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IN THE UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

In re NORTHPOINT COMMUNICATIONS GROUP, INC., NORTHPOINT COMMUNICATIONS, INC., NORTHPOINT COMMUNICATIONS OF VIRGINIA, INC., and NORTHPOINT INTERNATIONAL, INC., Debtors.	Case No. 01-30127 (Jointly Administered with: 01-30125-C7, 01-30126-C7, and 01-30128-C7) Chapter 7 Date: July 18, 2003 Time: 9:30 a.m. Place: 235 Pine Street San Francisco, CA 94104 Judge: Honorable Thomas E. Carlson

DECLARATION OF E. LYNN SCHOENMANN IN SUPPORT OF JOINT MOTION BY TRUSTEES FOR APPROVAL OF COMPROMISE OF CONTROVERSIES

I, E. Lynn Schoenmann, declare as follows:

1. I am the trustee of the chapter 7 estates of NorthPoint Communications, Inc. ("Communications"), NorthPoint Communications of Virginia, Inc. ("Virginia") and NorthPoint International, Inc. ("International"), and in such capacity, I am personally familiar with each of the facts stated herein, to which I could competently testify if called upon to do so in a court of law.

2. Prior to October 23, 2002, I was also the trustee of the chapter 7 estate of NorthPoint Communications Group, Inc. ("Group"), the corporate parent of Communications and International (Communications, Virginia, International and Group, collectively, the "Debtors").

3. I am informed and believe that the Debtors consist of four related companies that, prior to the commencement of these bankruptcy cases, were operated as a business enterprise known generally as "NorthPoint." These bankruptcy cases were commenced on January 16, 2001 (the "Petition Date"), following the collapse of a planned merger with Bell Atlantic Corporation, doing business as Verizon Communications, and related entities (collectively, "Verizon"), pursuant to an agreement between Verizon and Group. The bankruptcy cases began under chapter 11 of the United States Bankruptcy Code, during which most of the estates' assets were sold to AT&T Corporation. Following that sale, each of the Debtors' cases was converted to chapter 7 of the Bankruptcy Code, on June 12, 2001, and I was appointed as the trustee of all four Debtors' estates.

4. During my administration of the Debtors', I, as trustee of Group's and Communications' estates, pursued breach of contract and fraud causes of action against Verizon, and in 2002, those causes of action were settled and released, with the approval of the Court, in exchange for payment by Verizon to the bankruptcy estates in the amount of $175,000,000. After payment of remaining liens encumbering the settlement funds and certain other costs, the estates retained approximately $110,000,000 in net proceeds, without allocation among the four estates.

5. Because of emerging conflicts between Group's estate and Communications' estate with respect to competing claims of entitlement to the net settlement proceeds, it became evident to me that the four estates would be best served by my continuing as trustee only as to some, but not all, of the estates until issues as to allocation and entitlement with respect to the net settlement proceeds, as well as other issues among the estates, had been resolved. Therefore, on October 23, 2002, I resigned as trustee of Group's chapter 7 estate, but remained as trustee of the chapter 7 estates of Communications, Virginia and International. The United States Trustee appointed an interim trustee, Charles Sims, as trustee of the Group estate (the "Interim Group Trustee"), and on December 3, 2002, a special meeting of creditors was held to elect a permanent trustee. On December 31, 2002, the United States Trustee filed a report confirming the election of Michael M. Ozawa as the permanent trustee of the Group estate.

6. The competing claims of the estates to funds and other assets, as well as other issues between the estates, quickly materialized once the estates were separated. On November 26, 2002,

for example, the Interim Group Trustee filed a proof of claim against the estate of Communications, seeking payment of an amount in excess of $48,000,000 based upon a theory of subrogation (the "Subrogation Claim"). On December 16, 2002, I, as Communications' trustee, filed a motion seeking substantive consolidation of the estates of all four Debtors (the "Consolidation Motion"). On February 24, 2003, the Group Trustee filed a memorandum in opposition (the "Group Opposition") to the Consolidation Motion. In addition, other parties have filed opposing and supporting briefs with respect to the Consolidation Motion.

