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**FILED**  
STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD  
APR 27 2000

Tract No.: IN-LA-158

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PETER BENJAMIN  
LAKE COUNTY AUDITOR  
MORRIS W. CARTER  
RECORDER

**RIGHT OF WAY AND EASEMENT AGREEMENT**  
Indiana - Individual Grantor - ComEd ROW

THIS RIGHT OF WAY AND EASEMENT AGREEMENT is made this 13<sup>th</sup> day of Mar, ~~1999~~ <sup>2000</sup> between Mercantile National Bank of Indiana, Trustee under the provisions of a Trust Agreement dated July 29, 1996, known as Trust No. 6252, ("Grantor") and Williams Communications, Inc., d/b/a Vyvx, Inc. in the State of Indiana, a Delaware corporation, operating as a communications common carrier and telephone public utility, whose mailing address is P.O. Box 22064, Tulsa, Oklahoma 74121-2064, its successors and assigns, ("Grantee").

**WITNESSETH**

For and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants and warrants unto Grantee, its successors and assigns, the perpetual right, privilege, and easement of right of way (hereinafter, together with the rights and privileges herein granted, the "Easement"), together with all improvements located thereon, with a width and centerline as indicated below, to survey, construct, maintain, inspect, operate, protect, repair, alter, replace, establish, lay install, test, substitute, renew, reconstruct, restore, abandon and remove underground communications system(s) together with necessary underground conduits, cables, wires, underground splicing boxes, and any other appurtenances thereto, at any time or times for the transmission of data or communications (including, without limitation, pipeline communications data) for and by others, together with a temporary easement to provide work space along and adjacent to such Easement (the "Temporary Easement"), on, in, under, through and across the following described land (the "Property") located in the County of Lake, State of Indiana, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR LEGAL DESCRIPTION.

together with the right of ingress and egress to, from and along the Easement and Temporary Easement and the right to use gates and existing roads for the aforesaid purposes. Grantee shall and does hereby agree to restore any damage to such lands, gates, or roads caused by its use thereof.

The communications system(s) shall be installed across the Property within what is the currently existing and commonly accepted Commonwealth Edison (ComEd) utility right of way and shall be located twenty feet (20') from the concrete base of the Electrical Transmission Tower. The exact location of the Easement and Temporary Easement conveyed by this instrument shall be determined by the installation of Grantee's communications system(s), and the Easement shall extend for five (5) feet on each side of the centerline of the first working communications system installed.

Grantee shall restore the surface of the Easement and Temporary Easement as nearly as reasonably practical to its original grade and level after performing any construction or other work that disturbs the surface. Grantee shall cause reasonable payment to be made for actual damages to crops, timber, and improvements of Grantor directly resulting from the exercise, now or in the future, of the rights herein granted.

Grantee shall place no above ground structures or improvements (except for markers at property lines, fence lines, road and stream crossings) upon the Easement.

*ComEd Inc. Co Inc*

1587

16.00  
1656

Grantee agrees to comply with all State and Federal laws relating to the exercise of rights herein granted. Grantee agrees to indemnify and hold Grantor harmless from and against all third party claims which may result from the construction, operation and maintenance of said facilities, including, but not limited to, injuries to or deaths of persons or animals, court costs and reasonable attorneys' fees.

Subject to the terms hereof, Grantee shall have all other rights and benefits necessary or useful to the full and complete enjoyment and use of the Easement and the Temporary Easement for the purposes stated herein.

