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Counsel for Michael M. Ozawa, Chapter 7 Trustee
for NorthPoint Communications Group, Inc.

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION
COMMISSION CLERK

Case No. 01-30127 C7
Chapter 7 (Jointly Administered)
Debtor
DECLARATION OF MICHAEL M. OZAWA IN SUPPORT OF JOINT MOTION BY TRUSTEES FOR APPROVAL OF COMPROMISE OF CONTROVERSIES
Date: July 18, 2003
Time: 9:30 a.m.
Place: 235 Pine St., 23rd Floor
San Francisco, California
Judge: Hon. Thomas E. Carlson

I, MICHAEL M. OZAWA, do hereby declare as follows:
1 I am the chapter 7 trustee for NorthPoint Communications Group, Inc. ("Group")
2 was appointed as the trustee for Group (the "Group Trustee") on January 6, 2003, following an
3 election of creditors. This declaration is based upon my personal knowledge, and I could
4 competently testify as to the facts set forth herein if called upon to do so in a court of law.
5
6 2 In my capacity as Group Trustee, I, and others working at my direction and on my
7 behalf, have performed a substantial review of documents and information pertaining to Group and
8 its direct and indirect subsidiaries. Among the documents that we reviewed were: (a) all of the

DECLARATION OF MICHAEL M. OZAWA IN SUPPORT OF JOINT MOTION BY TRUSTEES FOR APPROVAL OF COMPROMISE OF CONTROVERSIES - CASE NO. 01-30127

1 proofs of claims filed against Group and its direct and indirect subsidiaries, and (b) financial
2 information and other business records relating to Group and its direct and indirect subsidiaries.
3
4 3. In my capacity as Group Trustee, one of my primary responsibilities has been to
5 evaluate the proper allocation of funds (the "Verizon Settlement Proceeds"), paid by Verizon
6 Communications to E. Lynn Schoenmann, the trustee for NorthPoint Communications, Inc.
7 ("Communications") who at the time was also chapter 7 trustee for Group. These funds, net of
8 payments to lenders with liens on the proceeds, total about \$110 million. Based on the analysis
9 conducted by myself and my professionals, it is my position that, under applicable law and the
10 underlying facts as I know them, all of the remaining Verizon Settlement Proceeds should be
11 distributed to Group and not to Communications. A detailed description of the basis for my position
12 is set forth in Group's Opposition to the Motion for Substantive Consolidation filed by the Group
13 Trustee, dated February 24, 2003 (Docket No. 1055), as well as two summary judgment motions
14 filed by the Group Trustee (Docket Nos. 1105 and 1170) seeking summary judgment with respect to
15 the Motion for Substantive Consolidation filed by E. Lynn Schoenmann, the chapter 7 trustee for
16 Communications (the "Communications Trustee").
17
18 4. Notwithstanding my belief that Group would prevail in the litigation against
19 Communications, I have been of the view that a global settlement between the Group Trustee and
20 the Communications Trustee would be beneficial to creditors of Group, as it would expedite
21 distribution to creditors of Group. Accordingly, the Group Trustee and Communications Trustee,
22 along with their respective counsel, participated in a mediation session before the Honorable Dennis
23 Mantal on April 14, 2003. Although that session did not result immediately in a consensual
24 resolution of such disputes, subsequent discussions between the trustees and their counsel produced
25 a tentative settlement, subject to approval by the bankruptcy court.
26
27 5. On or about May 28, 2003, the two trustees executed a written settlement agreement
28 ("Settlement Agreement"), a true and correct copy of which is attached hereto as Exhibit A. It is my
29 belief that the proposed settlement is in the best interest of the creditors of Group, who will benefit
30 from the avoidance of significant expense and considerable delay that would result from continued
31 litigation between the estates. Although I am confident that Group would prevail in litigation

DECLARATION OF MICHAEL M. OZAWA IN SUPPORT OF JOINT MOTION BY TRUSTEES FOR APPROVAL OF COMPROMISE OF CONTROVERSIES - CASE NO. 01-30127

1 against the Communications Trustee, which would result in higher distribution to bondholders than
2 the proposed settlement (as much as an additional six cents per dollar of claim if the entire \$110
3 million in net Verizon Settlement Proceeds were allocated to the Group Trustee), that distribution to
4 creditors would be delayed by months or years, pending not only completion of the underlying
5 litigation with the Communications Trustee and any appeals thereto but also by the need to withhold
6 distributions pending claims resolution and other administrative issues. Accordingly, it is my
7 business judgment that the benefit of a prompt, albeit discounted, fixed distribution outweighs the
8 chance of the potentially higher but delayed recovery of Group pursued litigation rather than
9 settlement. Moreover, while I am confident that Group would prevail in litigation, the outcome of
10 litigation is never certain.
11
12 6. Under the proposed settlement, the only unsecured claims asserted against any of the
13 four estates that will not be subject to substantive consolidation are the claims of holders of bonds
14 (the "Bondholders") issued by Group. Other proofs of claim that were filed against Group's
15 bankruptcy estate, and all claims filed against all other estates, will be subject to the substantive
16 consolidation under the terms of the proposed settlement. In my capacity as Group Trustee, I have
17 concluded, in the exercise of my business judgment, that it is in the best interests of the Group estate
18 as a whole to exclude only the Bondholders (but not other creditors that filed claims in the Group
19 case) from substantive consolidation.
20
21 7. That distinction is appropriate because nearly all creditors of the four Debtors' estate
22 other than the Bondholders dealt exclusively with Communications, the operating entity. Although
23 some of those creditors filed claims in Group's bankruptcy case, based upon my review of each of
24 those proofs of claim, and the underlying agreements, it is my belief that the proofs of claim show
25 not only that those creditors did business with Communications, but also that nearly all of the
26 contracts and purchase orders were in the name of Communications, not Group. In contrast to other
27 creditors of the four estates, only the Bondholders appear to have relied solely on the credit of Group
28 in purchasing the bonds, since only Group, and not Communications, was liable for payment of the
29 bonds. In fact, as an illustration of that fact, that the prospectus for the sale and exchange of the
30 bonds explicitly and repeatedly warned the Bondholders that they did not have any direct recourse

