term), Owner agrees to purchase/license, make payment for and accept delivery of Vendor Products and Services in a Net Price amount totaling not less than ninety million five hundred thousand dollars (\$90,500,000.00USD) (Amendment No. 3 Volume Commitment). With respect to the Amendment No. 3 Volume Commitment, Owner will not have failed to satisfy such commitment to the extent that Owner is unable to satisfy such commitment as a result of any of the following: (i) Vendor's non-acceptance of any purchase order: (A) issued by Owner or an Affiliate under this Contract that complies with the terms and conditions of this Contract, or (B) issued by an Affiliate under an Approved Affiliate Contract that would be eligible to be credited toward the Amendment No. 3 Volume Commitment pursuant to Section 3.7(d); provided that, Owner, an Affiliate under this Contract or an Affiliate under an Approved Affiliate Contract, is not in arrears in its payments obligations under the respective contract and is not in material breach of such respective contract; (ii) Vendor's failure to timely deliver the products in accordance with the delivery intervals set forth in the applicable contract as described in the preceding; (iii) the products failing to substantially conform to the applicable specifications and either Owner, an Affiliate under this Contract or an Affiliate under an Approved Affiliate Contract, has elected to reject such products on the basis of such non-conformance; or (iv) payments for products or services are not yet due and payable pursuant to applicable payment terms of the respective purchase contract with Vendor. Notwithstanding the preceding, in the event Vendor does not accept or rejects a purchase order due to product unavailability or manufacture discontinue, Owner shall not be excused from the Amendment No. 3 Volume Commitment if Vendor has made available for purchase under the applicable contract a Substitute Product that can be used by such purchaser in place of the unavailable or discontinued product with no additional costs related to other additional hardware or software additions or changes, if any, required to achieve at least equivalent operation, except for additional hardware or software additions or changes related to optional functionality, capacity or features used by such purchaser. A Substitute Product is a product with at least equivalent functionality, no greater price (other than price increases related solely to optional functionality, capacity or features used by the purchaser), and comparable lead time, as the functionality, price and standard lead time, respectively, of the unavailable or

Nortel Confidential and Proprietary Information

Page 3 of 30

discontinued product. In the event Owner fails to satisfy such Amendment No. 3 Volume Commitment prior to the end of the Amendment No. 3 Volume Commitment Term, Vendor may invoice Owner in an amount equal to *** of the amount of the Amendment No. 3 Volume Commitment that remains unsatisfied. Such invoice shall be due and payable thirty (30) days after Owner's receipt. Owner's full payment of such invoiced amount for the unsatisfied Amendment No. 3 Volume Commitment shall be Vendor's sole remedy with respect to such failure by Owner to satisfy the Amendment No. 3 Volume Commitment, and any such failure to satisfy the Amendment No. 3 Volume Commitment for which such payment has been made shall not be a breach of this Contract.

(b) Prior to the end of the Amendment No. 3 Volume Commitment Term, Owner may purchase Product and/or Service credits in an amount equal to ***, subject to the following. The cumulative total of Product and/or Service credits that may be purchased by Owner pursuant to this Section shall not exceed ***. Any such Product and/or Service credits so purchased shall be deemed to apply towards Owner's satisfaction of the Amendment No. 3 Volume Commitment. Product and/or Service credits must be used within *** from the date such Product and/or Service credits were purchased, after which such Product and/or Service credits ***.

(c) All purchases by Affiliates under this Contract shall be credited toward the Amendment No. 3 Volume Commitment.

(d) Solely for purposes of determining whether Owner has satisfied the Amendment No. 3 Volume Commitment, all purchases by Affiliates of the same types of Vendor products and services under Approved Affiliate Contracts shall be credited toward the Amendment No. 3 Volume Commitment, except to the extent of any such Affiliate purchases made toward satisfaction of any separate purchase commitment to Vendor in the Approved Affiliate Contract. All purchases by any Affiliate under an Approved Affiliate Contract shall first be applied to such Affiliate's own purchase commitments to Vendor, if any, in such Approved Affiliate Contract, and after satisfaction of such Affiliate purchase commitments, all amounts for purchases by the Affiliate under the Approved Affiliate Contract shall be credited toward the Amendment No. 3 Volume Commitment. Owner shall provide Vendor with a one-time ninety (90) day advance written notice per Affiliate of its intent to have any such Approved Affiliate Contract purchases credited toward satisfaction of the Amendment No. 3 Volume Commitment.

(e) In the event that, at any time or from time to time, Owner acquires or is acquired by (by merger, purchase of all stock or other equity interests, or purchase of substantially all assets with an assignment of this Contract or the Affiliate Contract to the acquiror, as applicable) any Affiliate that has a volume purchase commitment to Vendor for the purchase of the same types of Vendor products and services in an Approved Affiliate Contract, then Owner may elect to combine the volume purchase commitments of Owner under this Contract and the Affiliate under the Approved Contract such that the aggregate purchases by Owner and such Affiliate under the terms of their respective contracts with Vendor will be

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

credited against the combined volume purchase commitment, and each of the Owner's and such acquired Affiliate's volume purchase commitment will be deemed to be satisfied if the combined volume purchase commitment is satisfied.

8. Add a new Section 3.8 (Requirements Commitment) to the Contract as follows:

3.8 Requirements Commitment. During the Amendment No. 3 Volume Commitment Term, Owner commits to purchase/license, and Vendor commits to sell/license, Vendor CDMA Products and Services for an Initial Build-Out for the New Amendment No. 3 Markets (excluding Owner's *** markets) in the minimum configurations and associated prices as set forth in the Initial Build Out sections of Exhibits A03 and A04 to the Contract, attached hereto. All purchases for any New Amendment No. 3 Markets by Affiliates, if any, of the same types of Vendor products and services as provided in Exhibits A03 and A04 shall be considered in determining whether this commitment is satisfied. Owner shall provide Vendor with a one-time ninety (90) day advance written notice per Affiliate of its intent to have any such Approved Affiliate Contract purchases credited toward satisfaction of this commitment.

9. Delete Section 5.3 (Payment) in its entirety and replace with the following:

5.3 Payment.

(a) Unless Vendor requires payment in advance as described herein below, Vendor shall invoice Owner as follows:

(i) With respect to Purchase Orders for *** for Initial Build-Outs only, Vendor shall invoice Owner in accordance with the following schedule: (A) ***; and (B) ***. The acceptance test criteria will be mutually agreed to in writing by the parties. By way of example only, assuming the parties mutually agree to four (4) payment-affecting acceptance test criteria, Vendor may invoice Owner *** of the *** upon satisfactory completion of mutually agreed to acceptance test criteria of each of the four (4) payment-affecting acceptance test criteria. Section 5.5 of the Contract shall not apply to ***.

(ii) With respect to Purchase Orders, or portions thereof, ***, Vendor will invoice Owner ***, and ***.

(iii) ***. Invoiced amounts, less good faith disputed amounts, are due and payable within *** from Owner's receipt of the invoice. Invoicing disputes must be identified in writing within *** of Owner's receipt of the applicable invoice, provided however that this sentence shall not prejudice in any way Owner's right to later dispute amounts improperly billed (e.g., double billings, bills in excess of the agreed price, etc.). Any disputed amounts that are determined to be validly billed are due for payment ***. Notwithstanding anything to the contrary set forth herein, in the event of non-payment of an undisputed invoice after the respective due date, ***. Owner shall pay interest on any late payments at the rate of *** per annum (***) per month).

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information

Page 5 of 30

(b) Effective as of the effective date of Amendment No. 3, Owner grants to Vendor a first priority purchase money security interest (PMSI) in all Products hereafter sold, delivered, provided and/or licensed by Vendor to Owner under this Contract, and Owner agrees to reasonably cooperate with Vendor in the perfection of such security interest, provided that Vendor shall be solely responsible for the preparation and filing of any documentation required to effect such perfection. Vendor shall further promptly take all required actions to terminate such perfected security interest on record as required by applicable law. The PMSI so granted in each Product shall solely secure payment for such Product and shall automatically terminate upon Vendor's receipt of payment in full for such Product and no PMSI shall continue or attach to any Product or other good sold to Owner for which Vendor has received such payment in full. Owner authorizes Vendor to file financing or continuation statements, including amendments thereto, relating to the PMSI, and Products encumbered thereby, without the signature of Owner where permitted by law.

10. Add the following provisions to the end of Section 8.1 (Transportation):

Wireless switch and switch-related Products shall be shipped to the installation site(s) per the applicable Purchase Order or as instructed by Owner, unless the parties mutually agree in writing to an alternate Owner initial delivery location. Shipment of such Products to any such alternate location may result in additional costs to Owner. Other wireless Products shall be shipped to Owner's designated initial delivery location. Owner shall be responsible for the coordination of delivery arrangements and for freight, insurance, handling and any other applicable transportation and handling charges incurred in moving delivered Products from Owner's initial delivery location to the installation sites as required to comply with project schedule dates.