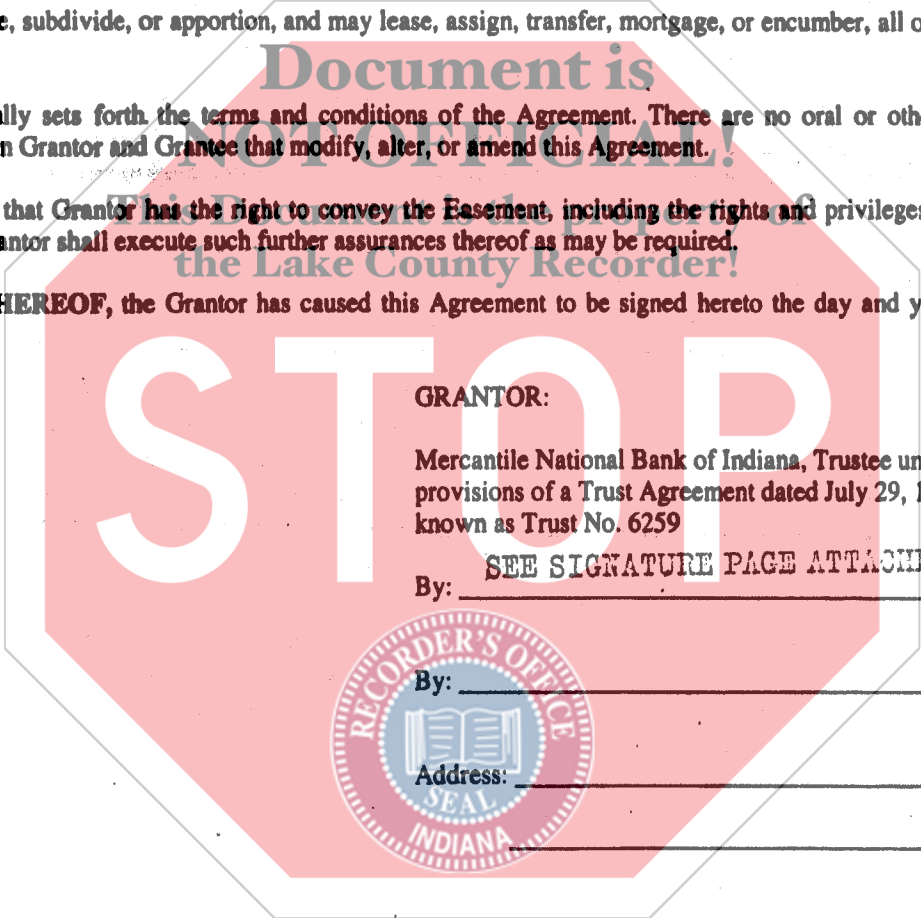
The terms and provisions of this Agreement shall constitute covenants running with the land and shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns, personal representatives, and heirs.

Grantee may divide, subdivide, or apportion, and may lease, assign, transfer, mortgage, or encumber, all or any part of the Easement.

This instrument fully sets forth the terms and conditions of the Agreement. There are no oral or other written agreements between Grantor and Grantee that modify, alter, or amend this Agreement.

Grantor covenants that Grantor has the right to convey the Easement, including the rights and privileges set forth herein; and that Grantor shall execute such further assurances thereof as may be required.

IN WITNESS WHEREOF, the Grantor has caused this Agreement to be signed hereto the day and year above written.



GRANTOR:

Mercantile National Bank of Indiana, Trustee under the provisions of a Trust Agreement dated July 29, 1996, known as Trust No. 6259

By: SEE SIGNATURE PAGE ATTACHED

By: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Cross-reference: Recorded plat or last deed of record:

Book: \_\_\_\_\_ Page: \_\_\_\_\_  
Document No.: 96061880

This instrument was prepared by: Lynn Conard, One Williams Center, Suite 4100, Tulsa, OK 74172

# Torrenga Engineering, Inc.

REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS

907 RIDGE ROAD

MUNSTER, INDIANA 46321

Office (219) 836-8918

Fax (219) 836-1138

Tract No.: IN-LA-158

## LEGAL DESCRIPTION OF A 10' WIDE EASEMENT FOR COM ED IN ST. JOHN

**DESCRIPTION:** Part of the Northwest Quarter of Section 4, Township 34 North, Range 9 West of the Second Principal Meridian, being a 10 foot wide easement, which centerline is more particularly described as follows: Commencing at the Southwest corner of said Section 4; thence North 00 degrees 00 minutes 00 seconds East 2655.26 feet along the West line of said Section 4; thence North 00 degrees 00 minutes 00 seconds East 550.00 feet along said West line of Section 4; thence South 90 degrees 00 minutes 00 seconds East 285.00 feet; thence South 53 degrees 39 minutes 26 seconds East 459.18 feet; thence North 57 degrees 39 minutes 05 seconds East 240.00 feet; thence North 21 degrees 59 minutes 14 seconds East 350.00 feet; thence North 00 degrees 42 minutes 03 seconds West 742.62 feet to the point of beginning of said centerline of 10 foot wide easement; thence North 89 degrees 40 minutes 34 seconds West, 40 feet South of and parallel to the centerline of the Com Ed Easement, a distance of 313.88 feet, to the point of termination of said easement, all in the Town of St. John, Lake County, Indiana.

