

EXECUTION COPY

SETTLEMENT AGREEMENT

BY AND AMONG

THE UNITED STATES OF AMERICA

THE FEDERAL COMMUNICATIONS COMMISSION

**NEXTWAVE TELECOM INC. AND
CERTAIN AFFILIATES**

AND

**PARTICIPATING AUCTION 35
WINNING BIDDERS**

November 15, 2001

TABLE OF CONTENTS

	<u>Page</u>
<u>1. Definitions.....</u>	2
<u>2. Legislation.....</u>	6
<u>3. Approval by the Bankruptcy Court.....</u>	6
<u>4. Payment to NextWave.....</u>	6
<u>5. Payment to NextWave Unaffected by Legal Challenges.....</u>	8
<u>6. Surrender and Return of Designated Licenses and Release By NextWave.....</u>	8
<u>7. Satisfaction by NextWave of Tax Liability.....</u>	9
<u>8. Satisfaction of License Debt.....</u>	9
<u>9. Government Receipts from NextWave.....</u>	9
<u>10. Payments by NextWave to Verizon and Alaska.....</u>	10
<u>11. Letters of Credit.....</u>	10
<u>12. Deposit Refunds.....</u>	14
<u>13. FCC Resolution of Pending Regulatory Challenges to the Designated Licenses.....</u>	15
<u>14. FCC Resolution of License Applications Submitted in Connection with Auction 35.....</u>	15
<u>15. Resolution of Pending Matters Not Prejudged and Authority Not Impaired.....</u>	15
<u>16. Timing of Payment to FCC by Participating Auction 35 Winning Bidders.....</u>	15
<u>17. Amount of Payment to FCC by Participating Auction 35 Winning Bidders.....</u>	16
<u>18. Reserved.....</u>	17
<u>19. Certiorari in the D.C. Circuit Proceedings.....</u>	17
<u>20. No Decision on the Merits.....</u>	17
<u>21. No Admission of Jurisdiction.....</u>	17
<u>22. Mutual Release of Claims.....</u>	18
<u>23. Waivers.....</u>	20
<u>24. Termination of the Agreement and of Auction 35 License Obligations.....</u>	21
<u>25. No Joint and Several Liability of Participating Auction 35 Winning Bidders.....</u>	23
<u>26. Participating Auction 35 Winning Bidders with Bids under \$10 Million.....</u>	24
<u>27. Opportunity to Become a Party for Auction 35 Winners Not Party to this Agreement.....</u>	24
<u>28. Tolling of Regulatory Requirements.....</u>	24
<u>29. Equal Access to Justice Act.....</u>	25
<u>30. FCC Jurisdiction.....</u>	25
<u>31. Participating Auction 35 Winning Bidder Refund Rights/Termination of Auction 35 License Obligations.....</u>	25
<u>32. Amendments.....</u>	29
<u>33. Authority.....</u>	29
<u>34. Compliance with Laws and Regulations.....</u>	29
<u>35. Expenses.....</u>	29
<u>36. Cooperation and Good Faith Performance.....</u>	30
<u>37. Governing Law.....</u>	30
<u>38. Headings.....</u>	30
<u>39. Multiple Counterparts.....</u>	30

	<u>Page</u>
<u>40. No Third Party Beneficiaries.</u>	30
<u>41. Rule of Construction.</u>	30
<u>42. Notices.</u>	30
<u>43. Payment Instructions.</u>	32
<u>44. Further Assurances.</u>	32
<u>45. Entire Agreement.</u>	32
<u>46. Rules of the Commission.</u>	32
<u>47. Successors and Assigns.</u>	32

Schedules and Exhibits

Schedule A: Winning Bidders
 Schedule B: Notice Information
 Schedule C1: Pending Matters
 Schedule C2: Commission Filings

Exhibit A: Legislation
 Exhibit B: Form of Letter of Credit
 Annex A: Form of Draft
 Annex B: Draw Certificate
 Annex C: Certificate Regarding Termination of Letter of Credit
 Annex D: Certificate Regarding Reduction of Letter of Credit Amount
 Exhibit C: Closing Agreement on Final Determination Covering Specific Matters

SETTLEMENT AGREEMENT

This **SETTLEMENT AGREEMENT**, dated as of November 15, 2001, as amended from time to time (this “Agreement”), is entered into by and among NextWave Personal Communications Inc. and its affiliates, NextWave Telecom Inc., NextWave Partners Inc., NextWave Power Partners Inc., and NextWave Wireless Inc. (collectively, “NextWave”), the United States of America, and the Federal Communications Commission (“FCC” or “Commission”), and the Participating Auction 35 Winning Bidders (all of which, together with NextWave, the United States and the FCC, are collectively referred to in this Agreement as the “Parties” and each, individually, as a “Party”).

WITNESSETH:

WHEREAS, the FCC granted to NextWave certain C Block and F Block licenses for which NextWave was the winning bidder at FCC auctions that concluded in 1996 and 1997;

WHEREAS, the status of the Designated Licenses has been contested in various pending judicial and administrative proceedings, including, but not limited to, NextWave Personal Communications, Inc., and NextWave Power Partners, Inc. v. Federal Communications Commission and the United States of America, D.C. Cir. Nos. 00-1402 and 00-1403, petitions for cert. filed, Nos. 01-653, et al. (Oct. 19, 2001), and In re NextWave Personal Communications, Inc., Bankr. S.D.N.Y. No. 98 B 21529 (collectively, the “Litigation”);

WHEREAS, the Participating Auction 35 Winning Bidders placed winning bids for initial licenses to use the spectrum previously licensed to NextWave, and the United States and the Commission believe that the Participating Auction 35 Winning Bidders thereby incurred certain financial and other regulatory obligations subject to the outcome of the Litigation;

WHEREAS, the United States and the Commission believe that the best way to serve the public interest under the present circumstances is to resolve the Litigation as expeditiously as possible in the manner set forth herein, consistent with the Rules of the Commission and the law, and thereby avoid further delay in the use of the Covered Spectrum;

WHEREAS, NextWave seeks to resolve the Litigation as expeditiously as possible in order to complete the bankruptcy process in which it is engaged in a manner that best serves its corporate goals and the interests of its creditors;

WHEREAS, the Participating Auction 35 Winning Bidders seek to resolve the Litigation as expeditiously as possible so that Auction 35 can be implemented without the encumbrance of the Litigation, thereby facilitating and expediting the use of the Auction 35 Licenses that will be granted to them if qualified and in compliance with the Rules of the Commission; and

WHEREAS, all the Parties desire to effect NextWave’s relinquishment of claims to the Covered Spectrum and the Designated Licenses so that the FCC may implement Auction 35 as specified in this Agreement and the Legislation.

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be bound, do hereby covenant and agree as follows:

1. Definitions.

As used herein, the following terms have the following meanings (unless otherwise indicated, all Section references are to Sections in this Agreement, and all Schedule and Exhibit references are to Schedules and Exhibits to this Agreement):

“Advance Tax Payment” has the meaning set forth in Section 4.

“Agreement” has the meaning set forth in the Preamble and in Section 32.

“Alaska” has the meaning set forth in Section 10.

“Alaska Letters of Credit” has the meaning set forth in Section 11.

“Alternative Security Arrangements” has the meaning set forth in Section 11.

“Amount Due on Receipt” means the amount equal to the balance due to the FCC, under the Rules of the Commission, as of the Payment Date for an Auction 35 License. The Amount Due on Receipt for an Auction 35 License does not include the Auction 35 Deposit for such License.

“Auction 35” means the FCC-conducted spectrum auction number 35 that commenced on December 12, 2000, for Personal Communications Services licenses to operate on Covered Spectrum and other spectrum.

“Auction 35 Deposit” means any monies on deposit with the FCC paid by a Participating Auction 35 Winning Bidder for an Auction 35 License. The Auction 35 Deposit for an Auction 35 License does not include the Amount Due on Receipt for such License.

“Auction 35 Licenses” or “Licenses” means those licenses to use Covered Spectrum for which Auction 35 Winning Bidders submitted winning bids in Auction 35.

“Auction 35 Winning Bidder” means those entities who submitted winning bids in Auction 35 for Covered Spectrum.

“Authorized Signatory” has the meaning set forth in Section 11.

“Bankruptcy Code” means Title 11 of the United States Code.

“Bankruptcy Proceedings” has the meaning set forth in Section 6.

“Bankruptcy Settlement Approval Order” has the meaning set forth in Section 3.

“Business Day” means any day, other than Saturday or Sunday, on which commercial banks in New York City and the Commission’s offices are open for the general transaction of business.

“Cash Payment” has the meaning set forth in Section 4.

“Claims” has the meaning set forth in Section 22.

“Commission Order on Remand” has the meaning set forth in Section 16.

“Communications Act” means the Communications Act of 1934, as amended, which is codified in Title 47 of the United States Code.

“Covered Spectrum” means spectrum that NextWave had been authorized to use under the Designated Licenses.

“D.C. Circuit Proceedings” has the meaning set forth in Section 6.

“Deadline Date” means December 31, 2002.

“Department of the Treasury” has the meaning set forth in Section 4.

“Designated Licenses” means the C Block and F Block licenses for which NextWave was the winning bidder at auctions concluded in 1996 and 1997 by the Commission under Section 309(j) of the Communications Act.

“Disposition Order” means an FCC Order setting forth the Commission’s determination as to the qualifications of a Participating Auction 35 Winning Bidder to hold any license offered in Auction 35.

“Disposition Order Cutoff Date” means the latest of:

(x) the Deadline Date; or

(y) in the event that the Final Bankruptcy Settlement Approval Date occurs after December 15, 2002 and on or before December 31, 2002, then January 15, 2003; or

(z) with respect to a Participating Auction 35 Winning Bidder, in the event that there is in effect on the Deadline Date a court order in a proceeding other than a proceeding under the exclusive review provisions of the Legislation that precludes or has the effect of precluding the FCC from issuing a Disposition Order, then January 15, 2003.

“Effective Date” means the first date on which the United States, the Commission, NextWave, Verizon and at least two (2) of the other Auction 35 Winning Bidders listed

on Schedule A have executed and delivered this Agreement. If the Effective Date has not occurred on or before January 10, 2002, then this Agreement shall be void *ab initio*.

“FCC” or “Commission” has the meaning set forth in the Preamble and includes any entity acting pursuant to delegated authority under the Rules of the Commission.

“FCC Implementing Orders” means the FCC Settlement Approval Order, the Disposition Orders, the Grant Orders and other FCC Orders that implement this Agreement.

“FCC Order” means any order, public notice, letter, or other form of FCC action.

“FCC Settlement Approval Order” means the FCC Order approving and adopting this Agreement.

“FRBP” has the meaning set forth in Section 3.

“Final” means, with respect to any order, that such order is noninterlocutory and has not been reversed, modified or stayed and (x) the time to appeal such order has expired and no appeal or petition for review, rehearing or certiorari is pending, or (y) any appeal has been fully decided and no further appeal or petition for review, rehearing or certiorari can be timely taken or granted.

“Final Bankruptcy Settlement Approval Date” means the first date on which all of the following conditions have been satisfied: (i) the Bankruptcy Settlement Approval Order has become Final; (ii) any litigation initiated by the filing of a petition seeking judicial review of the procedures provided by the Legislation for the resolution of issues presented by the Settlement Motion has been resolved by an order that has become Final; and (iii) either Verizon has caused Letters of Credit to be issued in accordance with Section 11, or Verizon has not caused such Letters of Credit to be issued and the United States has not, on or before January 29, 2002, exercised its consequent right to terminate the Agreement under Section 11(a)(iii).

“Grant Order” means an FCC Order determining that the Commission is prepared to grant an Auction 35 License upon timely payment and receipt of the Amount Due on Receipt.

“Invalidation Order” has the meaning set forth in Section 16.

“LC Provider” has the meaning set forth in Section 11.

“Legislation” means legislation precisely in the form of Exhibit A.

“Letters of Credit” has the meaning set forth in Section 11.

“Litigation” has the meaning set forth in the recitals.

“NextWave” has the meaning set forth in the Preamble.

“NextWave License Deposit” has the meaning set forth in Section 8.

“NextWave Payment” has the meaning set forth in Section 4.

“NextWave Payment Date” has the meaning set forth in Section 4.

“NextWave Upfront Payment” has the meaning set forth in Section 9.

“Participating Auction 35 Winning Bidder” means those winning bidders in Auction 35 whose winning bids relate in whole or in part to spectrum previously licensed to NextWave and that are listed on Schedule A attached hereto and that have executed and delivered this Agreement as of the date hereof, or hereafter pursuant to Section 27, and in either case, have not withdrawn as Parties pursuant to Section 24(d).

“Party” or “Parties” has the meaning set forth in the Preamble.

“Payment Certification” means a payment certification, complying with applicable Treasury regulations delivered to the United States Department of the Treasury, setting forth payment instructions to make the NextWave Payment in accordance with Section 4.

“Payment Date” has the meaning set forth in Section 16.

“Payment Notice” has the meaning set forth in Section 4.

“Relinquishment Date” has the meaning set forth in Section 4.

“Remand Order” has the meaning set forth in Section 16.

“Reversal Order” has the meaning set forth in Section 16.

“Rules of the Commission” means any and all rules, regulations, policies, procedures, public notices and orders of the FCC that are in effect at the time an action, event or matter in question occurs.

“Settlement Motion” has the meaning set forth in Section 3.

“Settlement Payments” has the meaning set forth in Section 9.

“Taxable Period” has the meaning set forth in Section 4.

“Terminating Bidder” has the meaning set forth in Section 24.

“Termination of Auction 35 License Obligations” means the cancellation and rescission of rights or obligations under Section 31(a)(iii), (b)(i), (c)(i) or (e)(i), or subparagraph (x) of Section 31(d).

“Total Tax Liability” has the meaning set forth in Section 4.

“True-Up Payment” has the meaning set forth in Section 9.

“United States” means the United States of America and any agency, department or instrumentality thereof.

“Verizon” has the meaning set forth in Section 10.

“Verizon Letters of Credit” has the meaning set forth in Section 11.

Whenever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter.

2. Legislation.

All non-governmental Parties agree among themselves that they shall cooperate to have the Legislation enacted into law no later than December 31, 2001. All non-governmental Parties agree among themselves not to advocate or seek the enactment of legislation covering the subject matter of this Agreement that varies in any material respect from the Legislation without the express written agreement of all of the non-governmental Parties.

3. Approval by the Bankruptcy Court.

Not later than fifteen (15) days after the Effective Date, NextWave shall file a Motion for Approval of a Compromise of a Controversy pursuant to Federal Rule of Bankruptcy Procedure (“FRBP”) 9019 (the “Settlement Motion”) in the Bankruptcy Proceedings seeking the entry of an order authorizing and directing NextWave to enter into the transactions contemplated in this Agreement on the terms set forth herein, to relinquish any and all claims to the Covered Spectrum and the Designated Licenses, and to return the Designated Licenses to the FCC in exchange for the payments referred to in Section 4 below (such order, the “Bankruptcy Settlement Approval Order”). NextWave agrees to seek the scheduling of a hearing on the Settlement Motion as soon as practicable, consistent with the Bankruptcy Code, after the enactment of the Legislation (but not before such enactment), and to file such other motions and to take such actions in the Bankruptcy Proceedings as may be necessary to effectuate this Agreement.

