

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)
)
WESTEL SAMOA, INC.) WT Docket No. 97-199
WESTEL, L.P.)
)
For Broadband Block C Personal)
Communications Systems Facilities)

TO: Honorable Arthur I. Steinberg
Administrative Law Judge

JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT,
GRANT OF LICENSES AND TERMINATION OF PROCEEDING

Westel Samoa, Inc. ("WSI"), Westel, L.P. ("WLP"), Quentin L. Breen ("Mr. Breen"), Anthony T. Easton ("Mr. Easton"), ClearComm, L.P. ("ClearComm") (WSI, WLP, Mr. Breen, Mr. Easton and ClearComm collectively the "Private Parties"), and the Wireless Telecommunications Bureau ("Bureau") of the Federal Communications Commission ("Commission") (the Private Parties and the Bureau collectively the "Parties"), by their respective attorneys and pursuant to Section 24.829 of the Commission's Rules, hereby jointly request that the presiding Administrative Law Judge ("Presiding Judge") (i) approve a settlement agreement among the Parties and others; (ii) grant the applications which are the subjects of the instant proceeding ("Applications"); and (iii) terminate the instant proceeding in a manner consistent with the terms of the proffered settlement agreement.

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Background

The instant proceeding was initiated by hearing designation order of September 17, 1997 ("*HDO*").¹ The *HDO* was modified by Commission order of February 15, 1998.² The Presiding Judge afforded the Parties full opportunity to conduct, and the Parties did conduct, extensive discovery related to the designated issues. The hearing in this matter was convened on November 16, 1998. On that date, evidence regarding the qualifications of Mr. Breen, WSI and WLP was entered into the record, the record was closed, and the hearing was adjourned.³

The Parties and others have entered into a settlement agreement dated November 16, 1998 ("*Settlement Agreement*").⁴ The *Settlement Agreement*, together with several associated agreements, releases, and dismissals attached thereto or referenced therein (unless otherwise specified, all such agreements, releases and dismissals are included in the term "*Settlement Agreement*"),⁵ is

¹ *Westel Samoa, Inc.*, 12 FCC Rcd. 14057 (1997).

² *Westel Samoa, Inc.*, 13 FCC Rcd. 6342 (1997) (included in the term "*HDO*" unless otherwise specified).

³ *Order*, FCC 98M-125, released November 18, 1998.

⁴ Certain associated documents and agreements were executed subsequent to the *Settlement Agreement*.

⁵ A copy of the *Settlement Agreement* is set forth as Exhibit 1 hereto. Attachment "E" to the *Settlement Agreement*, an acknowledgement by Mr. Easton of the existence of evidence from which a reasonable trier of fact could make certain findings of fact and conclusions of law, while included with this filing, is being submitted under seal pending a decision by the Presiding Judge as to whether it will be afforded confidential treatment. Mr. Easton and the Bureau will submit separate pleadings with regard to that issue.

intended to dispose of the several matters in controversy among the Parties and certain other persons and entities associated with or related to them. The Settlement Agreement specifies that the consummation of or closing upon the terms of the Settlement Agreement is contingent upon the prior approval of the Presiding Judge.⁶

The Settlement Agreement

By the Settlement Agreement, the Parties seek to resolve, in addition to the instant proceeding, (i) a pending Commission proceeding relating to authorizations held by ClearComm; (ii) six proceedings before other tribunals; and (iii) all other claims and controversies among the Parties.⁷ In the Settlement Agreement, the Parties have agreed specifically, *inter alia*, that:

1. Romulus Telecommunications, Inc. ("Romulus") will make a voluntary contribution to the U.S. Treasury in the amount of \$100,000;⁸
2. Romulus will pay ClearComm the amount of \$1,500,0000, plus interest thereon;⁹

⁶ Settlement Agreement, Section 2.

⁷ *E.g.*, Attachment "A" to Settlement Agreement. The listed proceedings before other tribunals, although arising out of the some of the same facts as underlie the instant proceeding, are based in causes of action (*e.g.*, contract), and seek remedies (*e.g.*, monetary damages), not within the statutory jurisdiction of the Commission.

⁸ Settlement Agreement, Section 9.

⁹ Settlement Agreement, Section 10.

3. Mr. Breen, WSI and WLP possess the requisite qualifications to hold Commission authorizations;¹⁰
4. The grant of the Applications would serve the public interest, convenience and necessity;¹¹
5. SuperTel Communications Corp. ("SuperTel") will issue to The Breen Family Trust ("Breen Family Trust") 19,600 shares of voting common stock representing 19.6% of the equity of SuperTel;¹²
6. The Breen Family Trust will place 12,600 shares of SuperTel stock in a voting trust;¹³
7. SuperTel will provide its minority shareholders with certain rights;¹⁴
8. SuperTel Communications Corp. ("SuperTel") will issue to California Theological Charitable Trust, Inc. 15,900 shares of non-voting common stock representing 15.9% of the equity of SuperTel;¹⁵
9. Mr. Easton will refrain from applying for, or holding an attributable interest in, any Commission authorization for a period of eight years;¹⁶

¹⁰ Settlement Agreement, Sections 4, 7 and 8. The Bureau reached the referenced conclusions regarding the qualifications of Mr. Breen, WSI and WLP on the basis of information adduced through post-designation discovery.

¹¹ Settlement Agreement, Sections 7 and 8.

¹² Settlement Agreement, Section 5.

¹³ Settlement Agreement, Section 5. The parties to the Voting Trust Agreement intend that the Voting Trust Agreement will cause Richard Reiss to remain in control of ClearComm and its licenses. Settlement Agreement, Section 30.

¹⁴ Settlement Agreement, Section 6. The Private Parties believe that no transfer of control of ClearComm or its licenses will be occasioned by the minority shareholder rights, which are consistent with Commission precedent, most notably the guidelines recently promulgated in *Baker Creek Communications, L.P.*, DA 98-1921 (released September 29, 1998).

¹⁵ Settlement Agreement, Section 12.

¹⁶ Settlement Agreement, Section 14.

10. ClearComm's pending petition seeking to enlarge issues with respect to Mr. Easton is to be dismissed, with prejudice;¹⁷ and

11. The Private Parties and the other signatories to the Settlement Agreement will release each other from various claims and causes of action.¹⁸

The Parties respectfully submit that the Settlement Agreement complies with all applicable Commission requirements, will not cause any of the Parties to act in violation of the Communications Act or the Commission's Rules, and, if approved and implemented, will serve the public interest.¹⁹

Applicants' Qualifications to be Licensees

Because Mr. Breen is the controlling principal of the applicants, WSI and WLP, the qualifications of the applicants are dependent upon the qualifications of Mr. Breen.²⁰ The HDO, with regard to the inter-related qualifications of Mr. Breen, WSI and WLP, specified the following issues:²¹

¹⁷ Settlement Agreement, Section 2. The Parties respectfully suggest that ClearComm's petition will be mooted by the Settlement Agreement, particularly Section 14 thereof, and by any order of the Presiding Judge terminating this proceeding.