7. The issues raised in the Consolidation Motion, the Group Opposition and later briefs filed by me and the Group Trustee in support of our respective positions centered primarily around the following issues:

- The Group Trustee contended that most or all net proceeds arising from the Verizon settlement belonged to the Group estate, rather than the Communications estate, because the settlement stemmed primarily from a breach of contract cause of action asserted by Group, as the only party to the merger agreement with Verizon.
- The Group Trustee further contended that he was entitled to all other assets and funds of the Communications estate as well, including any Verizon settlement proceeds allocable to the Communications estate, up to the approximate amount of $48,000,000, under the doctrines of subrogation and equitable exoneration, based on the argument that a portion of Verizon settlement proceeds had been utilized to repay loans of which Communications was the primary obligor and Group was only a guarantor.
- I contended that a significant portion of the Verizon settlement proceeds belonged to the Communications estate, rather than the Group estate, because they derived from resolution of the fraud claim asserted by Communications and not by Group.
- I also contended that even if the Verizon settlement proceeds derived largely from the breach of contract cause of action asserted against Verizon, those funds belonged primarily to the Communications estate nonetheless, because while Group was the only nominal plaintiff asserting the breach of contract cause of action, Communications was the *de facto* plaintiff with respect to that cause of action, and the

functional party to the underlying merger agreement, inasmuch as Communications, rather than Group, was required to provide all of the substantive obligations and performances under that contract.

- I argued to refute the Group Trustee's arguments for equitable exoneration and subrogation, on three primary bases: first, because the settlement funds did not belong to Group, as argued above, neither subrogation nor exoneration applied; second, those doctrines did not apply because both Communications and Group were primary obligors and beneficiaries of the loans repaid with settlement proceeds; and third, any subrogation or exoneration claims asserted by Group, even if otherwise enforceable, were nullified by the doctrine of equitable subordination.
- I contended that under all of the circumstances of the four Debtors, the only reasonable, practical and principled manner of allocating the Verizon settlement proceeds and other funds of the estate, absent an overly expensive and time-consuming process that would result in an arbitrary and unfair division of assets, would be to substantively consolidate the four estates and distribute funds on a *pro rata* basis. I contended that under applicable decisional law, the case for substantive consolidation was compelled by the excessive entanglement of the four corporate Debtors and the unfairness to creditors in recognizing arbitrary divisions among them.
- The Group Trustee contended that substantive consolidation was not justified under the facts of the case or applicable decisional law, in light of the clear structural distinctions between the corporate entities and the alleged reliance of creditors upon the separateness of those entities, and that the Verizon settlement proceeds could be easily allocated between the estates without the necessity of consolidation.

8. Both I and the Group Trustee investigated and researched the foregoing issues and allegations, briefed legal authorities supportive of our respective positions, and initiated extensive discovery directed toward the litigation of those issues, including document production requests, initial disclosures and more than a dozen deposition subpoenas.

9. On March 6, 2003, the Court issued its scheduling order with respect to the

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Consolidation Motion and the Group Opposition. Among other things, with the parties' encouragement, the Court ordered that the parties engage in settlement negotiations before commencing formal discovery. In addition, the Court directed that an evidentiary hearing of the Consolidation Motion be conducted on June 17, 2003. On or about April 14 and 25, 2003, the Group Trustee filed two separate motions for partial, and then for full, summary judgment (collectively, the "Summary Judgment Motions") with respect to the Consolidation Motion, both of which were scheduled for hearing on May 23, 2003.

10. Pursuant to the Court's order, I and the Group Trustee, together with our respective professionals, participated in a mediation session before the Honorable Dennis Montali on April 14, 2003 in an attempt to resolve all disputes between us, whether directly related to the Consolidation Motion or otherwise. Although that session did not result immediately in a consensual resolution of such disputes, subsequent discussions between us and our counsel produced a tentative settlement, subject to approval by the Court. Accordingly, on May 8, 2003, the Court issued an order suspending litigation of the Consolidation Motion, and, in particular, removing from the Court's calendar the May 23, 2003 hearing of the Summary Judgment Motions and the June 17, 2003 hearing of the Consolidation Motion, and postponing all scheduled depositions and discovery deadlines, pending further order of the Court.

11. I and the Group Trustee, with our counsel, have now documented our proposed compromise, in the form of a written settlement agreement entitled "Settlement Agreement Between NorthPoint Trustees (All Disputes, Including Consolidation, Subrogation And Allocation)," a copy of which is attached hereto as Exhibit "A."