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against Communications or its assets, covering that their sole source of repayment was Group. In light of the foregoing, I have negotiated terms of the Settlement Agreement pursuant to which the claims of bondholders will retain recourse solely against Group and will not be subject to substantive consolidation with other claims asserted by unsecured creditors that -- unlike the Bondholders -- appear to have relied in whole or part upon the credit of Communications.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 25th day of June, 2003 at Los Angeles, California.

Michael M. Ozawa

AUS _____
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CMP _____
COM _____
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DOCUMENT NUMBER DATE
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SETTLEMENT AGREEMENT BETWEEN NORTHPOINT TRUSTEE
(All Disputes, Including Consolidation, Subrogation and Claims)

This Settlement Agreement Between NorthPoint Trustee (All Disputes, Including Consolidation, Subrogation and Claims) (this "Agreement") is entered into as of May 23, 2003 by (a) E. Lynn Schwennmann, as the trustee (the "Communications Trustee") of the chapter 7 estate 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 Trustee" 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 entered the conversion of each of the Debtors' chapter 11 cases to a case under chapter 7 of the Bankruptcy Code, and E. Lynn Schwennmann was appointed as the trustee of the chapter 7 estate of each of the Debtors.

C. On October 23, 2002, Ms. Schwennmann 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 deadline, 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 \$41,474,434 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 issuance, are direct, written, contractual obligations of Group. The indenture trustee appointed with respect to such bond issuance pursuant to an indenture dated as of February 8, 2000, is The Bank of New York (the "Indenture Trustee").

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 (the any interest accrued thereon after payment by the Communications Trustee pursuant to paragraph 3 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. 01-30123-C7, shall be liable or subject to any of the claims, liabilities or obligations described in paragraph 6 below in any manner; and (b) neither 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. 01-30123-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, liabilities, 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 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 Indenture Trustee or the Group Trustee, as well as each of their respective attorneys, accountants and other professionals or representatives (collectively, with the Indenture Trustee and the Group Trustee, the "Group Trustee Professionals"), as allowed by the Court pursuant to the provisions of Sections 333 *et seq.* of the United States Bankruptcy Code, subject to the provisions of paragraph 7 below, provided that the amount of such reserves 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 thereof.

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

F. On December 16, 2002, the Communications Trustee filed a motion seeking substantive consolidation of the estate 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 doctrine 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 21, 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 submitted discovery requests, and notified 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 Mitchell, and on April 16, 2003 the NorthPoint Trustees and their respective professionals appeared before Judge Mitchell 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, reserving 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 orders of the Court.

L. At present, the Communications Trustee is in possession of funds to 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 Professionals"), subject to the provisions of paragraph 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 thereof; 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 thereof 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 Reserve By Group Trustee.** The Group Trustee shall make no payments or other disbursements or transfers pursuant to subparagraph 6(D) heretofore unless and until the Group Trustee has fully paid all amounts claimed or asserted to the extent described in subparagraphs 6(A), (B), (C) or (D) heretofore, or has established full cash reserves for such claims, upon notice to the Communications Trustee and such 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 determination, the full amount asserted by such each 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 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 lien, created in law or pursuant to the applicable Indenture, against property that would otherwise be distributed to Noteholders. Subsequent to the 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

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

14. 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 position, 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. **Releases.** Each of the foregoing releases 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 1, 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 IN 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. 01-30123-C7, and E. Lynn Schwennmann shall serve as chapter 7 trustee of the consolidated estate 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

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, 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, contracts, counterclaims, agreements, promises, claims 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 their obligations, claims, covenants or agreements made or preserved by the express terms of this Agreement.

11. **Acknowledgment and Waiver.** Each of the releasing parties, with respect to the release set forth heretofore, understands, acknowledges and agrees 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 release granted heretofore. 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. **Notice.** Except as otherwise provided, all notices, requests and demands hereunder shall be: (a) made to either party hereto at its address set forth on the signature pages hereto or to such other address 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 complete 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 Assurance.** 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 purpose of this Agreement and the consummation of the transactions contemplated hereby.

18. **Drafts.** 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 party shall be used to construe or interpret any provision hereof or of any related document, nor shall any 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 thereon.


19. **Entire Agreement.** This Agreement sets forth the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes 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 SCHORNMAN, As Trustee of The Estates of
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Communications of Virginia, Inc. and NorthPeak
International, Inc.

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