¹⁸ Settlement Agreement, Section 20.

¹⁹ The Parties anticipate and intend that the various payments of money and other consideration specified in the Settlement Agreement will be made in settlement of various commercial and other civil claims among the Private Parties, and will not constitute consideration for the withdrawal of any applications or petitions pending before the Commission.

²⁰ HDO, at 14057.

²¹ HDO, at 14076. The HDO also called for a determination as to whether an order of forfeiture should issue against Mr. Breen for any act or failure to act in willful violation of the Communications Act or the Commission's Rules. HDO, para. 54. That directive allowed the Presiding Judge to examine the truth

2. (A) To determine the facts and circumstances surrounding the conduct of Quentin L. Breen in connection with PCS 2000's bids placed on January 23, 1996, in the Commission's Broadband PCS C Block auction;

(B) To determine, based on the evidence adduced above, whether Quentin L. Breen engaged in misrepresentations before and/or exhibited a lack of candor towards the Commission.
3. To determine, based on the evidence adduced in Issue 2, whether Westel Samoa, Inc., and Westel, L.P., possess the requisite character qualifications to be granted the captioned C Block and F Block Broadband Personal Communications Services applications, and accordingly, whether grant of their applications would serve the public interest, convenience, and necessity.

The Commission's concerns regarding Mr. Breen's qualifications arise out of his possible complicity in a January 23, 1996, overbid in the Block PCS Broadband Auction, or in oral and written submissions made to the Commission on that date with regard to the overbid.²² The Commission also expressed concern regarding Mr. Breen's treatment of information that may have been conveyed to him at a January 26, 1996, meeting with Cynthia Hamilton ("Ms. Hamilton").²³

The questions regarding Mr. Breen's qualifications go to both misrepresentation and lack of candor. The Commission has distinguished those violations as follows:²⁴

and candor of the "[Mr. Breen's] May 28, 1997, Declaration and June 4, 1997, letter." *HDO*, at 14076. Copies of the letter and the Declaration are set forth at Westel Exh. A, 102-112.

²² *HDO*, at 14059-60.

²³ *HDO*, at 14067 and 14074.

²⁴ *Fox River Broadcasting, Inc.*, 93 FCC 2d 127, 129, 53 RR 2d 44, 46 (1983).

Misrepresentation and lack of candor can indeed be distinguished in their manifestations: the former involves false statements of fact, while the latter involves concealment, evasion, and other failures to be fully informative. But both misrepresentation and lack of candor represent deceit; they differ only in form.

Neither misrepresentation nor lack of candor is an inadvertent violation. The Commission has made clear that:²⁵

A critical element for a finding of disqualifying misrepresentation or lack of candor is an **intent to deceive** the Commission.

In light of Commission precedent, and in order to determine the qualifications of Mr. Breen, WSI and WLP, it is necessary to first examine Mr. Breen's involvement, or lack of involvement, in either or both of the overbid and the related submissions to the Commission.

It repeatedly has been demonstrated that Mr. Breen (i) was not present at the PCS 2000 bidding site on January 23, 1996, and (ii) did not make any representations to the Commission relating the bidding error on that date.²⁶ Although Mr. Breen was involved in the January 26, 1996, submission of PCS 2000 to the Commission regarding the January 23, 1996, overbid ("Waiver Request"), Mr. Breen repeatedly has made clear that he believed the Waiver Request presented a true and accurate picture of the

²⁵ *Fox River Broadcasting, Inc.*, 93 FCC 2d at 129 (emphasis added). The Review Board subsequently opined that "the *sine qua non* of willful misrepresentation or lack of candor is fraudulent or deceitful **intent**." *Lompoc Minority Broadcasters Partnership*, 1 CR 267, 269 (Rev. Bd. 1995) (emphasis added).

²⁶ Westel Exh. A, 1-4, 109 and 113.

situation; at least as he understood it at that time.²⁷ He also has explained why his meeting with Ms. Hamilton did not cause him to question the validity of the statements in the Waiver Request.²⁸

Mr. Breen's deposition testimony is consistent, in all material respects, with Westel Exhibit A.²⁹ Likewise, Ms. Hamilton, by both Declaration³⁰ and deposition testimony,³¹ supports Mr. Breen's recollection of their meeting in all material respects.³²

Upon examination, there is no indication in the record that, at any relevant time, Mr. Breen knew, or perceived any reason to believe, that the Commission had not been presented with a true and accurate picture of the facts surrounding the overbid and the related submissions. Since there is no indication that Mr. Breen knew any submission to the Commission contained a misrepresentation or lacked candor, he could not have possessed

²⁷ Westel Exh. A, 1-20.

²⁸ Westel Exh. A, 10-17 and 110-112.

²⁹ Joint Exh. 1, passim.

³⁰ Westel Exh. A, pages 113-114.

³¹ Joint Exh. 4 and 5, passim.

³² It also should be noted that Rosalyn Makris, who was with Ms. Hamilton when she met with Mr. Breen on January 26, 1996, submitted to an investigatory deposition by the Bureau. Joint Exh. 3. Nothing in Ms. Makris deposition testimony is inconsistent, in any material respect, with Mr. Breen's recollection of the meeting, and, in fact, Ms. Makris made it clear that Ms. Hamilton did not tell Mr. Breen that "falsified" documents had been sent to the Commission. Joint Exh. 3, p. 10, lines 10-17.

the intent to deceive which is "the *sine qua non* of willful misrepresentation or lack of candor."³³ In sum, the record demonstrates that Mr. Breen simply never had an understanding of the situation such as would have caused him to have either (i) been a knowing or intentional participant in any misrepresentation to the Commission, or (ii) to have lacked candor with regard to any material information.

The record demonstrates that Mr. Breen, and, therefore, WSI and WLP possess the requisite qualifications to be Commission licensees. Accordingly, the Applications which are the subjects of the instant proceeding should be granted.³⁴

Conditional Grant of Licenses

As reflected in the Settlement Agreement, the Parties' agree that grant of the Applications would serve the public interest, convenience and necessity. And, the record demonstrates that Mr. Breen, WSI and WLP, possess the requisite qualifications to be Commission licensees. The Parties recognize and agree, however, that grants of licenses awarded through a competitive bidding process are conditional. Accordingly, it is requested that the order granting the Applications include the following wording:

The licenses are granted subject to the conditions set forth in set forth in the Communications Act of 1934, as

³³ *Lompoc Minority Broadcasters*, at 269.

