# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION
**Washington, D.C. 20549**

# FORM 8-K

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of**
**the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): October 9, 2019

# FTE NETWORKS, INC.
(Exact name of registrant as specified in its charter)

| **Nevada** | **001-38322** | **81-0438093** |
|---|---|---|
| (State or Other Jurisdiction of Incorporation) | (Commission File Number) | (IRS Employer Identification No.) |

| **237 West 35th Street, Suite 806 New York, NY** | **10001** |
|---|---|
| (Address of Principal Executive Offices) | (Zip Code) |

Registrant's Telephone Number, Including Area Code: **877-878-8136**

(Former Name or Former Address, if Changed Since Last Report): Not Applicable

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

[ ] Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

[ ] Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

[ ] Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

[ ] Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

| **Title of each class** | **Trading Symbol(s)** | **Name of each exchange on which registered** |
|---|---|---|
| Common Stock, $0.001 par value | FTNW | NYSE American |

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter)

Emerging Growth Company [ ]

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. [ ]

**Item 1.01 Entry into a Material Definitive Agreement.**

***Foreclosure by Senior Secured Lenders***

As previously disclosed in the Current Report on Form 8-K of FTE Networks, Inc. (the "Company") that was filed with the Securities and Exchange Commission on September 6, 2019, the failure of the Company to satisfy, vacate or stay certain judgments entered against the Company in favor of six holders of convertible notes of the Company constituted an event of default under that certain Amended and Restated Credit Agreement dated as of July 2, 2019 (the "Credit Agreement") among the Company and its subsidiaries, Jus-Com, Inc. ("Jus-Com") and Benchmark Builders, LLC ("Benchmark"), as borrowers, Lateral Juscom Feeder LLC, as Administrative Agent ("Lateral"), and the several lenders party thereto (together with Lateral, the "Lenders"). In connection with such event of default, on October 10, 2019, the Company, together with Jus-Com, Benchmark, Focus Venture Partners, Inc., FTE Holdings, LLC, Optos Capital Partners, LLC, Focus Fiber Solutions, LLC, Crosslayer, Inc., UBIQ Communications, LLC and Focus Wireless, LLC (together with the Company, the "Credit Parties"), consented to a Proposal for Surrender of Collateral and Strict Foreclosure (the "Foreclosure Proposal"), from Lateral, Lateral Builders LLC ("Lateral Holdings") and Benchmark Holdings, LLC ("Benchmark Holdings" and together with Lateral Holdings, the "Foreclosing Lenders"), and the other Lenders, pursuant to which, effective on October 10, 2019, the Lenders took possession and ownership of the Subject Collateral (defined below) by means of a strict foreclosure by the Foreclosing Lenders.

The total debt relief provided pursuant to the Foreclosure Proposal and the related agreements and arrangements equals an aggregate of $80,667,314, or as much as $108,667,314 if the proposed business combination described below is not consummated prior to December 31, 2019.

Pursuant to the Foreclosure Proposal, the Company transferred (i) to Benchmark Holdings all of its (a) equity interests in Benchmark, which was the Company's principal operating subsidiary, and (b) cash on hand at FTE in excess of levels specified in the Foreclosure Proposal and (ii) to Lateral Holdings all of the Credit Parties' interests in certain commercial tort litigation claims, fraud claims, and insurance claims as specified in the Foreclosure Proposal (collectively, the "Subject Collateral"), in each case free and clear of all liens, claims, interests and encumbrances to the full extent provided under applicable law, pursuant to Article 9-620 of the UCC, as adopted in the State of New York (the "New York UCC"). The Agent, at the direction of the Foreclosing Lenders, accepted the foregoing transfers of all of each Credit Party's right, title and interest in and to the Subject Collateral pursuant to Article 9-620 of the New York UCC and other applicable laws in full satisfaction of the Company's obligations under the Credit Agreement. As a result, the Company was relieved of an aggregate of $56.8 million of indebtedness owed to the Lenders under the Credit Agreement, and this indebtedness was fully discharged and released.

On the effective date of the foreclosure, pursuant to the Foreclosure Proposal, Benchmark transferred $3.0 million of cash to the Company. In addition, Benchmark has agreed to make a monthly cash payment to the Company, in the amount of $300,000 per month (the "Working Capital Cash Payments"), for purposes of funding certain remaining obligations of the Company related to accounts payable, indebtedness for borrowed money, convertible note obligations and other matters specified in the Foreclosure Proposal (the "Remainder Obligations"), which Working Capital Cash Payments will continue until the earlier of (i) October 10, 2021, (ii) the repayment in full of the Remainder Obligations, and (iii) the occurrence of a Working Capital Termination Event (as defined in the Foreclosure Proposal). The cash infusion and Working Capital Cash Payments provide the opportunity for the Company to receive total cash payments of up to $10.2 million over the next 24 months.

Pursuant to the Foreclosure Proposal, Benchmark Holdings, as the holder of the following obligations of the Company, absolutely and unconditionally released and forever discharged the Company and the other Credit Parties from certain indebtedness previously held by Niagara Nominee L.P. (in the amount of $4,858,154), the Term Loans (in the amount of $42,257,171) and the Super Senior Term Loans (in the amount of $13,539,349) (as each such term is defined in the Credit Agreement) (collectively, the "Released Debt Obligations").

Additionally, pursuant to an Agreement Regarding Debt and Series H Preferred Stock (the "Debt and Series H Agreement"), entered into between the Company and Fred Sacramone and Brian McMahon, Messrs. Sacramone and McMahon released the Company and its affiliates from (i) all obligations represented by the Amended Sacramone Note (as defined in the Credit Agreement), which had an outstanding amount equal to $1,030,000 and (ii) indebtedness represented by the Amended Series B Benchmark Notes in the amount of $18,982,640. As a result, the total amount remaining outstanding under the Amended Series A Benchmark Notes and Amended Series B Benchmark Notes is $28.0 million.

Moreover, effective on December 31, 2019, unless (i) on or before November 10, 2019, the Company has entered into a business combination transaction that enables the Company's common stock to remain listed on the NYSE American stock exchange or the Company's common stock is then listed on any other U.S. national securities exchange (a "Qualified Business Combination") and (ii) such Qualified Business Combination is consummated on or before December 31, 2019, the remaining $28.0 million outstanding on the Amended Series A Benchmark Notes and Amended Series B Benchmark Notes shall be absolutely and unconditionally released and forever discharged.

Unless (i) the Company enters into a Qualified Business Combination by November 10, 2019 and (ii) such business combination transaction is consummated on or before December 31, 2019, the Company will repurchase all outstanding shares of the Company's Series H Preferred Stock from Messrs. Sacramone and McMahon for a nominal amount.

The Company is in discussions with a third party concerning a potential material strategic transaction, but no commitment or agreement has been entered into and there can be no assurance that any business combination or other strategic transaction will result from these discussions. See Item 8.01 below for further description of the potential transaction.

The foregoing summary of the Foreclosure Proposal, the Debt and Series H Agreement and the other agreements and instruments the Company has entered and will enter into in connection with the foreclosure does not purport to be complete and is subject to, and qualified in its entirety by, the full text of such documents. A copy of the Foreclosure Proposal is filed as Exhibit 10.1 hereto and the terms of which are incorporated herein by reference. A copy of the Debt and Series H Agreement is filed as Exhibit 10.2 hereto and the terms of which are incorporated herein by reference.

**Item 2.01 Completion of Acquisition or Disposition of Assets.**

The disclosures contained in Item 1.01 are hereby incorporated into this Item 2.01 by reference.

**Item 3.03 Material Modification of Rights of Security Holders.**

The disclosures contained in Item 1.01 are hereby incorporated into this Item 3.03 by reference.

**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

***Resignation of Directors***

On October 9, 2019, James Shiah, Jeanne Kingsley and Stephen Berini resigned from the board of directors of the Company, effective immediately. There are no disagreements between each of Mr. Shiah, Ms. Kingsley and Mr. Berini and the Company relating to matters concerning the Company's operations, policies or practices.

At the time of their resignation, (i) Mr. Shiah was a member of the Audit Committee, the Compensation Committee and the Nominating and Corporate Governance Committee of the Board, (ii) Ms. Kingsley was a member of the Audit Committee, and (iii) Mr. Berini was a member of the Audit Committee and Compensation Committee.

**Item 8.01 Other Events**

***Transition Services Agreement***

On October 10, 2019, the Company entered into a Transition Services Agreement (the "TSA") with Benchmark, pursuant to which Benchmark will provide certain administrative and other services to the Company for up to six months following the foreclosure described under Item 1.01 above. A copy of the TSA is filed as Exhibit 10.3 hereto and the terms of which are incorporated herein by reference.

***Standstill Agreements***

On October 10, 2019, the Company entered into a Standstill Agreement with each of Fred Sacramone and Brian McMahon (the "Standstill Agreements"), pursuant to which Messrs. Sacramone and McMahon have agreed, in connection with the foreclosure described in Item 1.01 above, to abstain from taking certain actions with respect to their shares of Series H Preferred Stock of the Company, including, without limitation, (i) acquiring further voting securities of the Company or any assets, subsidiary or division of the Company, (ii) making or participating in any solicitation of proxies to vote securities of the Company and (iii) making any public announcement with respect to, or submitting a proposal for, or offer of any extraordinary transaction involving the Company or any of its securities or assets. They also agreed that they will not, without the prior written consent of the Company's Board of Directors, sell or offer to sell any shares of Series H Preferred Stock of the Company or any related securities. Copies of the Standstill Agreements entered into with Messrs. Sacramone and McMahon are filed as Exhibits 10.4 and 10.5, respectively, hereto and the terms of which are incorporated herein by reference.

***Term Sheet for Business Combination***

On October 6, 2019, the Company received a term sheet (the "Term Sheet") concerning a proposed business combination transaction contemplating the contribution of a total of $4.0 billion of 100% unlevered real estate related assets in exchange for a combination of common stock, preferred stock and warrants of the Company. As part of the proposed transaction, the Company would also acquire a public non-traded REIT with a portfolio of commercial development assets. In addition to the contribution of assets, the proposing company intends to bring an experienced management team to the Company.

Based on the contributed assets and revised cap table, the transaction could be significantly accretive to the current shareholder base with the acquisition and on a going-forward basis. The contemplated transaction structure targets a 5% annual dividend and a 5% annual NAV growth on a going-forward basis for a period of 10 years.

The proposed transaction has been presented to the Board of the Company. The parties to the transaction have engaged various consultants and professionals who are actively conducting due diligence on the transaction. As described herein, the Company is negotiating with the proposing company concerning the terms and conditions of definitive agreements to carry out the proposed business combination. However, no definitive agreement has been reached concerning the proposed business combination transaction and there can be no assurance that any business combination will result from these negotiations.

A copy of the Term Sheet is filed as Exhibit 99.1 hereto and the terms of which are incorporated herein by reference.