4. Payment to NextWave.

a. Conditioned upon (i) enactment of the Legislation, (ii) the occurrence of the Final Bankruptcy Settlement Approval Date, and (iii) NextWave’s simultaneous surrender and return of the Designated Licenses and its complete relinquishment of any and all claims related to the Covered Spectrum and the Designated Licenses as set forth in Section 6, and in consideration thereof, the FCC agrees to pay to or on behalf of NextWave as provided in subsections (b) and (c) below the sum of \$9.55 billion (the “NextWave Payment”), and (unless waived by NextWave) the FCC shall deliver a notice pursuant to I TFM 6-8535.20 (the “Payment Notice”) to the United States Department of the Treasury (“Department of the Treasury”) providing notice to the Department of the Treasury for making the NextWave Payment on December 31, 2002, unless payment is made earlier pursuant to subsection (b) below. Concurrent with its delivery of the Payment Notice to the Department of the Treasury, the FCC shall provide NextWave with notice confirming delivery of the same, and a copy of the Payment Notice. The effectiveness of

the Commission's obligation to make the NextWave Payment and its delivery of the Payment Notice and NextWave's surrender and return of the Designated Licenses together with the relinquishment of any and all claims to the Covered Spectrum and the Designated Licenses shall occur simultaneously on or before the tenth Business Day following the Final Bankruptcy Settlement Approval Date, but not later than December 31, 2002. In the event that the Final Bankruptcy Settlement Approval Date is after December 19, 2002, NextWave shall be deemed to have waived the requirement that the Commission deliver the Payment Notice for purposes of this Agreement, provided that such waiver shall not otherwise affect or modify any other term or condition of this Agreement, including, without limitation, the FCC's obligation to make the NextWave Payment in accordance with subsections 4(b) and 4(c). The date on which NextWave surrenders and returns the Designated Licenses and relinquishes its claims to the Covered Spectrum and the Designated Licenses, and the FCC delivers the Payment Notice to the Department of the Treasury (unless waived by NextWave), shall hereinafter be referred to as the "Relinquishment Date."

b. Upon the occurrence of the Relinquishment Date, the FCC will be obligated to make the NextWave Payment in the manner provided in subsection (c) below on the first to occur of the following (the "NextWave Payment Date"):

i. the fifteenth day following delivery to the Department of the Treasury of a Payment Certification which shall be made by the FCC no later than the seventh Business Day after the date on which the United States has received aggregate cash proceeds equal to or greater than \$9.55 billion from the payment by Participating Auction 35 Winning Bidders of Amounts Due on Receipt in respect of Auction 35 Licenses and the Auction 35 Deposits relating to such Licenses;

ii. the fifteenth day following delivery to the Department of the Treasury of a Payment Certification which shall be made by the FCC no later than the seventh Business Day after the date that an order is entered by any court in a proceeding under the exclusive review provisions of the Legislation that is Final, which precludes or has the legal effect of precluding the grant of the Auction 35 Licenses to the Auction 35 Winning Bidders; or

iii. December 31, 2002.

NextWave shall give all of the non-governmental Parties notice in accordance with Section 42 of its receipt of the Cash Payment.

c. On the NextWave Payment Date, and in satisfaction of the obligation described in subsection (a) of this Section 4, the United States will make a \$6.498 billion cash payment (the "Cash Payment") directly to NextWave, and will pay \$3.052 billion to the United States as a nonrefundable advance tax payment (the "Advance Tax Payment") on behalf of, and for the benefit of, NextWave for the tax period in which the Relinquishment Date occurs (the "Taxable Period"). This Advance Tax Payment shall be available toward satisfaction of the total federal income tax liability of NextWave with respect to the transaction that is the subject of this Agreement ("Total Tax Liability"). This Advance Tax Payment of \$3.052 billion can be used by NextWave only as a credit against its Total Tax Liability for the Taxable Period and not on a

subsequent claim for refund; and it cannot be carried forward or carried back to any other tax period and is not available for use or tax benefit in any year other than the Taxable Period. Notwithstanding any provision of law, NextWave agrees that the United States can retain all of NextWave's Advance Tax Payment, irrespective of NextWave's total federal income tax liability and any other payments NextWave is required to make to the United States pursuant to this Agreement or otherwise.

5. Payment to NextWave Unaffected by Legal Challenges.

Provided that the conditions set forth in Section 4(a) have been satisfied, and except as provided in Sections 4(b)(i) and (ii) and 24(a)(iii), neither the timing nor the amount of the NextWave Payment to NextWave pursuant to the spending authority provided by the Legislation shall be delayed or affected by any legal challenges related to the Legislation, and it shall not be delayed or affected by any legal challenges to the FCC's grant of any Auction 35 License.

6. Surrender and Return of Designated Licenses and Release By NextWave.

a. Within seven (7) days after the Effective Date, NextWave will file with the Commission an application for a non-substantial (pro forma) transfer of the Designated Licenses from NextWave Power Partners Inc. and NextWave Personal Communications Inc. to NextWave Telecom Inc. Upon receipt and acceptance of such application, the Commission shall reach a disposition as promptly as practicable. Neither the failure by the Commission to grant such an application nor the time by which the Commission disposes of such application shall affect the rights or obligations of the Parties under this Agreement.

b. Simultaneous with, and conditioned upon, the effectiveness of the Commission's obligation to make the NextWave Payment and its delivery of the Payment Notice to the Department of the Treasury (unless waived by NextWave), the Designated Licenses are surrendered and returned to the Commission, any and all of NextWave's rights and interest in and claims to the Covered Spectrum and the Designated Licenses are extinguished, and NextWave shall discontinue its pursuit of such rights, interest, claims and other rights with respect to the Covered Spectrum and the Designated Licenses in proceedings before the FCC and in any other proceedings, including without limitation, those taking place in Case Nos. 00-1402 and 00-1403 in the United States Court of Appeals for the District of Columbia Circuit, and any further proceedings arising therefrom (the "D.C. Circuit Proceedings"), and the Chapter 11 bankruptcy proceedings pending in Case No. 98 B 21529 in the Bankruptcy Court for the Southern District of New York and any further proceedings arising therefrom (the "Bankruptcy Proceedings"); provided, however, that nothing in this Section shall prevent NextWave from taking all actions necessary to complete the Bankruptcy Proceedings in the manner contemplated by this Agreement. The Parties acknowledge and agree that this Agreement and the occurrence of the Final Bankruptcy Settlement Approval Date are not related to or conditioned in any respect upon NextWave's ability to propose a bankruptcy plan and/or to have such a plan confirmed.

7. Satisfaction by NextWave of Tax Liability.

NextWave shall pay to the Internal Revenue Service its full and complete federal tax liability with respect to the transaction that is the subject of this Agreement. The Advance Tax Payment set forth in Section 4(c) shall be available toward satisfaction of NextWave's full and complete federal tax liability with respect to the transaction that is the subject of this Agreement. Nothing in this Agreement is to be construed as determining NextWave's federal tax liability for the Taxable Period or any other tax year, and nothing in this Agreement restricts the Internal Revenue Service's rights to determine NextWave's federal income tax liability for the Taxable Period or any other tax year. Payment of its full and complete federal tax liability shall not permit NextWave to avoid payment to the United States of any other amounts it is obligated to pay the United States pursuant to the terms of this Agreement or otherwise. Consistent with this Section, NextWave has entered into the "Closing Agreement on Final Determination Covering Specific Matters" that is attached hereto as Exhibit C. The United States and the FCC agree, in accordance with applicable laws and regulations, to maintain the confidentiality of any tax information provided to them, and NextWave agrees that the United States and the FCC may use and disclose such tax information as may be necessary to enforce this Agreement.

8. Satisfaction of License Debt.

On the Relinquishment Date, the United States and the Commission shall cancel all outstanding indebtedness of NextWave due the FCC (including any accrued interest and penalties) arising out of the Designated Licenses. In addition, as part of NextWave's full satisfaction of its debt, the Commission shall retain the \$499,004,905.33 in down payments that NextWave previously made on the Designated Licenses (the "NextWave License Deposit").

9. Government Receipts from NextWave.

a. Upfront Payment. In addition to the payments set forth in Sections 4(c), 7, 8, and 9(b) and (c), on the first Business Day after receipt of the Cash Payment, NextWave shall make a payment equal to \$30 million (the "NextWave Upfront Payment") to the Commission.

b. Settlement Payments. In addition to the payments set forth in Sections 4(c), 7, 8, and 9(a), after NextWave receives the Cash Payment, and on the first Business Day after the filing of NextWave's federal income tax return for the Taxable Period, NextWave shall make a payment to the Commission equal to \$150 million (the "True-Up Payment"), subject to adjustment as set forth below in this subsection. To the extent that the True-Up Payment, the NextWave License Deposit, the NextWave Upfront Payment, and the greater of the Advance Tax Payment and the Total Tax Liability (collectively, the "Settlement Payments") are less than \$3.731 billion, NextWave shall increase the True-Up Payment to the Commission so that the Settlement Payments equal \$3.731 billion. Similarly, to the extent that the Settlement Payments exceed \$3.731 billion, NextWave shall reduce the True-Up Payment so that the Settlement Payments equal \$3.731 billion. If the NextWave License Deposit, the NextWave Upfront Payment, and the Total Tax Liability together exceed \$3.731 billion, NextWave agrees that it is not entitled to any reduction, offset, or refund of any payments. Once NextWave has satisfied its payment obligations set forth in this Section 9, and Sections 4(c), 7, and 8, the FCC and the United States shall have no rights to recover anything further from NextWave with regard to this

Agreement; provided, however, that nothing in this Agreement shall affect the liability of NextWave with respect to any liability arising out of fraud, antitrust, tax, or criminal claims.

c. Additional Payment. If the United States is entitled to terminate this Agreement as a result of Verizon's failure to cause the Verizon Letters of Credit to be issued pursuant to Section 11(a) and does not exercise such termination right, NextWave shall pay the sum of \$200 million to the United States on the first Business Day after receipt of the Cash Payment.

10. Payments by NextWave to Verizon and Alaska.

On the first Business Day after the receipt of the Cash Payment, but in no event later than December 31, 2002, NextWave shall pay (i) to the Cellco Partnership, d/b/a Verizon Wireless ("Verizon"), the sum of \$118.1 million, provided that Verizon has previously caused to be issued the Verizon Letters of Credit; and (ii) to Alaska Native Wireless, L.L.C. ("Alaska"), the sum of \$25 million, provided that Alaska has previously caused to be issued the Alaska Letters of Credit, such payments to be made by wire transfer of immediately available funds.

11. Letters of Credit.

a. Delivery of Letters of Credit.

i. Alaska shall cause to be issued for the benefit of the United States, on or prior to the latest of (i) the fifth Business Day following issuance of an FCC Order determining that the Commission is prepared to grant one or more closed Auction 35 licenses to Alaska, (ii) January 14, 2002, and (iii) the fifth Business Day after the entry of the Bankruptcy Settlement Approval Order, one or more irrevocable standby letters of credit in the aggregate amount of \$2,451,423,150 (each, individually an "Alaska Letter of Credit" and, collectively, the "Alaska Letters of Credit"). If Alaska fails to cause the Alaska Letters of Credit to be issued, no Party shall have any rights or remedies against Alaska in respect of such non-issuance, and neither Alaska nor any other person shall have any liability to any other Party in respect of any such non-issuance.

ii. Verizon (Verizon and Alaska, each an "LC Provider") shall cause to be issued for the benefit of the United States, on or prior to January 14, 2002, one or more irrevocable standby letters of credit in the aggregate amount of \$7,692,113,700 (each, individually, a "Verizon Letter of Credit" and, collectively, the "Verizon Letters of Credit"; the Alaska Letters of Credit and the Verizon Letters of Credit are from time to time referred to herein collectively as the "Letters of Credit").

iii. If Verizon fails to cause the Verizon Letters of Credit to be issued on or before January 14, 2002, in accordance with the terms of this Section 11, and fails to cure such non-issuance on or before January 24, 2002, the United States may terminate this Agreement by written notice to each Party provided on or before January 29, 2002. The Parties agree that this right of termination shall be the sole and exclusive remedy of the United States and the Commission against Verizon in the event that Verizon does not provide its applicable Letters of Credit pursuant to this Section 11, that no other Party shall have any rights or remedies against Verizon in respect of any such non-issuance or

in respect of the termination or the exercise by the United States of its right to terminate this Agreement, and that neither Verizon nor any other person shall have any liability to any other Party in respect of any such non-issuance.

iv. The obligations of Alaska and Verizon under this Section 11 are several, not joint.

v. The United States shall, one day following the applicable Payment Date, provide written notice to the LC Provider if the United States has not received on the Payment Date amounts owed by such LC Provider if the payment of such amounts is secured by the LC Provider's Letter of Credit. On the first day after receiving such notice, the applicable LC Provider shall provide the United States with written notice stating the amount that the United States should draw on each Letter of Credit caused to be issued by such LC Provider in the event the United States draws on such LC Provider's Letters of Credit. Failure by an LC Provider to provide such notice in a timely manner shall not in any way prevent the United States from making a draw under such LC Provider's Letters of Credit.

vi. Each of the LC Providers will cause the bank or banks issuing its Letters of Credit to provide prompt telephonic confirmation to designated persons at the FCC, in the event of a draw on the Letters of Credit, that the draw has been honored and that the requisite funds have been transferred to the United States.

b. Terms of Letters of Credit. The Letters of Credit shall be issued in accordance with the following terms:

i. Each Letter of Credit shall be issued by a bank, shall contain the terms specified in this Section, and shall otherwise be in form and substance reasonably satisfactory to the United States. On or before the third day after the Effective Date, each of Alaska and Verizon shall provide the United States with notice of the names of the banks it contemplates may issue the Letters of Credit it is obligated to cause to be provided and thereafter shall provide the United States with a supplemental notice or supplemental notices of the names of any additional banks it contemplates may issue such Letters of Credit, with any such supplemental notices provided to the United States no later than fifteen (15) Business Days prior to the expected issuance of the Letters of Credit. If the United States determines that any bank so identified in the initial or any supplemental notice is unsatisfactory to it, the United States shall promptly provide notice to such effect to the LC Provider that identified such bank. Notwithstanding the foregoing, (x) any United States bank that (i) is among the 50 largest United States banks, determined on the basis of total assets as of December 31, 2000, (ii) whose deposits are insured by the Federal Deposit Insurance Corporation, and (iii) has a long-term unsecured credit rating issued by Standard & Poor's of A- or better (or an equivalent rating from another nationally recognized credit rating agency) shall be deemed satisfactory to the United States; and (y) any non-U.S. bank that (i) is among the 50 largest non-U.S. banks in the world, determined on the basis of total assets as of December 31, 2000 (determined on a U.S. dollar equivalent basis as of such date), (ii) has a branch office in New York City or such other branch office agreed to by the United States, (iii) has a long-term

unsecured credit rating issued by a widely-recognized credit rating agency that is equivalent to an A- or better rating by Standard & Poor's, and (iv) issues the Letter of Credit payable in United States dollars shall be deemed satisfactory to the United States. Not later than December 8, 2001, each LC Provider shall provide to the United States a proposed form or forms of such Letter of Credit. The United States shall review such form or forms as promptly as practicable and shall notify such LC Provider as promptly as practicable whether or not such form is satisfactory to the United States. Notwithstanding the foregoing, a Letter of Credit that conforms to the form attached hereto as Exhibit B shall be deemed satisfactory to the United States.