11. Delete Section 10.1 (Acceptance Procedures) in its entirety and replace it with the following:

10.1 Acceptance Procedures. Vendor shall perform acceptance tests mutually agreed to in writing by the parties and in accordance with its published Specifications. Upon successful completion of such acceptance tests or Owner's use of the respective Products in commercial service, whichever occurs first, the Products and Services shall be deemed accepted for purposes of payment in accordance with Section 5.5 (In-Revenue Payments), except that with respect to *** such commercial service shall not be deemed acceptance.

12. In Section 13.1 (RTU License), replace the parenthetical phrase (capability to move Software from site to site on prior notice to Vendor) in its entirety with the following:

(i.e., capability to move Software from site to site on prior notice to Vendor, ***)

12. Add a new Section 14.4 to the Contract as follows.

14.4 Product Relocation. Owner may move/utilize Products purchased for *** pricing as amended by Amendment No. 3 ***.

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

13. Delete the first sentence of Section 13.5 (Termination and Survival) and replace it with the following:

The rights and obligations of Owner under the RTU License shall survive the termination of this Contract, regardless of the cause of termination provided Owner has met its material obligations hereunder with respect to the RTU License (including confidentiality provisions of the Contract with respect to the Software) and has rendered all applicable Software payments in accordance with this Contract.

14. Delete and acceptance thereof by Owner from the first sentence of Section 14.1.3.

15. Add a new Section 16 to the Contract as follows:

SECTION 16 TRAINING.

(a) During the Amendment No. 3 Volume Commitment Term, Vendor shall make training available to Owner with respect to the operation, configuration, installation, service, maintenance and support of the Products at the price of *** per day of training per person at Vendor facilities, subject to course and class availability. Upon the request of Owner, Vendor and Owner shall agree to the time and location of any such training. Vendor training products and services are listed at the Vendor website for technical training <http://www.Nortel.com/training> (Vendor Website for Technical Training).

(b) Vendor shall make available to Owner Training Bank Dollars , in accordance Section 2.0 (CDMA 1XEV DO Revision 0 System Level Pricing for Existing Markets) and Section 3.0 (CDMA 1XEV DO Revision 0 Upgrade to 1XEV DO Revision A) of Attachment 1 (Optional Equipment Pricing and Programs) to Amendment No. 3, with a cumulative maximum amount of *** Training Bank Dollars to be made available to Owner under such Sections. Owner may apply any such the Training Bank Dollars toward tuition costs for Vendor s then-available training products and services, provided that Owner notifies Vendor of its intent to apply Training Bank Dollars toward tuition costs for training prior to the first day of the respective training class. The Training Bank Dollars will be allocated to the Training Bank quarterly and the amount of Training Bank Dollars allocated will be based upon the performance criteria set forth in such Section(s) referenced above. The Training Bank Dollars will expire *** and have no residual cash value.

(c) The training policies as listed at the Vendor Website for Technical Training shall apply to training ordered hereunder. Vendor may change, modify, update and/or add training programs as new Products or Product features/releases are made available.

(d) Owner shall bear the cost of transportation, meals, lodging or other incidental expenses of Owner s personnel to, from and during training.

(e) Owner shall render payment within thirty (30) days following receipt of invoice. The payment method identified in the student registration record on the first day of class is the payment method that will prevail for course charges.

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

(f) The availability of any training course to Owner as set forth above shall be subject to the prerequisite policy identified by Vendor at the Vendor Website for Technical Training. Vendor's training materials are proprietary, confidential and copyrighted information. Any use or replication of this material must have prior written consent by Vendor's Knowledge Services organization.

THE TRAINING MATERIALS AND ANY SUPPORT OR OTHER SERVICES WHICH MAY BE PROVIDED BY VENDOR SHALL BE PROVIDED WITHOUT WARRANTY OF ANY KIND OR NATURE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. VENDOR DOES NOT WARRANT THAT THE TRAINING MATERIALS WILL BE ERROR-FREE OR THE STUDYING OF THE TRAINING MATERIALS WILL QUALIFY ANY PERSON TO PERFORM ANY FUNCTIONS COVERED BY THE INSTRUCTIONAL MATERIALS. VENDOR SHALL HAVE NO OBLIGATION TO UPDATE OR MONITOR THE USE, REPRODUCTION, OR DISTRIBUTION BY OWNER OR ANY THIRD PARTIES OF SUCH TRAINING MATERIALS. IN NO EVENT SHALL VENDOR BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE WHATSOEVER WITH RESPECT TO TRAINING.

16. Add a new Section 18.2 (Design Criteria) to the Contract as follows:

The design criteria mutually agreed to by Vendor and Owner for the New Amendment No. 3 Markets are set forth below (the New Market Design Criteria). Vendor warrants that the collective Equipment in the minimum required configurations as set forth in Exhibit A03= for each New Amendment No. 3 Market will meet the New Market Design Criteria.

New Market Design Criteria:

Market	POP	Equipment Capacity against Year***						
		Covered POP	BTS Qty	Year*** Voice Subs (*** pen.)	Year*** Data Subs (*** pen.)	Back-haul T-1	BH Erlang	BHCA
Houston	5,579,503	***	***	***	***	***	***	***
Temple Killeen	388,291	***	***	***	***	***	***	***
San Diego	3,010,095	***	***	***	***	***	***	***
Total:	8,977,889	***	***	***	***	***	***	***

The New Market Design Criteria is based on the following Owner requirements: ***.

Vendor's Packet MSCs (MSCe), Media Gateways and eBSCs (CBRS) Products shall, at a minimum, meet or exceed the above New Market Design Criteria in normal operating

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

conditions, provided such Products are used by Owner in accordance with the respective Product Specifications. Each Vendor RNC Product shall support *** and capacity of *** in normal operating conditions, provided such Products are used by Owner in accordance with the respective Product Specifications.

17. Delete the first sentence of Section 18.1 (Product and Services Warranty) and replace it with the following:

Vendor warrants that, with respect to the Products and Services furnished under this Contract for a period of *** from the date of shipment (the Warranty Period), such Products and Services will be free of Defects and Deficiencies and shall conform to the applicable portions of the Specifications (the Products and Services Warranty).

18. Delete the first sentence of Section 22.1 (Title) of the Contract and replace it with the following: Title and risk of loss for ordered hardware shall pass from Vendor to Owner upon delivery to the carrier for shipment to Owner s initial designated delivery location.

19. Delete Section 24.1 (Termination Without Cause) in its entirety and replace it with the following:

~~24.1 Termination Without Cause. [Deleted]~~

20. Section 26.29 of the Contract shall be deleted in its entirety and replaced with the following:

26.29 Survival. Notwithstanding any expiration or termination of this Contract, the provisions of Sections 2.8, 4.8, 12, 13, 14 (excluding Section 14.4, which shall terminate upon the earlier of (i) four (4) years from the effective date of Amendment No. 3, and (ii) one year after Contract termination by Owner), 15, 18, 20, 26.18 and 26.23 and any other provision that based on its content is intended to survive shall continue in full force and effect.

OWNER AND VENDOR HAVE READ THIS CONTRACT INCLUDING ALL SCHEDULES AND EXHIBITS HERETO AND AGREE TO BE BOUND BY ALL THE TERMS AND CONDITIONS HEREOF AND THEREOF.

21. Add a new sentence to Section 1.2 (Annual Software Maintenance Fees) of Exhibit A02 to the Contract (as re-named via Amendment No. 2 to this Contract) as follows: Vendor s annual license fees also specifically exclude the following optional Software features:

***.

The parties hereby agree and acknowledge that such sentence regarding Software feature exclusions shall retroactively apply to the Contract as of the effective date of Amendment No. 2. As shown in the new Exhibit A02 to the Contract added via this Amendment No. 3, such optional features shall also be excluded from the features made available to

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 9 of 30

Owner under the Annual Software Maintenance Fees as of the effective date of Amendment No. 3.

22. Delete Exhibits A01 and A02 to the Contract in their entirety and replace with the new Exhibits A01, A02, A03 and A04, attached hereto.
23. Delete Exhibits B, D and E to the Contract in their entirety and replace them with the new Exhibits B, D and E, respectively, attached hereto.
24. The following Exhibits, attached hereto as Attachments 1 through 6, shall be added to the Contract and incorporated therein:

Attachment 1, (Optional Equipment Pricing and Programs)

Attachment 2, Exhibit A01 (Pricing Discounts)

Attachment 3, Exhibit A02 (Software Pricing)

Attachment 4, Exhibit A03 (Amendment No. 3 Initial Build-Out Pricing (Voice))

Attachment 5, Exhibit A04 (Amendment No. 3 Initial Build-Out Pricing (DORA))

Attachment 6, Exhibit B (Cancellation Charges for Products and Services)

Attachment 7, Exhibit D (Purchase Order Address)

Attachment 8, Exhibit E (Lead Times/Intervals)

Attachment 9, Exhibit J (Amendment No. 3 New Market Technical Points)

25. Except as specifically modified by Amendment No. 3, the Contract in all other respects shall continue in full force and effect.

[Remainder of page is intentionally left blank.]