**Forward-Looking Statements**

This communication includes "forward looking statements" within the meaning of the "safe harbor" provisions of the United States Private Securities Litigation Reform Act of 1995. When used in this press release, the words "estimates," "projected," "expects," "anticipates," "forecasts," "plans," "intends," "believes," "seeks," "may," "will," "should," "future," "propose" and variations of these words or similar expressions (or the negative versions of such words or expressions) are intended to identify forward-looking statements. These forward-looking statements are not guarantees of future performance, conditions or results, and involve a number of known and unknown risks, uncertainties, assumptions and other important factors, many of which are outside the Company's control, that could cause actual results or outcomes to differ materially from those discussed in the forward-looking statements. Important factors, among others, that may affect actual results or outcomes include: the inability to recognize the anticipated benefits of the proposed transactions; the Company's ability to meet the listing standards of the NYSE American following the consummation of the proposed transactions; unexpected costs, liabilities or delays related to the proposed transactions; the effect of the announcement of the proposed transactions on the ability of the Company retain and hire key personnel and maintain relationships with customers, suppliers and others with whom it does business; potential litigation involving the Company; the Company's inability to enter into definitive documents with Oak Harbor or to achieve the expected benefits of that transaction; and general economic and market conditions impacting demand for the Company's services. Additional risks and factors that may affect results are set forth in the Company's filings with the SEC, including its Annual Report on Form 10-K filed with the SEC on April 18, 2018 and its subsequent Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and other filings with the SEC, which are available on the SEC's website at www.sec.gov. See in particular Item 1A of the Company's Annual Report on Form 10-K under the headings "Risk Factors." The risks and uncertainties described above and in the Company's SEC filings are not exclusive and further information concerning each company and its business, including factors that potentially could materially affect its business, financial condition or operating results, may emerge from time to time. Readers are urged to consider these factors carefully in evaluating these forward-looking statements. The Company does not undertake any obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits

| Exhibit Number | Description |
|---|---|
| 10.1 | Proposal for Surrender of Collateral and Strict Foreclosure, dated as of October 10, 2019, from Lateral Juscom Feeder LLC, as Administrative Agent, Lateral Builders LLC, Benchmark Holdings, LLC and the other Lenders named therein, accepted and consented to by FTE Networks, Inc. and the other Credit Parties named therein |
| 10.2 | Agreement Regarding Debt and Series H Preferred Stock, dated as of October 10, 2019, by and between FTE Networks, Inc. and Fred Sacramone and Brian McMahon |
| 10.3 | Transition Services Agreement, dated as of October 10, 2019, by and between FTE Networks, Inc. and Benchmark Builders, LLC |
| 10.4 | Standstill Agreement, dated October 10, 2019, by and between FTE Networks, Inc. and Fred Sacramone |
| 10.5 | Standstill Agreement, dated October 10, 2019, by and between FTE Networks, Inc. and Brian McMahon |
| 99.1 | Summary of Indicative Terms and Provisions dated October 8, 2019, from the Acquiror and Contribution Vehicle |

**SIGNATURES**

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

**FTE NETWORKS, INC.**
(Registrant)

Date: October 11, 2019

*/s/ Fred Sacramone*
Name: Fred Sacramone
Title: Interim Chief Executive Officer

**Exhibit 10.1**

**PROPOSAL FOR SURRENDER OF COLLATERAL AND STRICT FORECLOSURE**

This PROPOSAL FOR SURRENDER OF COLLATERAL AND STRICT FORECLOSURE (the "Proposal"), dated as of October 10, 2019, to FTE Networks, Inc., a Nevada corporation ("FTE"), and the other Credit Parties listed on the signature page hereto, from Lateral Juscom Feeder LLC, a Delaware limited liability company, as the administrative agent (in such capacity, the "Agent") under the Credit Agreement referenced below, and the lenders party hereto and their respective successors and assigns.

**R E C I T A L S:**

WHEREAS, the Agent, the lenders from time to time party thereto (including their respective successors and assigns, the "Lenders") and FTE, Benchmark Builders, Inc. (as used herein, the term "Benchmark" refers to Benchmark Builders, Inc. and its successors, including by merger) and Jus-Com, Inc. ("Jus-Com", and together with FTE and Benchmark, the "Borrower") have entered into that certain Amended and Restated Credit Agreement, dated as of July 2, 2019 (as amended, restated, supplemented or otherwise modified prior to the date hereof, the "Credit Agreement"; capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Credit Agreement), pursuant to which, among other things, (i) the Credit Agreement amended and restated that certain Credit Agreement dated as of October 28, 2015 (as amended, restated, supplemented or otherwise modified prior to the Credit Agreement, the "Original Credit Agreement") and (ii) the Lenders agreed, subject to the terms and conditions set forth in the Credit Agreement, to make certain financial accommodations to the Credit Parties;

WHEREAS, to induce the Lenders to enter into the Original Credit Agreement, and as consideration therefor, FTE and the other Credit Parties executed that certain Guaranty and Security Agreement, dated as of October 28, 2015 (the "Guaranty and Security Agreement"), under which, as security for FTE's obligations under the Original Credit Agreement and, subsequently, the Credit Agreement, FTE granted to the Agent, for the benefit of the Lenders, a security interest in substantially all of FTE's assets (the "Collateral"), including its equity interests in all of its domestic subsidiaries, all deposit accounts and all commercial tort claims;

WHEREAS, the Agent perfected the security interests granted to the Lenders (i) by filing Uniform Commercial Code ("UCC") financing statements in the applicable jurisdiction of each Credit Party, including the filing of a UCC financing statement with the Secretary of State of the State of Nevada on or about December 28, 2015, assigned file number 2015035591-5, identifying FTE as a debtor, and (ii) with respect to deposit accounts pursuant to which perfection is established through control, by entering into account control agreements with the various banking institutions with which the Credit Parties maintained their accounts, including that certain Deposit Account Control Agreement, entered into as of February 4, 2019 (the "Bank of America DACA"), by and among FTE, certain other subsidiaries party thereto, the Agent, and Bank of America, N.A., pursuant to which the Agent, for the benefit of the Lenders, obtained control over all of FTE's deposit accounts;

WHEREAS, in connection with FTE's acquisition of Benchmark on or about April 20, 2017, Benchmark executed a Joinder Agreement, dated as of April 20, 2017, pursuant to which Benchmark become a party to the Guaranty and Security Agreement and pledged substantially all of its assets as Collateral to secure the obligations under the Original Credit Agreement (as amended) and, subsequently, the Credit Agreement;

WHEREAS, the Agent perfected the security interests granted to the Lenders by Benchmark (i) by filing a UCC financing statement with the Department of State of the State of New York on or about April 27, 2017, assigned file number 201704270203152, identifying Benchmark as a debtor, and (ii) with respect to deposit accounts pursuant to which perfection is established through control, by entering into, among other documents, (x) the Bank of America DACA and (y) that certain Blocked Account Control Agreement, dated as of June 27, 2018, among Benchmark, JPMorgan Chase Bank, N.A., and the Agent, in each case pursuant to which the Agent, for the benefit of the Lenders, obtained control over all of Benchmark's deposit accounts;

WHEREAS, the Agent is in possession of the stock of Benchmark;

WHEREAS, certain Credit Parties hold certain commercial tort litigation claims, fraud claims, and insurance claims against (a) various lenders under various merchant cash advance or other agreements for Indebtedness that was incurred but not permitted under the Credit Agreement, including but not limited to claims against those entities set forth on Schedule 1 hereto, and (b) FTE's former management arising from the actions of certain officers and directors (i) in breach of their respective employment agreements, (ii) taken in violation of their fiduciary duties, and/or (iii) taken in contravention of the Credit Agreement resulting in a default thereunder (collectively, the "Litigation Claims");

WHEREAS, the Agent properly perfected its security interest granted to the Lenders in the Litigation Claims under the Guaranty and Security Agreement by filing a UCC financing statement with the Secretary of State of the State of Nevada on or about February 12, 2019, assigned file number 2019005397-5, identifying FTE as a debtor and identifying the Litigation Claims as the collateral, and filed similar UCC financing statements in each applicable jurisdiction with respect to the other Credit Parties;

WHEREAS, on or around July 31, 2019, certain judgments in the aggregate amount of approximately $4.2 million were entered against FTE in favor of six holders of convertible notes of FTE, and FTE failed to satisfy, vacate or stay the first such judgment entered within 30 days, thereby triggering an Event of Default under the Credit Agreement (the "Existing Default");

WHEREAS, based upon the Credit Parties' current liquidity needs and the distressed circumstances in which they are operating, and the historical and projected earnings of the Credit Parties' businesses, the Lenders believe there is not enough value to repay the Obligations in full and, therefore, insufficient asset value for any recovery for any junior priority or subordinated obligations, any unsecured creditors and the equity owners of FTE;

WHEREAS, the Lenders have proposed to transfer (i) to Benchmark Holdings LLC ("Benchmark Holdings"), all of FTE's (a) equity interests in Benchmark (the "Benchmark Equity") and (b) cash on hand at FTE in excess of specified levels, as more particularly provided herein ("FTE Cash" and, together with the Benchmark Equity, the "Benchmark Subject Collateral") and (ii) to Lateral Recovery LLC ("Lateral Holdings" and, together with Benchmark Holdings, the "Foreclosing Lenders"), all of the Credit Parties' interests in the Litigation Claims (the "Lateral Subject Collateral" and, together with the Benchmark Subject Collateral, the "Subject Collateral"), in each case free and clear of all liens, claims, interests and encumbrances to the full extent provided under applicable law, in full satisfaction of the Obligations, pursuant to Article 9-620 of the UCC, as adopted in the State of New York (the "New York UCC");

WHEREAS, subject to the terms hereof, the Agent and the Foreclosing Lenders have agreed to accept the Subject Collateral in full satisfaction of the Obligations, by surrender (i) of the Benchmark Subject Collateral to Benchmark Holdings and (ii) of the Lateral Subject Collateral to Lateral Holdings.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Agent and the Foreclosing Lenders propose as follows:

**SECTION 1. RECITALS INCORPORATED.** The recitals and prefatory phrases and paragraphs set forth above are hereby incorporated in full, and made a part of, this Proposal.

**SECTION 2. ACKNOWLEDGMENTS**

2.1. **Acknowledgment of Obligations.** By consenting to this Proposal, each Credit Party acknowledges, confirms and agrees that as of the close of business on October 9, 2019, (a) the Borrower is indebted to the Lenders in respect of (i) the Existing Term Loans in the aggregate principal amount of not less than $40,907,224 plus accrued but unpaid interest in the aggregate amount of not less than $1,363,574, and (ii) the Super Senior Term Loans in the aggregate principal amount of $13,365,595 plus accrued but unpaid interest in the aggregate amount of not less than $178,208. By consenting to this Proposal, each Credit Party further acknowledges, confirms and agrees that all such Term Loans, together with interest accrued and accruing thereon (including any interest at the default rate), and all fees, costs, expenses and other charges now or hereafter payable by any Credit Party to the Agent and the Lenders, are unconditionally owing by such Credit Party to the Agent and the Lenders, without offset, defense or counterclaim of any kind, nature or description whatsoever.

2.2. **Acknowledgment of Security Interests.** By consenting to this Proposal, each Credit Party acknowledges, confirms and agrees that the Agent has a valid, enforceable and perfected first-priority lien upon and security interest in the Collateral (including the Subject Collateral) heretofore granted to the Agent (on behalf of the Lenders) pursuant to the Credit Agreement and the Loan Documents or otherwise granted to or held by the Agent.

2.3. **Binding Effect of Documents.** By consenting to this Proposal, each Credit Party acknowledges, confirms and agrees that: (a) the agreements and obligations of each Credit Party contained in each of the Credit Agreement and the other Loan Documents and in this Proposal constitute the legal, valid and binding Obligations of such Credit Party, enforceable against it in accordance with its respective terms, and such Credit Party has no valid defense to the enforcement of such Obligations, and (b) the Agent and the Lenders are and shall be entitled to the rights, remedies and benefits provided for under the Credit Agreement, the other Loan Documents and applicable law.

2.4. **Acknowledgement of Defaults**. By consenting to this Proposal, each Credit Party acknowledges and agrees that the Existing Default has occurred and is continuing and constitutes an "Event of Default," as defined under the Credit Agreement, and entitle the Foreclosing Lenders (constituting all Lenders under the Credit Agreement) and the Agent on behalf of the Foreclosing Lenders to exercise their respective rights and remedies under the Loan Documents, applicable law, or otherwise.