ii. The Letters of Credit shall expire on December 31, 2002, provided that the Letters of Credit may be terminated earlier as set forth in subsection (d) below or reduced as provided in subsection (e) below.

iii. The Letters of Credit shall provide for partial drawings.

iv. If an LC Provider has provided more than one Letter of Credit, then, subject to the LC Provider's giving the notice required pursuant to Section 11(a)(v), any draws on or reductions of such Letters of Credit shall be made pro rata based on the amount of each Letter of Credit, as set forth in more detail below, or on such other basis as an LC Provider and the United States shall agree.

v. Each Letter of Credit shall provide that the issuing bank honor a draw on the Letter of Credit not later than three (3) Business Days after presentment by the United States of the documentation required by the terms of the Letter of Credit.

vi. If a bank issuing a Letter of Credit declares bankruptcy, becomes insolvent, has a receiver or conservator appointed, or is taken over by applicable regulatory agencies, or if a non-U.S. bank issuing a Letter of Credit closes its branch office in New York City, the applicable LC Provider shall, at the request of the United States, promptly cause to be issued for the benefit of the United States a substitute Letter of Credit. The bank issuing such substitute Letter of Credit shall satisfy the criteria set forth in this Section 11(b), and the form of such substitute Letter of Credit shall be reasonably satisfactory to the United States.

vii. Each Letter of Credit issued by a non-U.S. bank shall provide that a draw on the Letter of Credit may be presented at the bank's branch office in New York City.

viii. Each Letter of Credit shall provide that a draw on the Letter of Credit may be presented by submission of the required documentation to the bank's address specified in the Letter of Credit, with presentment to be effected either by personal delivery or delivery by a nationally-recognized overnight delivery service.

c. Drawings under Letters of Credit. The issuance of the Letters of Credit shall not alter the times when payment is due from either Alaska or Verizon under Section 16 of this Agreement; the Letters of Credit are security for the LC Providers' payment obligations under Section 17 that may be drawn by the United States three (3) days after the Payment Date in respect of a particular Auction 35 License if the applicable LC Provider has not paid for such

License by such date. The United States will have the right to draw on a Letter of Credit, in accordance with its terms, if and only if all of the following events have occurred as of the date of such draw and the FCC so certifies in connection with any draw under such Letter of Credit that:

- i.** The LC Provider did not make a payment to the FCC in the amount of \$_____ pursuant to the terms of Sections 16 and 17 of the Settlement Agreement on or before the Payment Date applicable to such payment;
- ii.** At least three (3) days have passed since the Payment Date for such payment; and
- iii.** The LC Provider has not paid to the FCC the amount specified in clause (i) above.”

Subject to receiving the notice from an LC Provider set forth in clause (v) of subsection (a) of this Section 11, the FCC shall also certify as to the amount to be drawn under the Letter of Credit, which shall equal (a) the amount specified in clause (i) above multiplied by (b) an amount equal to (A) the initial amount of the Letter of Credit divided by (B) the total initial amount of all Letters of Credit provided by such LC Provider. If such notice is not received, then the FCC shall certify as to the amount to be drawn under the Letter of Credit, which shall be the amount specified in clause (i) above, less the aggregate amounts drawn under all other Letters of Credit provided by the LC Provider in connection with the defaulted payment described in clause (i) above.

d. Termination of Letters of Credit. Each Letter of Credit will provide that it shall be terminated on December 31, 2002 or, if earlier, immediately upon delivery to the issuing bank of a certificate from Alaska or Verizon, as the case may be, which has been countersigned, after prompt consultation with the United States Department of Justice, by an authorized signatory of the FCC (an “Authorized Signatory”), who shall be the Managing Director (or Acting Managing Director) of the FCC, or his or her designee, to the effect that one of the following circumstances has occurred:

- i.** The Settlement Agreement has terminated in accordance with the provisions thereof;
- ii.** The LC Provider has paid to the FCC all amounts it is required to pay under Section 17 of the Settlement Agreement;
- iii.** A court of competent jurisdiction has entered an order that is Final, which has the effect of preventing the FCC from granting to the LC Provider its Auction 35 Licenses; or
- iv.** The United States and the Commission have accepted Alternative Security Arrangements.

Any required countersignature by the Authorized Signatory shall not be discretionary, and such person shall provide such countersignature if the circumstances set forth in the certificate in question are true and correct.

e. Reduction of Letter of Credit. Each Letter of Credit will provide that the amount of the Letter of Credit shall be reduced upon delivery to the issuing bank of a certificate from the applicable LC Provider, which has been countersigned by an Authorized Signatory, stating that:

“**i.** The LC Provider has paid to the FCC the sum of \$ _____, representing an amount equal to the Amounts Due on Receipt paid for Auction 35 Licenses that were paid for and granted to such LC Provider in respect of which there have been no prior reductions of the amount of the Letter of Credit ;

ii. The amount of the Letter of Credit shall be reduced by \$ _____, which equals (a) the amount described in clause (i) multiplied by (b) an amount equal to (A) the initial amount of the Letter of Credit divided by (B) the total initial amount of all Letters of Credit provided by such LC Provider; and

iii. After giving effect to the reduction, the amount of the Letter of Credit shall be \$ _____ [insert amount of the Letter of Credit prior to reduction minus the amount specified in clause (ii)].”

Any required countersignature by the Authorized Signatory shall not be discretionary, and such person shall provide such countersignature if the facts set forth in the certificate in question are true and correct.

f. No Injunction Against a Draw. No Party shall seek to enjoin the United States from drawing on, or a bank from honoring, a Letter of Credit.

g. Alternative Security Arrangements. At any time, either LC Provider may propose to the United States alternative security arrangements in lieu of its Letters of Credit for its payment obligations under this Agreement. The United States and the Commission may, in their sole and absolute discretion, agree in writing to accept the substitution of such arrangements (such arrangements, if so accepted, “Alternative Security Arrangements”). Upon the implementation by the LC Provider of Alternative Security Arrangements, the LC Provider shall be deemed, for purposes of this Agreement, including without limitation, Sections 10, 11, and 12 and the definition of Final Bankruptcy Settlement Approval Date, to have caused to be issued its applicable Letters of Credit.

12. Deposit Refunds.

Upon the receipt by the United States of the Verizon Letters of Credit, the United States shall refund to Verizon the sum of \$854,679,300 from its Auction 35 Deposits held by the Commission, and upon the receipt by the United States of the Alaska Letters of Credit, the United States shall refund to Alaska the sum of \$272,380,350 from its Auction 35 Deposits held by the Commission. The Commission shall direct the payment of the refund after receiving instructions from the payor(s) of record, in accordance with the Commission’s auction refund procedures, such payments to be made as promptly as practicable but in any event within

fourteen (14) days of receipt of the applicable Letters of Credit, if the LC Provider has complied with such procedures.

13. FCC Resolution of Pending Regulatory Challenges to the Designated Licenses.

a. The FCC shall issue an FCC Order or FCC Orders taking all regulatory actions necessary to act on the pending matters specified in Schedule C1 hereto.

b. On or before the tenth Business Day after the Relinquishment Date, each of the applicable non-governmental Parties shall file with the Commission a request to withdraw the Commission filings set forth on Schedule C2, and the Commission shall act on such requests as necessary.

14. FCC Resolution of License Applications Submitted in Connection with Auction 35.

a. Subject to the provisions of this Agreement and the Legislation, the Commission shall endeavor to take all regulatory actions necessary to act on each application for an Auction 35 License submitted by the Participating Auction 35 Winning Bidders as promptly as practicable and shall issue one or more Disposition Orders regarding such applications. A Grant Order shall be considered to be a Disposition Order.

b. In the event the Commission determines that any Participating Auction 35 Winning Bidder is not qualified under the Rules of the Commission or the Communications Act to hold an Auction 35 License for which it submitted the winning bid, that bidder remains subject to this Agreement, including the last sentence of Section 31(g).

15. Resolution of Pending Matters Not Prejudged and Authority Not Impaired.

Nothing in this Agreement shall be construed (a) to suggest that the FCC has prejudged the qualifications of a Participating Auction 35 Winning Bidder to hold an FCC license, or the disposition of any applications for Auction 35 Licenses or any other pending proceedings, or (b) to impede the FCC from exercising the full extent of its authority in deciding whether to grant any such application.

16. Timing of Payment to FCC by Participating Auction 35 Winning Bidders.

a. Basic Payment Deadline. A Participating Auction 35 Winning Bidder shall pay to the FCC the applicable Amount Due on Receipt no later than the date (the "Payment Date") which is the later of (i) ten (10) Business Days after the issuance of the Grant Order with respect to a particular Auction 35 License and (ii) June 28, 2002; provided, however, that the Payment Date for a Participating Auction 35 Winning Bidder as to which no Disposition Order has been released on or before March 29, 2002 shall be the later of the date determined above and ninety (90) days following the release of the first Disposition Order with respect to any license offered in Auction 35 applicable to that Participating Auction 35 Winning Bidder; and provided, further, that notwithstanding anything to the contrary in Sections 14 and 16, no Grant Order shall be issued prior to the Relinquishment Date. An applicable Payment Date may be further extended but cannot be shortened by subsections (b), (c) and (d) of this Section 16.

b. Court Remand. In the event of the entry of a court order in litigation authorized by the exclusive review provisions of the Legislation that remands or refers to the Commission a proceeding brought to review the constitutionality of the Legislation or to review the FCC Settlement Approval Order (such court order, the “Remand Order”), the Payment Date shall not occur until ten (10) Business Days after (i) the entry of a court order reversing or overturning such Remand Order, or (ii) the Commission has, subsequent to the Remand Order, released an order approving the Agreement (“Commission Order on Remand”), and (A) the time for seeking judicial review of the Commission Order on Remand has expired and such review has not been sought, or (B) the United States Court of Appeals for the District of Columbia Circuit has entered an order affirming the Commission Order on Remand.

c. Court Reversal or Vacatur. In the event of the entry of a court order in litigation authorized by the exclusive review provisions of the Legislation that reverses or vacates, but does not remand or refer, the FCC Settlement Approval Order (such court order, the “Reversal Order”), the Payment Date shall not occur until ten (10) Business Days after the entry of a subsequent order by the United States Court of Appeals for the District of Columbia Circuit or the United States Supreme Court, whichever is earlier, that reverses or vacates the Reversal Order or affirms the FCC Settlement Approval Order, or the FCC Settlement Approval Order otherwise becomes Final.

d. Order Invalidating the Legislation. In the event of the entry of a court order in litigation authorized by the exclusive review provisions of the Legislation that invalidates the Legislation (the “Invalidation Order”), the Payment Date shall not occur until ten (10) Business Days after (i) the Invalidation Order is reversed or vacated, or (ii) the FCC Settlement Approval Order otherwise becomes Final.

e. Early Payment. Any Participating Auction 35 Winning Bidder may, at its option, at any time after the release of the Grant Order or Orders for its Auction 35 Licenses, and prior to the Payment Date, tender payment of the Amount Due on Receipt in respect of all of the Auction 35 Licenses as to which Grant Orders have been released with respect to such Participating Auction 35 Winning Bidder and thereby receive those Licenses upon payment. Any Participating Auction 35 Winning Bidder who wishes to pay for and receive such Licenses prior to the Payment Date shall notify the Commission in writing of such intent.

f. Failure to Pay. Any Participating Auction 35 Winning Bidder that fails to pay, by the applicable Payment Date, the Amount Due on Receipt for an Auction 35 License shall be in default with respect to such License under the Rules of the Commission and immediately subject to the payment and default obligations specified therein; provided, however, that no such default shall arise with respect to Alaska or Verizon to the extent its payment obligations may be or have been satisfied by a draw on its Letters of Credit or recourse to any Alternative Security Arrangements.

17. Amount of Payment to FCC by Participating Auction 35 Winning Bidders.

On the applicable Payment Date, each Participating Auction 35 Winning Bidder that the Commission determines to be qualified to hold one or more Auction 35 Licenses shall pay to the FCC the Amount Due on Receipt for each Auction 35 License with respect to which the

Commission has made such determination. This Section is not intended to, and shall not be construed to, preclude use of any auction discount voucher in accordance with its terms to the extent such discount voucher is otherwise available to a Participating Auction 35 Winning Bidder.

18. Reserved.

19. Certiorari in the D.C. Circuit Proceedings.

If any petition for a writ of certiorari pertaining to the actions that are part of the D.C. Circuit Proceedings is pending on the Effective Date, or if any petition is filed after the Effective Date, then NextWave agrees to apply to extend the time for it to respond to such petition, and to file for further extensions, as necessary, to extend the deadline for its response past the Final Bankruptcy Settlement Approval Date. The Parties, other than NextWave, that are also parties to the certiorari proceedings agree not to oppose any such application to extend. At such time as the United States Supreme Court refuses to extend NextWave's time to respond and all other available means of obtaining deferral have been exhausted, all Parties that are also parties to the certiorari proceedings agree to file a joint motion to defer consideration of the petitions for certiorari until after the Final Bankruptcy Settlement Approval Date. In the event that the United States Supreme Court grants certiorari before the Final Bankruptcy Settlement Approval Date, the parties shall seek to defer briefing on the merits through that date. After the Final Bankruptcy Settlement Approval Date, the Parties that are also parties to the certiorari proceedings shall promptly cause the withdrawal of any pending petitions for certiorari to which they are a party, pertaining to the actions that are part of the D.C. Circuit Proceedings, and shall seek dismissal if certiorari has been granted. It is the intent of the parties that, except as otherwise provided in this Agreement, no decision of any court shall excuse performance of this Agreement unless such decision expressly invalidates the Agreement or makes compliance with the Agreement unlawful.

20. No Decision on the Merits.

This Agreement sets forth a compromise and settlement of disputed claims for the purpose of avoiding the costs, disruptions, and uncertainties associated with further litigation. Such compromise and settlement does not constitute a ruling on the merits, an admission as to any issue of fact or principle at law or an admission of liability of any Party. Any and all such admissions are expressly denied by all Parties to this Agreement. Nothing in this Agreement is meant to imply that an FCC license can be considered property of an estate in bankruptcy, or that an FCC licensee, by virtue of its license, holds any property interest in the spectrum. The use of the phrases "returning a license" or "surrendering a license" (or use of variants of such phrases) in this Agreement is meant only to refer to the relinquishment of the authorizations specified in a license.

21. No Admission of Jurisdiction.

Nothing in this Agreement should be construed as an admission by the FCC that a bankruptcy court or district court has subject matter jurisdiction to review decisions of the FCC with respect to the allotment, allocation, or assignment of spectrum licenses.