Nortel Confidential and Proprietary Information

Page 10 of 30

IN WITNESS WHEREOF, the parties have caused this Amendment No. 3 to be signed by their duly authorized representatives effective as of the date first set forth above.

**CRICKET COMMUNICATIONS,
INC.**

NORTEL NETWORKS INC.

By: /s/ Glenn Umetsu

By: /s/ James A. illegible

Name: Glenn Umetsu

Name: James A. illegible

(Type/Print)
Title: EVP & CTO

(Type/Print)
Title: VP Carrier Networks

Date: October 6, 2005

Date: October 11, 2005

Tax ID: 33-0879924

Address: 10307 Pacific Center Court, San Diego, CA 92009

Nortel Confidential and Proprietary Information

Page 11 of 30

**ATTACHMENT 1 TO AMENDMENT NO. 3 OF THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
OPTIONAL EQUIPMENT PRICING AND PROGRAMS**

In consideration in part of Owner's Amendment No. 3 Volume Commitment and other commitments by Owner as set forth in Amendment No. 3, Vendor will make available to Owner, for a period of *** from the effective date of Amendment No. 3, the following pricing incentives, unless a different time period is set forth below. Any Software priced hereunder shall be used by Owner only in accordance with the Software licensing provisions of the Contract. In order to qualify for any of the programs listed below that involve the return of certain products, such products must be free and clear of any liens and encumbrances and returned in good and workmanlike condition, excluding normal wear and tear.

*** [5 pages redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 12 of 30

**ATTACHMENT 2 TO AMENDMENT NO. 3 OF THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
EXHIBIT A01
EXHIBIT A01
TO THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED
SYSTEM EQUIPMENT PURCHASE AGREEMENT
PRICING DISCOUNTS**

[Nortel Logo]

Nortel Networks Confidential

Customer: Cricket Communication
New Amendment No. 3 Markets BTS
Pricing

Date: September 20, 2005

Description

Net Price

*** [8 pages redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 13 of 30

**ATTACHMENT 3 TO AMENDMENT NO. 3 OF THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
EXHIBIT A02
EXHIBIT A02
TO THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED
SYSTEM EQUIPMENT PURCHASE AGREEMENT
SOFTWARE PRICING**

*** [2 pages redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 14 of 30

**ATTACHMENT 4 TO AMENDMENT NO. 3 OF THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
EXHIBIT A03
EXHIBIT A03
TO THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED
SYSTEM EQUIPMENT PURCHASE AGREEMENT
INITIAL BUILD-OUT (VOICE)
PRICING FOR NEW AMENDMENT NO. 3 MARKETS**

[Nortel Logo]

Nortel Networks Confidential

Customer: Cricket Communications, Inc. Initial Build-Out

Net Amendment No. 3 Markets Houston

Proposal Prepared By:

Jack Johnson	Account Manager	(972) 684-2286
Kim Tovy	Account Manager	(972) 362-8056
Wayne Kodama	Wireless Sales Engineer	(925) 867-2294

Quote Number: B2005081718.1

Date: September 20, 2005

*** [1 page redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information

Page 15 of 30

[Nortel Logo]
Nortel Networks Confidential

Customer: Cricket Communications, Inc. Initial Build-Out
Net Amendment No. 3 Markets Houston

Proposal Prepared By:

Jack Johnson	Account Manager	(972) 684-2286
Kim Tovy	Account Manager	(972) 362-8056
Wayne Kodama	Wireless Sales Engineer	(925) 867-2294

Quote Number: B2005081718.1
Date: September 20, 2005

*** [15 pages redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 16 of 30

[Nortel Logo]
Nortel Networks Confidential

Customer: Cricket Communications, Inc. Initial Build-Out
New Amendment No. 3 Markets San Diego

Proposal Prepared By:

Jack Johnson	Account Manager	(972) 684-2286
Kim Tovy	Account Manager	(972) 362-8056
Wayne Kodama	Wireless Sales Engineer	(925) 867-2294

Quote Number: B2005032814.7R10
Date: September 20, 2005

*** [1 page redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 17 of 30

[Nortel Logo]
Nortel Networks Confidential

Customer: Cricket Communications, Inc. Initial Build-Out
Net Amendment No. 3 Markets San Diego

Proposal Prepared By:

Jack Johnson	Account Manager	(972) 684-2286
Kim Tovy	Account Manager	(972) 362-8056
Wayne Kodama	Wireless Sales Engineer	(925) 867-2294

Quote Number: B2005032814.7R10
Date: September 20, 2005

*** [13 pages redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 18 of 30

[Nortel Logo]
Nortel Networks Confidential

Customer: Cricket Communications, Inc. Initial Build-Out
New Amendment No. 3 Markets Temple-Killeen

Proposal Prepared By:

Jack Johnson	Account Manager	(972) 684-2286
Kim Tovy	Account Manager	(972) 362-8056
Wayne Kodama	Wireless Sales Engineer	(925) 867-2294

Quote Number: B2005081717.1
Date: September 20, 2005

*** [1 page redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 19 of 30

[Nortel Logo]

Nortel Networks Confidential

Customer: Cricket Communications, Inc. Initial Build-Out

New Amendment No. 3 Markets Temple_Killeen

Proposal Prepared By:

Jack Johnson	Account Manager	(972) 684-2286
Kim Tovy	Account Manager	(972) 362-8056
Wayne Kodama	Wireless Sales Engineer	(925) 867-2294

Quote Number: B2005081717.1

Date: September 20, 2005

*** [7 pages redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 20 of 30

**ATTACHMENT 5 TO AMENDMENT NO. 3 OF THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
EXHIBIT A04
EXHIBIT A04
TO THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED
SYSTEM EQUIPMENT PURCHASE AGREEMENT
INITIAL BUILD-OUT (1xEV-DO)
PRICING FOR NEW AMENDMENT NO. 3 MARKETS**

*** [1 page redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 21 of 30

[Nortel Logo]
Nortel Networks Confidential

Customer: Cricket Communications, Inc.

New Amendment No. 3 Markets - 1xEV-DO

Proposal Prepared By:

Jack Johnson	Account Manager	(972) 684-2286
Kim Tovy	Account Manager	(972) 362-8056
Wayne Kodama	Wireless Sales Engineer	(925) 867-2294

Quote Number: B2005071913.7R6

Date: September 20, 2005

*** [1 page redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 22 of 30

[Nortel Logo]
Nortel Networks Confidential

Customer: Cricket Communications, Inc.

New Amendment No. 3 Market Houston - 1xEV-DO

Proposal Prepared By:

Jack Johnson/ Kim Tovy	Account Manager	(972) 684-2286/(972) 362-8056
Wayne Kodama	Wireless Sales Engineer	(925) 867-2294

Quote Number: B2005071913.7R6
Date: September 20, 2005

*** [1 page redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 23 of 30

[Nortel Logo]
Nortel Networks Confidential

Customer: Cricket Communications, Inc.

New Amendment No. 3 Market Temple/Killeen - 1xEV-DO

Proposal Prepared By:

Jack Johnson/ Kim Account Manager (972) 684-2286/(972) 362-8056

Tovy

Wayne Kodama Wireless Sales Engineer (925) 867-2294

Quote Number: B2005071913.7R6

Date: September 20, 2005

*** [1 page redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 24 of 30

[Nortel Logo]
Nortel Networks Confidential

Customer: Cricket Communications, Inc.

New Amendment No. 3 Market San Diego - 1xEV-DO

Proposal Prepared By:

Jack Johnson/ Kim Account Manager (972) 684-2286/(972) 362-8056

Tovy

Wayne Kodama Wireless Sales Engineer (925) 867-2294

Quote Number: B2005071913.7R6

Date: September 20, 2005

*** [3 pages redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 25 of 30

**ATTACHMENT 6 TO AMENDMENT NO. 3 OF THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
EXHIBIT B
CANCELLATION CHARGES FOR PRODUCTS AND SERVICES
EXHIBIT B
TO THE
CRICKET COMMUNICATIONS, INC.
SYSTEM EQUIPMENT PURCHASE AGREEMENT
CANCELLATION CHARGES FOR PRODUCTS AND SERVICES**

1.0 Cancellations of Products.

1.1 If Owner cancels all or part of an Order for Products being engineered and installed by Nortel Networks, Owner shall pay Nortel Networks a cancellation charge for each Product that has been cancelled in accordance with the following schedule:

***.

In the event Owner cancels all or part of an Order for furnish only Products, Owner shall pay Nortel Networks a cancellation charge for each Product that has been cancelled in accordance with the following schedule.

***.

1.3 Owner may not cancel a Purchase Order subsequent to the date the Product is shipped.

2.0 Cancellation of Services

2.1 In accordance with Section 11.2 of the Agreement, Owner may cancel any Purchase Order relating to Services prior to Vendor's completion. ***.

3.0 Any cancellation charges due to Vendor pursuant to this Exhibit shall be invoiced upon receipt of Owner's written cancellation notice.