³⁴ A conclusion that Mr. Breen did not make or participate in any intentional misrepresentation to the Commission, and a resulting determination that Mr. Breen possesses the necessary qualifications to be a Commission licensee, also obviate any reason to assess a forfeiture against him.

amended (47 U.S.C. § 151, et seq.), and in the Commission's Rules (47 C.F.R. § 0.1, et seq.).

These licenses are subject to the condition that the licensee make full and timely payment of all monies due pursuant to sections 1.2110 and 24.711 of the Commission's rules, 47 C.F.R. §§ 1.2110 and 24.711, and, if applicable, the terms of the Commission's installment plan as set forth in the Note and Security Agreement executed by the licensee. Failure to comply with this condition will result in the automatic cancellation of the licenses.

Grant of the licenses is expressly conditioned upon the licensee filing with the Commission, within 10 business days of the effective date, as defined in 47 C.F.R. §1.302(b), of the order granting the licenses, a C block election notice in accordance with the *Second Report and Order and Notice of Proposed Rule Making, the Order on Reconsideration of the Second Report and Order, and the Implementation Procedures for the Order on Reconsideration of the Second Report and Order Concerning The Broadband Personal Communications Service (PCS) C and F Block Installment Payment Plans*.

In the event that the licensee is eligible for the Commission's installment payment plan and elects installment payments, the following are included among the conditions imposed on the grant of these licenses:

- These licenses are subject to the condition that the licensee execute and return to the Commission a Note, Security Agreement, and other related documentation commemorating its installment payment obligations, the Commission's security interest in the licenses, and other matters with ten (10) business days from licensee's receipt of those documents. Failure to execute and return the documents will result in the automatic cancellation of the licenses.
- These licenses are subject to the condition that the licensee pay, within ten (10) business days of the issuance of a public notice announcing the conditional grant of these licenses, the remaining five (5) percent down payment due on the C block license and the remaining ten (10) percent down payment due on the F block licenses. If the licensee fails to submit the required payments by the specified deadline, it will be considered in default and

subject to automatic license cancellation and additional default payments.

In the event that the licensee is ineligible for the Commission's installment payment plan or elects not to participate in such plan, the following is included among the conditions imposed on the grant of these licenses:

- These licenses are subject to the condition that the licensee make full payment of all monies due for the licenses within 10 business days of the issuance of a public notice announcing the conditional grant of the licenses. Failure to comply with this condition will result in the automatic cancellation of the licenses.

Conclusion

The Parties respectfully submit that (i) this submission and (ii) the record in this proceeding fully support a determination by the Presiding Judge that (a) approval of the Settlement Agreement will serve the public interest, convenience and necessity; (b) Mr. Breen, WSI and WLP possess the requisite qualifications to be Commission licensees; (c) a grant of the Applications will serve the public interest, convenience and necessity; and (iv) the public interest will be served by the termination of the instant proceeding in a manner consistent with this request and with the terms of the proffered Settlement Agreement.

The Parties, therefore, request that the Presiding Judge:

1. Approve the proffered Settlement of November 16, 1998, and permit the Parties to act in accordance with, and consummate, said Settlement Agreement;

2. Grant the Application of WSI, subject to the above-specified conditions applicable to grants of licenses awarded through competitive bidding;

3. Grant the Applications of WLP, subject to the above-specified conditions applicable to grants of licenses awarded through competitive bidding;

4. Dismiss, as moot, ClearComm's pending petition to enlarge issues against Mr. Easton;

5. Direct the Bureau to issue, after the effective date of the order terminating this proceeding, a public notice announcing the conditional grant of the licenses;

6. Terminate the instant proceeding pursuant to the provisions of Section 1.302(b) of the Commission's Rules, 47 C.F.R. § 1.302(b); and

7. Take such other actions as the Presiding Judge determines would (i) promote the prompt and efficient termination of this proceeding in a manner consistent with the terms of the proffered Settlement Agreement, (ii) serve the ends of justice, and (iii) otherwise serve the public interest, convenience and necessity.

Respectfully submitted,

WESTEL SAMOA, INC.
WESTEL L.P.
QUENTIN L. BREEN

By: 

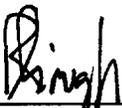
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December 18, 1998

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made, entered into and effective this 16th day of November, 1998 ("Effective Date"), by and among **Westel Samoa, Inc.**, a corporation organized and governed under the laws of the State of Oregon ("WSI"); **Westel, L.P.**, a limited partnership organized and governed under the laws of the State of Oregon ("WLP"); **Quentin L. Breen**, an individual resident of Chiloquin, Oregon ("Mr. Breen"); the **Breen Family Trust**, a trust organized under the laws of the Commonwealth of Puerto Rico ("Breen Family Trust"); **Romulus Telecommunications, Inc.**, a corporation organized and governed under the laws of the Commonwealth of Puerto Rico ("Romulus"); **Anthony T. Easton**, an individual resident of Hillsborough, California ("Mr. Easton"); the **SDE Trust**, a trust organized under the laws of the Commonwealth of Puerto Rico ("SDE Trust"); the **California Theological Charitable Trust**, a trust organized under the laws of the State of California ("CTC Trust"); the **California Theological Charitable Trust, Inc.**, a corporation organized under the laws of the State of Delaware ("CTCT"); **ClearComm, L.P.**, a limited partnership organized under the laws of the State of Delaware, and formerly known as PCS 2000, L.P. ("PCS 2000" or "ClearComm", as appropriate); **Unicom Corporation**, a corporation organized under the laws of the Commonwealth of Puerto Rico ("Unicom"); **SuperTel Communications Corp., Inc.**, a corporation organized under the laws of the Commonwealth of Puerto Rico ("SuperTel"); **San Mateo Group, Inc.**, a corporation organized under the laws of the State of Nevada ("SMG"); the **Parks Family Trust**, a trust organized under the laws of the Commonwealth of Puerto Rico ("Parks Trust"); the **Pearl Trust**, a trust organized under the laws of the Commonwealth of Puerto Rico ("Pearl Trust") (WSI, WLP, Mr. Breen, the Breen Family Trust, Romulus, Mr. Easton, the SDE Trust, the CTC Trust, CTCT, ClearComm,