22. Mutual Release of Claims.

a. NextWave releases, acquits, and forever discharges:

i. upon delivery of the Cash Payment and the Advance Tax Payment, the FCC and the United States, together with each and every past and present agent, servant, employee, representative, or attorney thereof, and

ii. upon the Relinquishment Date, each Participating Auction 35 Winning Bidder, together with each and every past and present, direct or indirect, member, shareholder, owner and affiliate thereof, and each officer, director, manager, partner, principal, agent, servant, employee, representative, and attorney of each of the foregoing,

from any and all claims, causes of action, suits, debts, liens, obligations, liabilities, demands, losses, costs and expenses (including attorneys' fees) of any kind, character, or nature whatsoever, known or unknown, fixed or contingent (collectively, hereinafter, the "Claims"), which NextWave may have or claim to have now or which may hereafter arise out of, relate to, or be connected with any act of commission or omission, or other circumstances, existing or occurring prior to the Effective Date relating to the Designated Licenses (including any claims for a refund or a return of its down payments), to Covered Spectrum or to Auction 35.

b. Effective upon the receipt by the United States of Settlement Payments from NextWave of \$3.731 billion and any amounts required to be paid by NextWave pursuant to Section 9(c), and subject to the condition that the Relinquishment Date shall previously have occurred, the FCC and the United States release, acquit, and forever discharge NextWave and each and every past and present, direct or indirect, member, shareholder, owner, and affiliate thereof, and each officer, director, manager, partner, principal, agent, servant, employee, representative, and attorney of NextWave, from any and all Claims which the FCC and the United States may have or claim to have now or which may hereafter arise out of, relate to, or be connected with any act of commission or omission, or other circumstances, existing or occurring prior to the Effective Date relating to the Designated Licenses, to Covered Spectrum, or to Auction 35, except with respect to federal taxes. The United States' release includes, but is not limited to, the release of the proof of claim the United States filed in the Bankruptcy Proceedings, which it will withdraw with prejudice. Notwithstanding anything to the contrary in this subsection (b), nothing in this Agreement shall affect the liability of any of the non-governmental Parties to the United States or the FCC arising out of fraud, antitrust, tax, or criminal claims, or out of violations of the Rules of the Commission involving misrepresentation, lack of candor, collusion prohibited by Section 1.2105 of the Rules of the Commission or other acts of substantial misconduct.

c. Effective upon the FCC's receipt of the full and final Amounts Due on Receipt from a Participating Auction 35 Winning Bidder for all of its Auction 35 Licenses that it is qualified to hold (and for so long as the United States has not refunded such amounts or, having refunded such amounts, upon repayment of them pursuant to Section 31), the FCC and the United States release, acquit and forever discharge the relevant Participating Auction 35 Winning Bidder and each and every past and present, direct or indirect, member, shareholder, owner, and affiliate thereof, and each officer, director, manager, partner, principal, agent,

servant, employee, representative, and attorney of each of the foregoing, from any and all Claims which the FCC and the United States may have or claim to have now or which may hereafter arise out of, relate to, or be connected with any act of commission or omission, or other circumstances, existing or occurring prior to the Effective Date relating to the Designated Licenses, to Covered Spectrum or to Auction 35. Notwithstanding anything to the contrary in this subsection (c), nothing in this Agreement shall affect the liability of any of the non-governmental Parties to the United States or the FCC arising out of fraud, antitrust, tax, or criminal claims, or out of violations of the Rules of the Commission involving misrepresentation, lack of candor, collusion prohibited by Section 1.2105 of the Rules of the Commission or other acts of substantial misconduct.

d. Effective upon the Relinquishment Date, each Participating Auction 35 Winning Bidder releases, acquits, and forever discharges NextWave and each and every past and present, direct or indirect, member, shareholder, owner, and affiliate thereof, and each officer, director, manager, partner, principal, agent, servant, employee, representative, and attorney of NextWave, and its creditors, from any and all Claims which any such Participating Auction 35 Winning Bidder may have or claim to have now or which may hereafter arise out of, relate to, or be connected with any act of commission or omission, or other circumstances, existing or occurring prior to the Effective Date relating to the Designated Licenses, to Covered Spectrum, or to Auction 35; provided, however, that a Participating Auction 35 Winning Bidder's release of NextWave pursuant to this Section 22 does not include proof of claim No. 211 filed by Primeco Personal Communications LP in the Bankruptcy Proceedings.

e. Subject to the second sentence of Section 23(a) and effective upon grant to a Participating Auction 35 Winning Bidder of all of its respective Auction 35 Licenses that it is qualified to hold, each such Participating Auction 35 Winning Bidder releases, acquits, and forever discharges the FCC and the United States, together with each and every past and present agent, servant, employee, representative, or attorney thereof, from any and all Claims which any such Participating Auction 35 Winning Bidder may have or claim to have now or which may hereafter arise out of, relate to, or be connected with any act of commission or omission, or other circumstances, existing or occurring prior to the Effective Date relating to the Designated Licenses, to Covered Spectrum, or to Auction 35; provided, however, if the FCC's failure to grant any such Auction 35 Licenses is due to the Participating Auction 35 Winning Bidder's failure to pay for and accept such Licenses, this release will become effective upon the later of (x) the last applicable Payment Date for all Licenses the Participating Auction 35 Winning Bidder was qualified to hold, or (y) the date of the last applicable FCC Order that is Final and that disposes of any challenges to the Grant Orders or Disposition Orders relating to any such non-issued Licenses; provided, further, that if the Participating Auction 35 Winning Bidder accepts any Auction 35 Licenses but challenges any aspect of the Grant Orders or Disposition Orders relating to any such Licenses, this release will become effective upon the date of the last applicable FCC Order that is Final and that disposes of such challenges; provided, further, that if the FCC grants no Licenses to a Participating Auction 35 Winning Bidder because such bidder is not qualified to hold any such Licenses, this release will become effective upon the later of (x) the release date of the last Disposition Order determining that the Participating Auction 35 Winning Bidder is not qualified to hold an Auction 35 License, or (y) the date of the last applicable FCC Order that is Final and that disposes of any challenges to any Disposition Orders determining that the Participating Auction 35 Winning Bidder is not qualified to hold such

Auction 35 Licenses. This release shall remain effective so long as the United States has not refunded the applicable Amounts Due on Receipt or, having refunded such amounts, upon repayment of them pursuant to Section 31.

f. Nothing contained in this Section 22 shall act to waive, limit or impair the FCC's or the United States' authority to enforce the laws of the United States, including, but not limited to, the assessment and collection of sums due pursuant to the Internal Revenue Code of 1986, as amended, and the Treasury regulations thereunder and the FCC's exercise of authority over the public spectrum (and without limitation over licenses issued by the Commission) under the Communications Act and the Rules of the Commission to the extent consistent with the Legislation and this Agreement. Nothing contained in this Section 22 shall act to waive, limit or impair the rights or obligations of the Parties under this Agreement.

23. Waivers.

a. Review of FCC Implementing Orders. To the extent that the FCC Implementing Orders implement and are not inconsistent with the Legislation and the terms of this Agreement and this Agreement remains in effect, NextWave and the Participating Auction 35 Winning Bidders waive any and all rights they may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Agreement, the FCC Implementing Orders and the Legislation. Notwithstanding anything in this provision or Section 22(e) to the contrary, each Participating Auction 35 Winning Bidder reserves any rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay or to otherwise challenge or contest the validity of FCC Orders disposing of its individual Auction 35 license applications, but only to the extent such reconsideration, review, appeal, stay or other challenge or contest does not implicate the validity or enforceability of this Agreement, the Legislation or the FCC Settlement Approval Order.

b. Enforcement of FCC Implementing Orders. Except as provided in the second sentence of Section 23(a), NextWave and the Participating Auction 35 Winning Bidders agree that if the United States or the FCC brings a judicial action to enforce the terms of the FCC Implementing Orders on or after the effective date of the Legislation, NextWave and the Participating Auction 35 Winning Bidders shall not contest the validity of the FCC Implementing Orders to the extent that the FCC Implementing Orders implement and are consistent with the Legislation and the terms of this Agreement. The FCC agrees to exercise its authority to enforce the FCC Implementing Orders only in a manner that is not inconsistent with the Legislation and the terms of this Agreement.

c. Waivers of Rights to Challenge Commission Action. Subject to subsection (a) of this Section 23, the Parties explicitly waive the right to challenge (i) this Agreement; (ii) the Legislation; (iii) the FCC Implementing Orders to the extent those orders are consistent with this Agreement and the Legislation; and (iv) any actions taken by the Commission to enforce this Agreement or the Legislation, including the imposition of payment and default obligations, to the extent those actions are consistent with the Rules of the Commission and with this Agreement and the Legislation; provided, however, that NextWave does not waive the right to challenge decisions by the Commission in the matters set forth in Sections 6(a) and 13(a). The Parties expressly waive the right to rely on statutory rights, including those set forth in the Bankruptcy

Code, that might allow a carrier to recapture, reduce, avoid, or set aside its payment to the United States. However, nothing in this provision shall waive or otherwise preclude NextWave from asserting the Bankruptcy Code rights that it already has asserted, except to the extent that the assertion of those rights is inconsistent with this Agreement or the Legislation.

d. Future Licensing Actions. As of the Effective Date, and except as set forth in Section 22(b), the Commission agrees that the qualifications of NextWave and its past or present officers, directors, and shareholders, to participate in future auctions or hold licenses shall not be limited, restricted or otherwise burdened as a result of debt incurred by NextWave related to the Designated Licenses or as a result of any actions or inactions relating to the debt.

24. Termination of the Agreement and of Auction 35 License Obligations.

a. With Respect to All Parties. This Agreement shall terminate as to all Parties (i) if legislation relating to this Agreement is not enacted on or before December 31, 2001, or if the FCC has not released the FCC Settlement Approval Order on or before January 10, 2002; (ii) if the United States terminates this Agreement pursuant to Section 11(a)(iii); (iii) if a Final court order precludes, or has the legal effect of precluding, the United States from paying all or part of the Cash Payment or the Advance Tax Payment; or (iv) if the Final Bankruptcy Settlement Approval Date has not occurred on or before December 31, 2002. If this Agreement terminates pursuant to clauses (i) or (ii) of this subsection (a), then all rights and obligations of the Parties under this Agreement shall terminate, no Party shall have any liability under this Agreement to any other Party, except for rights and obligations of the Parties in this Section 24 and Sections 10, 20, 21, 25, 28, 29, 30, 35 and 37, which shall survive the termination of this Agreement, and except that (A) nothing herein shall relieve any Party from liability for any breach of any agreement, representation, warranty, or covenant herein on or prior to such termination, and (B) the Participating Auction 35 Winning Bidders shall remain subject to the Rules of the Commission that would apply in the absence of this Agreement. If this Agreement terminates pursuant to clause (iii) of this subsection (a) after the Relinquishment Date, any licenses to use the Covered Spectrum shall immediately cancel and the Commission shall immediately reinstate the Designated Licenses to NextWave to the status provided in Public Notice, DA 01-2045 (released August 31, 2001). If this Agreement terminates pursuant to clause (iii) or (iv) of this subsection, then (A) all rights and obligations of the Parties under this Agreement shall terminate, and no Party shall have any liability under this Agreement to any other Party, except for rights and obligations of the Parties in this Section 24 and Sections 10, 20, 21, 25, 28, 29, 30, 35 and 37, which shall survive the termination of this Agreement and except that nothing herein shall relieve any Party from liability for any breach of any agreement, representation, warranty or covenant herein on or prior to such termination, (B) the rights and obligations of the Participating Auction 35 Winning Bidders with respect to the Auction 35 Licenses shall terminate, and any and all obligations of the Participating Auction 35 Winning Bidders with respect to the Auction 35 Licenses shall be deemed canceled and rescinded, and (C) each Participating Auction 35 Winning Bidder shall be entitled to receive from the United States, and the United States shall pay to each Participating Auction 35 Winning Bidder, a full refund of all of its prior payments with respect to its Auction 35 Licenses, including its Amounts Due on Receipt and Auction 35 Deposits.

b. With Respect to One or More, But Not All, Individual Licenses. In the event of a Termination of Auction 35 License Obligations with respect to one or more, but not all, of any Participating Auction 35 Winning Bidder's Auction 35 Licenses, all rights and obligations of the applicable Participating Auction 35 Winning Bidder under this Agreement with respect to the applicable Auction 35 License or Licenses shall terminate, the applicable Participating Auction 35 Winning Bidder shall have no liability under this Agreement to any other Party with respect to such Auction 35 License or Licenses, and no other Party shall have any liability to the applicable Participating Auction 35 Winning Bidder with respect to such Auction 35 License or Licenses, except that the applicable Participating Auction 35 Winning Bidder shall be entitled to receive from the United States, and the United States shall pay to such Participating Auction 35 Winning Bidder, a full refund of all its prior payments with respect to the Auction 35 Licenses for which all Auction 35 obligations are terminated, including the applicable Auction 35 Deposit and any applicable Amount Due on Receipt, and except that nothing herein shall relieve any Party from liability for any breach of any agreement, representation, warranty, or covenant herein on or prior to such termination with respect to such Auction 35 Licenses. Except as otherwise provided in this subsection, this Agreement shall remain in effect between such Participating Auction 35 Winning Bidder and all other Parties.

c. Termination by an Individual Bidder. If a Termination of Auction 35 License Obligations with respect to all Auction 35 Licenses of a Participating Auction 35 Winning Bidder occurs (such Participating Auction 35 Winning Bidder, a "Terminating Bidder"), then all rights and obligations of the Terminating Bidder under this Agreement shall terminate, that Terminating Bidder shall have no liability under this Agreement to any other Party, and no other Party shall have any liability to that Terminating Bidder under this Agreement, except that, (x) as set forth in Section 31, the Terminating Bidder shall be entitled to receive from the United States, and the United States shall pay to the Terminating Bidder, a full refund of all its prior payments with respect to all its Auction 35 Licenses, including all its Auction 35 Deposits and any Amounts Due on Receipt, (y) nothing herein shall relieve the Terminating Bidder from liability for any breach of any agreement, representation, warranty or covenant herein on or prior to such termination, and (z) the Terminating Bidder's rights and obligations in Sections 10, 20, 21, 24, 25, 28, 29, 30, 35, and 37 shall survive the termination of this Agreement.

d. Right to Withdraw. In the event that legislation relating to this Agreement is enacted that does not conform in all respects to Exhibit A, then (A) each non-governmental Party shall have (i) the right to review the non-conforming legislation to determine whether such Party shall proceed as a Party to this Agreement and (ii) the right to withdraw as a Party to this Agreement by providing notice to each of the other Parties within ten (10) days after enactment of such legislation (such notice to be effective upon receipt by the Commission), but in any event no later than January 7, 2002, (B) the United States shall have the right to withdraw as a Party to this Agreement by providing notice to each of the other Parties within fifteen (15) days after enactment of such legislation (such notice to be effective upon receipt by the Commission), but in any event no later than January 10, 2002, and (C) the Agreement will terminate unless, on or before January 10, 2002, the FCC issues the FCC Settlement Approval Order. If the United States or NextWave or Verizon withdraws as a Party, or if every other Participating Auction 35 Winning Bidder whose winning bids, in the aggregate, for the Auction 35 Licenses for which such bidder submitted the winning bids, exceeded \$350 million withdraws as a Party, then this Agreement shall terminate. If this Agreement terminates pursuant to either of the previous two

sentences, then such a termination shall have the same effect as though it were a termination pursuant to Section 24(a)(i). If the Agreement remains in effect as to some or all of the Parties, the rights and obligations of the non-withdrawing Parties set forth in this Agreement shall continue except that the legislation enacted shall be deemed the “Legislation” for purposes of this Agreement, and the Agreement shall be deemed amended as necessary to conform to such Legislation.