4.0 The payment of the charges described in this Exhibit shall be Vendor's sole remedy and Owner's sole obligation for such canceled Purchase Order(s).

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

**ATTACHMENT 7 TO AMENDMENT NO. 3 OF THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
EXHIBIT D
PURCHASE ORDER ADDRESS
EXHIBIT D
TO THE
CRICKET COMMUNICATIONS, INC.
SYSTEM EQUIPMENT PURCHASE AGREEMENT
PURCHASE ORDER ADDRESS**

All Purchase Orders shall be sent to the Vendor at the following address in accordance with Section 3.1 of the Agreement:

Nortel Networks Inc.
2370 Performance Drive
Mail Stop: 08702B30
Richardson, Texas
75082
FAX: 1-800-570-0909
Attn: Evelyn Daigneault

Nortel Confidential and Proprietary Information
Page 27 of 30

**ATTACHMENT 8 TO AMENDMENT NO. 3 OF THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
EXHIBIT E
LEAD TIMES/INTERVALS
EXHIBIT E
TO THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
LEAD TIMES/INTERVALS**

Interval for CDMA MTX Initial host jobs that require only MTS (Made to Stock) and/or B/E frames (Back End frames)

The supported interval for forecasted orders is 9 weeks from the date of Vendor's acceptance of the applicable Purchase Order to the date the Product is shipped. Add an additional 8 weeks if not a forecasted order.

Interval for CDMA MTX Initial host jobs that require MTO (Made to Order) frames

The supported interval for forecasted orders is 10 weeks from the date of Vendor's acceptance of the applicable Purchase Order to the date the Product is shipped. Add an additional 8 weeks if not a forecasted order.

Interval for CDMA MTX Extension jobs

The supported interval for forecasted orders is 8 weeks from the date of Vendor's acceptance of the applicable Purchase Order to the date the Product is shipped. Add an additional 8 weeks if not a forecasted order.

Interval for CDMA BTS's & BTS's expansions

The supported interval for forecasted orders is 6 weeks from the date of Vendor's acceptance of the applicable Purchase Order to the date the Product is shipped. Add an additional 8 weeks if not a forecasted order.

Interval for CDMA EV-DO

The supported interval for forecasted orders is 10 weeks from the date of Vendor's acceptance of the applicable Purchase Order to the date the Product is shipped. Add an additional 8 weeks if not a forecasted order.

Nortel Confidential and Proprietary Information

Page 28 of 30

Interval for CDMA BSC jobs & BSC expansions

The supported interval for forecasted orders is 9 weeks from the date of Vendor's acceptance of the applicable Purchase Order to the date the Product is shipped. Add an additional 8 weeks if not a forecasted order.

Interval for CDMA CBRS BSC

The supported interval for forecasted orders is 9 weeks from the date of Vendor's acceptance of the applicable Purchase Order to the date the Product is shipped. Add an additional 8 weeks if not a forecasted order.

Interval for CDMA BSM, PDSN

The supported interval for forecasted orders is 9 weeks from the date of Vendor's acceptance of the applicable Purchase Order to the date the Product is shipped. Add an additional 8 weeks if not a forecasted order.

Vendor's obligation to support the intervals listed above assumes Vendor's receipt of Owner's forecast in accordance with Section 3.4 of the Agreement.

Nortel Confidential and Proprietary Information

Page 29 of 30

**ATTACHMENT 9 TO AMENDMENT NO. 3 OF THE
CRICKET COMMUNICATIONS, INC.
AMENDED AND RESTATED SYSTEM EQUIPMENT PURCHASE AGREEMENT
EXHIBIT J
AMENDMENT NO. 3 NEW MARKET TECHNICAL POINTS**

In consideration in part of Owner's Amendment No. 3 Volume Commitment and other commitments by Owner as set forth in Amendment No. 3, the parties hereby agree as follows:

*** [2 pages redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Nortel Confidential and Proprietary Information
Page 30 of 30

Exhibit 10.3.2

*** CERTAIN CONFIDENTIAL INFORMATION CONTAINED
IN THIS DOCUMENT (INDICATED BY ASTERISKS) HAS
BEEN OMITTED AND FILED SEPARATELY WITH THE
SECURITIES AND EXCHANGE COMMISSION PURSUANT
TO A REQUEST FOR CONFIDENTIAL TREATMENT UNDER
17 C.F.R. SECTIONS 200-.80(B)(4), 20083 AND 230.406

**AMENDMENT NO. 8 TO THE AMENDED AND RESTATED
SYSTEM EQUIPMENT PURCHASE AGREEMENT**

THIS AMENDMENT NO. 8 (this Amendment or Amendment No. 8) is made and entered into by and between **Cricket Communications, Inc.**, a Delaware corporation (Owner) and **Lucent Technologies Inc.**, a Delaware corporation (Vendor), collectively (the Parties) and is effective as of October 1, 2005 (the Amendment No. 8 Effective Date).

RECITALS

A. **WHEREAS**, Owner and Vendor are parties to that certain Amended and Restated System Equipment Purchase Agreement, dated as of June 30, 2000 (the SEPA), as amended by Amendment No. 1, effective March 22, 2002 (Amendment No. 1), Amendment No. 2, effective March 22, 2002 (Amendment No. 2), Amendment No. 3, effective March 22, 2002 (Amendment No. 3), Amendment No. 4, effective September 10, 2002 (Amendment No. 4), the Letter Agreements dated September 30, 2002 and December 30, 2002 (the Letter Agreements), Amendment No. 5, executed on September 23, 2003 (Amendment No. 5), Amendment No. 6 effective February 4, 2004 (Amendment No. 6) and Amendment No. 7 effective January 1, 2005; The SEPA, Amendment Nos. 1-7 and the Letter Agreements are collectively referred to herein as (the Contract or SEPA).

B. **NOW, THEREFORE**, incorporating the Recitals herein, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Vendor and Owner agree as follows:

1. EFFECTIVE DATE AND CONTRACT TERM EXTENSION

This Amendment shall become effective as of the Amendment No. 8 Effective Date stated above. The definition of Contract Term in Section 1.1 is hereby amended in its entirety to read as follows:

Contract Term means the period commencing on the Effective Date of the original Contract, September 20, 1999, and ending September 30, 2008, unless terminated earlier in accordance with the terms and conditions hereof, or unless extended by the mutual written consent of the parties hereto.

2. SCOPE

Except as expressly modified herein, the terms of the SEPA, including all attachments, shall remain in full force and effect. To the extent there may be any conflicts as related to the subject matter herein, the documents shall control and take precedence in following order: (a) this Amendment; (b) the SEPA; and (c) attachments to the SEPA.

FINAL FOR EXECUTION

Amendment No. 8

All capitalized terms not otherwise defined herein shall have the same meaning and effect as in the SEPA.

3. AGREEMENT MODIFICATIONS

3.1 Scope and Purchase Commitment:

This Amendment No. 8 reflects the agreement between the Parties with respect to upgrading the Equipment and Software in Owner's Amendment No. 8 Existing Markets and Owner's New Markets. Amendment No. 8 Existing Markets means all Markets previously awarded to Vendor and for which Owner's System operates with Vendor's Products as of the Amendment No. 8 Effective Date. New Markets means any Market of Owner, whether existing now or in the future, other than the Amendment No. 8 Existing Markets.

Owner commits to purchase Products and Services from Vendor over a three-year period (effective from October 1, 2005 to September 30, 2008, referred to herein as the Amendment No. 8 Purchase Commitment Term) totaling not less than [\$119,000,000] before potential credits to be earned by Owner pursuant to Section 3.5 below (the Amendment No. 8 Purchase Commitment).

All purchases of Products by Owner under this Contract, and purchases by Owner's Affiliate under any separate agreement entered into between Vendor and such Owner's Affiliate on terms similar to this Contract, during the Amendment No. 8 Purchase Commitment Term (an Affiliate Contract) shall be credited toward the Amendment No. 8 Purchase Commitment under the conditions as stated below.

All purchases by any Affiliate of Owner under a separate Affiliate Contract with Vendor shall be credited toward the Amendment No. 8 Purchase Commitment, except to the extent that any such purchases are made toward satisfaction of any separate purchase commitment contained in such Affiliate Contract. All purchases under such Affiliate Contract shall first be applied to such purchase commitment to Vendor, if any, in such Affiliate Contract, and after satisfaction of such purchase commitment, then all additional purchases in excess of such purchase commitment under the Affiliate Contract shall be credited toward the Amendment No. 8 Purchase Commitment. Affiliate, means any entity that is greater than fifty percent (50%) owned, either directly or indirectly, by Owner, and such affiliate shall not otherwise be partially owned or controlled by any vendor in competition with Vendor.