2.5. **All Lenders are Parties to the Proposal**. The Agent and undersigned Lenders represent and warrant that the undersigned Lenders (i) constitute Required Lenders under the Credit Agreement, (ii) constitute all Lenders under the Credit Agreement, (iii) own in the aggregate 100% of the Loans outstanding under the Credit Agreement, and (iv) shall provide this Proposal in advance of any assignment to, and shall be binding on, their respective assignees.

**SECTION 3. SURRENDER OF COLLATERAL AND STRICT FORECLOSURE.**

3.1. **Strict Foreclosure**. Pursuant to Articles 9-620 and 9-621 of the New York UCC, and solely to the extent applicable to the transactions contemplated hereby, as adopted in other states, the Foreclosing Lenders agree as of the Effective Date to accept FTE's and the other Credit Parties' interests in the Subject Collateral in full satisfaction of the Obligations (the "Strict Foreclosure"). Upon the effectiveness of the Strict Foreclosure on the Effective Date (as defined below), (i) Benchmark Holdings, in respect of the Benchmark Subject Collateral, and (ii) Lateral Holdings, in respect of the Lateral Subject Collateral, shall own all of the Credit Parties' rights, titles and interests in and to the applicable Subject Collateral free and clear of all liens, claims, interests and encumbrances to the full extent provided under applicable law. Each Credit Party irrevocably consents to and unconditionally accepts the Foreclosing Lenders' and the Agent's acceptance of the Subject Collateral as set forth above in satisfaction of the Obligations in accordance with and as required by Articles 9-620(a)(1) and 9-620(c)(2) of the New York UCC. Each Credit Party agrees the Strict Foreclosure shall constitute an "acceptance" of collateral in satisfaction of the Obligations in accordance with and to the extent required by Articles 9-620(a)(1) and 9-620(c)(2) of the New York UCC. The Credit Parties shall execute and deliver to the Foreclosing Lenders and the Agent such additional documents and take such further action as may be necessary or reasonably desirable to effectuate the Strict Foreclosure. By consenting to this Proposal, the Credit Parties (a) covenant and agree that they will not challenge, object to or otherwise contest the effectiveness of the Strict Foreclosure; and (b) waive any right to redeem the Subject Collateral under Article 9-623 of the New York UCC. In accordance with Articles 9-620 through 9-622 of the New York UCC, subject to the terms and conditions set forth in this Proposal, on the Effective Date, the Foreclosing Lenders hereby direct the Agent to convey, and based on that direction, the Agent hereby conveys all of its right, title and interest in and to (i) the Benchmark Subject Collateral to Benchmark Holdings and (ii) the Lateral Subject Collateral to Lateral Holdings.

3.2. **Acceptance of Subject Collateral in Full Satisfaction.** The Agent, at the direction of the Foreclosing Lenders, hereby accepts the transfers pursuant to Article 9-620 of the New York UCC and other applicable laws, of all of each Credit Party's right, title and interest in and to the Subject Collateral in full satisfaction of the Obligations.

3.3. **Effect of Acceptance of Subject Collateral**. By consenting to this Proposal, each Credit Party: (a) agrees that it has received notice sufficient for compliance with Articles 9-620 and 9-621 of the New York UCC and, in the alternative, expressly waives (i) any requirement for receipt of such notice and any right to notification of sale, transfer, conveyance or surrender of the Subject Collateral pursuant to Articles 9-620 and 9-621 of the New York UCC, and (ii) any remedies, rights, defenses or actions such Credit Party might have as a result of failure to have received such notice; (b) waives the right, if any, to redeem the Subject Collateral under Article 9-623 of the New York UCC or otherwise; (c) waives any right to object to the sale, transfer, conveyance or surrender of the Subject Collateral pursuant to Article 9-620 of the New York UCC or otherwise; (d) waives any obligation of the Agent to dispose of the Subject Collateral; (e) waives any other right, whether legal or equitable, that such Credit Party may have in and to the Subject Collateral; and (f) agrees that the transactions contemplated herein are commercially reasonable.

3.4. **Transfer of Ownership in Satisfaction of Liens and Claims**. Upon the occurrence of the Effective Date, the Agent and Lenders conclusively are deemed to have released their liens and security interests in all Collateral other than the Subject Collateral. With respect to the Subject Collateral, ownership of the Subject Collateral shall be vested with Benchmark Holdings, in respect of the Benchmark Subject Collateral, and Lateral Holdings, in respect of the Lateral Subject Collateral. Upon the occurrence of the Effective Date, the Credit Parties are released from any and all continuing Obligations to and claims of the Agent and Lenders under the Credit Agreement, the Guaranty and Security Agreement, or any other Loan Documents. The Agent and Lenders undertake to execute, deliver and/or file any and all termination statements and other instruments as may be necessary or appropriate, in each applicable governmental agency or UCC filing office, promptly following the Effective Date so as to properly reflect the release of all liens and security interests in all Collateral other than the Subject Collateral.

**SECTION 4. REPRESENTATIONS AND WARRANTIES**

4.1. **Credit Party Representations and Warranties**. By consenting to this Proposal, each Credit Party hereby represents, warrants and covenants as follows:

(a) Each Credit Party (i) is a corporation, limited liability company or limited partnership, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, as applicable; and (ii) has the power and authority to execute, deliver, and perform its obligations under, this Proposal.

(b) The execution, delivery and performance by each of the Credit Parties of this Proposal have been duly authorized by all necessary action, and do not and will not (i) contravene the terms of any of that Person's Organization Documents or (ii) conflict with or result in any material breach or contravention of, or result in the creation of any Lien under, any order, injunction, writ or decree of any governmental authority to which such Person or its Property is subject.

(c) No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any governmental authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Proposal.

(d) The acceptance of and consent to this Proposal constitutes the legal, valid and binding obligation of the Credit Parties, enforceable against such Person in accordance with its respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

**SECTION 5. CONDITIONS TO EFFECTIVENESS OF THIS PROPOSAL**

5.1. **Conditions to Effectiveness.** This Proposal shall become effective at the time (the "Effective Date") that all of the following conditions precedent have been met (or waived) as determined by the Agent and the Forbearing Lenders in their sole discretion:

(a) the Agent shall have received duly executed signature pages for this Proposal signed by the Agent, the Foreclosing Lenders, FTE and the other Credit Parties;

(b) the following debt shall have been contributed to Benchmark Holdings: (i) the CFGMS Debt, and (ii) the LeoGroup Debt (and the Credit Parties, by consenting to this Proposal, consent to any transfer of the LeoGroup Debt to effectuate the contribution);

(c) Benchmark shall have converted to a limited liability company;

(d) FTE shall receive one or more documents, in form and substance reasonably acceptable to FTE and the Administrative Agent, providing for (i) the transfer of the Series H stock and (ii) the release of all obligations under the Amended Sacramone Note, the Amended Series A Benchmark Notes and the Amended Series B Benchmark Notes, in each case on terms and conditions set forth therein; and

(e) FTE, Benchmark Holdings, and Benchmark shall enter into and execute a transition services agreement (the "Transition Services Agreement"), in the form attached hereto as Exhibit A.

**SECTION 6. ASSIGNMENT OF CLAIMS**

6.1. **Ownership of Claims**. In consenting to this Proposal, the Credit Parties acknowledge that, as of the Effective Date, they own and have all rights in the Litigation Claims and have not sold, assigned, pledged, encumbered or in any way transferred or granted any rights or interests with respect to the Litigation Claims, other than the grant of a security interest in the Litigation Claims under the Loan Documents.

6.2. **Effect of Foreclosure**. By consenting to this Proposal, the Credit Parties acknowledge and agree that (a) as a result of the Strict Foreclosure on the Litigation Claims and the acceptance of the Litigation Claims by Lateral Holdings, effective on the Effective Date the Credit Parties shall have no further interest, right, title or ownership in the Litigation Claims or right to initiate, advance or otherwise prosecute any or all of the Litigation Claims, and (b) from and after the Effective Date, Lateral Holdings shall have succeeded to all rights, titles and interests of the Credit Parties in and to the Litigation Claims, ownership of the Litigation Claims shall vest in Lateral Holdings, Lateral Holdings shall be the sole owner of the Litigation Claims and may take any and all actions in accordance with such rights, including without limitation to (i) initiate legal proceedings against any party related to the Litigation Claims and (ii) collect and keep for its own benefit all damages or other payments (including, without limitation, settlement payments) that it may collect from any party based on the Litigation Claims; provided, however, that any payments received after Lateral Holdings has received payments in an aggregate amount of $25.0 million (net of all costs and expenses, including attorneys' fees and other professional fees, incurred in pursuing the Litigation Claims) shall be turned over to FTE by Lateral Holdings for FTE's benefit.

**SECTION 7. MISCELLANEOUS**

7.1. **Transition Services Agreement**. On the Effective Date, FTE, Benchmark and Benchmark Holdings shall enter into the Transition Services Agreement, in the form attached hereto as **Exhibit A**, to allow FTE to utilize certain facilities and equipment of Benchmark for a limited period of time.

7.2. **Working Capital Cash Payments to FTE**.

(a) Schedule 2 to this Proposal sets forth a list of all accounts payable, Indebtedness for borrowed money, convertible note obligations, back rent (and accelerated rent, if any), under capital or operating leases, judgments, guarantees of subsidiary Indebtedness or obligations, and any other monetary obligation that potentially may be due and owing to a creditor of FTE as of the Effective Date (the "Remainder Obligations"). By consenting to this Proposal, FTE certifies to Agent that Schedule 2 is a complete, true and accurate list of all Remainder Obligations as of the date hereof.

(b) Beginning on the first Business Day of each month following the Effective Date and thereafter until the earlier of (i) October 10, 2021, (ii) the repayment in full of the Remainder Obligations, and (iii) the occurrence of a Working Capital Termination Event (as defined below) (such period, the "Working Capital Period"), Benchmark shall remit $300,000 (the "Working Capital Cash Payment") to FTE. A "Working Capital Termination Event" means any of the following: (i) the certification set forth in Section 7.2(a) is not true as of the date made; (ii) FTE shall have breached the covenant in Section 7.2(d); (iii) FTE and its subsidiaries shall, for three consecutive months during the Working Capital Period, have positive cash flow (as determined in accordance with the accounting principles, policies and procedures FTE applies to the preparation of its financial statements, in excess of $100,000; (iv) FTE shall merge, consolidate, amalgamate or enter into any similar combination with (including by division) any other Person or complete the liquidation, wind-up or dissolution of itself (or suffer any liquidation or dissolution to be completed); (v) any of the Credit Parties commences an Insolvency Proceeding; or (vi) an involuntary Insolvency Proceeding is commenced against any Credit Party and is not dismissed within sixty days thereof. At Benchmark's election, if FTE fails to make a timely payment of any Remainder Obligation, and such payment default has not been remedied within the applicable cure period under the relevant governing document (if any), Benchmark may make such payment directly to the obligee of such Remainder Obligation and deduct the amount of such payment from the next Working Capital Cash Payment(s).

(c) Benchmark shall transfer $3 million of cash to FTE on the Effective Date; provided that in order to satisfy the foregoing obligation, Benchmark may elect to foreclose on all of FTE's cash on hand except for $3 million.

(d) FTE shall use the Working Capital Cash Payment to fund the Remainder Obligations set forth on Schedule 2 hereto as well as for any reasonable premium or other reasonable payments required to maintain director and officer insurance covering FTE's directors.