12. I believe that the proposed Settlement Agreement is in the best interests of my respective estates. I believe that all four Debtors' estates will benefit from the avoidance of significant expense and considerable delay that would attend continued litigation of the issues now pending between me and the Group Trustee. In addition, I believe that the avoidance of risks of loss inherent in continued litigation further justifies the terms of settlement.

13. From the perspective of the Communications estate, the settlement terms will likely result in an outcome more favorable than a loss in litigation, although not as favorable as a full

success in that litigation. If, for example, the Consolidation Motion were denied and the Group Trustee's position as to subrogation, exoneration and allocation were sustained, Communications' general unsecured creditors would receive no distribution at all, nor would priority claims or unpaid chapter 11 expenses be paid to any extent. Alternatively, if the Consolidation Motion were granted, according to my present estimates, all administrative and priority claims would be paid in full and distributions upon allowed unsecured claims would be roughly equal to between 16% and 19% of allowed amounts (depending upon the outcome of claims reviews and allowances).

14. Under the settlement, on the other hand, assuming available funds of approximately $30,500,000.00 (after payment of $86,000,000 to the Group Trustee and resolution of outstanding claims benefiting the estates), priority and administrative claims of roughly $20,000,000.00 and general unsecured claims between $60,000,000.00 and $130,000,000.00, I presently estimate that the outcome will be as follows: all allowed priority and administrative claims, including all unpaid chapter 11 expenses, will be paid in full, and distributions to Communications' general unsecured creditors will likely be in the range of 8.1% to 17.5% of allowed amounts. Assuming the middle of that range in settlement, or approximately 12.8%, as compared to the middle of the estimated range in the event of full success, 17.8%, I view the likely result of settlement, being roughly 72% of the estimated outcome in the event of complete litigation success, to be fair and reasonable under the circumstances of these cases. Particularly given the prospect of much earlier and less expensive resolution of the estates' claims and assets, I believe that the estimated settlement outcome is significantly more favorable than continued litigation with its attendant delays, expenses and risks of loss.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 25 day of June, 2003 at San Francisco, California.

E. LYNN SCHOENMANN

DOCUMENT NUMBER-DATE
05835 JUL-1
FPSC-COMMISSION CLERK

SETTLEMENT AGREEMENT BETWEEN NORTHPOINT TRUSTEES

(All Disputes, Including Consolidation, Subrogation and Allocation)

This Settlement Agreement Between NorthPoint Trustees (All Disputes, Including Consolidation, Subrogation and Allocation) (this "Agreement") is entered into as of May 28, 2003 by (a) E. Lynn Schoenmann, as the trustee (the "Communications Trustee") of the chapter 7 estates of NorthPoint Communications, Inc. ("Communications"), NorthPoint Communications of Virginia, Inc. ("Virginia"), and NorthPoint International, Inc. ("International"); and (b) Michael M. Ozawa, as the trustee (the "Group Trustee" and together with the Communications Trustee, the "NorthPoint Trustees") of the chapter 7 estate of NorthPoint Communications Group, Inc. ("Group"), based upon the following:

RECITALS

A. On January 16, 2001 (the "Petition Date"), Group, Communications, Virginia and International (collectively, the "Debtors") each filed with the United States Bankruptcy Court for the Northern District of California, San Francisco Division (the "Court"), a voluntary petition for relief under the provisions of chapter 11 of the United States Bankruptcy Code, and an order for relief was entered in each of such Debtors' chapter 11 cases on that date.

B. On June 12, 2001, the Court ordered the conversion of each of the Debtors' chapter 11 cases to a case under chapter 7 of the Bankruptcy Code, and E. Lynn Schoenmann was appointed as the trustee of the chapter 7 estates of each of the Debtors.

C. On October 23, 2002, Ms. Schoenmann resigned as trustee of Group's chapter 7 estate, but remained trustee of the chapter 7 estates of Communications, Virginia and International. The United States Trustee appointed an interim trustee, Charles Sims, as trustee of the Group estate (the "Interim Group Trustee"), and on December 3, 2002, a special meeting of creditors was held to elect a permanent trustee. On December 31, 2002, the United States Trustee filed a report confirming the election of Michael M. Ozawa as the permanent trustee of the Group estate. On January 7, 2003, the United States Trustee filed notice of Mr. Ozawa's qualification as the Group Trustee.