Owner shall not have failed to satisfy the Amendment No. 8 Purchase Commitment to the extent of any of the following: (i) Vendor's rejection of any purchase order, where such Purchase Order is in compliance with the terms and conditions of the applicable contract (i.e., this Contract or an Affiliate's Contract with Vendor), provided that Owner or the Affiliate, as applicable, is not in arrears in its payments under such contract and is not in material breach of such contract; (ii) Vendor's failure, which failure shall be solely due to

Lucent Technologies Inc. and Cricket Proprietary

Use pursuant to Company instructions

Page 2 of 7

FINAL FOR EXECUTION

Amendment No. 8

Vendor's actions or inactions, to timely deliver the Products in accordance with the delivery intervals set forth in Vendor's applicable quotes; (iii) the Products failing to substantially conform to the applicable Specifications, and Owner or Affiliate, as applicable, has elected to reject such Products on the basis of such non-conformance; or (iv) payments for Products or Services received by Owner or the Affiliate, as applicable, that are not yet due and payable pursuant to the terms of the applicable contract.

3.2 Upgrades to Amendment No. 8 Existing Markets:

Upgrades to Systems in Owner's Amendment No. 8 Existing Markets may include, at Owner's election, (a) Enhanced Cellular Processor (ECP) Software Maintenance Releases *** at the prices set forth in Attachment A to this Amendment No. 8, before credits, where Attachment A identifies that hardware and software required based on Vendor's analysis of Owner's network data provided by Owner to Vendor as of this Amendment No. 8 Effective Date, in order to install and operate such Software Maintenance Releases, and (b) Vendor's data solution (EvDO) Rev 0 and Rev A at the prices set forth in Attachment C to this Amendment No. 8, before credits. In the event that additional hardware or software elements not included under this Amendment No. 8, including attachments hereto, are required to be installed in an Amendment No. 8 Existing Market in order for such Market to be upgraded to and operate with such Software Maintenance Releases, Vendor shall supply such hardware and software to Owner ***. Notwithstanding the preceding sentence, should Owner's network data prove *** then Owner shall be ***. Deployment of *** will occur ***. MSC upgrades required to support Colorado Springs are as described in Attachment B.

3.3 EvDO Rev 0/Rev A E&I Pricing (Existing Markets):

Engineering and Installation charges applicable to the deployment of EvDO Rev 0 and Rev A are set forth in Attachment C to this Amendment No. 8.

3.4 Loan of ***:

Owner and Vendor shall mutually agree on a delivery schedule for the *** to be ordered by Owner. From the date of delivery until the later of July 31, 2006 or two months after the date that Vendor *** shall provide ***, or the equivalent ***. Should (i) *** not be installed by Vendor in all Existing Markets, and such installation delay within such Existing Market was due solely to Vendor's actions or inactions, or (ii) should the *** not perform therein in accordance with Exhibit I by *** then Owner and Vendor shall ***. Should Owner ***.

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Lucent Technologies Inc. and Cricket Proprietary
Use pursuant to Company instructions
Page 3 of 7

FINAL FOR EXECUTION

Amendment No. 8

3.5 Credits:

3.5.1 Earned Credits:

(a) At such time during the Amendment No. 8 Purchase Commitment Term that Owner together with all Affiliates make a total of *** in purchases (net of credits, if any applied) under this Contract and/or any Affiliate Contracts, then Owner and the Affiliates collectively shall earn *** in credits under this Contract. For every additional *** (net of credits, if any applied) collectively purchased as applicable under this Amendment No. 8 and/or any Affiliate Contracts, as applicable, Owner and its Affiliates collectively shall earn an additional *** in credits under this Contract. ***

Net Purchases*	Credits Earned	Cumulative Credits Earned
***	***	***

* Net Purchases means all gross purchases, minus any sales tax included in such amounts, minus all credits earned and applied to such purchases as designated by Owner.

(b) In addition, should Owner purchase Vendor's Anypath Messaging for a minimum of *** in Equipment and Software (excluding Services), Vendor shall provide additional credits of *** to the above credits of ***, bringing total potential credits available to Owner of ***. Vendor's Anypath Messaging configuration is per Attachment D to this Amendment No. 8.

3.5.2 Application of Owner's Credits:

Credits earned may be applied as designated by Owner in writing towards Owner's then outstanding accounts receivable balance with Vendor. Earned credits may be applied toward Product purchases for Amendment No. 8 Existing Markets or New Markets. Notwithstanding the above, upon the earlier of Termination of the Contract or expiration of the Contract Term, including any extension thereof, ***.

3.6 ARMF (TSS/BRSS/Mobility RTSA/INS RTSA/RES/OFS) Pricing:

Vendor's standard ARMF fee is *** per ECP as of the Amendment No. 8 Effective Date. In consideration in part of Owner's Amendment No. 8 Purchase Commitment, Vendor pricing for ARMF for all Markets shall be discounted as follows:

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Lucent Technologies Inc. and Cricket Proprietary
Use pursuant to Company instructions
Page 4 of 7

FINAL FOR EXECUTION

Amendment No. 8

Calendar Yr	Current Pricing/ECP	Discount	Revised Pricing /ECP
2005	***	***	***
2006	***	***	***
2007	***	***	***
2008	***	***	***

Upon Owner's Commercial Service Launch Date ***.

3.7 New Market Pricing 3G-1X:

Pricing for New Markets shall be per Attachment C. In connection with Owner's deployment of Systems in New Markets, Vendor shall provide to Owner, at the time of purchase, ***.

3.8 Attachments:

The following Attachments are hereby incorporated by reference herein:

Attachment A: Existing Markets Upgrades ***

Attachment B: MSC Upgrades to Support Co. Springs

Attachment C: New Market Pricing and EvDO Rev 0 and Rev A Pricing

Attachment D: AnyPath Voice Messaging

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Lucent Technologies Inc. and Cricket Proprietary
 Use pursuant to Company instructions
 Page 5 of 7

FINAL FOR EXECUTION

Amendment No. 8

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have executed this Amendment No. 8 on the dates set forth below.

OWNER

VENDOR

**Cricket Communications,
Inc.**

Lucent Technologies Inc.

By: /s/ Glenn Umetsu

By: /s/ Gerald T. Kafaro

Name: Glenn Umetsu

Name: Gerald T. Kafaro

Title: EVP & CTO

Title: Sales Vice President

Date: October 5, 2005

Date: October 5, 2005

Lucent Technologies Inc. and Cricket Proprietary
Use pursuant to Company instructions
Page 6 of 7

FINAL FOR EXECUTION

Amendment No. 8

*** [10 pages redacted]

*** Portions of this page have been omitted pursuant to a request for Confidential Treatment and filed separately with the Commission.

Lucent Technologies Inc. and Cricket Proprietary
Use pursuant to Company instructions
Page 7 of 7

Exhibit 10.4

FORM OF SEVERANCE BENEFITS AGREEMENT

This Severance Benefits Agreement (this Agreement) by and between ___ (Executive), Leap Wireless International, Inc., a Delaware corporation (Leap), and Cricket Communications, Inc., a Delaware corporation (Cricket) (individually, a Party and collectively, the Parties) is made and entered into as of ____, 200__ (the Effective Date). Leap and Cricket are hereinafter collectively referred to as the Companies.

WHEREAS, Executive is an officer of Leap and Cricket, and is presently employed by Cricket; and

WHEREAS, Cricket desires to provide Executive with certain severance benefits as an incentive to remain in the employ of Cricket; and

WHEREAS, the Boards of Directors of Leap and Cricket have determined that it is in the best interests of Leap and Cricket, respectively, and their stockholders, to enter in this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by each Party hereto, the Parties hereby agree as follows:

1. **Term of Agreement.** This Agreement shall commence on the Effective Date and shall continue in effect through the December 31, 200_; provided, however, that commencing on December 31, 200__ and on each December 31 thereafter, the term of this Agreement shall be automatically extended for one additional year unless, not later than the immediately preceding June 30, Leap or Cricket shall have given notice to Executive that the term of this Agreement shall not be further extended.

2. **Severance Benefits.**

a. **Severance Benefits.** In the event that, during the term of this Agreement, Executive's employment is terminated by Cricket other than for Cause (as defined below), or by Executive for Good Reason (as defined below), Executive shall be entitled to the following:

(i) Cricket shall pay promptly to Executive, following the Date of Termination, Executive's accrued, unpaid base salary through the Date of Termination, and the Companies shall pay all other amounts to which Executive is then entitled under any compensation or benefit plan of the Companies in accordance with the terms and conditions of such plans.

(ii) Cricket shall pay to Executive, following the Date of Termination and in accordance with subsection (g), a lump sum severance benefit in cash (the Severance Payment) equal to the sum of (A) one hundred percent (100%) of the Executive's annual base salary, plus (B) 100% of Executive's target annual bonus under the annual bonus plan of the Companies. For purposes of this clause, Executive's annual base salary shall mean Executive's greatest

annual base salary as in effect during the twelve (12) months ending on the Date of Termination, and Executive's target annual bonus shall mean Executive's greatest target annual bonus as in effect during the twelve (12) months ending on the Date of Termination.