If an individual Participating Auction 35 Winning Bidder withdraws as a Party to this Agreement pursuant to this subsection (d) and this Agreement does not terminate as to all Parties, then all rights and obligations of such Participating Auction 35 Winning Bidder under this Agreement shall terminate, such bidder shall have no liability under this Agreement to any other Party, and no other Party shall have any liability to such bidder, except that such bidder’s rights and obligations in this Section 24 and Sections 10, 20, 21, 25, 28, 29, 30, 35 and 37, shall survive the termination of this Agreement and except that (A) nothing herein shall relieve any Party from liability for any breach of any agreement, representation, warranty, or covenant herein on or prior to such termination, and (B) such bidder shall remain subject to the Rules of the Commission that would apply in the absence of this Agreement.

e. Effect on Waivers and Releases. In the event that this Agreement terminates in accordance with this Section, any and all waivers and releases theretofore given by any Party to another Party pursuant to Sections 6, 22 and 23 shall be deemed to be void *ab initio*, except that with respect to termination under Section 24(b), such waivers and releases given by any Party to the Terminating Bidder or by the Terminating Bidder to any Party shall be deemed void *ab initio* only insofar as such waivers and releases apply to the applicable Auction 35 Licenses of the Terminating Bidder. Notwithstanding anything to the contrary in this Section, no termination of this Agreement (other than a termination pursuant to Section 24(a)(iii)) shall invalidate any waivers and releases pursuant to Sections 22 and 23 of this Agreement given to or by NextWave after the Relinquishment Date.

f. Status of Bid Withdrawal Penalties. Notwithstanding anything to the contrary in this Agreement, in the event of a termination under this Section 24 or a Termination of Auction 35 License Obligations, a Participating Auction 35 Winning Bidder’s obligations to pay any unpaid bid withdrawal penalties, or any right to a refund of any bid withdrawal penalties that have been paid, shall be determined by the Rules of the Commission that would apply in the absence of this Agreement.

25. No Joint and Several Liability of Participating Auction 35 Winning Bidders.

Each Participating Auction 35 Winning Bidder is individually responsible for its own compliance with this Agreement, including any payment obligations applicable to such Participating Auction 35 Winning Bidder. Each Participating Auction 35 Winning Bidder is responsible only for its own performance or non-performance of obligations, and the Participating Auction 35 Winning Bidders do not have joint and several liability with regard to any such obligation. The failure of any Participating Auction 35 Winning Bidder to satisfy its payment or any other obligations shall not affect (i) the rights or obligations of the other Participating Auction 35 Winning Bidders to the Auction 35 Licenses for which such

Participating Auction 35 Winning Bidders are not in default of any payment obligations or (ii) the validity of such Auction 35 Licenses.

26. Participating Auction 35 Winning Bidders with Bids under \$10 Million.

By executing this Agreement, any Participating Auction 35 Winning Bidder whose total winning bids for Auction 35 Licenses do not exceed \$10 million waives its right under the Legislation to elect to withdraw all of its bids for Auction 35 Licenses.

27. Opportunity to Become a Party for Auction 35 Winners Not Party to this Agreement.

Any Auction 35 Winning Bidder not listed on Schedule A may become a signatory to this Agreement and therefore participate in the settlement contemplated hereby, provided that such entity delivers to the Commission, on behalf of all the then-existing Parties, an executed counterpart of this Agreement and the applicable information for inclusion on Schedule B, with a copy to all then-existing Parties, and that such counterpart and information is received by the Commission no later than (i) in the case of any Auction 35 Winning Bidder whose total winning bids for Auction 35 Licenses do not exceed \$10 million, no later than January 30, 2002, and (ii) in the case of any other Auction 35 Winning Bidder, twenty (20) days after the date of this Agreement. This Agreement shall be deemed amended to add such entity as a "Participating Auction 35 Winning Bidder" under this Agreement effective as of the date of delivery of such counterpart and notice, in accordance with this Section 27.

28. Tolling of Regulatory Requirements.

a. To the extent NextWave is required under the Rules of the Commission, including but not limited to 47 C.F.R. § 24.203, to meet certain construction requirements with respect to a Designated License within five (5) years of the initial license grant, such requirements are tolled from September 17, 2001, and the tolling period shall end only (i) upon a breach of this Agreement by NextWave, (ii) upon termination of this Agreement, or (iii) in the event of the entry of a judicial order barring NextWave's surrender and return of the Designated License, together with NextWave's relinquishment of any and all claims to the spectrum identified by the Designated License and to the Designated License.

b. To the extent NextWave would be relieved of any transfer of control or assignment of license restrictions with respect to a Designated License under the Rules of the Commission, including but not limited to 47 C.F.R. § 24.839, after five (5) years from the date of the initial license grant, this five-year period is tolled from September 17, 2001, and the tolling period shall end only (i) upon a breach of this Agreement by NextWave, (ii) upon termination of this Agreement, or (iii) in the event of the entry of a judicial order barring the surrender and return of the Designated License together with NextWave's relinquishment of any and all claims to the spectrum identified by the Designated License and to the Designated License.

c. Nothing in this Section shall be construed as a waiver of any argument that any Party to this Agreement may have that any build-out or other regulatory requirements relating to

the Designated Licenses were or were not tolled prior to September 17, 2001 or are not subject to additional tolling periods.

29. Equal Access to Justice Act.

NextWave and the Participating Auction 35 Winning Bidders waive any right they may have to seek attorneys fees or costs from the United States or the FCC pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and any other applicable law, effective on and after the effective date of the Legislation.

30. FCC Jurisdiction.

NextWave and the Participating Auction 35 Winning Bidders acknowledge that the FCC has jurisdiction to exercise its authority under the Communications Act and the Rules of the Commission with respect to them, the Designated Licenses, the Auction 35 Licenses, and the Covered Spectrum.

31. Participating Auction 35 Winning Bidder Refund Rights/Termination of Auction 35 License Obligations.

a. Refunds and Post-Refund Terminations. If, at any time on or before the Deadline Date, an order is entered by any court in a proceeding under the exclusive review provisions of the Legislation, that denies or has the legal effect of denying a Participating Auction 35 Winning Bidder's right to use the spectrum covered by one or more Auction 35 Licenses that were previously granted to, and paid for by, such Participating Auction 35 Winning Bidder, then the following shall apply:

i. Refund of Amount Due on Receipt. Such Participating Auction 35 Winning Bidder shall be entitled to receive from the United States, and the United States shall pay, to such Participating Auction 35 Winning Bidder, a refund of the Amount Due on Receipt for each such License affected by such court order, provided that, except for refunds under clause (iii) below, no request for such refund may be made (x) prior to forty-five (45) days following the date of entry of the applicable court order or (y) while a stay of such order is in effect;

ii. Repayment on Restoration of Rights. If there is a refund pursuant to this subsection (a), and following such refund, on or before the Deadline Date the FCC restores, subject to timely repayment of the applicable Amounts Due on Receipt, the right to use the spectrum of such Participating Auction 35 Winning Bidder with respect to such Auction 35 Licenses, such Participating Auction 35 Winning Bidder shall re-pay to the FCC the Amount Due on Receipt in respect of each such Auction 35 License within ten (10) Business Days following release of the FCC Order restoring such spectrum usage rights and shall thereafter have all of the rights and obligations previously associated with such Auction 35 Licenses; and

iii. Effect of Rights Not Restored. If there is a refund pursuant to this subsection (a), and the right to use the spectrum of such Participating Auction 35 Winning Bidder with respect to such Auction 35 Licenses is not restored pursuant to

clause (ii) above on or before the Deadline Date, then, upon the request of such Participating Auction 35 Winning Bidder made to the FCC not later than ten (10) Business Days after the Deadline Date with respect to all such Auction 35 Licenses that have not been restored, the following shall occur: (x) any and all obligations of such Participating Auction 35 Winning Bidder to the FCC and/or the United States with respect to all such Auction 35 Licenses shall thereupon be deemed canceled and rescinded, (y) there shall be a refund of the Auction 35 Deposit paid in connection with all such Auction 35 Licenses, and (z) such Participating Auction 35 Winning Bidder shall have no further obligations with respect to all such Auction 35 Licenses.

b. Termination on the Disposition Order Cutoff Date. If on the Disposition Order Cutoff Date either (x) the Commission has not released, with respect to one or more Auction 35 Licenses for which a Participating Auction 35 Winning Bidder submitted the winning bids, either a Disposition Order finding that such Participating Auction 35 Winning Bidder is not qualified to hold an Auction 35 License or a Grant Order, or (y) there is in effect an order by any court in a proceeding under the exclusive review provisions of the Legislation that denies or has the legal effect of denying a Participating Auction 35 Winning Bidder's right to use the spectrum covered by one or more Auction 35 Licenses (including any order that prevents the FCC from granting such Licenses to such Bidders), then, upon the request of such Participating Auction 35 Winning Bidder made to the FCC not later than ten (10) Business Days after the Disposition Order Cutoff Date, the following shall occur:

i. Termination of Auction 35 License Obligations. Any and all obligations of such Participating Auction 35 Winning Bidder with respect to all Auction 35 Licenses for which it submitted the winning bids shall thereupon be deemed canceled and rescinded, and such Participating Auction 35 Winning Bidder shall have no further obligations with respect to all such Auction 35 Licenses; and

ii. Refund of All Prior Payments. Such Participating Auction 35 Winning Bidder shall be entitled to receive from the United States, and the United States shall pay to such Participating Auction 35 Winning Bidder, a full refund of all its prior payments with respect to the Auction 35 Licenses for which all Auction 35 obligations are terminated pursuant to subparagraph (i) above, including the applicable Auction 35 Deposit and the applicable Amount Due on Receipt.

c. Termination after the Deadline Date. If, at any time after December 31, 2002, there is entered an order by any court in a proceeding under the exclusive review provisions of the Legislation that denies or has the legal effect of denying a Participating Auction 35 Winning Bidder's right to use the spectrum covered by one or more Auction 35 Licenses that were previously granted to such Participating Auction 35 Winning Bidder, then the following shall occur upon the request of such Participating Auction 35 Winning Bidder made to the FCC with respect to all such Licenses, provided that no such request may be made (x) prior to forty-five (45) days following the date of entry of the applicable court order or (y) while a stay of such order is in effect:

i. Termination of Auction 35 License Obligations. Any and all obligations of such Participating Auction 35 Winning Bidder with respect to all such

Auction 35 Licenses for which it submitted the winning bids shall thereupon be deemed canceled and rescinded, and such Participating Auction 35 Winning Bidder shall have no further obligations with respect to such Auction 35 Licenses; and

ii. Refund of All Prior Payments. Such Participating Auction 35 Winning Bidder shall be entitled to receive from the United States, and the United States shall pay to such Participating Auction 35 Winning Bidder, a full refund of all of its prior payments with respect to all Auction 35 Licenses for which all Auction 35 obligations are terminated pursuant to subparagraph (i) above, including the applicable Auction 35 Deposit and the applicable Amount Due on Receipt.

d. Termination Following a Remand Order. In the event of a Remand Order, the Commission shall expedite its Commission Order on Remand to the greatest extent possible, with a view to issuing its Commission Order on Remand within sixty (60) days after the entry date of the Remand Order. If, under Section 16(b), a Remand Order results in a deferral of a Payment Date for one or more Auction 35 Licenses of a Participating Auction 35 Winning Bidder until after December 31, 2002, then, for any such Participating Auction 35 Winning Bidder that has not elected to make early payment in accordance with Section 16(e), in addition to any otherwise applicable rights set forth in subsections (a), (b), and (c) of this Section, the following shall pertain:

i. If the Commission fails to issue a Commission Order on Remand granting, affirming, or restoring such Participating Auction 35 Winning Bidder's right to such Auction 35 Licenses, on or before the Deadline Date, such Participating Auction 35 Winning Bidder shall have the termination and refund rights set forth in subparagraphs (x) and (y) below effective on the Deadline Date.

ii. If the Commission issues a Commission Order on Remand granting, affirming, or restoring such Participating Auction 35 Winning Bidder's right to such Auction 35 Licenses before the Deadline Date and within ninety days after the date of entry of the applicable Remand Order, then such Participating Auction 35 Winning Bidder shall have the termination and refund rights set forth in subparagraphs (x) and (y) below effective as of the 90th day after the Deadline Date, unless before that date (A) a court enters an order reversing or vacating such Remand Order, or (B) the time for seeking judicial review of the Commission Order on Remand expires without any such review having been sought, or the United States Court of Appeals for the District of Columbia Circuit enters an order affirming the Commission Order on Remand.

iii. If the Commission issues a Commission Order on Remand granting, affirming, or restoring such the right of such Participating Auction 35 Winning Bidder to such Auction 35 Licenses before the Deadline Date but more than ninety days after the date of entry of the applicable Remand Order, then such Participating Auction 35 Winning Bidder shall have the termination and refund rights set forth in subparagraph (x) and (y) below effective as of the 60th day after the Deadline Date, unless before that date (A) a court enters an order reversing or overturning such Remand Order, or (B) the time for seeking judicial review of the Commission Order on Remand expires without any

such review having been sought, or the United States Court of Appeals for the District of Columbia Circuit enters an order affirming the Commission Order on Remand.

Upon the request of a Participating Auction 35 Winning Bidder made to the FCC not later than ten (10) Business Days after the first date on which such bidder is authorized to terminate under this subsection, the following shall occur:

(x) Termination of Auction 35 License Obligations. Any and all obligations of such Participating Auction 35 Winning Bidder with respect to all Auction 35 Licenses affected by the Remand Order shall thereupon be deemed canceled and rescinded, and such Participating Auction 35 Winning Bidder shall have no further obligations with respect to such Auction 35 Licenses; and

(y) Refund of All Prior Payments. Such Participating Auction 35 Winning Bidder shall be entitled to receive from the United States, and the United States shall pay to such Participating Auction 35 Winning Bidder, a full refund of all of its prior payments with respect to all Auction 35 Licenses for which all Auction 35 obligations are terminated pursuant to subparagraph (x) above, including the applicable Auction 35 Deposit.

e. Termination Following Reversal or Invalidation. In the event of a Reversal Order or Invalidation Order that operates, in accordance with Sections 16(c) or 16(d), to defer the Payment Date for a Participating Auction 35 Winning Bidder until after December 31, 2002, any such Participating Auction 35 Winning Bidder that has not elected to make early payment in accordance with Section 16(e) shall have, in addition to any otherwise applicable rights set forth in subsections (a), (b), and (c) of this Section, the termination and refund rights set forth in subparagraphs (i) and (ii) below effective as of the 90th day after the Deadline Date, unless before that date a court enters an order reversing or overturning such Reversal Order or Invalidation Order. Upon the request of such Participating Auction 35 Winning Bidder made to the FCC not later than ten (10) Business Days after the first date on which such bidder is authorized to terminate under this subsection, the following shall occur:

i. Termination of Auction 35 License Obligations. Any and all obligations of such Participating Auction 35 Winning Bidder with respect to all Auction 35 Licenses affected by the Reversal Order or Invalidation Order shall thereupon be deemed canceled and rescinded, and such Participating Auction 35 Winning Bidder shall have no further obligations with respect to such Auction 35 Licenses; and

ii. Refund of All Prior Payments. Such Participating Auction 35 Winning Bidder shall be entitled to receive from the United States, and the United States shall pay to such Participating Auction 35 Winning Bidder, a full refund of all of its prior payments with respect to all Auction 35 Licenses for which all Auction 35 obligations are terminated pursuant to subparagraph (i) above, including the applicable Auction 35 Deposit.

f. Processing of Refund Requests. Within fourteen (14) days following any timely request for a refund under Section 24 or this Section 31, the Commission shall ask the United

States Department of Treasury to issue the appropriate refund by wire transfer of immediately available funds.

g. Loss for Failure to Comply with Rules. Notwithstanding the foregoing provisions of this Section 31, no Participating Auction 35 Winning Bidder shall be entitled to a refund or any rights to terminate its Auction 35 License obligations under subsection (a), (b), (c), (d), or (e) if the loss or failure to hold any Auction 35 License is due to such Participating Auction 35 Winning Bidder's failure to comply with the Rules of the Commission that are not inconsistent with this Agreement and the Legislation. To the extent a refund is not available under subsections (a), (b), (c), (d) or (e) of this Section 31 due to such failure, then such Participating Auction 35 Winning Bidder, in seeking a refund of any of its prior payments with respect to Auction 35 and/or this Agreement, shall be subject to the Rules of the Commission that would apply in the absence of this Agreement.

h. Certain Liabilities Unaffected by Termination of Auction 35 License Obligations. Notwithstanding anything to the contrary in this Section or Section 24, nothing in this Agreement shall affect the liability of any of the non-governmental Parties arising out of fraud, antitrust, tax, or criminal claims, or out of violations of the Rules of the Commission involving misrepresentation, lack of candor, collusion prohibited by Section 1.2105 of the Rules of the Commission or other acts of substantial misconduct.