(e) The Remainder Obligations are not being assumed by Benchmark, Benchmark Holdings, Lateral Holdings, the Agent, the Foreclosing Lenders, or any other party, and no party other than FTE and the Credit Parties (other than Benchmark) shall be liable for such obligations. In consenting to this Proposal, and subject to the timely payment to FTE of all required Working Capital Cash Payments, FTE and the Credit Parties (other than Benchmark) agree to indemnify (which such indemnity may take the form of offset against future Working Capital Cash Payments) and hold harmless Benchmark, Benchmark Holdings, Lateral Holdings, the Agent, the Foreclosing Lenders, Brian McMahon and Fred Sacramone, and each of their respective affiliates and each of their respective directors, officers, employees, partners, representatives, investors, advisors and agents and each of their respective successors and assigns (each, a "Working Capital Indemnified Party") from and against any and all Claims (as defined below) brought after the Effective Date against a Working Capital Indemnified Party that relate to FTE's failure to pay any of the Remainder Obligations owed by it.

7.3. **Reaffirmation.** By consenting to this Proposal, each Credit Party confirms that until the occurrence of the Effective Date, the Obligations are and continue to be secured by the security interests granted by such Credit Party in favor of the Agent for the benefit of the Lenders under the Guaranty and Security Agreement.

7.4. **Further Assurances.** The parties hereto shall execute and deliver such additional documents and take such further action as may be necessary or desirable to effectuate the provisions and purposes of this Proposal, including to ensure the Benchmark Subject Collateral is vested in Benchmark Holdings and the Lateral Subject Collateral is vested in Lateral Holdings.

7.5. **Successors and Assigns.** This Proposal shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

7.6. **Severability.** Any provision of this Proposal held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Proposal.

7.7. **Reviewed by Attorneys.** Each party has been afforded an opportunity to discuss this Proposal with, and have this Proposal reviewed by, such attorneys and other persons as such party may wish, and has entered into this Proposal and executed and delivered all documents in connection herewith, of its own free will and accord and without threat, duress or other coercion of any kind by any Person. The parties hereto acknowledge and agree that neither this Proposal nor the other documents executed pursuant hereto shall be construed more favorably in favor of one than the other based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation and preparation of this Proposal and the other documents executed pursuant hereto or in connection herewith.

7.8. **Release by Credit Parties**. By consenting to this Proposal, except for Claims (as defined below) expressly arising under this Proposal, FTE and the other Credit Parties each hereby absolutely and unconditionally releases and forever discharges the Agent and the Lenders, and, solely in their respective capacities as such, any and all participants, parent corporations, subsidiary corporations, affiliated corporations, insurers, indemnitors, successors and assigns of the Agent and the Forbearing Lenders, together with all of the present and former directors, officers, agents, attorneys, and employees of any of the foregoing, each solely in its respective capacity as such (collectively, the "Releasees"), from any and all any and all actions, causes of action, counterclaims, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, rights, claims, demands, liabilities, losses, rights to reimbursement, subrogation, indemnification or other payment, costs or expenses, and reasonable attorneys' fees, whether at law or in equity, of any kind, nature or description whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, and whether representing a past, present or future obligation ("Claims"), whether arising in law or equity or upon contract or tort or under any provincial, state, local or federal law or otherwise, which the Borrower or the other Credit Parties have had, now have or have made claim to have against any such person for or by reason of any act, omission, matter, cause or thing whatsoever arising from the beginning of time to and including the date of this Proposal, whether such claims, demands and causes of action are matured or unmatured or known or unknown (the "Release"). It is the intention of the Borrower and the other Credit Parties in consenting to this Proposal that the Release shall be effective as a bar to each and every Claim except for any Claims expressly arising under this Proposal. By consenting to this Proposal, FTE and the other Credit Parties acknowledge that each may hereafter discover facts different from or in addition to those now known or believed to be true with respect to such Claims and agree that this instrument shall be and remain effective in all respects notwithstanding any such differences or additional facts.

7.9. **Release of Other Indebtedness**. On the Effective Date, Benchmark Holdings hereby absolutely and unconditionally releases and forever discharges FTE and the other Credit Parties from (i) the CFGMS Debt, and (ii) the LeoGroup Debt (the foregoing, collectively, the "Released Debt Obligations").

7.10. **Relationship**. The relationship between the Agent and the Foreclosing Lenders, on the one hand, and Credit Parties, on the other hand, is that of creditor and debtor and not that of partners or joint venturers. This Proposal does not constitute a partnership agreement, or any other association between the Agent and Forbearing Lenders, on the one hand, and Credit Parties, on the other hand. In consenting to this Proposal, each Credit Party acknowledges that the Agent and the Foreclosing Lenders have acted at all times only as a creditor to the Credit Parties within the normal and usual scope of the activities normally undertaken by a creditor and in no event have the Agent or the Foreclosing Lenders attempted to exercise any control over the Credit Parties or their business or affairs.

7.11. **Indemnification**. Each Credit Party (other than Benchmark) agrees to indemnify (which such indemnity may take the form of offset against future Working Capital Cash Payments) and hold harmless Benchmark, Benchmark Holdings, and each of their respective affiliates and each of their respective directors, officers, employees, partners, representatives, investors, advisors and agents and each of their respective successors and assigns from and against (i) any and all Claims brought after the Strict Foreclosure that relate to FTE and that (A) are not claims brought by or on behalf of existing stockholders or creditors of FTE (including derivative claims brought by one or more stockholders on behalf of FTE) concerning the validity or legality of the foreclosure and related transactions contemplated by this Proposal and (B) do not primarily relate to or arise from Benchmark's business or operations prior to the Effective Date, and (ii) any liability of any Credit Party (other than Benchmark) for taxes (including any interest, penalties or other additions thereto), and (iii) without duplication, any liability for taxes (including any interest, penalties or other additions thereto) of the "affiliated group" (within the meaning of Section 1504 of the Internal Revenue Code) of which FTE is the common parent or any consolidated, combined, unitary or similar group under state or local tax law that includes Benchmark, on the one hand, and any Credit Party (other than Benchmark), on the other hand, including any liability arising from the several liability for taxes of such affiliated group under Treasury Regulations Section 1.1502-6 or any analogous provisions of state or local tax law.

7.12. **Final Agreement**. This Proposal represents the final agreement between the parties hereto with respect to its subject matter and may not be contradicted by evidence of prior or contemporaneous oral agreements among the parties. There are no oral agreements between the parties hereto with respect to the subject matter of this Proposal.

7.13. **Revival of Obligations**. Notwithstanding any other provision of this Proposal, and in the event FTE or any other Credit Party becomes a debtor in a case under Title 11 of the United States Code (the "Bankruptcy Code"), in the event that the foreclosure on and resulting transfer of the Subject Collateral, or any part thereof, is subsequently invalidated, declared to be a fraudulent or preferential transfer, set aside, avoided and/or required to be repaid to a trustee, receiver or any other party, whether under any bankruptcy law, state or federal law, common law or equitable cause, or otherwise, then the Obligations and the Released Debt Obligations, together with all defenses, claims, counterclaims, rights and remedies, both legal and equitable, that FTE or any Credit Party has or may have under the Credit Agreement, the applicable governing document or applicable law in respect of the Released Debt Obligations, shall be revived and reinstated and shall continue in full force and effect until (i) the Lenders have received payment in full in respect of the Obligations and (ii) Benchmark Holdings has received payment in full in respect of the Released Debt Obligations.

7.14. **Governing Law and Jurisdiction.**

(a) Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Proposal and all transactions and agreements contemplated hereby, including its validity, interpretation, construction, performance and enforcement (including any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest).

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to this Proposal shall be brought exclusively in the courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America sitting in the Southern District of New York and each Credit Party consenting to this Proposal hereby accepts for itself and in respect of its Property, generally and unconditionally, the jurisdiction of the aforesaid courts; provided that nothing in this Proposal shall limit the right of the Agent to commence any proceeding in the federal or state courts of any other jurisdiction to the extent the Agent determines that such action is necessary or appropriate to exercise its rights or remedies under this Proposal. The parties hereto irrevocably waive any objection, including an objection to the laying of venue or based on the grounds of *forum non conveniens*, that any of them may now or hereafter have to the brining of any such action or proceeding in such jurisdictions.

(c) Service of Process. By consenting to this Proposal, each Credit Party (i) irrevocably waives personal service of any and all legal process, summons, notices and other documents and other service of process of any kind and consents to such service in any suit, action or proceeding brought in the Unites States with respect to or otherwise arising out of or in connection with this Proposal by any means permitted by applicable Requirements of Law, including by the mailing thereof (by registered or certified mail, postage prepaid) to the address of the Borrower specified in the Credit Agreement (and shall be effective when such mailing shall be effective, as provided therein), and (ii) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

7.15. **Waiver of Jury Trial.** THE PARTIES HERETO, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS PROPOSAL, THE OTHER LOAN DOCUMENTS AND ANY OTHER TRANSACTION CONTEMPLATED HEREBY AND THEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE.

7.16. **Headings.** The captions and headings of this Proposal are for convenience of reference only and shall not affect the interpretation of this Proposal.

7.17. **Counterparts.** This Proposal and consents hereto may be executed in any number of counterparts, but all of such counterparts shall together constitute but one and the same agreement. Delivery of an executed counterpart of a signature page to this Proposal by facsimile or electronic mail shall be effective as delivery of a manually executed counterpart hereof.

IN WITNESS WHEREOF, this Proposal is executed and delivered as of the day and year first above written.

[Signature Pages Follow]

**AGENT:**

LATERAL JUSCOM FEEDER LLC, as Agent

By: Lateral Investment Management, LLC, its Manager

By: */s/ Richard de Silva*
Name: Richard de Silva
Title: Manager

**FORECLOSING LENDER**:

LATERAL RECOVERY LLC, as a Lender and a Foreclosing Lender

By:

By: */s/ Richard de Silva*
Name: Richard de Silva
Title: Manager

BENCHMARK HOLDINGS LLC, as a Lender and a Foreclosing Lender

By:

By: */s/ Richard de Silva*
Name: Richard de Silva
Title: Manager

ACCEPTED AND CONSENTED TO:

**FTE:**

FTE NETWORKS, INC.

By *\/s\/ Fred Sacramone*
Name Fred Sacramone
Title Interim CEO

**CREDIT PARTIES**:

JUS-COM, INC.
BENCHMARK BUILDERS, INC.
FOCUS VENTURE PARTNERS, INC.
FTE HOLDINGS, LLC
OPTOS CAPITAL PARTNERS, LLC
FOCUS FIBER SOLUTIONS, LLC
CROSSLAYER, INC.
UBIQ COMMUNICATIONS, LLC
FOCUS WIRELESS, LLC

By *\/s\/ Fred Sacramone*
Name Fred Sacramone
Title Interim CEO

[Signature Page to Surrender of Collateral and Consent to Strict Foreclosure]

**Exhibit 10.2**

**AGREEMENT REGARDING DEBT AND SERIES H PREFERRED STOCK**

This Agreement Regarding Debt and Series H Preferred Stock (the "Agreement"), is made as of October 10, 2019, by and among FTE Networks, Inc., a Nevada corporation (the "Company"), Fred Sacramone ("Sacramone") and Brian McMahon ("McMahon).

**R E C I T A L S:**

WHEREAS, the Company has received that certain Proposal For Surrender Of Collateral And Strict Foreclosure (the "Proposal"), dated as of October 10, 2019, to the Company, and the other parties thereto, from Lateral Juscom Feeder LLC, a Delaware limited liability company, as the administrative agent (in such capacity, the " Agent"), and the other lender parties under the Credit Agreement referenced below.