D. On November 26, 2002, the Interim Group Trustee filed a proof of claim against the estate of Communications, seeking payment of an amount in excess of $48,000,000 based upon a theory of subrogation (the "Subrogation Claim").

E. The deadlines for the filing of all prepetition general unsecured claims against each of the Debtors' estates expired prior hereto. Prior to such deadlines, proofs of general unsecured claims have been filed against all estates in an aggregate amount in excess of $1.2 billion. Of that amount, approximately $421,474,434 of claims (net of duplications) arise out of certain 12 7/8% Senior Subordinated Notes Due 2010 (the "Notes") issued by Group on February 8, 2000 in the aggregate amount of $400,000,000 (collectively, the "Note Claims"). Those claims, arising from the aforementioned bond issuances, are direct, written, contractual obligations of Group. The indenture trustee appointed with respect to such bond issuances, pursuant to an Indenture dated as of February 8, 2000, is The Bank of New York (the "Indenture Trustee").

EXHIBIT A

F. On December 16, 2002, the Communications Trustee filed a motion seeking substantive consolidation of the estates of all four Debtors (the "Consolidation Motion"). On February 24, 2003, the Group Trustee filed a memorandum in opposition (the "Group Opposition") to the Consolidation Motion. In addition, other parties have filed opposing and supporting briefs with respect to the Consolidation Motion.

G. Issues raised in the Consolidation Motion, the Group Opposition and later briefs filed by each trustee in support of their respective positions include: (a) the propriety of substantive consolidation; (b) the allocation among the Debtors' estates of certain funds derived from a prior settlement (the "Verizon Settlement") with Bell Atlantic Corporation, doing business as Verizon Communications, and related companies; and (c) arguments and claims asserted by the Group Trustee under the doctrines of exoneration and subrogation.

H. On March 6, 2003, the Court issued its scheduling order with respect to the Consolidation Motion and the Group Opposition. Among other things, with the parties' encouragement, the Court ordered that the parties engage in settlement negotiations before commencing formal discovery. In addition, the Court directed that all discovery and briefing commence after April 3, 2003, and that an evidentiary hearing of the Consolidation Motion be conducted on June 17, 2003.

I. On or about April 14 and 25, 2003, the Group Trustee filed two separate motions, initially seeking partial summary judgment and subsequently seeking full summary judgment, with respect to the Consolidation Motion (collectively, the "Summary Judgment Motions"), both of which were scheduled for hearing on May 23, 2003. In addition, both trustees initiated discovery requests, and noticed multiple depositions during the month of May 2003.

J. Pursuant to an order of the Court dated April 3, 2003, the Court scheduled a formal settlement conference before the Honorable Dennis Montali, and on April 14, 2003 the NorthPoint Trustees and their respective professionals appeared before Judge Montali at a full-day settlement conference in an attempt to resolve all disputes between them, whether directly related to the Consolidation Motion or otherwise. Although that session did not result immediately in a consensual resolution of such disputes, the NorthPoint Trustees made substantial progress during the settlement conference, and settlement discussions continued between the NorthPoint Trustees subsequent to the completion of the settlement conference. As a result of the settlement conference and those subsequent negotiations, the NorthPoint Trustees have now reached a settlement agreement, the terms and conditions of which are set forth in this Agreement.

K. On May 8, 2003, at the request of the parties hereto and in order to facilitate such further discussions, the Court issued an order suspending litigation of the Consolidation Motion, and, in particular, removing from the Court's calendar the May 23, 2003 hearing of the Summary Judgment Motions and the June 17, 2003 hearing of the Consolidation Motion, and staying all scheduled discovery (including depositions), pending further order of the Court.

L. At present, the Communications Trustee is in possession of funds in the approximate amount of $112,000,000, with respect to which both the Group Trustee and the Communications Trustee claim ownership and entitlement. In addition, the Communications

Trustee holds other assets, including without limitation avoidance claims under the provisions of Section 547 of the United States Bankruptcy Code.

M. The parties' discussions have resulted in a full, consensual resolution of all disputes between the Group Trustee and the Communications Trustee upon the terms and conditions set forth below, without conceding the positions, allegations, defenses and other contentions of each other.