32. Amendments.

Except to the extent otherwise provided in Section 24(d) and Section 27, no amendment, modification, or supplement to this Agreement shall be valid unless it is in writing and signed by duly authorized representatives of all of the Parties. The phrase "this Agreement" shall include all duly executed amendments, modifications and supplements hereto.

33. Authority.

Each Party represents and warrants that it has authority to execute this Agreement, subject in the case of NextWave to the Bankruptcy Settlement Approval Order, and subject in the case of the FCC to the FCC Settlement Approval Order. Each of the non-governmental Parties represents and warrants that this Agreement sets forth any and all cash consideration promised, paid or received from any other non-governmental Party as an inducement to enter into this Agreement.

34. Compliance with Laws and Regulations.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

35. Expenses.

Except as otherwise specifically set forth in this Agreement, each Party shall be solely responsible for its own expenses involved in all activities related to the subject of this Agreement, including, but not limited to, attorneys' fees and expenses.

36. Cooperation and Good Faith Performance.

The Parties shall cooperate to take all steps necessary, and execute all documents necessary, to effectuate this Agreement. In the performance of their obligations under this Agreement, the Parties shall act in good faith and consistent with the intent of this Agreement, and shall do nothing to frustrate the terms of this Agreement. In situations in which notice, consent, approval or similar action by a Party is permitted or required by any provision of this Agreement, such action shall not be unreasonably delayed, withheld or conditioned. The FCC and the United States shall implement the provisions of this Agreement to the full extent permitted by law.

37. Governing Law.

This Agreement shall be governed by and construed in accordance with applicable federal law.

38. Headings.

The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.

39. Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

40. No Third Party Beneficiaries.

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide any third party with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

41. Rule of Construction.

The Parties acknowledge that all Parties have participated in the drafting and preparation of this Agreement and agree that any rule of construction to the effect that ambiguities are to be construed against the drafting party shall not be applied to the construction or interpretation of this Agreement.

42. Notices.

Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally, on the date receipt is acknowledged in writing by the recipient if delivered by regular U.S. mail, or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Notice may also be provided by facsimile, subject to confirmation of receipt. Any notice shall be effective on the day received if received before 5:00 p.m., or if received after 5:00 p.m., on the next Business Day following the date received. Time of receipt shall be determined according to the local time for the recipient. Any notice shall be delivered using one of the alternatives mentioned in this Section and shall be directed to the applicable address

indicated below or such address as the Party to be notified has designated by giving notice in compliance with this Section:

If to NEXTWAVE:

NextWave Telecom Inc.
601 13th Street, NW
Suite 320 North
Washington, DC 20005
Attn: Frank Cassou, General Counsel
Telephone: (202) 661-2080
Facsimile: (202) 347-2822

With a copy (which shall not constitute notice) to:

Donald B. Verrilli, Jr.
Jenner & Block
601 13th Street, NW
12th Floor
Washington, DC 20005
Telephone: (202) 639-6095
Facsimile: (202) 639-6066

If to the United States:

The United States Department of Justice
Office of the Assistant Attorney General, Civil Division
950 Pennsylvania Avenue, Room 3141
Washington, D.C. 20530
Telephone: (202) 514-3301
Facsimile: (202) 514-8071

With a copy (which shall not constitute notice) to:

The United States Department of Justice
Office of the Deputy Attorney General
950 Pennsylvania Avenue, Room 4141
Attn: Chief of Staff
Washington, D.C. 20530
Telephone: (202) 514-1904
Facsimile: (202) 514-0467

If to the FCC:

Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Attn: General Counsel
Telephone: (202) 418-1700
Facsimile: (202) 418-2822

With a copy (which shall not constitute notice) to:

Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Attn: Chief, Wireless Telecommunications Bureau
Telephone: (202) 418-0600
Facsimile: (202) 418-0787

If to the Participating Auction 35 Winning Bidders: See Schedule B.

43. Payment Instructions.

All Payments to be made by the Parties pursuant to this Agreement shall be made by wire transfer of immediately available funds. If any date on which a payment is otherwise due, or by which an obligation is otherwise to be performed, under this Agreement is not a Business Day, then the payment shall be due on, or the obligations shall be performed by, the next Business Day.

44. Further Assurances.

Each Party shall at any time, and from time to time, upon the written request of another Party, execute and deliver such further documents, and do such further acts and things as another Party may reasonably request, to achieve the purposes of this Agreement.

45. Entire Agreement.

This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and except as explicitly stated herein, all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter.

46. Rules of the Commission.

The Parties acknowledge that they shall remain subject to the Rules of the Commission except to the extent expressly modified by this Agreement and the Legislation.

47. Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

The United States of America

By: _____

Title: _____

Federal Communications Commission

By: _____

Title: _____

3DL Wireless, LLC

By: _____

Title: _____

3G PCS, LLC

By: _____

Title: _____

Alaska Native Wireless, L.L.C.

By: _____

Title: _____

Black Crow Wireless, L.P.

By: _____

Title: _____

Cellco Partnership, d/b/a/ Verizon Wireless

By: _____

Title: _____

Cook Inlet/VS GSM V PCS, LLC

By: _____

Title: _____

DCC PCS, Inc.

By: _____

Title: _____

Lafayette Communications Company L.L.C.

By: _____

Title: _____

Leap Wireless International, Inc.

By: _____

Title: _____

NORTHCOAST COMMUNICATIONS, L.L.C.

By: _____

Title: _____

SVC BidCo, L.P.

By: _____

Title: _____

Salmon PCS, LLC

By: _____

Title: _____

VoiceStream PCS BTA I License Corporation

By: _____

Title: _____

NextWave Personal Communications Inc.

By: _____

Title: _____

NextWave Telecom Inc.

By: _____

Title: _____

NextWave Partners Inc.

By: _____

Title: _____

NextWave Power Partners Inc.

By: _____

Title: _____

NextWave Wireless Inc.

By: _____

Title: _____

SCHEDULE A: WINNING BIDDERS

3DL Wireless, LLC

3G PCS, LLC

Alaska Native Wireless, L.L.C.

Black Crow Wireless, LP

Cellco Partnership, d/b/a Verizon Wireless

Cook Inlet/VS GSM V PCS, LLC

DCC PCS, Inc.

Lafayette Communications Company, LLC

Leap Wireless International, Inc.

Northcoast Communications, LLC

SVC Bidco, L.P.

Salmon PCS, LLC

VoiceStream PCS BTA I License Corporation

SCHEDULE B: NOTICE INFORMATION

This Schedule may be amended from time to time to include the notice information provided by Auction 35 Winning Bidders that become Parties pursuant to Section 27.

3DL Wireless, LLC

Mark Schultz
3DL Wireless, LLC
601 Union Street, Suite 4510
Seattle, WA 98101
Telephone: (206)805-4350
Facsimile: (206)839-0201

With a copy (which shall not constitute notice) to:

Cheryl A. Tritt
Morrison & Foerster, LLP
2000 Pennsylvania Ave., Suite 500
Washington, D.C. 20006
Telephone: (202)887-1510

3G PCS, LLC

3G PCS, LLC
Barry Lewis
2420 Sand Hill Road; Suite 101
Menlo Park, CA 94025
Telephone: (650) 324-6885
Facsimile: (650) 854-4512

With a copy (which shall not constitute notice) to:

Carl Northrop
Paul, Hastings, Janofsky & Walker, LLP
1299 Pennsylvania Avenue, NW
10th Floor
Washington, DC 20004
Telephone: (202)508-9570
Facsimile: (202)508-8570

Alaska Native Wireless, L.L.C.:

Alaska Native Wireless, L.L.C.
c/o ASRC Wireless Services, Inc.
301 Arctic Slope Avenue, Suite 300
Anchorage, AK 99518
Attention: Conrad N. Bagne
Telephone: 907-349-2369
Facsimile: 907-349-5476

With copies (which shall not constitute
notice) to:

Doyon Communications, Inc.
One Doyon Place, Suite 300
Fairbanks, AK 99701-2941
Attention: Miranda Wright
Telephone: 907-459-2000
Facsimile: 907-459-2075

Sealaska Telecommunications, LLC
c/o Sealaska Corporation
18000 International Blvd., Suite 1009
Seatac, WA 98188
Attention: Chris E. McNeil, Jr.
Telephone: (206)902-4411
Facsimile: (206)902-4004

Kirkland & Ellis
Citigroup Center
153 East 53rd Street
New York, NY 10022
Attn: Michael A. Brosse
Telephone: (212) 446-4682
Facsimile: (212) 446-6460

Black Crow Wireless, LP

Mark J. Kington
Black Crow Wireless, LP
600 Cameron Street
Alexandria, VA 22314
Telephone: (703) 519-7982
Facsimile: (703) 519-3904

With a copy (which shall not constitute notice):

Allison Cryor
Black Crow Wireless, LP
201 N. Union Street, Suite 300
Alexandria, VA 22314
Telephone: (703) 519-3036
Facsimile: (703) 519-3904

Cellco Partnership, d/b/a Verizon Wireless

Dennis F. Strigl
Chief Executive Officer
Verizon Wireless
180 Washington Valley Road
Bedminster, NJ 07921
Telephone: (908) 306-7666
Facsimile: (908) 306-4388

With copies (which shall not constitute notice) to:

S. Mark Tuller
Vice President and General Counsel
Verizon Wireless
180 Washington Valley Road
Bedminster, NJ 07921
Telephone: (908) 306-7390
Facsimile: (908) 306-7923

John Thorne
Senior Vice President and Deputy General Counsel
Verizon Communications Inc.
1515 North Courthouse Road
Suite 500
Arlington, VA 22201-2909
Telephone: (703) 351-3900
Facsimile: (703) 351-3670

William Lake
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037
Telephone: (202) 663-6000
Facsimile: (202) 663-6363

Cook Inlet/VS GSM V PCS, LLC

Cook Inlet Region, Inc.
Keith Sanders, Esq.
General Counsel
2525 C Street, Suite 500
Anchorage AK 99503
Telephone: (907) 274-8638
Facsimile: (907) 263-5182

With a copy (which shall not constitute notice) to:

Jonathan D. Blake
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401
Telephone: (202) 662-6110
Facsimile: (202) 662-6291

DCC PCS, Inc.

DCC PCS, Inc.
Everett R. Dobson
Chief Executive Officer
Dobson Communications Corporation
14201 Wireless Way
Oklahoma City, OK 73134
Telephone: (405)529-8500
Facsimile: (405)529-8765

With a copy (which shall not constitute notice) to:

Ronald L. Ripley, Esq.
Senior Corporate Counsel
Dobson Communications Corporation
14201 Wireless Way
Oklahoma City, OK 73134
Telephone: (405)529-8500
Facsimile: (405)529-8765

Lafayette Communications Company, LLC

John M. Duff
Lafayette Communications Company, LLC
Two Embarcadero Center
Suite 2300
San Francisco, CA 94111
Telephone: (415) 788-2755
Facsimile: (415) 788-7311

With a copy (which shall not constitute
notice) to:

Leonard J. Baxt
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, NW
Washington, DC 20036-6802
Telephone: (202)776-2000
Facsimile: (202)776-2222

Leap Wireless International, Inc.

Leap Wireless International Inc.
10307 Pacific Center Court
San Diego, CA 92121
Attention: James Hoffmann
Senior Vice President and General
Counsel
Telephone: (858) 882-6000
Facsimile: (858) 882-6080

Northcoast Communications, L.L.C.

John M. Dolan, President
NorthCoast Communications, L.L.C.
80 Baylis Road
Melville, New York 11747
Telephone: (631) 592-7700
Facsimile: (631) 592 -7777

With a copy (which shall not constitute notice) to:

Theresa Z. Cavanaugh
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Avenue, NW
Suite 200
Washington, DC 20006
Telephone: (202) 659-9750
Facsimile: (202) 452-0067

SVC Bidco, L.P.

SVC Bidco, L.P.
6511 Griffith Road
Laytonsville, MD 20882
Telephone: (301) 540-6222
Facsimile: (301) 540-7930
Attention: Shelley L. Spencer
General Partner
AirGate Wireless, L.L.C.