WHEREAS, the Agent, the lenders from time to time party thereto (including their respective successors and assigns, the "Lenders") and the Company, Benchmark Builders, Inc. (as used herein, the term "Benchmark" refers to Benchmark Builders, Inc. and its successors, including by merger) and Jus-Com, Inc. ("Jus-Com," and together with the Company and Benchmark, the "Borrower") have entered into that certain Amended and Restated Credit Agreement, dated as of July 2, 2019 (as amended, restated, supplemented or otherwise modified prior to the date hereof, the "Credit Agreement"; capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Credit Agreement), pursuant to which, among other things, (i) the Credit Agreement amended and restated that certain Credit Agreement dated as of October 28, 2015 (as amended, restated, supplemented or otherwise modified prior to the Credit Agreement, the "Original Credit Agreement") and (ii) the Lenders agreed, subject to the terms and conditions set forth in the Credit Agreement, to make certain financial accommodations to the Credit Parties;

WHEREAS, on or around July 31, 2019, certain judgments in the aggregate amount of approximately $4.2 million were entered against the Company in favor of six holders of convertible notes of the Company, and the Company failed to satisfy, vacate or stay the first such judgment entered within 30 days, thereby triggering an Event of Default under the Credit Agreement (the "Existing Default");

WHEREAS, pursuant to the Proposal, and by virtue of the Existing Default, the Lenders are planning to foreclose on and transfer (i) to Benchmark Holdings LLC ("Benchmark Holdings"), all of FTE's (a) equity interests in Benchmark (the "Benchmark Equity") and (b) cash on hand at the Company in excess of specified levels, as more particularly provided in the Proposal ("FTE Cash" and, together with the Benchmark Equity, the "Benchmark Subject Collateral") and (ii) to Lateral Builders LLC ("Lateral Holdings" and, together with Benchmark Holdings, the "Foreclosing Lenders"), all of the Credit Parties' interests in certain commercial tort litigation claims, fraud claims, and insurance claims as specified in the Proposal (the "Lateral Subject Collateral" and, together with the Benchmark Subject Collateral, the "Subject Collateral"), in each case free and clear of all liens, claims, interests and encumbrances to the full extent provided under applicable law, in full satisfaction of the Obligations, pursuant to Article 9-620 of the UCC, as adopted in the State of New York (the "New York UCC");

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**Section 1. RECITALS INCORPORATED.** The recitals and prefatory phrases and paragraphs set forth above are hereby incorporated in full, and made a part of, this Agreement.

**Section 2. TREATMENT OF INDEBTEDNESS**

2.1. **Acknowledgment of Obligations.** The parties hereto acknowledge, confirm and agree that as of the close of business on October 9, 2019, the Company is indebted to Sacramone and McMahon in the amounts set forth below:

Amended Sacramone Note: $1,030,000

| | **Principal and Interest** |
|---|---|
| **Benchmark Seller Notes** | **46,982,640** |
| *McMahon A* | *9,498,140* |
| *Sacramone A* | *4,749,070* |
| *McMahon B* | *21,823,620* |
| *Sacramone B* | *10,911,810* |

2.2. **Partial Discharge and Release.**

(a) Subject to Section 2.3, Sacramone, solely in his individual capacity and subject to the consummation of the Proposal in accordance with the terms therein pursuant to which, among other things, the Lenders shall have acquired 100% of the ownership of the Benchmark Subject Collateral free and clear of all liens (the "Proposal Effectiveness"), absolutely and unconditionally releases and forever discharges the Company and its affiliates from all obligations represented by the Amended Sacramone Note payable to Sacramone identified in Section 2.1 above, and the Company and its affiliates shall have no further obligations to Sacramone arising out of said Amended Sacramone Note.

(b) Subject to Section 2.3, McMahon, solely in his individual capacity and subject to the Proposal Effectiveness, absolutely and unconditionally releases and forever discharges the Company and its affiliates from $ 18,982,640 in the aggregate of the indebtedness represented by the Amended Series B Benchmark Notes held by McMahon identified in Section 2.1 above, and the Company and its affiliates shall have no further obligations to McMahon arising out of such amount owed under such Amended Series B Benchmark Notes.

2.3. **Contingent Retention of Indebtedness**

(a) The balance of the amounts owed to Sacramone and McMahon pursuant to the Amended Series A Benchmark Notes and the Amended Series B Benchmark Notes that were not released and discharged pursuant to Section 2.2, amounting in the aggregate to Twenty Eight Million Dollars ($28,000,000) (collectively, the "Remaining Indebtedness") shall remain the obligations of the Company, and shall not be discharged and released pursuant to this Agreement, except as otherwise provided in Section 2.3(c) below. Until discharged or paid, the Remaining Indebtedness shall continue to accrue interest and other fees and charges as provided therein, and shall otherwise remain in full force and effect.

(b) Sacramone and McMahon agree to forbear from exercising any remedies against the Company and its affiliates in connection with the Remaining Indebtedness until December 31, 2019.

(c) Sacramone and McMahon agree that the Remaining Indebtedness will automatically, without the need for further action on the part of the Company or any other person, be absolutely and unconditionally released and forever discharged effective December 31, 2019 (the "Termination Date") unless both of the following conditions are satisfied on or before the Termination Date: (1) on or before November 10, 2019 , the Company enters into a business combination transaction that enables the Company's common stock to remain listed on the NYSE American stock exchange or the Company's common stock is then listed on any other U.S. national securities exchange; and (2) such business combination transaction is consummated on or before December 31, 2019 (a business combination transaction satisfying both such conditions being herein referred to as a "Qualified Business Combination").

**Section 3. SERIES H PREFERRED STOCK**

3.1. **Repurchase Right.**

(a) Each of Sacramone and McMahon agrees that, if a Qualified Business Combination has not yet occurred before the Termination Date, then from the Termination Date until 180 days thereafter (the "Exercise Period"), the Company or its assignee will repurchase all the shares of Series H Preferred Stock ("Series H Shares") that he owns, at a purchase price of One Dollar ($1.00) per share. With respect to each Series H Share subject to repurchase pursuant to this Section 3.1, the Company (or its assignee) may exercise its repurchase right by delivery of written notice to the holder of such Series H Share at any time during the Exercise Period (which notice may be delivered by certified mail, overnight delivery, telecopier or e-mail), which notice shall contain an irrevocable offer to purchase the Series H Shares. All the rights of the holder of any such Series H Shares, other than the right to receive payment for such Series H Shares, will terminate as of the date of delivery by the Company of the written notice described in this paragraph ("Notice Date").

(b) If Sacramone or McMahon becomes obligated to transfer Series H Shares to the Company or its assignee pursuant to this Section 3.1, he agrees to endorse in blank the certificates evidencing the Series H Shares to be sold and deliver those certificates to the Company or its assignee within five business days of the Notice Date, and the Company shall contemporaneously deliver the purchase price for such Series H Shares. Upon such delivery, full right, title and interest in such Series H Shares will pass to the Company or its assignee. If a holder of Series H Shares fails to deliver those shares in accordance with the terms of this Section 3.1, the Company or its assignee may, at its option, in addition to all other remedies it may have, either (i) send to that holder the purchase price for such Series H Shares, as herein specified, or (ii) deposit such amount with a trustee or escrow agent for the benefit of that holder for release upon delivery of Series H Shares in accordance with the terms of this Agreement. Thereupon, the Company or its assignee, upon written notice to the holder, will (x) cancel on its books the certificate or certificates representing the Series H Shares required to be transferred, and (y) issue, in lieu thereof, in the name of the Company (or its assignee) a new certificate or certificates representing such Series H Shares.

**Section 4. MISCELLANEOUS**

4.1. **Further Assurances.** The parties hereto shall execute and deliver such additional documents and take such further action as may be necessary or desirable to effectuate the provisions and purposes of this Agreement.

4.2. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

4.3. **Reviewed by Attorneys.** Each party has been afforded an opportunity to discuss this Agreement with, and have this Agreement reviewed by, such attorneys and other persons as such party may wish, and has entered into this Agreement and executed and delivered all documents in connection herewith, of its own free will and accord and without threat, duress or other coercion of any kind by any Person. The parties hereto acknowledge and agree that this Agreement shall not be construed more favorably in favor of one than the other based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation and preparation of this Agreement and any other documents executed pursuant hereto or in connection herewith.

4.4. **Final Agreement**. This Agreement represents the final agreement between the parties hereto with respect to its subject matter and may not be contradicted by evidence of prior or contemporaneous oral agreements among the parties. There are no oral agreements between the parties hereto with respect to the subject matter of this Agreement.

4.5. **Governing Law and Jurisdiction.**

(a) Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Agreement and all transactions and agreements contemplated hereby, including its validity, interpretation, construction, performance and enforcement (including any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest).

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to this Agreement shall be brought exclusively in the courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America sitting in the Southern District of New York and each party hereto hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. The parties hereto irrevocably waive any objection, including an objection to the laying of venue or based on the grounds of *forum non conveniens*, that any of them may now or hereafter have to the brining of any such action or proceeding in such jurisdictions.

4.6. **Headings.** The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

4.7. **Counterparts.** This Agreement may be executed in any number of counterparts, but all of such counterparts shall together constitute but one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or electronic mail shall be effective as delivery of a manually executed counterpart hereof.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Agreement is executed and delivered as of the day and year first above written.

**FTE NETWORKS, INC.**

By: */s/ Maria Fernandez*
Name: Maria Fernandez
Title: Corporate Secretary

*/s/ Fred Sacramone*
**FRED SACRAMONE**

*/s/ Brian McMahon*
**BRIAN MCMAHON**

**Exhibit 10.3**

**TRANSITION SERVICES AGREEMENT**

This Transition Services Agreement (this *"**Agreement**"*), effective as of October 10, 2019 (the *"**Effective Date**"*), is made and entered by and between FTE Networks, Inc., a Nevada corporation (together with its successors and assigns, *"**FTE Networks**"* or the *"**Receiving Party**"*), and Benchmark Builders, LLC, a New York limited liability company (*"**Benchmark**"* or *"**Providing Party**"* and, together with FTE Networks, individually a *"**Party**"* and collectively the *"**Parties**"*).

**RECITALS**

**Whereas**, Benchmark Holdings LLC, in its capacity as a lender under that certain Amended and Restated Credit Agreement, dated as of July 2, 2019 (the *"**Credit Agreement**"*), obtained all of the membership interests in Benchmark Builders, LLC, a New York limited liability company, held by FTE Networks through a strict foreclosure under UCC § 9-620 (the *"**Foreclosure**"*) pursuant to that certain Proposal for Surrender of Collateral and Strict Foreclosure (the "***Foreclosure Proposal***");

**Whereas**, in connection with the transition of the Parties' respective businesses subsequent to the Foreclosure, the Parties desire to enter into this Agreement, pursuant to which Providing Party shall provide certain transition services to Receiving Party, all as further set forth in this Agreement.

**Now, Therefore**, in consideration of the mutual agreements and covenants hereinafter set forth, the Parties hereby agree as follows:

**1. Services**.

**(a) Services in General.** The Providing Party shall perform (and cause its affiliates to perform, as applicable) each service (each, a *"**Service**"* and collectively, the *"**Services**"*) identified on **Exhibit A** attached hereto and incorporated herein by this reference, which describes the Services to be provided as of the Closing Date. In the event the Receiving Party identifies additional services that it desires the Providing Party to provide and such services are reasonably necessary to support the continued operations of the business of the Receiving Party (the *"**Business**"*) during the Term, and such services are not set forth on **Exhibit A**, the Receiving Party will provide written notice thereof to the Providing Party and the Parties will thereafter negotiate in good faith the scope and duration of such additional services. Any such additional services so provided by the Providing Party shall constitute Services under this Agreement and be subject in all respect to the provisions of this Agreement. If there is any inconsistency or conflict between the terms and conditions of **Exhibit A** and the terms and conditions of this Agreement, the terms and conditions of **Exhibit A** will govern. The Providing Party may provide the Services through its affiliates and/or third party service providers; provided, that the Providing Party will remain responsible for providing the Services hereunder.