**PREPARED FOR:** Mike Muenich  
**PREPARED BY:** Torrenga Engineering, Inc.  
**DATE:** March 7, 2000



Legal/Kevin/Com Ed cmx StJohn/k

Exhibit "A"



**THIS RIGHT-OF-WAY AND GRANT EASEMENT** is executed by the undersigned Trustee, not personally, but solely as Trustee under the terms of that certain agreement dated the 29th day of July, 1996, creating Trust #6259; and it is expressly understood and agreed by the parties hereto, anything herein to the contrary notwithstanding that each and all of the covenants, undertakings, representations, agreements, and liabilities, herein made are made and intend, not as personal covenants, undertakings, representations, agreements, and liabilities, of the Trustee, individually, or for the purpose of binding it personally, but this instrument is executed and delivered by the **MERCANTILE NATIONAL BANK OF INDIANA, AS TRUSTEE**, solely in the exercise of the powers conferred upon it as such Trustee under said agreement and no personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforced against **MERCANTILE NATIONAL BANK OF INDIANA**, on account hereof, or on account of any covenant, undertaking, representation or agreement herein, either expressed or implied, all such personal liability, if any, being expressly waived and released by the parties hereto or holder hereof, and by all persons claiming by or through or under said parties or holder hereof.

Nothing contained herein shall be construed as creating any liability upon **MERCANTILE NATIONAL BANK OF INDIANA**, personally under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or the Indiana Responsible Property Transfer Law (the Act) as amended from time to time or any other Federal, State, or local law, rule or regulation. **MERCANTILE NATIONAL BANK OF INDIANA**, personally is not a "Transferor or Transferee" under the Act and makes no representations concerning any possible environmental defects. In making any warranty herein the Trustee is relying solely on information furnished to it by the beneficiaries and not of its own knowledge and specifically exculpates itself from any liabilities, responsibilities or damages as a result of including any warranty in this instrument.

Furthermore, the information contained in this instrument has been furnished the undersigned by the beneficiary/beneficiaries under aforesaid Trust and the statements made therein are made solely in reliance thereon and no responsibility is assumed by the undersigned in its individual capacity for the truth or accuracy of the facts herein stated.

IN WITNESS WHEREOF, said **MERCANTILE NATIONAL BANK OF INDIANA**, has caused its name to be signed to these presents by a Trust Officer and its corporate seal hereunto affixed and attested by its Trust Officer the day and year first above written.

**MERCANTILE NATIONAL BANK OF INDIANA, AS TRUSTEE  
AFORESAID AND NOT PERSONALLY,**

BY: Mary Ann Zembala  
Mary Ann Zembala, Trust Officer

ATTEST:

Jacquelyn M. Kohl  
Jacquelyn M. Kohl, Trust Officer

STATE OF INDIANA )

COUNTY OF LAKE )

Before me, a Notary Public in and for said County in the State aforesaid, Mary Ann Zembala and Jacquelyn M. Kohl, of the Mercantile National Bank of Indiana, a National Banking Association, personally known to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer and Trust Officer respectively, appeared this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of said National Banking Association, as Trustee, for the uses and purposes therein set forth; and Jacquelyn M. Kohl did also then and there acknowledge that he/she as custodian of the corporate seal of said National Banking Association, did affix the said corporate seal of said National Banking Association to said instrument as his/her own free and voluntary act, and as the free and voluntary act of said National Banking Association, as Trustee, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 1st day of February, 2000.

Gail Y. Allen  
Notary Public  
"OFFICIAL SEAL"  
GAIL Y. ALLEN  
NOTARY PUBLIC, STATE OF INDIANA  
LAKE COUNTY  
MY COMMISSION EXPIRES 12/31/2001

Resident of Lake County