With a copy (which shall not constitute notice) to:

Janet Fitzpatrick Moran
Patton Boggs LLP
2550 M Street, N.W.
Washington, D.C. 20037
Telephone: (202) 457-5668
Facsimile: (202) 457-6315

Salmon PCS, LLC

George D. Crowley, Jr.
Chairman and Chief Executive Officer
Two Wisconsin Circle,
Suite 850
Chevy Chase, MD 20815
Telephone: (301) 913-0409
Facsimile: (301) 913 - 0414

With a copy (which shall not constitute
Notice) to:

Carl Northrop
Paul, Hastings, Janofsky & Walker LLP
1299 Pennsylvania Avenue, NW
10th Floor
Washington, DC 20004
Telephone: (202) 508-9570
Facsimile: (202) 508 - 8570

VoiceStream PCS BTA I License Corporation

VoiceStream Wireless Corporation
Cregg B. Baumbaugh
Executive Vice President
Finance, Strategy & Development
12920 SE 38th Street
Bellevue, WA 98006
Telephone: (425) 378-5007
Facsimile: (425) 378-6390

With a copy (which shall not constitute
notice) to:

VoiceStream Wireless Corporation
Brian T. O'Connor
Vice President
Legislative & Regulatory Affairs
401 9th Street, NW
Washington, DC 20004
Telephone: (202) 654-5910
Facsimile: (202) 654-5963

SCHEDULE C1

Pending Matters

1. Antigone/Devco's Application for Review (filed March 17, 1997)
2. Antigone/Devco's Application for Review (filed June 16, 1997)
3. NextWave's Opposition to Antigone/Devco's Application for Review (filed April 1, 1997)
4. NextWave's Petition for Temporary Waiver of the Foreign Ownership Limitations of Section 310(b) of the Communications Act of 1934 as Amended (filed April 10, 1997)
5. Antigone/Devco's Reply to NextWave's Opposition to Application for Review (filed April 11, 1997)
6. Antigone/Devco's Opposition to NextWave's Petition for Temporary Waiver of the Foreign Ownership Limitations Section 310(b) of the Communications Act of 1934 as Amended (filed April 23, 1997)
7. NextWave's Reply to Antigone/Devco's Opposition to Petition for Temporary Waiver of the Foreign Ownership Limitations Section 310(b) of the Communications Act of 1934 as Amended (filed April 30, 1997)
8. NextWave and Antigone/Devco's Settlement Request (filed June 1, 1998)
9. NextWave and Antigone/Devco's Settlement Request (filed April 29, 1999)
10. NextWave's Emergency Petition for Declaratory Ruling (filed June 6, 1997)
11. Antigone/Devco's Opposition to NextWave's Emergency Petition for Declaratory Ruling (filed June 19, 1997)
12. NextWave's Section 310(b) Compliance Demonstration and Petition for Declaratory Ruling (filed April 10, 1998)
13. Petitions of NextWave Personal Communications Inc. and NextWave Power Partners Inc. to Defer or, in the Alternative, to Condition Grant (filed Mar. 9, 2001)
14. Petitions of the Official Committee of Unsecured Creditors of NextWave Telecom Inc. and its Subsidiaries to Defer or, in the Alternative, to Condition Grant (filed Mar. 9, 2001)
15. Reply of NextWave Personal Communications Inc. and NextWave Power Partners Inc. to Oppositions to NextWave's Petition to Defer or, in the Alternative, to Condition Grant (filed Mar. 23, 2001)

16. Reply of the Official Committee of Unsecured Creditors of NextWave Telecom Inc. and its Subsidiaries to Oppositions to the Committee's Petition to Defer or, in the Alternative, to Condition Grant (filed Mar. 23, 2001)
17. Antigone/Devco's Request for Declaratory Ruling (filed September 26, 2001)

SCHEDULE C2

Commission Filings

1. Verizon's Supplemental Comments, Request for Permit-But-Disclose Ex Parte Procedures (filed April 24, 2001)
2. NextWave's Response to Verizon's Supplemental Comments and Requests (filed May 2, 2001)
3. Alaska Native Wireless/Verizon/VoiceStream's Petition to Initiate an Investigation and Audit Regarding the Eligibility of NextWave to Hold C and F Block Licenses (filed July 19, 2001)
4. NextWave's Response to Alaska Native Wireless/Verizon/VoiceStream's Petition to Initiate an Investigation and Audit Regarding the Eligibility of NextWave to Hold C and F Block Licenses (filed July 30, 2001)
5. Alaska Native Wireless/Verizon/VoiceStream's Reply to NextWave's Response to Petition to Initiate an Investigation and Audit Regarding the Eligibility of NextWave to Hold C and F Block Licenses (filed August 14, 2001)
6. Alaska Native Wireless/VoiceStream's Petition to Deny Reinstatement of Licenses (filed August 30, 2001)
7. NextWave's Motion for Extension of Time to File Response to Alaska Native Wireless/VoiceStream's Petition to Deny Reinstatement of Licenses (filed September 12, 2001)
8. NextWave's Response to Alaska Native Wireless/VoiceStream's Petition to Deny Reinstatement of Licenses (filed September 14, 2001)
9. Alaska Native Wireless/VoiceStream's Motion for Extension of Time to File Reply to NextWave's Response to Petition to Deny Reinstatement of Licenses (filed September 19, 2001)
10. Alaska Native Wireless/VoiceStream's Petition for Reconsideration (filed October 1, 2001)
11. Alaska Native Wireless/VoiceStream's Motion for Further Extension of Time to File Reply to NextWave's Response to Petition to Deny Reinstatement of Licenses (filed October 5, 2001)
12. Alaska Native Wireless/VoiceStream's Reply to NextWave's Response to Petition to Deny Reinstatement of Licenses (filed October 22, 2001)

EXHIBIT A: LEGISLATION

SEC. . SETTLEMENT OF LITIGATION AND PROMPT UTILIZATION OF WIRELESS SPECTRUM.

(a) Resolution of Litigation. –

(1) Approval of Settlement. – Congress hereby authorizes and approves the decision by the Federal Communications Commission and the United States Department of Justice to settle the case entitled *NextWave Personal Communications, Inc. and NextWave Power Partners, Inc.* (“petitioners”) v. *Federal Communications Commission and the United States of America* (“respondents”), D.C. Cir. Nos. 00-1402 and 00-1403, petitions for cert. filed, Nos. 01-653, et al. (Oct. 19, 2001), and their claims in the case entitled *In re NextWave Personal Communications, Inc.*, Bankr. S.D.N.Y. No. 98 B 21529, in accordance with the terms of the Settlement Agreement, dated November 15, 2001, that has been entered into by petitioners and respondents, among others.

(2) Authorization. – There are hereby authorized to be appropriated \$9.55 billion, to remain available until expended, to carry out the purposes of this subsection.

(3) Appropriation. – There is appropriated to the Federal Communications Commission, out of any money in the Treasury not otherwise appropriated, the sum of \$9.55 billion, to remain available until expended, to carry out the purposes of this subsection.

(4) Payment Obligation. – In accordance with the terms of the Agreement, subject to the conditions set forth therein (including the condition that the Final Bankruptcy Settlement Approval Date shall have occurred, on or before December 31, 2002), and in consideration for NextWave’s complete relinquishment of any and all claims related to the Designated Licenses or the Covered Spectrum, the Federal Communications Commission shall pay to or on behalf of NextWave the sum of \$9.55 billion no later than December 31, 2002. The Federal Communications Commission will make a \$6.498 billion payment directly to NextWave and will make a \$3.052 billion non-refundable advance tax payment on behalf of and for the benefit of NextWave for the Taxable Period. This advance payment of \$3.052 billion can be used by NextWave only toward satisfaction of its federal income tax liability for the Taxable Period and not on a subsequent claim for refund; and it cannot be carried forward or carried back to any other tax period and is not available for use or tax benefit in any year other than the Taxable Period. Notwithstanding any other provision of law, the United States is authorized and directed to retain all of NextWave’s advance payment, irrespective of the total federal income tax liability of NextWave.

(5) NextWave Relinquishment of Claims – In accordance with the terms of the Agreement, on or before the tenth (10th) Business Day after the Final Bankruptcy

Settlement Approval Date occurs, NextWave shall completely relinquish any and all claims related to the Designated Licenses and the Covered Spectrum.

(6) NextWave Tax Liability – NextWave shall pay to the Internal Revenue Service its full and complete tax liability with respect to the transaction that is the subject of the Agreement. Nothing in this section is to be construed as determining NextWave’s federal tax liability for the Taxable Period or any other tax year, and nothing in this section restricts the Internal Revenue Service’s rights to determine NextWave’s federal income tax liability for the Taxable Period or any other tax year. Payment of its full and complete tax liability shall not permit NextWave to avoid payment to the United States of any other amounts it is obligated to pay the United States pursuant to the terms of the Agreement or otherwise.

(7) Paygo Provision – Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the Joint Explanatory Statement of the Committee of Conference accompanying Conference Report No. 105-217, legislation in this section that would have been estimated as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were it included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Implementation of Auction 35. –

(1) Disposition of License Applications. – Notwithstanding any other provision of Federal, State, or local law, the Commission shall grant Auction 35 Licenses to each Participating Auction 35 Winning Bidder that the Commission determines is qualified to hold the licenses. Any such grant of licenses pursuant to this subsection shall be subsequent to the Final Bankruptcy Settlement Approval Date, and shall be governed by the terms of Auction 35 and the Rules of the Commission, except insofar as those terms and Rules of the Commission are modified by this section or by the terms of the Agreement.

(2) Withdrawal of Bids. – Any Auction 35 Winning Bidder whose total winning bids for Auction 35 Licenses did not exceed \$10 million may elect to withdraw all of its bids for such Auction 35 Licenses without penalty and shall be entitled to a refund of its monies on deposit with the FCC associated with such Auction 35 Licenses, provided that such a winning bidder that elects to withdraw its bids must file with the Commission no later than January 30, 2002, a notice of election to withdraw accompanied by a waiver and release, acceptable to the Commission, of all rights and claims relating to such Auction 35 Licenses, Auction 35, or the Agreement. Nothing in this section shall be construed to permit any Auction 35 Winning Bidder to withdraw some, but not all, of its bids for Auction 35 Licenses.

(3) Letters of Credit and Partial Return of Certain Amounts on Deposit. – A Participating Auction 35 Winning Bidder that provides letters of credit to the United States in accordance with the terms of the Agreement shall be entitled to a refund totaling

50 percent of its Auction 35 Deposits for winning bids for Auction 35 Licenses submitted by that Auction 35 Winning Bidder. The Commission shall pay such refund upon instructions from the payor of record, in accordance with and within the time prescribed in the Agreement. Nothing in this paragraph shall prevent the United States from recouping the value of the refunded deposits at a later time, to the extent authorized by the Agreement.

(4) Non-Participating Auction 35 Winning Bidders. – Except as provided in paragraph (2) of this subsection, any Auction 35 Winning Bidder that is not a Participating Auction 35 Winning Bidder shall remain subject to the full terms of Auction 35, including but not limited to all payment and default obligations.

(5) Payment by Participating Auction 35 Winning Bidders. – In accordance with the terms of the Agreement, subject to the conditions set forth therein (including the condition that the Final Bankruptcy Settlement Approval Date shall have occurred, on or before December 31, 2002), and subject to paragraph (6) of this subsection, any Participating Auction 35 Winning Bidder that the Commission determines is qualified to hold any license or licenses bid on in Auction 35 shall pay the Amount Due on Receipt for each Auction 35 License with respect to which the Commission has made such determination, as specified and by the time provided in the Agreement, and, in exchange, shall receive all such licenses.

(6) Early Payment. – Any Participating Auction 35 Winning Bidder may choose, in accordance with the terms of the Agreement, to make earlier payment for, and in exchange receive at the time of payment, all Auction 35 Licenses that the Commission is prepared to grant to it.

(7) Qualification Requirements. – In the event the Commission determines that any Auction 35 Winning Bidder is not qualified, under the Rules of the Commission or the Communications Act, to hold an Auction 35 License for which it submitted the winning bid, that Auction 35 Winning Bidder remains subject (i) to the Rules of the Commission that would apply in the absence of the Agreement, including without limitation any and all payment and default obligations and refund rights, and (ii) to the Agreement.

(8) Refunds for Participating Auction 35 Winning Bidders. - In accordance with the terms of the Agreement, a Participating Auction 35 Winning Bidder that has previously been granted Auction 35 Licenses shall be entitled to receive from the Commission, and the Commission shall pay from the budget accounts that received the payments from such bidder, a refund of amounts previously paid by such bidder for such Auction 35 Licenses as follows:

(A) any and all Amounts Due on Receipt previously paid by such Auction 35 Winning Bidder, if an order is entered by any court in a proceeding under subsection (c) that denies or has the legal effect of denying a participating Auction 35 Winning Bidder's right to use the spectrum covered by one or more Auction 35 Licenses that were previously granted to such participating Auction

35 Winning Bidder, subject to the provisions set forth in the Agreement with respect to repayment on restoration of rights; and, if applicable,

(B) any and all Amounts Due on Receipt and Auction 35 Deposits previously paid by, and not previously refunded to, such Auction 35 Winning Bidder for such licenses, under the following circumstances:

(i) if an order entered by any court in a proceeding under subsection (c) is in effect on or after December 31, 2002, that denies or has the legal effect of denying a Participating Auction 35 Winning Bidder's right to use the spectrum covered by one or more Auction 35 Licenses that were previously granted to such Participating Auction 35 Winning Bidder;

(ii) if a Final court order precludes or has the legal effect of precluding the Commission from paying all or part of the amounts set forth in subsection (a); or

(iii) if, on December 31, 2002, the Commission has not released an order with respect to one or more Auction 35 Licenses for which a Participating Auction 35 Winning Bidder submitted the winning bids determining either that the Commission is prepared to grant such Auction 35 License or that such Participating Auction 35 Winning Bidder is not qualified to hold such Auction 35 License.

Nothing in this section shall be construed to expand or limit any right to a refund set forth in the Agreement.

(c) Judicial Review. –

(1) Exclusive Review. – Subject to the limitations and preclusions in subsection (d), any proceeding for review within the scope of this subsection may be brought only in the United States Court of Appeals for the District of Columbia Circuit, which shall have sole and exclusive jurisdiction over any such proceeding.

(A) Any (i) appeal of an order disposing of the Motion for Approval of a Compromise of a Controversy filed by NextWave in accordance with the terms of the Agreement, or (ii) petition seeking judicial review of the procedures provided by this section for the resolution of issues presented by that Motion, shall be commenced by the filing of a "Notice of Expedited Appeal" or "Notice of Expedited Petition," as appropriate, which shall include a reference to the review provisions of this section, within 10 days after entry of the order disposing of the NextWave Motion for Approval referenced in this subparagraph. Nothing in this section shall affect the standard of review or substantive law applicable in any such proceeding. Except in a proceeding under this subparagraph, no court shall

have jurisdiction to consider any issue that could have been raised in a proceeding filed under this subparagraph.

(B) Any petition seeking judicial review of an order of the Commission approving the Agreement shall be commenced by the filing of a "Petition for Expedited Review," which shall include a reference to the review provisions of this section, within 10 days after the later of (i) the date on which public notice is given of the Commission order, or (ii) the effective date of this section.

(C) Any challenge to any aspect of the constitutionality of this section, except for a challenge that must be brought pursuant to subparagraph (A) of this paragraph, shall be commenced by the filing of a "Petition for Expedited Review," which shall include a reference to the review provisions of this section, within 10 days after the effective date of this section.

(2) Expedited Treatment. – The Court of Appeals shall advance on its docket any and all proceedings brought under paragraph (1) of this subsection and shall expedite them to the greatest extent possible, with a view to deciding the cases within 55 days after the filing of the last timely filed petition or notice of appeal if practicable. These expedited procedures shall apply to all such cases, including those that are before the Court following any remand to the Commission or to the lower court with jurisdiction over further proceedings related to the Motion for Approval of a Compromise of a Controversy filed by NextWave in accordance with the terms of the Agreement. Any petition for rehearing or rehearing en banc of an order by the Court of Appeals in a case under paragraph (1) of this subsection shall be filed within 10 days after the entry of judgment. The Court of Appeals shall expedite its consideration of any such petition to the greatest extent possible, with a view to resolving the petition within 20 days after such a petition is filed if practicable.

(3) Certiorari. – Any petition for a writ of certiorari seeking review by the Supreme Court of the United States of a judgment or order by the Court of Appeals under this subsection shall be filed within 10 days after the entry of judgment or order. Any opposition shall be filed within 10 days after filing of the petition. The Supreme Court shall advance any such petition on its docket and expedite its consideration of the petition to the greatest extent possible, with a view to acting on the petition within 30 days after it is filed if practicable. In the event the petition is granted, the Supreme Court shall expedite consideration to the greatest extent possible, with a view to issuing an order within 70 days of the grant of the writ of certiorari if practicable.

(4) Limits on Interlocutory Relief Affecting Licenses. – In adjudicating matters arising under subparagraph (1)(B) or (C) of this subsection, no court shall have jurisdiction to enter an order that would require an Auction 35 Winning Bidder to surrender or relinquish an Auction 35 License, or that would deny or have the legal effect of denying a licensee's right to use the spectrum covered by such a License, due to the invalidity of the Agreement, of a Commission order approving the Agreement, or of this section, at any time before there is a final judgment in that action that is no longer subject to further review.