**(b) Standard of Service.** The Providing Party shall provide the Services with at least the degree of quality and timeliness as such Services were performed and provided by the Providing Party to the Business prior to the consummation of the Foreclosure. The Services shall be performed in good faith and in accordance with applicable laws.

**(c) Cooperation**. The Parties will cooperate with each other in all matters relating to the provision and receipt of Services. Such cooperation will include exchanging information relevant to the provision of Services hereunder, good faith efforts to mitigate problems with the work environment interfering with the Services to the extent reasonably possible without interfering with the operations of each Party. In addition, each Party will: (a) provide the other Party with information, documentation, permits and consents reasonably necessary for the other Party to perform its obligations hereunder; and (b) provide reasonably timely decisions in order for the other Party to perform its obligations hereunder. To the extent a Party's failure to discharge its obligations in this Section impedes the other Party's ability to perform its obligations hereunder, the other Party will be excused from performance for so long as the other Party is impeded from performing by such failure.

**(d) Company Information**. Each Party shall promptly make all filings with governmental agencies necessary to restate their respective corporate addresses and the names of officers and directors, and to promptly update any business registrations, tax notifications and similar matters. FTE Networks shall promptly (and in any event within the time permitted by applicable rules), make any filings with the Securities and Exchange Commission and the New York Stock Exchange that are required in order to update the identity of its executive officers and any other personnel named in such filings, and evidence of such updated filings shall be provided to the President of Benchmark. In addition, FTE Networks will use commercially reasonable efforts to remove all references to Benchmark in all UCC filings, notes, loans, service agreements, credit agreements, deposit account control agreements, guarantees, contingent guarantees and other similar instruments.

**(e) Office Space**. Within sixty (60) days following the Effective Date, the Parties will negotiate and agree upon suitable arrangements with respect to the leased premises identified as 237 West 35th Street, Suite 601, New York, NY 10001 (*"**Suite 601**"*) and 237 West 35th Street, Suite 806, New York, NY 10001 (*"**Suite 806**"*) in a manner designed to meet the respective needs of the Parties. Such arrangements may include having FTE Networks personnel vacate Suite 806 and consolidate into Suite 601, or vice versa, subject to the execution of a sublease between the Parties as appropriate. Until an agreeable resolution is reached, FTE Networks will continue to pay to Benchmark (i) $16,945.17 per month, representing monthly rent, utilities and common area expenses for Suite 601 and (iii) $3,304.73 per month, representing the pro-rated portion (based on the number of employees of FTE Networks occupying such space relative to the total number of employees occupying such space, which the Parties agree is 40%) of monthly rent, utilities and common areas expenses, in each case subject to any rent escalation or other additional charges provided for in the underlying leases.

**(f) Tax Matters**. Each Party agrees to cooperate and provide the other Party with information, documentation and other support reasonably necessary for the completion of any pending tax audit and the completion of any tax filings. For the period from the Effective Date until December 31, 2019, and for all subsequent tax periods, the Parties will file their own tax returns.

**(g) Benefit Plans**. Promptly following the Effective Date, each Party will cooperate and provide support to the other Party as necessary to separate any combined benefits programs, including but not limited to the FTE Networks 401(k) plan (in consultation with Merrill Lynch) and the medical, dental and vision insurance plans currently maintained by FTE Networks. The Parties will cooperate in consulting with the respective plan providers in formulating an approach to the provision of services to employees of Benchmark during the transition period. In addition, the Parties will engage in discussions in good faith to determine the treatment of issued and outstanding stock options and any other awards granted to employees and consultants of Benchmark under the FTE Networks 2017 Omnibus Incentive Plan.

**2. Term.** The term of this Agreement will commence on the Effective Date and continue in effect until the date as of which the term of all Services have ended, but in no event later than the date that is six (6) months following the Effective Date, unless earlier terminated as provided herein (the *"**Term**"*). Notwithstanding the forgoing, this Agreement may terminate as to a single category of Services if an earlier termination date is set forth with respect thereto on **Exhibit A** or any agreed-upon amendment or supplement thereto.

**3. Compensation.** In consideration for the Services, the Receiving Party shall, if applicable, compensate and reimburse the Providing Party as set forth on **Exhibit A**. Payments hereunder, if any, shall be due and payable monthly in arrears within thirty (30) days of the date of Providing Party's invoice therefor or as otherwise set forth on **Exhibit A**. The Providing Party will use commercially reasonable efforts to present the Receiving Party with monthly invoices detailing the Services provided during that month and the total amount due within fifteen (15) days after the end of each month during which Services have been provided. In the event the Receiving Party fails to timely pay any payments due hereunder, the Providing Party may offset such amounts due against the Working Capital Cash Payments (as defined in the Foreclosure Proposal).[2]

**4. Representations and Warranties**.

**(a) Mutual Representations and Warranties**. Each Party represents and warrants to the other Party that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has full corporate or limited liability company power and authority to enter into this Agreement and to carry out the provisions hereof; (b) it is duly authorized to execute and deliver this Agreement and to perform its obligations hereunder and the person executing this Agreement on its behalf has been duly authorized to do so by all requisite corporate action; and (c) assuming the due execution and delivery by the other Party, this Agreement is a legal and valid obligation binding upon it and enforceable in accordance with the Agreement's terms.

**(b) Warranty Disclaimers**. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 4(a), NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES REGARDING THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OR IMPLIED WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL LIMIT OR OTHERWISE AFFECT THE REPRESENTATIONS AND WARRANTIES MADE BY ANY PARTY IN THE CREDIT AGREEMENT OR ANY OTHER DOCUMENT RELATED TO THE FORECLOSURE.

**5. Termination**.

**(a)** The Receiving Party may terminate any Service under this Agreement for convenience at any time by providing written notice of such termination to the Providing Party. The Parties may terminate this Agreement or any Service provided hereunder by written agreement signed by both Parties.

**(b)** Either Party may terminate this Agreement immediately by providing written notice to the other Party if the other Party is in material breach of this Agreement and fails to cure such breach within fifteen (15) days after written notice thereof.

**(c)** Effective upon termination of this Agreement, (i) except as otherwise expressly provided herein, all rights and obligations of each Party hereunder will cease; (ii) the Providing Party shall not have any further obligation to provide the Services, and (iii) the Receiving Party shall not owe any further compensation to the Providing Party or have any further liability to the Providing Party in connection with this Agreement with respect to the Services, except for any compensation that accrued prior to the date of termination or in connection with such Services and other expenses of the Providing Party which cannot be reasonably mitigated by the Providing Party. In addition, the Providing Party shall return to the Receiving Party, and the Receiving party shall return to the Providing Party, all property belonging to the other Party that was used by such Party in performing its obligations under this Agreement, including, but not limited to, all Confidential Information (as defined below).

**(d)** Sections 4, 5(c), 5(d), 6, 7 and 9 will survive any termination or expiration of this Agreement.

**6. Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES WITH RESPECT TO THE SERVICES OR OTHERWISE RELATING TO EITHER PARTY'S PERFORMANCE UNDER THIS AGREEMENT.

**7. Confidentiality**. Each Party (each, a "**Recipient**") acknowledges that it will receive certain Confidential Information (as defined below) of the other Party (each, a "**Discloser**") in connection with this Agreement and the Services contemplated hereunder and agrees (and shall cause its representatives to): (a) treat and hold as confidential (and not disclose or provide access to any person, or use for any purpose other than in connection with its performance of its obligations hereunder) all information relating to trade secrets, processes, patent applications, product development, price, customer and supplier lists, pricing and marketing plans, policies and strategies, details of client and consultant contracts, operations methods, product development techniques, business acquisition plans, new personnel acquisition plans, and data, emails, phone records, call logs, accounts receivable, accounts payable and general ledger entries, and all other confidential or proprietary information with respect to each Party's respective business (collectively, *"**Confidential Information**"*), (b) in the event that Recipient or any of its representatives or affiliates becomes legally compelled to disclose any such Confidential Information of the Discloser, provide Discloser with prompt written notice of such requirement so that Discloser may seek a protective order or other remedy or waive compliance with this Section 7, (c) in the event that such protective order or other remedy is not obtained, or Discloser waives compliance with this Section 7, furnish only that portion of such Confidential Information which Recipient is advised by legal counsel is legally required to be provided and exercise reasonable efforts to obtain assurances that confidential treatment will be accorded such information, and (d) promptly furnish (prior to, at, or as soon as practicable following, the termination or expiration of this Agreement) to Discloser any and all copies (in whatever form or medium) of all such Confidential Information of the Discloser then in the possession of Recipient or any of its representatives and destroy any and all additional copies then in the possession of Recipient or any of its representatives of such information and of any analyses, compilations, studies or other documents prepared, in whole or in part, on the basis thereof. Notwithstanding anything to the contrary herein, Confidential Information does not include any information that (i) is or becomes available to the public (other than as a result of disclosure by the Recipient or its representatives prohibited by this Agreement); (ii) is made available to the Recipient by a third party not known by the Recipient (at the time of such availability) to be subject to a confidentiality obligation in favor of the Discloser; (iii) was available to or in possession of the Recipient (free of any confidentiality obligation) prior to disclosure of such information by the Discloser to the Recipient; (iv) is developed independently by the Recipient or the Recipient's directors, officers, employees, agents, advisors (e.g., lawyers and accountants), contractors, representatives, financing sources or affiliated entities without the use of any Confidential Information of the Discloser; or (v) is made available to third parties by the Discloser without restriction on the disclosure of such information.

**8. Contact Persons**. Each Party appoints the individuals below to serve as its primary point of contact for matters related to this Agreement.

| | **General Contact** | **Escalation Contact** |
|---|---|---|
| **FTE Networks** | [***] | [***] |
| **Benchmark** | [***] | [***] |

**9. Miscellaneous.**

**(a)** The Parties agree that the relationship of the Providing Party to the Receiving Party is that of an independent contractor. The Providing Party has no authority to bind the Receiving Party by or to any obligation, agreement, promise, representation, or warranty, and the Providing Party shall not incur any liability for or on behalf of the Receiving Party. Nothing herein will be deemed to constitute or appoint the Providing Party as the agent or legal representative of Receiving Party.

**(b)** This Agreement and the rights, obligations, and remedies of the Parties will be governed by and construed and enforced in accordance with the laws of the State of Nevada, without reference to any of its conflict of law principles. The Parties irrevocably submit to the jurisdiction of any state or federal court located in the State of New York, solely in respect of the interpretation and enforcement of the provisions of this Agreement and in respect of the transactions contemplated hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may not be enforced in or by such courts, and the Parties irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a state or federal court. Notwithstanding the foregoing, either Party shall be entitled to bring a claim for injunctive or other equitable relief in any court of competent jurisdiction.

**(c)** This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes any prior written or verbal agreements or understandings in connection herewith, except as expressly provided in the Credit Agreement or in any agreements or instruments entered into or delivered in connection with the Foreclosure. No amendment, waiver, or modification hereto will be valid unless specifically made in writing and signed by an authorized signatory of both Parties hereto. If any provision is judicially determined to be invalid or unenforceable, then such provision will be modified to the least extent to make such provision valid and enforceable, if legally permissible, or, if not, such provision will be ineffective only to the extent of such invalidity or unenforceability, and the remaining provisions will be given full force and effect. There are no third party beneficiaries to this Agreement.