(iii) To the extent Executive elects continuation health care coverage for Executive and his eligible dependents under Section 4980B(f) of the Internal Revenue Code of 1986, as amended from time to time (the Code) and Sections 601-608 of the Employee Retirement Income Security Act of 1974, as amended (COBRA Coverage), Executive shall not be required to pay premiums for such COBRA Coverage for the twelve (12) month period commencing on the Date of Termination (or, if earlier, until Executive is eligible for comparable coverage with a subsequent employer).

b. Cause. For purposes of this Section 2, Cause shall mean termination of Executive's employment by Cricket: (i) upon Executive's willful failure substantially to perform Executive's duties with Cricket (other than any such failure resulting from Executive's incapacity due to physical or mental illness or any such actual or anticipated failure after Executive's issuance of a Notice of Termination (as defined below) for Good Reason), as reasonably determined by the Board of Directors of Cricket (the Cricket Board) after a written demand for substantial performance is delivered to Executive by the Cricket Board, which demand specifically identifies the manner in which the Cricket Board believes that Executive has not substantially performed such duties, provided that Executive shall have been given a reasonable period, not to exceed fifteen (15) days, in which to cure such failure (provided such failure is capable of being cured); (ii) upon Executive's willful failure substantially to follow and comply with the specific and lawful directives of the Cricket Board (or the board of directors of Cricket's parent corporation), or duly adopted policies of Cricket which are consistent with Executive's duties with Cricket (or Cricket's parent or subsidiary corporations or any successor thereof), as reasonably determined by the Cricket Board (other than any such failure resulting from Executive's incapacity due to physical or mental illness or any such actual or anticipated failure after Executive's issuance of a Notice of Termination for Good Reason), after a written demand for substantial performance is delivered to Executive by the Cricket Board, which demand specifically identifies the manner in which the Cricket Board believes that Executive has not substantially performed such directives, provided that Executive shall have been given a reasonable period, not to exceed fifteen (15) days, in which to cure such failure (provided such failure is capable of being cured); (iii) upon Executive's commission of an act of fraud or dishonesty impacting or involving Cricket (or Cricket's parent or subsidiary corporations or any successor thereof); (iv) upon Executive's willful engagement in illegal conduct or gross misconduct affecting Cricket; or (v) upon the Executive being convicted of, or pleading nolo contendere to, the commission of a felony.

c. Good Reason. For purposes of this Section 2, Good Reason shall mean, without Executive's express written consent, the occurrence of any of the following circumstances unless such circumstances are cured (provided such circumstances are capable of being cured) prior to the Date of Termination specified in

the Notice of Termination given in respect thereof: (i) the continuous assignment to Executive of any duties materially inconsistent with Executive's positions with Cricket (or any parent or subsidiary corporation or any successor thereof), a significant adverse alteration in the nature or status of Executive's responsibilities or the conditions of Executive's employment with Cricket (or any parent or subsidiary corporation or any successor thereof), or any other action that results in a material diminution in Executive's position, authority, title, duties or responsibilities with Cricket (or any parent or subsidiary corporation or any successor thereof); (ii) reduction of Executive's annual base salary as in effect on the Effective Date or as the same may be increased from time to time thereafter; (iii) the relocation of Cricket's offices at which Executive is principally employed to a location more than sixty (60) miles from such location; (iv) Cricket's failure (or the failure of any parent or subsidiary corporation or any successor thereof) to pay Executive any portion of Executive's current compensation; (v) Cricket's failure (or the failure of any parent or subsidiary corporation or any successor thereof) to continue in effect any material compensation or benefit plan in which Executive participates, unless an equitable arrangement (embodied in an ongoing substitute or alternative plan) has been made with respect to such plan, or Cricket's failure to continue Executive's participation therein (or in such substitute or alternative plan) on a basis not materially less favorable, both in terms of the amount of benefits provided and the level of Executive's participation relative to other participants; (vi) Cricket's failure (or the failure of any parent or subsidiary corporation or any successor thereof) to continue to provide Executive with benefits substantially similar in the aggregate to those enjoyed by Executive under any of Cricket's life insurance, medical, health and accident, disability, pension, retirement, or other benefit plans in which Executive or Executive's eligible family members were participating immediately prior thereto, or the taking of any action by Cricket (or any parent or subsidiary corporation or any successor thereof) which would directly or indirectly materially reduce any of such benefits; (vii) Cricket or Leap's failure to obtain a satisfactory agreement from any successor to assume and agree to perform this Agreement; or (viii) the continuation or repetition, after written notice of objection from Executive, of harassing or denigrating treatment of Executive by Cricket (or any parent or subsidiary corporation or any successor thereof) inconsistent with Executive's position with Cricket. Executive's right to terminate employment with Cricket pursuant to this Section 2(c) shall not be affected by Executive's incapacity due to physical or mental illness. Executive's continued employment with Cricket (or any parent or subsidiary corporation or any successor thereof) shall not constitute consent to, or a waiver of rights with respect to, any circumstance constituting Good Reason hereunder.

d. Notice of Termination. Any purported termination of Executive's employment by Cricket for Cause or by Executive for Good Reason shall be communicated by Notice of Termination to the other party hereto in accordance with Section 4. Notice of Termination shall mean a written notice that shall indicate the specific termination provision in this Section 2 relied upon and shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for the termination of employment under the provision so indicated.

e. Date of Termination. For purposes of this Section 2, Date of Termination shall mean the date specified in the Notice of Termination (which, in the case of a termination by Cricket for Cause shall not be less than thirty (30) days after the date such Notice of Termination is given, and in the case of a termination by Executive for Good Reason shall not be less than fifteen (15) nor more than sixty (60) days after the date such Notice of Termination is given).

f. General Release. In consideration of, and as a condition to receiving, the severance benefits to be provided to Executive under Sections 2(a)(ii) and (iii), Executive shall execute and deliver to the Companies the General Release set forth on Exhibit A hereto on or after the Date of Termination and not later than twenty-one (21) days after the Date of Termination (or, in the event that the termination of Executive's employment with Cricket is in connection with an exit incentive or other employment termination program offered to a group or class of employees, not later than forty-five (45) days after the Date of Termination (or, if later, the date Executive is provided with the information required in accordance with Section 3(f) of the General Release)). In the event that Executive fails to execute and deliver to the Companies the General Release in accordance with this Section 2(f), or Executive revokes the General Release in accordance with the terms thereof, Executive shall not receive the severance benefits set forth in Sections 2(a)(ii) and (iii).

g. Timing of Severance Payment. The Severance Payment provided for in Section 2(a)(ii) shall be made not later than the tenth day following the date on which the General Release by Executive becomes irrevocable.

3. Code Section 409A.

a. Short-Term Deferral Exemption. This Agreement is not intended to provide for any deferral of compensation subject to Code Section 409A and, accordingly, the Severance Payment payable under Section 2(a)(ii) is intended to be paid not later than the later of: (i) the 15th day of the third month following Executive's first taxable year in which such severance benefit is no longer subject to a substantial risk of forfeiture, and (ii) the 15th day of the third month following first taxable year of the Companies in which such severance benefit is no longer subject to substantial risk of forfeiture, as determined in accordance with Code Section 409A and any Treasury Regulations and other guidance issued thereunder. The date determined under this subsection is referred to as the Short-Term Deferral Date.

b. Compliance with Code Section 409A. Notwithstanding Sections 2(a)(ii), 2(a)(iii) and 2(g), in the event that the Severance Payment and benefits payable under Sections 2(a)(ii) and 2(a)(iii) are not actually or constructively received by Executive on or before the Short-Term Deferral Date, to the extent such Severance Payment or benefits constitute a deferral of compensation subject to Code Section 409A, then: (i) subject to clause (ii), such Severance Payment shall be payable upon Executive's separation from service, as defined in Code Section 409A(a)(2)(A)(i), with respect to the Companies, and (ii) if Executive is a specified employee, as defined in Code Section 409A(a)(2)(B)(i), with respect to the Companies, such Severance Payment and benefits shall be payable upon the date which is six months after the date of

Executive's separation from service (or, if earlier, the date of Executive's death) in accordance with Code Section 409A(a)(2)(B)(i) and any Treasury Regulations or other guidance issued thereunder. In the event that the Severance Payment is subject to this subsection, such Severance Payment shall be paid not later than 60 days following the payment date determined under this subsection, and shall be made subject to Section 2(f).

4. **Successors; Binding Agreement.** This Agreement shall inure to the benefit of and shall be binding upon the Companies and their respective successors and assigns, including any purchaser of all or substantially all of their respective assets, and shall be binding upon Executive's assigns, executors, administrators, beneficiaries, or their legal representatives.

5. **Notice.** For the purpose of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed by United States certified or registered mail, return receipt requested, postage prepaid, addressed to the last known mailing address of the respective Party, provided that all notices to Cricket shall be directed to the attention of the Cricket Board with a copy to the Secretary of Cricket, and all notices to Leap shall be directed to the attention of the Board of Directors of Leap with a copy to the Secretary of Leap, or to such other address as any Party may have furnished to the other in writing in accordance herewith, except that notice of change of address shall be effective only upon receipt.