AGREEMENT

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION RECEIVED AND HEREBY ACKNOWLEDGED, EACH OF THE PARTIES HERETO AGREES, PROMISES, COVENANTS, REPRESENTS, WARRANTS AND STIPULATES as follows:

1. Recitals. Each of the foregoing recitals forms a material part of this Agreement and is incorporated herein by reference.

2. Court Approval. The effectiveness of this Agreement is expressly conditioned upon the entry of an order or orders (collectively, the "Approval Orders") of the Court in the chapter 7 cases of each of the Debtors, pursuant to the provisions of Rule 9019(a) of the Federal Rules of Bankruptcy Procedure, approving this Agreement and all terms set forth herein, and providing for substantive consolidation and disbursements as set forth in paragraphs 3, 5 and 6 below. The parties hereto shall each seek entry of the Approval Orders as soon as practicable. This Agreement shall become effective on the date (the "Effective Date") that is the eleventh (11th) day following entry of the Approval Orders or such later date as may be ordered by the Court or mutually acceptable in writing to the parties hereto.

3. Payment to Group Trustee. On the Effective Date, the Communications Trustee shall pay to the Group Trustee, for the benefit of the Group estate, the sum of eighty-six million dollars ($86,000,000), which sum shall be distributed by the Group Trustee in the manner set forth below.

4. Withdrawal of Subrogation Claim. As of the Effective Date, and expressly contingent upon receipt by the Group Trustee of the sum of $86,000,000 as set forth in paragraph 3 above, the Group Trustee shall be deemed to have fully and finally withdrawn the Subrogation Claim, with prejudice.

5. Substantive Consolidation of Assets and Liabilities. As of the Effective Date, and contingent upon receipt by the Group Trustee of $86,000,000 as set forth in paragraph 3 above, all of the assets and liabilities of the four Debtors, except as expressly set forth in this paragraph 5, shall be substantively consolidated within Case No. 01-30125-C7, and E. Lynn Schoenmann shall serve as chapter 7 trustee of the consolidated assets and liabilities in such case (the "Consolidated Estate"). Only the following assets and liabilities of the Debtors shall not be subject to substantive consolidation, and shall be and remain assets and liabilities solely of the Group estate: (1) the $86,000,000 paid to the Group Trustee pursuant to paragraph 3 above; and (2) each of the claims and liabilities for which the Group Trustee shall make the disbursements described in paragraph 6 below. With respect to the assets and liabilities that are not substantively consolidated pursuant to this paragraph 5 and that are to be assets and liabilities

solely of the Group estate, Michael M. Ozawa shall remain the chapter 7 trustee of Group for the purpose of administering such assets and liabilities in conformity with the terms of this Agreement. Upon the full disbursement by the Group Trustee of the $86,000,000 (plus any interest accrued thereon after payment by the Communications Trustee pursuant to paragraph 3 above) as set forth in paragraph 6 below, the Group estate and case shall be closed in accordance with the rules applicable thereto. Without limiting the generality of any of the foregoing: (a) neither the Consolidated Estate, nor the trustee thereof, nor any of the funds or other assets consolidated within Case No. 01-30125-C7, shall be liable or subject to any of the claims, liabilities or obligations described in paragraph 6 below to any extent; and (b) neither the Group estate, nor the Group Trustee, nor any of the $86,000,000 in funds to be disbursed by the Group Trustee, shall be liable or subject to any of the claims, liabilities or obligations that are subject to substantive consolidation within Case No. 01-30125-C7.

6. Disbursements By Group Trustee. Disbursements shall be made by the Group Trustee, solely from the funds not held in the Consolidated Estate, only for the following purposes:

A. For full payment or reserve on account of any and all federal, state or local income tax liabilities of any of the Debtors for the year 2002, subject to the provisions of paragraph 7 below (the Group Trustee shall have sole and complete authority and discretion with respect to the preparation, filing, handling, negotiation and litigation of any matters relating to such tax liabilities, *provided* that the Group estate hold the Communications Trustee, the Consolidated Estate and all consolidated assets harmless, and indemnify the same, from any such tax liabilities);

B. For full payment or reserve, not to exceed the sum of $150,000, on account of any corporate taxes owed by Group to the State of Delaware for any period of time prior to the Effective Date, subject to the provisions of paragraph no. 7 below, *provided* that the Group Trustee's obligation to pay any such corporate taxes shall not exceed the amount of $150,000, and any taxes payable in excess of such amount shall be the responsibility of the Consolidated Estate;