**(d)** Neither Party may assign or transfer this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of the other Party, except that no consent will be required for an assignment or other transfer in connection with a merger, acquisition, change in control transaction, corporate reorganization, or sale of all or substantially all, or other transfer of a Party's assets, business or equity. Any attempted assignment in violation of this Section will be null and void and of no force or effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each Party's permitted successors and assigns.

**(e)** Except with regard to payment obligations, either Party shall be excused from delays in performing or from failing to perform its obligations under this Agreement to the extent the delays or failures result from causes beyond the reasonable control of the party, including, but not limited to, default of subcontractors or suppliers, failures of third party software, default of third party vendors, acts of God or of the public enemy, U.S. or foreign governmental actions, labor shortages or strikes, communications or utility interruption or failure, fire, flood, epidemic, and freight embargoes.

**(f)** Any notice required or permitted to be given by either Party under this Agreement shall be in writing and shall be personally delivered or sent by a reputable overnight mail service (*e.g.*, Federal Express), or by first class mail (certified or registered), or by facsimile or electronic mail confirmed by first class mail (registered or certified) to the respective Parties at the following addresses (or at such other address for a party as shall be specified by like notice):

If to FTE Networks:

FTE Networks, Inc.
237 West 35th Street, Suite 806
New York, NY 10001
Attention: Maria Fernandez
Telephone No.: 239-315-3161
Email: [***]

If to Benchmark:

Benchmark Builders, LLC
237 West 35th Street, Suite 901
New York, NY 10001
Attention: Fred Sacramone
Facsimile No.: 212-766-8804
Telephone No.: 212-766-8800
Email: [***]

**(g)** This Agreement may be executed in several counterparts, including counterparts delivered by means of facsimile, scanned pages, or other electronic transmission, each of which will be deemed an original, but all of which together will constitute but one and the same Agreement.

*[Signature page immediately follows]*

**In Witness Whereof**, the Parties have executed and delivered this Agreement as of the Effective Date.

**RECEIVING PARTY:**

FTE NETWORKS, INC.

By: */s/ Fred Sacramone*
Name: Fred Sacramone
Title: President

**PROVIDING PARTY:**

BENCHMARK BUILDERS, LLC

By: */s/ Fred Sacramone*
Name: Fred Sacramone
Title: President

**EXHIBIT A**

**Services**

1. Personnel:

   a. Fred Sacramone will continue to serve as the Chief Executive Officer of FTE Networks until the earlier of the engagement of a new Chief Executive Officer or thirty (30) days from the Effective Date. Upon his resignation as CEO, Mr. Sacramone will enter into an advisory role for the remainder of the Term to assist in the transition of new management of FTE Networks. Upon the Effective Date, he will resign his position on the board of directors of FTE Networks.

   b. [***], through his consulting firm, will remain as a consultant of FTE Networks during the Term to oversee all ongoing FTE Networks financial operations and continue his current duties including: preparation and completion of SEC filings due during or within thirty (30) days following the end of the Term, financial restatement work from prior periods, working with FTE Networks' outside auditors, and treasury and process management. [***] will also continue to support the board of directors and management of FTE Networks for all financial needs including those in connection with any corporate transactions.

2. Payroll – The Providing Party will work with ADP to ensure separate payroll billings to each Party. During the Term, [***] will provide assistance as reasonably necessary with respect to payroll matters.

3. Internet and Networks – The Providing Party will provide internet services for the use of the Receiving Party's corporate accounting group for a period of up to thirty (30) days from the Effective Date. Following the Effective Date and by no later than thirty (30) days from such date, the Receiving Party will undertake commercially reasonable efforts to provide its own separate internet connection for the use of such corporate accounting group.

4. Phone System – The Providing Party will provide phone service to the corporate personnel of the Receiving Party.

5. Software – Promptly after the Effective Date, the Providing Party will make a transfer of any FTE Networks-related electronic files it has to storage locations identified by the Receiving Party.

6. Files – Any paper files in the possession of either Party that relate to the other Party or its business shall be transferred to such other Party.

7. Computer Files – The Providing Party will transfer to the Receiving Party, via sharefile sites, all legal and operational data in its possession that is relevant to the Receiving Party.

8. Accounting Systems –The Parties shall coordinate the disposition of any due to/due from accounts between the Parties. Both Parties shall work to reconcile the due from/to accounts in a mutually acceptable manner.

**Exhibit 10.4**

October 10, 2019

**STANDSTILL AGREEMENT**

Fred Sacramone
237 West 35th Street
Suite 806
New York, NY 10001

Dear Fred:

In connection with the transactions contemplated by that certain Proposal For Surrender Of Collateral And Strict Foreclosure (the "Proposal"), dated as of October 10, 2019, to FTE Networks, Inc. ("FTE"), and certain other parties named therein, from Lateral Juscom Feeder LLC, in order to induce FTE to enter into the Proposal and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, you hereby agree as set forth herein.

Annex A sets forth definitions for capitalized terms used in this letter agreement that are not defined in the body of this agreement. Those definitions are a part of this agreement.

1. You agree that, for a period of four (4) months from the date hereof (unless earlier terminated), neither you nor your Affiliates (as defined below) nor any other person acting on your or their behalf will, in any manner, directly or indirectly, without the prior written consent of FTE's Board of Directors or an authorized committee thereof, in each case, except as contemplated by the Proposal: (i) acquire, offer to acquire, or agree to acquire, directly or indirectly, by purchase or otherwise, any voting securities or direct or indirect rights to acquire any voting securities of FTE or any subsidiary or affiliate thereof, or of any successor to or person in control of FTE, or any assets of FTE or any subsidiary, division or affiliate thereof or of any such successor or controlling person; (ii) make, or in any way participate in, directly or indirectly, any "solicitation" of "proxies" to vote (as such terms are used in the rules of the Securities and Exchange Commission), or seek to influence or control any person with respect to the voting of any voting securities of FTE; (iii) make any public announcement with respect to, or submit a proposal for, or offer of (with or without conditions) any extraordinary transaction involving FTE or any of its securities or assets; (iv) form, join or in any way participate in a "group" (as defined in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) with respect to any securities of FTE; (v) otherwise act, alone or in concert with others, to seek to control or influence the management, Board of Directors or policies of FTE; (vi) publicly disclose any intention, plan or arrangement inconsistent with the foregoing; (vii) take any action that would reasonably be expected to require FTE to make a public announcement regarding the matters set forth described above; or (viii) file any application with any regulatory authority seeking approval or authority in connection with any action described above. The provisions of this paragraph will not be applicable in the event (i) any person shall have acquired or become the owner of, or entered into a definitive agreement with FTE to acquire or become the owner of (in each case whether by tender offer, merger, consolidation, business combination or otherwise), more than 50% of the voting securities of FTE or assets of FTE representing more than 50% of its consolidated earning power or (ii) a third party makes a tender or exchange offer for more than 50% of the outstanding voting securities of FTE, which tender offer FTE's Board of Directors has not within ten business days of commencement recommended that stockholders of FTE reject, provided that the provisions of this paragraph shall again be applicable in accordance with their terms upon the termination of such definitive agreement (in the case of clause (i)) or the withdrawal or termination of the tender offer or rejection thereof by FTE's Board of Directors (in the case of clause (ii)).

2. You agree that, without the prior written consent of FTE's Board of Directors or an authorized committee thereof you will not, Sell or Offer to Sell any Shares or Related Securities currently or hereafter owned by you, of record or beneficially (as defined in Rule 13d-3 under the Exchange Act), except as contemplated by the Proposal.

3. FTE agrees that it will use commercially reasonable efforts to take all customary actions reasonably requested by you to enable you to sell the common stock of FTE held by you within the limitation of the exemption provided by Rule 144.

4. This Agreement may be executed in two or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission or electronic mail in .pdf or similar format shall constitute effective execution and delivery of this Agreement as to the parties. For purposes of this Agreement any reference to "written" or "in writing" shall be deemed to include correspondence by signed letter or facsimile or by e-mail.

5. This Agreement (other than Paragraph 3 which shall survive the termination of this Agreement and remain in full force and effect as long as you own shares of common stock of FTE) shall terminate on the date that all Shares currently or hereafter owned by you, of record or beneficially, have been conveyed and transferred to FTE or its designee.

If you are in agreement with the foregoing, please so indicate by signing, dating and returning one copy of this Agreement, which will constitute our agreement with respect to the matters set forth herein.

Very truly yours,

FTE Networks, Inc.

By: */s/ Maria Fernandez*
Maria Fernandez
Corporate Secretary

Confirmed and Agreed to:

By: */s/ Fred Sacramone*
FRED SACRAMONE

**ANNEX A**

For purposes of the letter agreement to which this Annex A is attached and of which it is made a part:

"**Affiliate**" shall have the meaning set forth in Rule 12b-2 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**").

"**Call Equivalent Position**" shall have the meaning set forth in Rule 16a-1(b) under the Exchange Act.

"**Put Equivalent Position**" shall have the meaning set forth in Rule 16a-1(h) under the Exchange Act.

"**Related Securities**" shall mean any options or warrants or other rights to acquire Shares or any securities exchangeable or exercisable for or convertible into Shares, or to acquire other securities or rights ultimately exchangeable or exercisable for or convertible into Shares.

"**Sell or Offer to Sell**" shall mean to:

- sell, offer to sell, contract to sell or lend,
- effect any short sale or establish or increase a Put Equivalent Position or liquidate or decrease any Call Equivalent Position
- pledge, hypothecate or grant any security interest in, or
- in any other way transfer or dispose of,

in each case whether effected directly or indirectly.

"**Shares**" shall mean shares of Series H Preferred Stock of FTE.

Capitalized terms not defined in this Annex A shall have the meanings given to them in the body of this lock-up agreement.

**Exhibit 10.5**

October 10, 2019

**STANDSTILL AGREEMENT**

Brian McMahon
237 West 35th Street
Suite 806
New York, NY 10001

Dear Brian:

In connection with the transactions contemplated by that certain Proposal For Surrender Of Collateral And Strict Foreclosure (the "Proposal"), dated as of October 10, 2019, to FTE Networks, Inc. ("FTE"), and certain other parties named therein, from Lateral Juscom Feeder LLC, in order to induce FTE to enter into the Proposal and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, you hereby agree as set forth herein.

Annex A sets forth definitions for capitalized terms used in this letter agreement that are not defined in the body of this agreement. Those definitions are a part of this agreement.