6. **Non-Compete, Confidentiality and Non-Solicitation Covenants.** In consideration of the benefits to be provided to Executive under Section 2 of this Agreement, and in order to protect the goodwill of Cricket, Executive hereby agrees to the following covenants.

a. **Non-Compete.** For a period of twelve (12) months commencing on the Date of Termination, Executive shall not, directly or indirectly, own, manage, operate, join, control or participate in the ownership, management, operation or control of, or be connected as a director, officer, employee, partner, consultant or otherwise with, any profit or nonprofit business or organization which, directly or indirectly competes with, or in any way interferes with, the business of Cricket or any of its respective affiliates in any region in which Cricket is then operating or has firm plans to operate.

b. **Confidentiality.** For the period of three years commencing on the Date of Termination, Executive shall not, directly or indirectly, disclose or make available to any person, firm, corporation, association or other entity for any reason or purpose whatsoever, any Confidential Information (as defined below). Executive agrees that, upon termination of Executive's employment with Cricket, all Confidential Information in Executive's possession that is in writing or other tangible form (together with all copies or duplicates thereof, including computer files) shall be returned to Cricket and shall not be retained by Executive or furnished to any third party, in any form except as provided herein; *provided, however*, that Executive shall not be obligated to treat as confidential, or return to Cricket copies of any Confidential Information that (i) was publicly known at the time of disclosure to Executive, (ii) becomes publicly known or available thereafter other than by any means in violation of this Agreement or any other duty owed to Cricket by any person or entity, or (iii) is lawfully disclosed to Executive by a third party. As used in this Agreement, the term Confidential Information means: information disclosed to Executive or known by Executive as a

consequence of or through Executive's relationship with Cricket, about the customers, employees, business methods, technical operations, public relations methods, organization, procedures or finances, including, without limitation, information of or relating to customer lists, of Cricket and its affiliates.

c. **Non-Solicitation.** For the period commencing on the Date of Termination and terminating on the third anniversary thereof, Executive shall not, either on Executive's own account or jointly with or as a manager, agent, officer, employee, consultant, partner, joint venture, owner or shareholder or otherwise on behalf of any other person, firm or corporation, directly or indirectly solicit or attempt to solicit away from Cricket, or any of its affiliates, any of its officers or employees or offer employment to any person who, on or during the six (6) months immediately preceding the date of such solicitation or offer, is or was an officer or employee of Cricket, or any of its affiliates; *provided, however*, that a general advertisement to which an employee of Cricket, or any of its affiliates, responds shall in no event be deemed to result in a breach of this Section 6(c).

d. **Breach of Covenants.** In the event that Executive breaches any of the provisions of this Section 5, or threatens to do so, in addition to and without limiting or waiving any other remedies available to Cricket in law or in equity, Cricket shall be entitled to immediate injunctive relief in any court having the capacity to grant such relief, to restrain such breach or threatened breach and to enforce this Section 6. Executive acknowledges that it is impossible to measure in money the damages that Cricket will sustain in the event that Executive breaches or threatens to breach this Section 6 and, in the event that Cricket institutes any action or proceeding to enforce this Section 6 seeking injunctive relief, Executive hereby waives and agrees not to assert or use as a defense a claim or defense that Cricket has an adequate remedy at law. Also, in addition to any other remedies available to Cricket in law or in equity, in the event that Executive breaches the provisions of this Section 6 in any material respect, Executive shall forfeit Executive's right to further benefits under Section 2 and Executive shall be obligated to repay to Cricket the benefits that Executive has received under Section 2. If a court or arbitrator shall hold that the duration, scope or area restriction or other provision of this Section 6 is unreasonable under the circumstances now or then existing, the Parties hereto agree that the maximum duration, scope or area restriction reasonable under the circumstances shall be substituted for the stated duration, scope or area restriction.

7. **Miscellaneous.** No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by Executive and such officer of Cricket and Leap as may be specifically designated thereby. No waiver by any Party hereto at any time of any breach by any other Party hereto of or compliance with, any condition or provision of this Agreement to be performed by such other Party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by any Party which are not expressly set forth in this Agreement. Executive acknowledges that Executive has consulted with counsel (or has had a reasonable opportunity to consult with counsel) and is fully aware of Executive's rights

and obligations under this Agreement. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of California without regard to its conflicts of law principles. All references to sections of any federal, state or local law shall be deemed also to refer to any successor provisions to such sections. Any payments provided for hereunder shall be paid net of any applicable withholding required under federal, state or local law. The Section headings contained in this Agreement are for convenience only, and shall not affect the interpretation of this Agreement.

8. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

9. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

10. **Arbitration; Dispute Resolution, Etc.** Any disagreement, dispute, controversy or claim arising out of or relating to this Agreement or the interpretation of this Agreement or any arrangements relating to this Agreement or contemplated in this Agreement or the breach, termination or invalidity thereof shall be settled by final and binding arbitration administered by the American Arbitration Association (AAA) in San Diego, California in accordance with its then existing National Rules for the Resolution of Employment Disputes. In the event of such an arbitration proceeding, the Parties shall select a mutually acceptable neutral arbitrator from among the AAA panel of arbitrators. In the event the Parties cannot agree on an arbitrator, the Administrator of AAA will appoint an arbitrator. Neither the Parties nor the arbitrator shall disclose the existence, content, or results of any arbitration hereunder without the prior written consent of all Parties. Except as provided herein, the Federal Arbitration Act shall govern the interpretation, enforcement and all proceedings. The arbitrator shall apply the substantive law (and the law of remedies, if applicable) of the state of California, or federal law, or both, as applicable and the arbitrator is without jurisdiction to apply any different substantive law. The arbitrator shall have the authority to entertain a motion to dismiss and/or a motion for summary judgment by any party and shall apply the standards governing such motions under the Federal Rules of Civil Procedure. The arbitrator shall render an award and a written, reasoned opinion in support thereof. Judgment upon the award may be entered in any court having jurisdiction thereof. Cricket shall pay all fees and expenses of the Arbitrator regardless of the result and shall provide all witnesses and evidence reasonably required by Executive to present Executive's case. Cricket shall pay to Executive all reasonable arbitration expenses and legal fees incurred by Executive if Executive prevails in enforcing or obtaining his or her rights or benefits provided by this Agreement. Such payments shall be made within five (5) days after Executive's request for payment accompanied with such evidence of fees and expenses incurred as Cricket reasonably may require.

11. **At-Will Employment.** Nothing in the foregoing diminishes or alters Cricket's policy of at-will employment for all employees, where both Cricket and Executive may terminate the employment relationship at any time and for any reason, with or without cause or notice.

12. **Entire Agreement.** This Agreement sets forth the entire agreement of the Parties hereto in respect of the subject matter contained herein and supersedes all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, employee or representative of any party hereto.

IN WITNESS WHEREOF, the Parties have signed their names as of the day and year first above written.

**LEAP WIRELESS INTERNATIONAL,
INC.**

By:

Name: S. Douglas Hutcheson

Title: President and Chief Executive
Officer

**CRICKET COMMUNICATIONS,
INC.**

By:

Name:

Title:

EXECUTIVE

By:

Name:

EXHIBIT A

GENERAL RELEASE

1. **General Release of Claims.** In consideration of the benefits under Section 2 of the Severance Benefits Agreement (the Agreement), effective as of October 27, 2005, by and between Leap Wireless International, Inc. (Leap), Cricket Communications, Inc. (Cricket) (collectively, the Companies) and ___ (Executive), Executive does hereby for himself or herself and his or her spouse, beneficiaries, heirs, successors and assigns, release, acquit and forever discharge the Companies and their respective stockholders, officers, directors, managers, employees, representatives, related entities, successors and assigns, and all persons acting by, through or in concert with them (the Releasees) of and from any and all claims, actions, charges, complaints, causes of action, rights, demands, debts, damages, or accountings of whatever nature, except for criminal activity, known or unknown, which Executive may have against the Releasees based on any actions or events which occurred prior to the date of this General Release, including, but not limited to, those related to, or arising from, Executive s employment with the Companies, or the termination thereof, any claims under Title VII of the Civil Rights Act of 1964, the Federal Age Discrimination and Employment Act and the California Fair Employment and Housing Act, but excluding claims under the Agreement (collectively, Claims). This General Release shall not, however, constitute a waiver of any of Executive s rights under the Agreement or under any outstanding stock option granted to Executive, or under the terms of any employee benefit plan of the Companies in which Executive is a participant.