C. For full payment or reserve of all fees and expenses allowed in favor of the Interim Group Trustee or the Group Trustee, as well as each of their respective attorneys, accountants and other professionals or representatives (collectively, with the Interim Group Trustee and the Group Trustee, the "Group Trustee Professionals"), as allowed by the Court pursuant to the provisions of Sections 327 *et seq.* of the United States Bankruptcy Code, subject to the provisions of paragraph no. 7 below, *provided* that the amount of such reserve for payment of such fees and expenses shall be determined in the sole discretion of the Group Trustee with the consent of the Group Trustee Professionals, and *provided further* that the Group Trustee Professionals shall not be entitled to seek payment of any amounts owed to any of them from the Consolidated Estate, the trustee thereof or assets therein;

D. For full payment or reserve of all fees and expenses allowed in favor of the Indenture Trustee, as well as its respective attorneys, accountants and other professionals or representatives (collectively, with the Indenture Trustee, the "Indenture

Trustee Professionals"), subject to the provisions of paragraph no. 7 below, *provided* that the Indenture Trustee Professionals shall not be entitled to seek payment of any amounts owed to any of them from the Consolidated Estate, the trustee thereof or assets therein; and

E. After full payment or reserve for all amounts described in subparagraphs 6(A), (B), (C) and (D) above, any remaining proceeds shall be distributed to the Indenture Trustee, for *pro rata* payments by the Indenture Trustee on account of Note Claims, subject to the provisions of paragraph 9 below, *provided* that neither the Indenture Trustee nor any holder of a Note Claim shall be entitled to seek payment from the Consolidated Estate, the trustee thereof or any assets therein on account of any Note Claims to any extent, and shall instead be entitled to payment therefor only from funds held by the Indenture Trustee.

7. Certain Payments And Reserves By Group Trustee. The Group Trustee shall make no payments or other disbursements or transfers pursuant to subparagraph no. 6(E) hereinabove unless and until the Group Trustee has fully paid all amounts claimed or asserted to the extent described in subparagraphs nos. 6(A), (B), (C) or (D) hereinabove, or has established full cash reserves for such claims, upon notice to the Communications Trustee and each affected claimant, each in an amount that is (a) no less than an amount determined by the Court to fully satisfy all possible payment requirements with respect to such claimant; or, (b) in the absence of such a determination, the full amount asserted by each such affected claimant to be owing.

8. [Intentionally Omitted]

9. Termination of the Indenture. The Indenture shall terminate as of the Effective Date except as necessary to administer the rights, claims, liens and other interests of the Indenture Trustee as to funds paid to the Indenture Trustee pursuant to this Agreement (but not as to any rights, claims, liens or other interests that might otherwise be asserted against the Communications Trustee, the Consolidated Estate, the trustee thereof or any assets therein), as applicable, and except that the Indenture shall continue in effect to the extent necessary to allow the applicable Indenture Trustee to receive distributions pursuant to this Agreement and any Approval Orders and to redistribute them under the applicable Indenture to Noteholders. The Indenture Trustee shall be relieved of all further duties and responsibilities related to the Indenture, except with respect to the payments required to be made to the Indenture Trustee under this Agreement or the Approval Orders or with respect to such other rights of the Indenture Trustee that, pursuant to the terms of the Indenture and this Agreement, survive the termination of the Indenture. Termination of the Indenture shall not impair the rights of the Indenture Trustee to enforce its charging liens, created in law or pursuant to the applicable Indenture, against property that would otherwise be distributed to Noteholders. Subsequent to the performance by the Indenture Trustee of its obligations pursuant to this Agreement and any Approval Orders, the Indenture Trustee, and its agents, shall be relieved of all further duties and responsibilities related to the Indenture.