(5) Exclusion of Bidder-Specific Litigation And Enforcement Proceedings. – The following proceedings shall be excluded from the scope of this subsection:

(A) Any proceeding seeking judicial review of any Commission decision or order specific to an Auction 35 Winning Bidder’s license application – including, but not limited to, a proceeding pursuant to subparagraph (A) or (B) of subsection (d)(1) concerning the bidder’s qualifications to hold a license; and

(B) Any proceeding to enforce the terms of the Agreement, including, but not limited to, a proceeding pursuant to subparagraph (C) of subsection (d)(1).

(6) Limitation on Jurisdiction. – Except in a proceeding filed under paragraph (1) of this subsection, no court shall have jurisdiction to consider any issue that could have been raised in an action filed under that paragraph.

(d) Limitation and Preclusion of Actions. –

(1) Neither the Agreement nor a Commission order approving the Agreement, granting a license, or taking any other action pursuant to this section or to the Agreement, shall be subject to administrative or judicial review, except that

(A) administrative and judicial review of a Commission decision disposing of any petition to deny applications of an Auction 35 Winning Bidder, which petition was timely filed on or before March 9, 2001 in accordance with the requirements of 47 C.F.R. section 1.2108(b) and “C and F Block Broadband PCS Auction: Applications Accepted For Filing,” Public Notice, DA 01-520 (released Feb. 27, 2001), is not precluded;

(B) administrative and judicial review of a Commission decision determining that an Auction 35 Winning Bidder is not qualified to hold a license, initiated by that Auction 35 Winning Bidder, is not precluded;

(C) any party to the Agreement may initiate a proceeding to enforce the terms of the Agreement;

(D) subject to subparagraph (c)(1)(A), this section does not affect jurisdiction to rule on a Motion for Approval of a Compromise of a Controversy filed by NextWave in accordance with the terms of the Agreement; and

(E) this section, the Agreement, and any Commission order approving the Agreement, shall be subject to review solely for constitutionality, which review shall be solely by the United States Court of Appeals for the District of Columbia Circuit, and solely as provided in subparagraphs (c)(1)(A), (B), and (C).

(2) No Court shall have jurisdiction to enjoin the United States or the Commission from exercising its rights to draw on the letters of credit that have been provided by a Participating Auction 35 Winning Bidder in accordance with the terms of the Agreement.

(3) Nothing in this subsection affects the Commission's jurisdiction or authority, consistent with the Communications Act, the Rules of the Commission, and the Agreement, to withdraw authorization to use spectrum or enforce license conditions applicable to the affected spectrum. Except as otherwise provided in this section or the Agreement, Auction 35 Winning Bidders remain subject to the Rules of the Commission and the Communications Act.

(e) Frivolous actions. – Any person who files an action in derogation of limitations or deadlines set forth in subsections (c) and (d), or who is found to have acted without substantial justification in filing such action, shall be subject to sanctions under section 1927 of title 28, and Rule 11 of the Federal Rules of Civil Procedure.

(f) Definitions. – As used in this section,

(1) "Agreement" means the Settlement Agreement dated November 15, 2001, entered into by NextWave and the Federal Communications Commission, the United States, and Participating Auction 35 Winning Bidders.

(2) "Amount Due on Receipt" means the amount equal to the balance due to the FCC, under the Rules of the Commission, as of the applicable payment date under the Agreement for an Auction 35 License. The Amount Due on Receipt for an Auction 35 License does not include the Auction 35 Deposit for such License.

(3) "Auction 35" means the FCC-conducted spectrum auction number 35 that commenced on December 12, 2000, for Personal Communications Services licenses to operate Covered Spectrum and other spectrum.

(4) "Auction 35 Deposit" means any monies on deposit with the FCC paid by a Participating Auction 35 Winning Bidder for an Auction 35 License. The Auction 35 Deposit for an Auction 35 License does not include the Amount Due on Receipt for such License.

(5) "Auction 35 Licenses" means those licenses to use Covered Spectrum for which Auction 35 Winning Bidders submitted winning bids in Auction 35.

(6) "Auction 35 Winning Bidder" means those entities that submitted winning bids in Auction 35 for Covered Spectrum.

(7) "Bankruptcy Settlement Approval Order" means an order authorizing and directing NextWave to enter into the transactions contemplated in the Agreement on the terms specified therein, to relinquish any and all claims to the Covered Spectrum and the Designated Licenses, and to return the Designated Licenses to the Commission in exchange for the payments provided in the Agreement.

(8) "Business Day" means any day, other than Saturday or Sunday, on which commercial banks in New York City and the Commission's offices are open for the general transaction of business.

(9) “Commission” means the Federal Communications Commission.

(10) “Communications Act” means the Communications Act of 1934, as amended.

(11) “Covered Spectrum” means spectrum that NextWave had been authorized to use under the Designated Licenses.

(12) “Days” means calendar days, including weekends and holidays.

(13) “Designated Licenses” means the C Block and F Block licenses for which NextWave was the winning bidder at auctions concluded in 1996 and 1997 by the Commission under section 309(j) of the Communications Act.

(14) “Final” means with respect to any order that such an order has not been reversed, modified or stayed and (x) the time to appeal such order has expired and no appeal or petition for review, rehearing or certiorari is pending, or (y) any appeal has been fully decided and no further appeal or petition for review, rehearing or certiorari can be timely taken or granted.

(15) “Final Bankruptcy Settlement Approval Date” means the date on which all of the following conditions have been satisfied: (i) the Bankruptcy Settlement Approval Order has become Final; (ii) any proceeding pursuant to subparagraph (1)(A) of subsection (c) has been resolved by an order that has become Final; and (iii) either Verizon Wireless has caused letters of credit to be issued in accordance with the terms of the Agreement, or, in the absence of the required letters of credit, the United States has not, within the time provided by the Agreement, exercised its right to terminate the Agreement.

(16) “NextWave” means NextWave Personal Communications Inc. and its affiliates, NextWave Telecom Inc., NextWave Partners Inc., NextWave Power Partners Inc., and NextWave Wireless Inc.

(17) “Participating Auction 35 Winning Bidder” means an Auction 35 Winning Bidder that is a party to the Agreement on January 10, 2002, provided that any Auction 35 Winning Bidder whose total winning bids for Auction 35 Licenses did not exceed \$10 million may become a party by executing the Agreement no later than January 30, 2002.

(18) “Rules of the Commission” means any and all rules, regulations, policies, procedures, public notices and orders of the Commission that are in effect at the time an action, event or matter in question occurs.

(19) “Taxable Period” means the tax period in which NextWave relinquishes any and all claims related to the Designated Licenses and the Covered Spectrum, as provided in paragraph (5) of subsection (a).

(g) Effective Date. – This section shall be effective on the date of enactment and the provisions contained in this section shall supersede any other Federal law, or State or local law, to the contrary.

(h) Severability. - If a provision of this Section is held invalid, all valid provisions that are severable from the invalid provision shall remain in effect.

EXHIBIT B - FORM OF LETTER OF CREDIT
[Illustrative Form of Letter of Credit --
Subject to Issuing Bank Requirements]

No. _____

_____, 2002

THE FEDERAL COMMUNICATIONS COMMISSION

[Address]

Ladies and Gentlemen:

We hereby establish, at the request and for the account of _____, in your favor, as required under the Settlement Agreement dated as of November 15, 2001 (the "Agreement") by and among NextWave Personal Communications Inc., et al., the United States, the Federal Communications Commission, and certain winning bidders in the FCC's spectrum auction number 35 including [name of bidder], our Irrevocable Letter of Credit No. _____, in the amount of \$ _____, expiring at the close of banking business at our office described in the following paragraph, on December 31, 2002, or such earlier date as the Letter of Credit is terminated (the "Expiration Date").

Funds under this Letter of Credit are available to you against your draft in the form attached hereto as Annex A, drawn on our office described below, and referring thereon to the number of this Letter of Credit, accompanied by your written and completed certificate signed by you substantially in the form of Annex B attached hereto. Such draft and certificate shall be dated the date of presentation, which shall be made at our office located at [BANK ADDRESS] and shall be effected either by personal delivery or delivery by a nationally recognized overnight delivery service. We hereby commit and agree to accept your draft and certificate at such office, and if they are all in strict conformity with the terms and conditions of this Letter of Credit, on or prior to the Expiration Date, we will honor the same not later than the third banking day after presentation thereof in accordance with your payment instructions. Payment under this Letter of Credit shall be made by wire transfer of Federal Reserve Bank of New York funds to your account at the United States Treasury, in accordance with the instructions set forth in a draft presented in connection with a draw under this Letter of Credit.

Partial drawings are permitted under this Letter of Credit.

This Letter of Credit shall be canceled and terminated upon receipt by us of Applicant's certificate purportedly signed by an authorized representative of [name of bidder], and countersigned by an authorized signatory of the FCC in the form attached as Annex C.

The amount of this Letter of Credit shall be reduced upon receipt by us of Applicant's certificate purportedly signed by an authorized representative of [name of bidder], and countersigned by an authorized signatory of the FCC in the form attached as Annex D.

This Letter of Credit is not transferable or assignable in whole or in part.

This Letter of Credit sets forth in full the undertaking of the Issuer, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except only the certificates and the drafts referred to herein and the ISP (as defined below); and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except for such certificates and such drafts and the ISP.

This Letter of Credit shall be governed by, and construed in accordance with, the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 (the "ISP"), which is incorporated into the text of this Letter of Credit by this reference, and, to the extent not inconsistent therewith, the laws of the State of New York, including the Uniform Commercial Code as in effect in the State of New York. Communications with respect to this Letter of Credit shall be addressed to us at our address set forth below, specifically referring to the number of this Letter of Credit.

[NAME OF BANK]

[BANK SIGNATURE]

ANNEX A
OF EXHIBIT B

Form of Draft

To: [Issuing Bank]

DRAWN ON LETTER OF CREDIT No: _____

AT SIGHT

PAY TO THE ORDER OF THE FEDERAL COMMUNICATIONS
COMMISSION BY WIRE TRANSFER OF FEDERAL RESERVE BANK OF
NEW YORK

FUNDS TO: U.S. TREASURY

ABA NUMBER 021030004

TREAS NYC/CTR

BNF: 27000001

OBI: Credit U.S. Treasury

Account (FCC Subaccount 27X4133)

AS AUCTION 35 PAYMENTS

[AMOUNT IN WORDS] DOLLARS AND NO/CENTS

#[AMOUNT IN NUMBERS]

FEDERAL COMMUNICATIONS COMMISSION

By: _____

ANNEX B
OF EXHIBIT B

Draw Certificate

The undersigned hereby certifies to [Name of Bank] (the "Bank"), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the "Letter of Credit") issued by the Bank in favor of the United States and (b) Section 11 of the Settlement Agreement, dated as of November __, 2001, by and among NextWave Personal Communications Inc., et al., the United States, the Federal Communications Commission ("FCC"), and certain winning bidders in the FCC's spectrum auction number 35, including [name of bidder] (the "LC Provider") (all capitalized terms used herein but not defined herein having the meaning stated in the Agreement), that:

i. The LC Provider did not make a payment to the FCC in the amount of \$_____ pursuant to the terms of Sections 16 and 17 of the Settlement Agreement on or before the Payment Date applicable to such payment;

ii. At least three (3) days have passed since the Payment Date for such payment; and

iii. The LC Provider has not paid to the FCC the amount specified in Clause (i) above.

iv. The amount to be drawn under this Letter of Credit as of the date hereof is \$_____, [which equals (a) the amount specified in the notice described in Clause (i) above multiplied by (b) an amount equal to (A) the initial amount of this Letter of Credit divided by (B) the total initial amount of all Letters of Credit provided by such LC Provider.] [NOTE: If the LC Provider fails to provide the notice required by Section 11(a)(v) of the Agreement, the above-bracketed language shall be deleted and replaced with the following: [which equals the amount specified in clause (i), less the aggregate amounts drawn under all other Letters of Credit provided by the LC Provider in connection with the defaulted payment described in clause (i)].]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of [specify time of day] on the ____ day of _____, 2002.

FEDERAL COMMUNICATIONS COMMISSION

By: _____

Name:

Title:

ANNEX C
OF EXHIBIT B

Certificate Regarding Termination of Letter of Credit

The undersigned hereby certifies to [Name of Bank] (the "Bank"), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the "Letter of Credit") issued by the Bank in favor of the United States, and (b) Section 11 of the Settlement Agreement, dated as of November __, 2001, by and among NextWave Personal Communications Inc., et al., the United States, the Federal Communications Commission ("FCC"), and certain winning bidders in the FCC's spectrum auction number 35, including [name of bidder] (the "LC Provider") (all capitalized terms used herein but not defined herein having the meaning stated or described in the Agreement), that:

(1) [include one of the following clauses, as applicable]

(a) The Settlement Agreement has terminated in accordance with the provisions thereof;

(b) The LC Provider has paid to the FCC all amounts it is required to pay under Section 17 of the Settlement Agreement;

(c) A court of competent jurisdiction has entered an order that is Final, which has the effect of preventing the FCC from granting to the LC Provider its Auction 35 Licenses; or

(d) The United States and the Commission have accepted Alternative Security Arrangements.

(2) By reason of the event or circumstance described in paragraph (1) of this certificate, and effective upon the receipt by the Bank of this certificate (countersigned as set forth below), the Letter of Credit is terminated.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the ____ day of _____, 2002.

[NAME OF BIDDER]

By: _____

Name:

Title:

COUNTERSIGNED:

Federal Communications Commission

By: _____

Name:

Its Authorized Signatory

ANNEX D
OF EXHIBIT B

Certificate Regarding Reduction of Letter of Credit Amount

The undersigned hereby certifies to [Name of Bank] (the "Bank"), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the "Letter of Credit") issued by the Bank in favor of the United States, and (b) Section 11 of the Settlement Agreement, dated as of November __, 2001, by and among NextWave Personal Communications Inc., et al., the United States, the Federal Communications Commission ("FCC"), and certain winning bidders in the FCC's spectrum auction number 35, including [name of bidder] (the "LC Provider") (all capitalized terms used herein but not defined herein having the meaning stated or described in the Agreement), that:

i. The LC Provider has paid to the FCC the sum of \$ _____, representing an amount equal to the Amounts Due on Receipt paid for Auction 35 Licenses that were paid for and granted to such LC Provider in respect of which there have been no prior reductions of the amount of the Letter of Credit;

ii. The amount of the Letter of Credit shall be reduced by \$ _____, which equals (a) the amount described in Clause (i) multiplied by (b) an amount equal to (A) the initial amount of the Letter of Credit divided by (B) the total initial amount of all Letters of Credit provided by such LC Provider; and

iii. After giving effect to the reduction, the amount of the Letter of Credit shall be \$ _____ [insert amount of the Letter of Credit prior to reduction minus the amount specified in Clause (ii)].

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the ____ day of _____, 2002.

[NAME OF BIDDER]

By: _____
Name:
Title:

COUNTERSIGNED:

Federal Communications Commission

By: _____
Name:
Its Authorized Signatory

EXHIBIT C

**TO BE SUBSTITUTED UPON EXECUTION BY NEXTWAVE AND THE INTERNAL
REVENUE SERVICE**