Unicom, SuperTel, SMG, the Parks Trust, and the Pearl Trust, collectively the "Private Parties"); and the **Wireless Telecommunications Bureau** ("WTB") of the Federal Communications Commission, a federal agency headquartered at Washington, D.C. ("Commission" or "FCC") (the Private Parties and the WTB each a "Party" and collectively the "Parties"):

W I T N E S S E T H:

WHEREAS, during the Commission's Broadband PCS C Block Auction ("Auction"), Romulus was the contract auction bidding consultant for PCS 2000;

WHEREAS, on January 23, 1996, in Round 11 of the Auction, PCS 2000 submitted a bid to the Commission in the unintended amount of \$180,060,000 ("Bidding Error"), instead of the minimum allowable bid of \$18,006,000, for Basic Trading Area 324, Norfolk, VA;

WHEREAS, WSI and WLP were winning bidders for Commission authorizations in the Commission's Broadband PCS C Block and F Block auctions, respectively, and have applications seeking those authorizations pending before the Commission (each application an "Application" and more than one of such applications the "Applications");

WHEREAS, on September 9, 1997, the Commission released its *Memorandum Opinion and Order, Hearing Designation Order, Notice of Opportunity for Hearing, and Order to Show Cause*, 12 FCC Rcd 14057 ("First MO&O") in Docket No. WT 97-199 ("Proceeding"), which was modified, in part, by the *Memorandum Opinion and Order*, 13 FCC Rcd 6342 ("Second MO&O"), released by the Commission on March 10, 1998 (the First MO&O and the Second MO&O together the "HDO");

WHEREAS, the HDO specified Mr. Easton, WSI, WLP, Mr. Breen, and the WTB as parties

to the Proceeding, and the Administrative Law Judge designated to preside over the Proceeding ("Judge") granted ClearComm leave to intervene in the Proceeding (WSI, WLP, Mr. Breen, Mr. Easton, ClearComm and the WTB collectively the "FCC Litigants");

WHEREAS, the first issue designated by the HDO seeks to determine whether and to what extent Mr. Easton's qualifications to hold Commission authorizations or participate in future Commission auctions should be affected by Mr. Easton's actions in connection with the Bidding Error;

WHEREAS, the second and third issues designated by the HDO seek to determine whether and to what extent the qualifications of WSI and WLP to hold Commission authorizations and participate in future Commission auctions should be affected by Mr. Breen's actions in connection with the Bidding Error, and whether grant of the Applications would serve the public interest, convenience and necessity (all issues designated by the HDO hereinafter "Issues");

WHEREAS, ClearComm has filed a motion to enlarge the Issues in the Proceeding ("Motion");

WHEREAS, Mr. Easton has dismissed an action he originally brought in the Superior Court for San Mateo County (Case No. 399327) against Cynthia Hamilton, a witness in the Proceeding ("Hamilton Action");

WHEREAS, the Commission, in *PCS 2000, L.P.*, 12 FCC Rcd 1681 (1997), recognized that the Breen Family Trust holds a warrant for voting stock representing 19.6% of the equity of SuperTel, which is the sole general partner in ClearComm, and specified that a determination as to whether Mr. Breen possesses the requisite character qualifications to hold Commission

authorizations would be made in proceedings concerning the WSI and WLP Applications;

WHEREAS, the SDE Trust owned 38.6% of the stock of Unicom, ClearComm's former general partner;

WHEREAS, some of the parties to this Settlement Agreement also are parties to certain actions and proceedings arising out of, or related to the Bidding Error, which actions and proceedings are listed and defined in Attachment A hereto (the "Listed Actions");

WHEREAS, each FCC Litigant has been afforded the opportunity to prosecute the Issues through an evidentiary hearing in the Proceeding, including the opportunity to conduct discovery in preparation for such evidentiary proceeding;

WHEREAS, each FCC Litigant has conducted such discovery as it deemed necessary to prosecute or otherwise resolve the Issues in the public interest;

WHEREAS, the Parties desire to resolve the Proceeding and the Listed Actions on an amicable basis, and thereby avoid the time, effort and expense attendant with full evidentiary hearings;

WHEREAS, this Settlement Agreement cannot be effectuated without the approval of the Judge; and

WHEREAS, as consideration for this Settlement Agreement, the Private Parties and certain individuals shall provide as of the Closing Date (as defined below) that certain Release Agreement effective thereon (the "Release Agreement");

NOW, THEREFORE, subject to the approval of the Judge, the Parties agree as follows:

1. No Admission of Wrongdoing

Except as addressed herein, none of the Private Parties, either collectively or individually, admit, by entering into this Settlement Agreement, to having engaged in any wrongdoing, whatsoever, whether in connection with the matters which are the subject of the Proceeding, the Listed Actions or otherwise. Except as addressed herein, the Parties to this Settlement Agreement acknowledge and agree that their respective payments, undertakings, promises and agreements under this Settlement Agreement have been or will be made in compromise of disputed claims and are not, and cannot be construed as, or by any "Person" as defined in Section 19 below, to be an admission by any Party with regard to any "Claim", as defined in the following sentence. A "Claim" is any claim, liability, action, obligation, demand, suit, proceeding or cause of action, regardless of whether said claim, liability, action, obligation, demand, suit, proceeding or cause of action is known, unknown, foreseeable, unforeseeable, liquidated, unliquidated, legal, equitable, fixed, contingent, matured or unmatured.

2. Approval of the Judge

This Settlement Agreement is subject to approval by the Judge. Within five (5) business days after the Effective Date, the FCC Litigants shall file with the Judge a joint motion seeking an order approving this Settlement Agreement, dismissing with prejudice the Motion, dismissing the Proceeding in WT Docket No. 97-199, and ordering such other actions as may be necessary or useful to effectuate the objectives of this Settlement Agreement ("Order"). All Parties shall use their best efforts to secure the issuance and finality of the Order.

3. Closing Date and Closing; Termination

(a) On the Effective Date, the Private Parties hereto shall execute the papers attached as

Attachment B to dismiss with prejudice the Listed Actions, except the Bar Complaint, which will be withdrawn in accordance with Section 19. (Collectively, these papers shall be referred to as the "Dismissals.") The executed Dismissals shall become a part of this Settlement Agreement.