1. You agree that, for a period of four (4) months from the date hereof (unless earlier terminated), neither you nor your Affiliates (as defined below) nor any other person acting on your or their behalf will, in any manner, directly or indirectly, without the prior written consent of FTE's Board of Directors or an authorized committee thereof, in each case, except as contemplated by the Proposal: (i) acquire, offer to acquire, or agree to acquire, directly or indirectly, by purchase or otherwise, any voting securities or direct or indirect rights to acquire any voting securities of FTE or any subsidiary or affiliate thereof, or of any successor to or person in control of FTE, or any assets of FTE or any subsidiary, division or affiliate thereof or of any such successor or controlling person; (ii) make, or in any way participate in, directly or indirectly, any "solicitation" of "proxies" to vote (as such terms are used in the rules of the Securities and Exchange Commission), or seek to influence or control any person with respect to the voting of any voting securities of FTE; (iii) make any public announcement with respect to, or submit a proposal for, or offer of (with or without conditions) any extraordinary transaction involving FTE or any of its securities or assets; (iv) form, join or in any way participate in a "group" (as defined in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) with respect to any securities of FTE; (v) otherwise act, alone or in concert with others, to seek to control or influence the management, Board of Directors or policies of FTE; (vi) publicly disclose any intention, plan or arrangement inconsistent with the foregoing; (vii) take any action that would reasonably be expected to require FTE to make a public announcement regarding the matters set forth described above; or (viii) file any application with any regulatory authority seeking approval or authority in connection with any action described above. The provisions of this paragraph will not be applicable in the event (i) any person shall have acquired or become the owner of, or entered into a definitive agreement with FTE to acquire or become the owner of (in each case whether by tender offer, merger, consolidation, business combination or otherwise), more than 50% of the voting securities of FTE or assets of FTE representing more than 50% of its consolidated earning power or (ii) a third party makes a tender or exchange offer for more than 50% of the outstanding voting securities of FTE, which tender offer FTE's Board of Directors has not within ten business days of commencement recommended that stockholders of FTE reject, provided that the provisions of this paragraph shall again be applicable in accordance with their terms upon the termination of such definitive agreement (in the case of clause (i)) or the withdrawal or termination of the tender offer or rejection thereof by FTE's Board of Directors (in the case of clause (ii)).

2. You agree that, without the prior written consent of FTE's Board of Directors or an authorized committee thereof you will not, Sell or Offer to Sell any Shares or Related Securities currently or hereafter owned by you, of record or beneficially (as defined in Rule 13d-3 under the Exchange Act), except as contemplated by the Proposal.

3. FTE agrees that it will use commercially reasonable efforts to take all customary actions reasonably requested by you to enable you to sell the common stock of FTE held by you within the limitation of the exemption provided by Rule 144.

4. This Agreement may be executed in two or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission or electronic mail in .pdf or similar format shall constitute effective execution and delivery of this Agreement as to the parties. For purposes of this Agreement any reference to "written" or "in writing" shall be deemed to include correspondence by signed letter or facsimile or by e-mail.

5. This Agreement (other than Paragraph 3 which shall survive the termination of this Agreement and remain in full force and effect as long as you own shares of common stock of FTE) shall terminate on the date that all Shares currently or hereafter owned by you, of record or beneficially, have been conveyed and transferred to FTE or its designee.

If you are in agreement with the foregoing, please so indicate by signing, dating and returning one copy of this Agreement, which will constitute our agreement with respect to the matters set forth herein.

Very truly yours,

FTE Networks, Inc.

By: */s/ Maria Fernandez*
Maria Fernandez
Corporate Secretary

Confirmed and Agreed to:

By: */s/ Brian McMahon*
BRIAN MCMAHON

**ANNEX A**

For purposes of the letter agreement to which this Annex A is attached and of which it is made a part:

"**Affiliate**" shall have the meaning set forth in Rule 12b-2 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**").

"**Call Equivalent Position**" shall have the meaning set forth in Rule 16a-1(b) under the Exchange Act.

"**Put Equivalent Position**" shall have the meaning set forth in Rule 16a-1(h) under the Exchange Act.

"**Related Securities**" shall mean any options or warrants or other rights to acquire Shares or any securities exchangeable or exercisable for or convertible into Shares, or to acquire other securities or rights ultimately exchangeable or exercisable for or convertible into Shares.

"**Sell or Offer to Sell**" shall mean to:

- sell, offer to sell, contract to sell or lend,
- effect any short sale or establish or increase a Put Equivalent Position or liquidate or decrease any Call Equivalent Position
- pledge, hypothecate or grant any security interest in, or
- in any other way transfer or dispose of,

in each case whether effected directly or indirectly.

"**Shares**" shall mean shares of Series H Preferred Stock of FTE.

Capitalized terms not defined in this Annex A shall have the meanings given to them in the body of this lock-up agreement.

**Exhibit 99.1**

**SUMMARY OF INDICATIVE TERMS AND PROVISIONS**

FOR DISCUSSION PURPOSES ONLY -**NOT A COMMITMENT** - SUBJECT TO THE REVIEW AND APPROVAL OF THE PARTIES AND THEIR LEGAL COUNSEL

*October 8, 2019*

This Summary of Indicative Terms and Provisions sets forth the principal non-binding terms of the contemplated transaction currently being negotiated between the Acquiror and Contribution Vehicle (the "Acquiror"), Lateral Investment Management, LLC ("Lateral") FTE Networks Inc. ("FTE"), and Benchmark Builders, Inc. ("Benchmark"). This Summary is not intended to be and should not be construed as a commitment to invest, offer or agreement, nor should it be construed or interpreted as an attempt to establish all of the terms and conditions relating to the transactions described herein. In general, the contemplated transaction is a restructuring of ("FTE") involving, among other matters, the separation of certain obligations and litigation into two separate, private entities, and the contribution by the Acquiror of certain real estate related assets to FTE ("the Transaction").

**FTE Networks, Inc. Restructuring:**

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| Proposed Divestment of Benchmark | Lateral will strictly foreclose upon the Benchmark stock and certain litigation claims for the FTE debt. Following such foreclosure, the FTE debt to Lateral shall be reduced to zero. |
| Proposed Series H Transfer | Benchmark shall transfer the Series H shares to the Acquiror at the closing following satisfaction of all the terms and conditions of the Acquiror. The vote of the Series H shares by either Benchmark or the Company (upon redemption of such shares) in favor of the Transaction is a condition precedent for the benefit of all parties. |
| Proposed Acquiror Contribution of Assets | The Acquiror shall contribute a total of $4.0BN of assets from the Asset Assessment Fee Base portfolio to FTE.<br><br>The assets may be generally described as a real property fee which imposes an assessment of a percentage of one percent (1%) of the gross sales price, for ninety-nine (99) years |
| Transfer of Benchmark Seller Notes | The holders of the Benchmark Seller Notes will assign and transfer $28M of the $49M worth of Sellers Notes for no consideration to TTP8 and Acquiror, with the prior written consent and approval of the post-foreclosure, pre-closing Board of Directors. The post-foreclosure, pre-closing Board of Directors of FTE shall resolve that the Seller Notes be converted. |

**Equity Terms:**

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| Existing Shares | All existing FTE shareholders will keep their shares |
| New Equity to CV and TTP8 | As consideration for the Acquiror's Contribution of Assets, the new share issuances will be undertaken as detailed in Exhibit A. |
| Shareholder Vote | Following the approval of all terms and conditions of the Transaction by the post-foreclosure, pre-closing Board of Directors of FTE and the pre-closing holders of Series H shares, FTE will submit the terms and conditions of the Transaction for shareholder vote. |

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| Proposed new capital raise | FTE shall raise $30MM of funds according to the following schedule and for the following purposes:<br><br>Within 30 calendar days from the Board's approval of the acquisition, $10.00MM to the Acquiror to effectuate a closing<br><br>Using commercially reasonable best efforts, within 45 calendar days from the Board's approval of the acquisition and as part of a primary offering launched by FTE, $6.00MM to extinguish existing convertible note holders<br><br>Subject to a closing, using commercially reasonable best efforts, by December 15, 2019 and as part of a primary offering<br><br>i. $4.45MM as cash on the FTE balance sheet for working capital purposes<br>ii. $3.90MM to repay the working capital left on the balance sheet by Benchmark<br>iii. Additional cash as needed to meet obligations and operate the business<br><br>All common shareholders shall have the cash redemption rights to sell their common stock in any secondary offerings launched by FTE. Such rights shall be pari pasu to the number shares owned by the shareholders as a percentage of the total common shares issued and outstanding.<br><br>For any shares sold, to fulfill the conditions of Sections 17(b), 17(c) and/or 17(d) of this Term Sheet, that are issued to or Acquiror at closing, FTE shall issue new shares of an equal value to the selling party (Acquiror) assuming a minimum share price equal to the minimum of $10.00 and the post-closing 20 Day VWAP of FTE Common Stock.<br><br>Any shares sold to raise the capital required as part of sub-section (a) of Opening Liquidity shall be provided for sale by Acquiror. |
| **General Terms:** | |
| Proposed Transition plan for Board Members | At closing and upon satisfaction or unanimous waiver, by all parties to the definitive agreements, of all of the conditions and covenants, of the transaction, as to be more particularly described in a definitive agreements, the Board of Directors and Management of FTE shall be restructured pursuant to the conditions below:<br><br>i. two Board Members shall be named by Acquiror and appointed by the post-foreclosure, pre-closing Board of Directors of FTE<br>ii. all current Board of Directors of FTE shall resign<br>iii. the Board of Directors of FTE nominated and appointed pursuant to (i) and (ii) above, shall also select at least two (2) independent members of the Board of FTE |

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| Proposed Opening Liquidity: | FTE shall contribute $3MM of operating cash to the balance sheet at the time of the Benchmark divestiture plus additional working capital of $300K per month. The $3.9MM shall then be repaid to Benchmark no later than December 15, 2019. The proceeds are to be used for general working capital purposes and take the following into consideration:<br>i. Filings and registration costs including all consolidation roll up financial filings<br>ii. Salaries for employees and the FTE management team<br>iii. Board Fees<br>iv. Legal Fees<br>v. D&O Payments<br>vi. New York Office Lease<br>vii. Filings and registration costs<br>viii. Consulting Costs as necessary during the transition period |
| Conditions to effectuate a Closing to the proposed transaction: | Closing and funding of the transaction will be subject to the satisfaction of all terms and conditions as agreed to and accepted by the parties to and as stated in the definitive agreements. Such terms and conditions shall include and not be limited to:<br>i. Satisfactory review of contracts, collateral, and intellectual property;<br>ii. Business due diligence;<br>iii. Background checks for the public company's new management team and board members;<br>iv. Satisfactory completion of all documentation and all legal and other due diligence;<br>v. Delivery, receipt and satisfactory completion of the review of diligence requests as detailed in Exhibit C-1 and Exhibit C-2;<br>vi. $10M payment to the Acquiror pursuant to sub-section (a) of Opening Liquidity.<br>vii. $3M Contribution to Balance Sheet of FTE by Benchmark pursuant to Bridge Capital for Post-Closing Expenses<br>viii. Successful completion of transfer of Benchmark Seller Notes pursuant to Transfer of Benchmark Seller Notes |
| Proposed plan for completion of Filings: | Current FTE executives with support from Lateral and the incoming management team will complete all corporate, legal and exchange filings. Anthony Cassano will also serve as transition support along with the current CFO, Ernie Scheidermann who will remain with FTE until the consolidated filings are posted by 11/15/2019. |
| Required Approvals: | This Transaction remains subject to the FTE board, regulatory and exchange approval. |
| Governing Law: | The documents prepared by Lateral for the contemplated transactions shall be governed by the internal laws of the State of New York. |
| Disclaimers: | Please note the following items are subject to change:<br>a. Structure of all Warrants issued as part of the transaction<br>b. Structure of all Preferred Stock issued as part of the transaction<br>c. Allocation of consideration across Preferred Stock, Common Stock and Warrants<br>d. The final distribution of Preferred Stock, Common Stock and Warrants to the various parties, as detailed in Exhibit D of this Term Sheet. The final distributions schedule will be provided in a Payment Direction Letter incorporated in the definitive agreements.<br><br>In addition, please note that all the Terms and Conditions discussed herein and all those as contemplated to be part of the proposed transactions and/or those to be more particularly described, defined or amended in the definitive agreements. shall be more particularly defined in the definitive agreements and are subject to the review and approval of the post-foreclosure, pre-closing Board of Directors of the respective parties. |