2. **Release of Unknown Claims.** In addition, Executive expressly waives all rights under Section 1542 of the Civil Code of the State of California, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH A CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIM FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

3. **Older Worker s Benefit Protection Act.** Executive agrees and expressly acknowledges that this General Release includes a waiver and release of all claims which Executive has or may have under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621, *et seq.* (ADEA). The following terms and conditions apply to and are part of the waiver and release of the ADEA claims under this General Release:

a. That the Agreement and this General Release are written in a manner calculated to be understood by Executive.

b. The waiver and release of claims under the ADEA contained in this General Release do not cover rights or claims that may arise after the date on which Executive signs this General Release.

c. The Agreement provides for consideration in addition to anything of value to which Executive is already entitled.

d. Executive is advised to consult an attorney before signing this General Release.

e. Executive is afforded twenty-one (21) days (or, in the event that the termination of Executive's employment is in connection with an exit incentive or other employment termination program, forty-five (45) days) after Executive is provided with this General Release to decide whether or not to sign this General Release. If Executive executes this General Release prior to the expiration of such period, Executive does so voluntarily and after having had the opportunity to consult with an attorney.

f. In the event that the termination of Executive's employment is in connection with an exit incentive or other employment termination program, Executive is provided with written information, calculated to be understood by the average individual eligible to participate, as to:

(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such programs; and

(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or not selected for the program.

g. Executive will have the right to revoke this General Release within seven (7) days of signing this General Release. In the event this General Release is revoked, this General Release will be null and void in its entirety, and Executive will not receive the benefits described in Section 2 of the Agreement.

h. If Executive wishes to revoke the General Release, Executive shall deliver written notice stating his intent to revoke this General Release to Cricket's President on or before the seventh (7) day after the date hereof.

4. **No Assignment of Claims.** Executive represents and warrants to the Releasees that there has been no assignment or other transfer of any interest in any Claim which Executive may have against the Releasees, or any of them, and Executive agrees to indemnify and hold the Releasees harmless from any liability, claims, demands, damages, costs, expenses and attorneys' fees incurred as a result of any person asserting any such assignment or transfer of any rights or Claims under any such assignment or transfer from such party.

5. **No Suits or Actions.** Executive agrees that if he or she hereafter commences, joins in, or in any manner seeks relief through any suit arising out of, based upon, or relating to any of the Claims released hereunder, or in any manner asserts against the Releasees any of the Claims released hereunder, then he or she will pay to the Releasees against whom such suit or Claim is asserted, in addition to any other damages caused thereby, all attorneys' fees incurred by such Releasees in defending or otherwise responding to said suit or Claim.

6. **No Admission.** Executive further understands and agrees that neither the payment of money nor the execution of this Release shall constitute or be construed as an admission of any liability whatsoever by the Releasees.

EXECUTIVE

Date:

A-3

**AMENDMENT NO. 3
TO
CREDIT AGREEMENT
BY AND AMONG
CRICKET COMMUNICATIONS, INC.
(AS LENDER)
AND
ALASKA NATIVE BROADBAND 1 LICENSE, LLC
(AS BORROWER)
AND
ALASKA NATIVE BROADBAND 1, LLC
(AS GUARANTOR)
August 26, 2005**

AMENDMENT NO. 3 TO CREDIT AGREEMENT

This Amendment No. 3 to Credit Agreement is entered into as of August 26, 2005, by and among Cricket Communications, Inc., a Delaware corporation (**Lender**), Alaska Native Broadband 1 License, LLC, a Delaware limited liability company (**Borrower**), and Alaska Native Broadband 1, LLC, a Delaware limited liability company (**Guarantor**, and together with Borrower, the **Loan Parties**).

RECITALS

WHEREAS, Lender and each of the Loan Parties entered into that certain Credit Agreement dated as of December 22, 2004, as amended by Amendment No. 1 to Credit Agreement dated as of January 26, 2005, as amended by Amendment No. 2 to Credit Agreement dated June 24, 2005 (as amended, the **Credit Agreement**); and

WHEREAS, Lender and each of the Loan Parties desire to amend the Credit Agreement as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

Section 1. Section 2.3(e) of the Credit Agreement shall be deleted in its entirety. and replaced with the following:

e. Intentionally omitted;

Section 2. Section 6.9(b) of the Credit Agreement shall be deleted in its entirety and replaced with the following:

b. purchase money financing of telecommunications equipment incurred by Borrower of up to \$4.0 million in the aggregate if the terms of such financing are more favorable to Borrower than the terms of the Loans.

Section 3. Section 6.11 of the Credit Agreement shall be amended by inserting the phrase (other than with respect to Section 6.11(j)) after the word given in the fourth line of the first paragraph of such Section 6.11(i) of the Credit Agreement shall be deleted in its entirety and replaced with the phrase i. Intentionally omitted. Section 6.11(j) of the Credit Agreement shall be deleted in its entirety and replaced with the following:

j. Amend or modify its certificate of formation or limited liability company agreement, including the LLC Agreement, in any manner that materially affects Lender as a secured lender to any of the Loan Parties.

Section 4. The following section shall be added as Section 6.15 to the Credit Agreement:

6.15. Build-Out and Operation of the Licenses

- a. The Loan Parties shall diligently pursue the Build-Out and operation of the ANB-1 License System with respect to each License.
- b. In the event of a termination of the Management Agreement or any replacement thereof, on or prior to the expiration of the applicable notice period for such termination, and provided that, if Lender is the terminated manager, it has complied with the transition provisions of Section 10.4 of the Management Agreement, Borrower shall enter into a management agreement for the ANB-1 License Systems with another Person who is capable of providing a quality of service substantially similar to that provided by Lender under the Management Agreement.

Section 5. The following section shall be added as Section 6.16 to the Credit Agreement:

6.16. Dividends, Distributions or Return of Capital

- a. Each Loan Party agrees that it shall not, without the prior approval of Lender, which approval may be withheld in Lender's sole and absolute discretion, make any dividend, distribution or return of capital, except that (i) Borrower may make distributions to Guarantor (and Guarantor to ANB) to the extent that Section 8.5(d) of the LLC Agreement provides for payments to ANB, (ii) Borrower may make distributions to Guarantor (and Guarantor to its members) for tax distributions, (iii) Borrower may make distributions to Guarantor for the payment of Guarantor's expenses to the extent consistent with Guarantor's annual business plan and budget under the LLC Agreement, and (iv) so long as no default shall have occurred and be continuing or would result therefrom, Borrower may make distributions or returns of capital to Guarantor (and Guarantor to its members), in each case if after giving effect to such proposed distribution or return of capital (x) the aggregate amount of all such distributions and returns of capital paid or made in any fiscal year (without duplication) would be less than 50% of the Consolidated Net Income for the fiscal year immediately preceding the fiscal year in which such distribution or return of capital is paid or made and (y) the Consolidated Leverage Ratio would be less than or equal to 2.00:1.00.

- b. For purposes of this Section 6.16, the following terms shall have the following meanings:

- (i) **Consolidated Leverage Ratio** means, as of any date of determination, the ratio of (a) Guarantor's and Borrower's consolidated indebtedness as of such date, to (b) Guarantor's and Borrower's Consolidated EBITDA for the most recently completed fiscal year.

- (ii) **Consolidated Net Income** means, at any date of determination, the net income of Guarantor and Borrower (without giving effect to extraordinary

gains or extraordinary losses) on a consolidated basis for the most recently completed fiscal year.

(iii) **Consolidated EBITDA** means, for any fiscal year, an amount equal to the Consolidated Net Income of Guarantor and Borrower for such fiscal year plus (a) the following to the extent deducted in calculating such Consolidated Net Income (without duplication): (1) consolidated interest charges (including capitalized interest) for such period, (2) all Federal, state, local and foreign income tax expense deducted in arriving at Consolidated Net Income, (3) depreciation and amortization expense, (4) non-cash impairment of assets (tangible and intangible) and related non-cash charges, (5) non-cash charges and expenses related to equity-based compensation awards made by Guarantor or Borrower, and (6) other non-recurring expenses reducing such Consolidated Net Income which do not represent a cash item in such period or any future period and minus (b) the following to the extent included in calculating such Consolidated Net Income (without duplication): (1) Federal, state, local and foreign income tax credits of Guarantor or Borrower for such period, (2) all non-cash gains arising in relation to any FCC licenses and (3) all non-cash items increasing Consolidated Net Income for such period.

Section 6. Section 7.1(h) of the Credit Agreement shall be deleted in its entirety and replaced with the following:

h. Intentionally omitted;

Section 7. Except as expressly amended hereby, the Credit Agreement remains in full force and effect in accordance with its terms.

[Signatures Follow on Next Page]

Edgar Filing: Masterbeat Corp - Form 10-Q

IN WITNESS WHEREOF, the parties hereto have signed this Amendment No. 3 to Credit Agreement, or have caused this Amendment No. 3 to Credit Agreement to be signed in their respective names by an officer, hereunto duly authorized, on the date first written above.

CRICKET COMMUNICATIONS, INC.

By: /s/ Robert J. Irving, Jr.
Name: Robert J. Irving, Jr.
Title: Secretary

ALASKA NATIVE BROADBAND 1
LICENSE, LLC

By Alaska Native Broadband 1, LLC
Its sole member

By Alaska Native Broadband, LLC
Its Manager

By ASRC Wireless Services, Inc.,
Its Manager

By: /s/ Conrad Bagne
Name: Conrad Bagne
Title: President

ALASKA NATIVE BROADBAND 1, LLC

By Alaska Native Broadband, LLC
Its Manager

By ASRC Wireless Services, Inc.,
Its Manager

By: /s/ Conrad Bagne
Name: Conrad Bagne
Title: President