(b) The "Closing Date" shall be the fifth business day (as computed pursuant to 47 C.F.R. § 1.4) after the date on which the Order shall have become a "Final Order" (meaning that it is no longer subject to timely administrative or judicial reconsideration, review, appeal, or stay). The "Closing" of this Settlement Agreement, as approved by the Order, shall be accomplished, on the Closing Date, by the simultaneous (i) delivery to each of the Parties, or to counsel as appropriate under the terms of this Settlement Agreement, of all agreements, releases, Dismissals, praecipes, certificates (including stock certificates) and other documentation, in proper form and fully executed, as the respective Parties deem reasonably necessary or useful to effect the terms of this Settlement Agreement, and (ii) delivery, to each of the specified Parties, of any and all payments required by this Settlement Agreement. The Parties anticipate that the Closing will be conducted by (i) courier, mail delivery or facsimile, to the appropriate recipients, of all documentation, and (ii) wire transfer, to the appropriate recipients, of all payments. In the event the Parties cannot agree upon appropriate mechanisms by which to effectuate the Closing by courier, mail, facsimile or wire transfer, then the Closing shall be conducted, on the Closing Date, at the offices of Lukas, Nace, Gutierrez and Sachs, Chartered, 1111 19th Street, N.W., Suite 1200, Washington, D. C. 20036. Upon closing, the Parties will use their best efforts to immediately file the Dismissals with the appropriate forum, provided, however, that in no event shall there elapse more than three business days between the Closing and the filing of any of the Dismissals. The Parties hereto shall cooperate with regard to the taking of

any additional action necessary to effect the dismissal with prejudice of the Listed Actions.

(c) This Settlement Agreement may be terminated by any of the Parties hereto if, in the reasonable judgment of such Party and upon written advice of its counsel, the Closing cannot occur because: (i) any law or regulation makes consummation of the transactions contemplated hereby illegal or otherwise prohibited, (ii) consummation of the transactions contemplated hereby would violate any nonappealable final order, decree or judgment of any court or governmental entity having competent jurisdiction over the Parties with respect to the transactions contemplated hereby, or (iii) the Closing does not otherwise occur by March 31, 1999, and the Party or Parties seeking to terminate this Settlement Agreement is (or are) not responsible for delaying the Closing Date beyond March 31, 1999. It is further understood that the Parties shall use their best efforts to reverse any order, decree or judgment which would prevent the consummation of the transactions contemplated hereby. The Party desiring to terminate this Settlement Agreement pursuant to this Section 3(c) shall give 10 days prior written notice of its intent to terminate the Settlement Agreement to the other Parties.

(d) If this Settlement Agreement is terminated as permitted by Section 3(c), such termination shall be without liability of any Party to the other Parties; and the Settlement Agreement and any Order or approval of the Judge shall become null and void in all respects and may not be used by any Party in the Proceeding, in any of the Listed Actions, or in any other action or proceeding, nor may any Party claim to the prejudice of another Party delay in resolving such proceeding caused by the Parties' attempt to resolve such proceeding by entering into this Settlement Agreement. If this Settlement Agreement is terminated, then the Dismissals shall be null and void and all copies thereof

shall be returned to the executing Party or Parties.

(e) This Settlement Agreement shall be subject to termination at the instance of any Party should the Judge reject or require modifications of any material provision of this Settlement Agreement.

4. Mr. Breen's Qualifications

Mr. Breen possesses the requisite character qualifications to hold Commission authorizations (including any licenses, construction permits, or other entitlement of any kind whatsoever, over which the Commission has jurisdiction ("Authorization")), and participate in future Commission auctions.

5. Breen Family Trust Warrant

SuperTel will issue to the Breen Family Trust 19,600 shares of voting Common Stock pursuant to the terms of the Warrant Agreement, dated as of June 28, 1996, between SuperTel and the Bank and Trust of Puerto Rico, as trustee of the Breen Family Trust (the "Breen Warrant"). The Breen Family Trust will deposit 12,600 shares of such stock into the Voting Trust, organized pursuant to the Voting Trust Agreement dated as of the Effective Date ("Voting Trust Agreement"), between certain existing shareholders of SuperTel and Richard Reiss, as Trustee (the "Voting Trust"), as a result of which Richard Reiss will continue to hold a majority of the voting rights in SuperTel, subject to the rights described in Section 6 hereof, the Voting Trust Agreement and the Subscription Agreement, as defined below.

6. Minority Shareholder Rights.

(a) Each shareholder who beneficially owns at least 15% of the voting securities of

SuperTel ("Minority Shareholder") shall have the right to designate a representative who, upon reasonable notice, may inspect the books and records of SuperTel and, upon reasonable notice, visit any of SuperTel's offices and places of business, during normal business hours.

(b) SuperTel will cause its by-laws to be amended to provide that each Minority Shareholder shall be given notice of each SuperTel Board of Directors meeting and shall have the right to designate a representative to attend each such meeting, whether in person or by conference telephone connection, on a non-voting basis. A Minority Shareholder shall remain a Minority Shareholder if it owns less than 15% of the voting securities of SuperTel as a result of the issuance by SuperTel of additional shares of voting securities (any such issuance, a "Dilution"). A Minority Shareholder shall lose its status as a Minority Shareholder if such person sells, transfers or otherwise disposes of its shares and thereby owns less than 15% of the voting securities of SuperTel. For purposes of the preceding sentence, the percentage ownership of a Minority Shareholder shall be calculated without giving effect to any Dilutions. Once adopted, this by-law provision may not be amended without the written consent of each Minority Shareholder.

(c) From the Effective Date, no additional shares of stock of SuperTel shall be issued except with the written consent of at least 60% of the voting securities of SuperTel, with the Trustee under the Voting Trust being unable to vote any shares held in the Voting Trust and with the Persons who deposited such shares into the Voting Trust being entitled to vote their shares without regard to the Voting Trust ("Super Majority Consent"). The Super Majority Consent shall not be required for any stock split or similar recapitalization or reorganization of SuperTel where all of the then existing SuperTel shareholders are treated on a *pari passu* basis ("Stock Split").

(d) Until the termination of the Voting Trust and the return of the shares to their respective beneficial owners, none of the "Reiss Shares" (as defined below) shall be distributed, transferred or otherwise disposed of to any signatory to the Voting Trust without the written consent of beneficial owners of more than 50% of the voting shares of SuperTel entitled to vote on this matter, but with the Reiss Shares abstaining. The Reiss Shares shall mean initially the 38,600 shares Richard Reiss acquired under the terms of the Reiss Subscription Agreement, dated as of June 18, 1996, between SuperTel, PCS 2000 and Richard Reiss ("Subscription Agreement") but shall not include any such shares which are transferred pursuant to this Section 6(d). The Subscription Agreement remains in full force and effect regardless of any provision of this Agreement.