10. Mutual, General Release. As of the Effective Date, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Group Trustee and the Communications Trustee, each on behalf of himself and herself and their respective

Debtors and estates, beneficiaries, successors and assigns, shall and hereby do absolutely, unconditionally, and irrevocably release and forever discharge each other, their respective estates, beneficiaries, successors and assigns and any agents, attorneys, accountants, financial advisors or representatives of the Group Trustee or the Communications Trustee (the "Releasees"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever of every kind and nature relating to the Debtors or the administration of any of the Debtors' bankruptcy cases or estates, whether known or unknown, suspected or unsuspected, both at law and in equity, which such releasing party may now or hereafter hold, have or claim to have against the Releasees, or any of them, from the beginning of time until the date of this Agreement, including without limitation the Group Opposition, the Summary Judgment Motions, the Subrogation Claim and any claim, right, ownership interest or entitlement that the Group Trustee or the Communications Trustee might otherwise assert with respect to funds or other assets in the possession of the Communications Trustee, *provided, however*, that nothing in this release shall in any way release, discharge or relieve any of the Releasees from any of the parties' obligations, claims, covenants or agreements made or preserved by the express terms of this Agreement.

11. Acknowledgement and Waiver. Each of the releasing parties, with respect to the release set forth hereinabove, understand, acknowledge and agree that said release may be pleaded by any of the Releasees as a full and complete defense and may be produced by such Releasees as a basis for an injunction against any action, suit or claim or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release. Each of the releasing parties hereby acknowledges that it is familiar with Section 1542 of the Civil Code of the State of California, and any similar federal or state statute, which provides as follows:

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

Each releasing party hereby waives and relinquishes any right or benefit which it has or may have under said Section 1542 of the Civil Code of the State of California or any similar provision of the statutory or non-statutory law of any other jurisdiction with respect to the releases granted hereunder. In connection with such waiver and relinquishment, each releasing party acknowledges that it is aware that it or its attorney or agents may hereafter discover facts in addition to or different from those which it now knows or believes to exist with respect to the subject matter of this release or this Agreement, but that it is each releasing party's intention hereby to settle and release fully, finally and forever all claims, disputes and differences, known or unknown, suspected or unsuspected, as set forth hereinabove, notwithstanding the discovery or existence of any such additional or different facts.

12. No Admission Of Liability. This Agreement is not intended to, and does not, constitute any admission or evidence of any liability whatsoever by either of the parties hereto with respect to any of the matters released hereunder, and shall not be construed, offered or

received in evidence as an admission or concession of any liability or wrongdoing by either of them with respect to any of the matters released hereunder.

13. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, each of the parties hereto and its respective successors and assigns, including any successor trustee appointed in any of the Debtors' bankruptcy cases.

14. Counterparts. This Agreement may be executed in any number of counterparts, but all such counterparts shall together constitute but one and the same Agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one counterpart thereof signed by each of the parties thereto. This Agreement may be executed and delivered by telecopy with the same force and effect as if it were a manually executed and delivered counterpart.

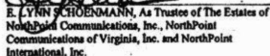
15. Notices. Except as otherwise provided, all notices, requests and demands hereunder shall be: (a) made to either party hereto at its addresses set forth on the signature pages hereto or to such other addresses as any party hereto may designate by written notice to the other parties in accordance with this provision; and (b) deemed to have been given or made as follows: if by hand, immediately upon delivery; if by telecopy or electronic mail, immediately upon receipt; if by overnight delivery service, immediately upon receipt; and if by first class or certified mail, five (5) days after mailing.

16. Authority. Each of the persons signing this Agreement represent and warrant to all parties to this Agreement that he or she has full and requisite authority to bind each party for whom such person purports to execute this Agreement, and to perform the obligations set forth in this Agreement.

17. Further Assurances. The parties hereto agree that they shall, from time to time, execute and deliver any and all additional and/or supplemental instruments, and do such other acts and things, as may be reasonably necessary or desirable to effect the purposes of this Agreement and the consummation of the transactions contemplated hereby.

18. Merger. This Agreement is the result of a full and complete negotiation at arms length by all parties. No prior drafts or memoranda prepared by any parties shall be used to construe or interpret any provision hereof or of any related document, nor shall any one party hereto be considered the "drafter" of this Agreement or any related document for purposes of construing the terms, conditions and obligations set forth herein or therein.

19. Entire Agreement. This Agreement sets forth the entire agreement and understanding of the parties with respect to the subject matter hereof and supercedes any and all prior agreements and understandings of the parties hereto with respect to the foregoing, and this Agreement cannot be changed, modified, amended or terminated except in writing executed by the parties hereto.



E. LYNN SCHOENMANN, As Trustee of The Estates of NorthPoint Communications, Inc., NorthPoint Communications of Virginia, Inc. and NorthPoint International, Inc.

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