(e) SuperTel shall not enter into any contract, whether written or oral, providing for the employment of any person or the engagement of any person as a consultant for an amount in excess of \$100,000 per year, except that two such contracts may provide for payment up to \$150,000 per year, without first obtaining a Super Majority Consent; provided however that Section 6(e) shall not apply to officers and employees of SuperTel as of September 1, 1998, at their current compensation levels, who are listed on Attachment C, and provided further that the requirement for a Super Majority Consent referred to in this Section 6(e) shall terminate upon the occurrence of a "Financing Event" (as defined below). Section 6(e) shall not restrict (i) ClearComm from entering into or continuing to perform under, without limitation, any contracts or agreements, or (ii) SuperTel in its capacity as general partner of ClearComm, authorizing ClearComm to enter into or continuing to perform under, without limitation, any contracts or agreements; provided that any such contract or agreement shall not relate to the issuance of SuperTel stock except in accordance with this

Settlement Agreement, the Voting Trust Agreement and the Subscription Agreement.

(f) The initial term of the Voting Trust shall be 30 months from the Closing Date. Upon the occurrence of a Financing Event, and if such extension is a condition of the Financing Event, the term of the Voting Trust shall be extended to seven years from the Closing Date. Upon the occurrence of a "Going Public Event" (as defined below), the Voting Trust shall terminate. A "Financing Event" shall be the consummation of any investment, loan, securities offering (other than a Going Public Event), joint venture or similar financing transaction, pursuant to which either (i) at least \$10 million in gross cash proceeds have been raised by ClearComm, SuperTel or any of their wholly owned affiliates from unaffiliated third parties, or (ii) at least \$10 million in gross cash proceeds has been contributed by unaffiliated third parties to a joint venture in which ClearComm has an interest, in both cases as part of an overall financing plan for the purpose of building out the PCS system in Puerto Rico pursuant to the licenses owned by ClearComm. A "Going Public Event" shall be any public offering of equity securities by ClearComm which results in the listing of any class of ClearComm's equity securities on a national securities exchange (including the NASDAQ), the merger of ClearComm with and into a company or subsidiary of a company whose equity securities are publicly traded, or any similar transaction where the limited partners of ClearComm receive securities of a publicly traded company.

(g) SuperTel represents and covenants that Attachment D contains an accurate list reflecting each holder of outstanding and issued shares of Common Stock of SuperTel (i) as of the Effective Date, and (ii) at Closing after giving effect to the issuances contemplated by this Settlement Agreement, and that, other than the Breen Warrant, CTCT's right to receive nonvoting

shares under this Settlement Agreement and the right of ClearComm to purchase the Reiss Shares, there are no options, warrants or similar rights to purchase or otherwise acquire equity or voting securities of SuperTel.

(h) In the event that Richard Reiss for any reason is unable or unwilling to continue to serve as trustee of the Voting Trust, Mr. Reiss's successor as trustee shall be determined as provided in the Voting Trust Agreement.

7. WSI's Qualifications

WSI possesses the requisite character qualifications to be granted the Broadband PCS C Block authorization sought by its Application, and accordingly, the grant of that Application would serve the public interest, convenience and necessity.

8. WLP's Qualifications

WLP possesses the requisite character qualifications to be granted the Broadband PCS F Block authorizations sought by its Applications, and accordingly, the grant of those Applications would serve the public interest, convenience and necessity.

9. Voluntary Contribution to U.S. Treasury

At Closing, Romulus shall make a voluntary contribution to the U.S. Treasury in the amount of One Hundred Thousand Dollars (\$100,000). In the event it becomes necessary for the Commission to initiate an action to enforce this Section, Romulus agrees, for purposes of such action, to (i) submit to the jurisdiction of any appropriate federal court headquartered in Washington, D.C., (ii) allow process to be served upon it by delivery of such process to its Registered Agent by certified or registered U. S. Mail, and (iii) waive any defense that the payment is unlawful.

10. Romulus Payment to ClearComm

At Closing, Romulus and all other appropriate Private Parties shall cause to be paid to ClearComm, from the trust account maintained in Romulus' name at Banco Popular, San Juan, Puerto Rico ("Trust Account"), the amount of One Million Five Hundred Thousand Dollars (\$1,500,000), plus a pro rata share of the interest accrued on the Trust Account from the Effective Date to the date that the funds are paid to ClearComm. ClearComm's right to receive such payment out of the monies in the Trust Account shall be subordinate to Romulus' obligation to make the payment to the U.S. Treasury required by Section 9 of this Settlement Agreement.

11. Trust Account Balance to Romulus

At Closing, after the payments required by Sections 9 and 10 above have been delivered out of the Trust Account, all appropriate Private Parties shall cause all monies then remaining in the Trust Account shall be paid to Romulus. Romulus shall pay to its preferred shareholders, the Pearl Trust and the Parks Trust, dividends on their preferred shares in the amount of \$1,979,864.13, subject to appropriate tax withholding.

12. Issuance of Shares to CTCT

(a) In exchange for all of the interests the SDE Trust, the CTC Trust and CTCT hold in Unicom, SuperTel shall issue to CTCT at Closing, common stock representing a 15,900 shares of non-voting Class A-1 common stock, representing 15.9 percent equity interest in SuperTel. The stock will be non-voting, but will be equal in all other respects to the existing common stock of SuperTel; provided, however, that, the holder of such stock shall not have the right as a Minority Shareholder, as defined herein. Mr. Easton and CTCT represent, warrant and covenant that Mr.

Easton and Susan D. Easton (the "Eastons") individually or collectively do not and shall not have a beneficial interest, or a voting interest, or any other interest, now or at any future time, in CTCT, or ClearComm, SuperTel, or their successors, assigns, or affiliates, and shall not acquire any such interest.

(b) Mr. Easton and CTCT have provided the WTB with documentation that CTCT is a *bona fide* non-profit, charitable corporation and that the Eastons do not and shall not have a direct or indirect interest in it or control over it, and the WTB is satisfied with such documentation. CTCT warrants that it will file by the Closing Date a request with the Internal Revenue Service for a determination that CTCT qualifies under Section 501 of the Internal Revenue Code as a tax exempt corporation and will diligently prosecute such request.

(c) ClearCom certifies that its books and records show that the Eastons do not have any direct interest, in their names, in ClearComm or SuperTel, and that ClearComm and SuperTel will not permit the Eastons to acquire any such direct interest in their names in the future. Additionally, ClearComm represents and warrants that, to its knowledge, the Eastons do not have any interest in ClearComm, SuperTel, or their assigns or affiliates and that, to the best of their ability, ClearComm, SuperTel and their respective assigns and affiliates will not knowingly permit the Eastons to acquire any such interest in the future.

13. Incorporation by Reference

(a) In addition to the provisions set forth in the body of this Settlement Agreement, the Parties hereby incorporate herein, by reference, the terms set forth in Attachment E hereto. The WTB and Mr. Easton are unable to agree whether Attachment E is to be held under seal.

Consequently, Mr. Easton and WTB agree to present their arguments to the Judge and to abide by his ruling as to that issue. The Parties agree, however, that placing Attachment E under seal shall not prohibit the Commission from utilizing it in the event that Mr. Easton breaches this Settlement Agreement, or in any future proceeding involving other allegations that he engaged in FCC-related or other misconduct. The WTB further agrees that after the forbearance period set out in Section 14(b) expires, any applications by Mr. Easton for a Commission authorization will be handled under the Commission's routine regulatory scheme in accordance with the applicable statutes, rules, precedents and policies.

(b) ClearComm, Mr. Breen, WSI and WLP will not oppose or object to Mr. Easton's request that Attachment E be held under seal. As a consequence, Mr. Easton agrees that ClearComm, SuperTel, or their successors or assigns shall have the right to refer to and make use of this Settlement Agreement, including Attachment E, where relevant in the defense of any action brought by any third party arising from or relating to the Bidding Error, or where relevant in prosecution or defense of any action or proceeding arising under this Settlement Agreement, or brought by the Eastons, CTC Trust, CTCT or the SDE Trust.

(c) For the purposes of this Settlement Agreement, "substantial evidence" means "substantial evidence" as that term is defined by the courts under 5 U.S.C. § 706(2)(E).

14. Forbearance by Mr. Easton

(a) Mr. Easton shall refrain from applying for, or holding, either directly or indirectly, any interest (other than a non-attributable financial interest of less than 3% in a publicly traded company or entity) in any Commission authorization, regardless of the radio service involved, for a period of

8 years from the release date of the Order. This provision specifically prohibits Mr. Easton from being an officer, director, principal or authorized party of any Commission applicant or licensee, or any affiliate thereof, for the prescribed period.

(b) Mr. Easton represents and covenants to the Commission that he will not acquire any interest, beneficial or otherwise, direct or indirect, in ClearComm or SuperTel and will not seek to serve on SuperTel's Board of Directors or as an officer or in any other capacity in SuperTel or ClearComm.

15. Dismissal of Hamilton Action

Mr. Easton has dismissed the Hamilton Action, and has paid to Ms. Hamilton all amounts awarded in that matter. Additionally, Mr. Easton will refrain from filing against Ms. Hamilton any further litigation which is based upon the facts in the Proceeding.

16. Indemnification Obligations

ClearComm will continue to respect its indemnification and hold harmless obligations in accordance with its Limited Partnership Agreement and the Services Agreement between PCS 2000 and Romulus, and ClearComm and SuperTel, respectively, will continue to respect any such obligations PCS 2000 or Unicom may have had immediately prior to the replacement of Unicom by SuperTel as the general partner in PCS 2000; provided, however, that neither ClearComm nor SuperTel shall have any indemnification and hold harmless obligations to Mr. Easton, Ms. Easton, the SDE Trust, the CTC Trust, the CTCT or Romulus, or their respective successors, officers, directors, trustees, employees or agents with respect to the Bidding Error or Mr. Easton's conduct arising from or relating thereto; and provided further, that the foregoing proviso shall be without effect as to ClearComm's and SuperTel's indemnification and hold harmless obligations regarding Mr. Breen.

17. Applicability of Equal Access to Justice Act

Each of the Parties agrees to assume that Party's own costs, including attorneys' fees, incurred in connection with the Bidding Error and the Proceeding. Each of the Private Parties waives any right to seek awards of costs or fees related to the Bidding Error or the Proceeding from the United States, the Commission, the WTB or its Chief. See 5 U.S.C. §504 and 28 U.S.C. §2412 (Equal Access to Justice Act).

18. Execution of All Necessary Documents

All of the Parties agree that they shall, and shall use their best efforts to cause all other necessary Persons (as defined below) to, execute all documents, instruments, consents or other

material, and make all necessary filings with appropriate courts, agencies, panels or Persons necessary to effectuate the terms of this Settlement Agreement, and to effectuate mutual and general releases to dismiss with prejudice the Listed Actions. "Person" shall mean any individual, corporation, estate, partnership, unincorporated association, trust, governmental unit, or any other entities or organization recognized in law or in fact to have rights or obligations.

19. Withdrawal of the Bar Complaint

On the Effective Date, the Eastons and the SDE Trust shall withdraw the Bar Complaint by causing the letter attached as Attachment F to be filed with the Supreme Court of Puerto Rico.

20. Releases

(a) Each Private Party ("Releasing Private Party"), on behalf of itself and its respective "Affiliates," as defined below, hereby releases, acquits and forever discharges each other Private Party and its Affiliates, from any and all Claims that the Releasing Private Party has had, now has or might in the future have, that are based in substance on any act or failure to act that occurred at any time from the beginning of the World to and including the Effective Date; provided, however, that nothing in this Section 20 shall release, acquit or discharge any Private Party or its Affiliates from any obligation under this Settlement Agreement, the Release Agreement, or any agreement listed on Attachment G, hereto, provided further, that nothing in this Section 20 shall release, acquit or discharge the obligations of (i) SuperTel and its current and future officers and directors to ClearComm or (ii) the current and future officers and directors of SuperTel to SuperTel. The term, "Affiliates" shall refer to, as applicable and in their respective capacities only, a Private Party's past, present and future predecessors, successors, assigns, partners, joint venturers, corporate affiliates,

owners, employees, officers, directors, heirs, representatives, agents, accountants, attorneys, trustees and executors.

(b) Each Private Party on behalf of itself and (as applicable and in their respective capacities only) its predecessors, successors, assigns, affiliates, owners, employees, officers, directors, shareholders, heirs, representatives, agents, accountants, attorneys, trustees and executors, hereby expressly and knowingly waives to the fullest extent permitted by law, any rights each of them may have under any allegedly applicable law, including specifically Section 1542 of the California Civil Code, that provides in substance that a release or covenant not to sue, or similar provision, does not extend to claims of which a Person is not aware or does not suspect or to claims based on facts in addition to or different from those facts which the Person believes to be true at the time of the giving of the release, covenant not to sue, or similar commitment. Each Private Party makes this waiver even if such unknown claims or facts would have materially affected its decision to enter into this Settlement Agreement. Each Private Party has been advised by counsel as to the nature and effect of the waiver stated in this Section 20(b) and specifically elects to waive such Private Party's rights, including without limitation any and all such rights that might otherwise exist under the provisions of Section 1542 of the California Civil Code.

21. Representations and Warranties

In addition to representations and warranties contained elsewhere in this Settlement Agreement, each of the Parties hereby represents and warrants as follows:

(a) Effect of Settlement Agreement, etc. This Settlement Agreement has been duly executed and delivered by each of the Parties, with and upon advice of counsel, and each agreement,

document or instrument to which each is a party and which is required to be delivered hereby has been, or will be, duly executed and delivered by such Party. This Settlement Agreement and each such agreement, document or instrument constitutes or will, upon execution and delivery, constitute a legal, valid and binding obligation of each Party, enforceable in accordance with its terms.

(b) No Assignment. Each Private Party has all right, title and interest in the Claims being released by such Private Party, to the extent such Claim(s) exists, from and clear of any and all liens. Each Private Party has not assigned to any third party any Claim that such Private Party had, currently has or may have in the future against any other Private Party, except as may be stated herein.

(c) Authority. Each Party has the full and complete right, power and authority to enter into, and perform this Settlement Agreement and to act on behalf of any and all Persons for whom such Party is purporting to act hereunder. Any Person executing this Settlement Agreement on behalf of the Party, if different from the Party, has full authority to do so.

22. Certain Costs

In the event of arbitration among two or more Private Parties as provided in Section 29, in addition to other relief ordered or awarded, the prevailing Private Party or Private Parties to such arbitration shall be entitled to costs and expenses (including reasonable attorneys' fees) incurred in prosecuting or defending such arbitration; provided, however, that this Section 22 shall be without effect to the extent that the issues in arbitration ultimately are determined other than by arbitration.

23. Waivers and Amendments

The failure of any Party to seek redress for violation of, or to insist upon strict performance of, any provision of this Settlement Agreement shall not be deemed a waiver of that provision or estop that Party from fully asserting any or all of its rights under this Settlement Agreement. No amendment or waiver of any provision of this Settlement Agreement shall be effective unless the same shall be in writing and signed by all of the Parties affected thereby, and such written and signed amendment or waiver shall be effective only in the specific instance and for the specific purpose set forth in the text of the amendment or waiver.

24. Entire Agreement

This Settlement Agreement sets forth the entire agreement and understanding between or among the Parties with respect to the subject matter hereof and supersedes any prior negotiations, agreements, understanding or arrangements between or among the Parties with respect to the subject matter hereof except as expressly contemplated by this Settlement Agreement.

25. Binding Effect, Benefits

This Settlement Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors, assigns, heirs or executors. Except as provided for in Section 20, nothing in this Settlement Agreement, expressed or implied, is intended to confer on any Person other than the Parties, or their respective successors, heirs and assigns, any rights, remedies, obligations or liabilities under or by reason of this Settlement Agreement.

26. Non-Assignability

This Settlement Agreement and any rights pursuant hereto shall not be assignable by any

Party hereto without the prior written consent of the other Parties affected thereby; provided, however, that any Party can assign its rights hereunder in connection with a sale of all or substantially all of its assets, provided that the assignee assumes the Party's obligations hereunder.

27. Notice

Any notice required or desired under this Settlement Agreement shall be in writing, sent in a manner to be delivered in no more than two business days, and addressed as follows or as each Party may subsequently direct in writing:

ClearComm, L.P./SuperTel Communications Corp.
Suite 1407
112 Ponce de Leon Avenue
Hato Rey, Puerto Rico 00917
Tel. (787) 756-0840
Fax. (787) 756-0844
Attention: President

Quentin L. Breen
36941 South Chiloquin Road
Chiloquin, Oregon 97624
Tel. (541) 783-2058
Fax. (541) 783-2013

Anthony Easton
785 Bowhill Drive
Hillsborough, CA 94010
Tel. (650) 375-0785
Fax. (650) 347-8255

Romulus Telecommunications, Inc.
copy Quentin Breen at:
36941 South Chiloquin Road
Chiloquin, Oregon 97624

and copy to Anthony Easton at:
785 Bowhill Drive
Hillsborough, CA 94010

California Theological Charitable Trust/California
Theological Charitable Trust, Inc.
541 Middlefield Road
Redwood City, California 94063
Tel. (650) 368-6163
Fax. (650) 368-6153
Attention: Dr. John Elliott

SDE Trust
1121 Starbird Circle, #4
San Jose, California 95117
Tel. (408) 985-9189
Attention: Dr. M. Eloise Rosenblatt

San Mateo Group
3 Waters Park Drive, Suite 233
San Mateo, California 94403
Tel. (650) 638-1200

28. No Construction Against Any Party

This Settlement Agreement is a product of arms-length negotiation. The Parties have read this Settlement Agreement completely, and have had the advice and assistance of legal counsel. In the event an ambiguity exists or is deemed to exist in any provision of this Settlement Agreement, such ambiguity is not to be construed by reference to any doctrine calling for such ambiguity to be construed against the drafter of this Settlement Agreement.

29. Dispute

(a) Any dispute, controversy or Claim (including without limitation any dispute, controversy or claim for specific performance, injunctive relief or damages) among the Private

Parties only and arising out of or relating to this Settlement Agreement shall be finally settled by arbitration under the American Arbitration Association in the District of Columbia and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof.

(b) The Private Parties expressly agree that each Private Party will be irreparably damaged if this Settlement Agreement is not specifically enforced. Upon a breach or threatened breach of the terms, covenants and/or conditions of this Settlement Agreement by any Private Party, each other Private Party shall, in addition to all other remedies, be entitled to a temporary or permanent injunction, and/or a decree for specific performance, without showing any imminent irreparable injury in accordance with the provisions of this Settlement Agreement.

30. No Transfer of Control Intended.

It is not the intent of the Private Parties that the execution, delivery or performance of this Settlement Agreement, or any other agreement or document anticipated by this Settlement Agreement, will effectuate, or cause to occur, a transfer of control of ClearComm or ClearComm's licenses. The Private parties understand and agree that, after performing and giving effect to the terms and conditions of this Settlement Agreement, and all other documents and agreements anticipated hereby, control of ClearComm and its licenses will remain unchanged from what it was immediately prior to the execution of this Settlement Agreement.

31. Applicable Law

This Settlement Agreement shall be governed by and construed in a accordance with the laws of the District of Columbia (regardless of the District of Columbia laws that might otherwise

govern applicable conflict of laws principles) as to any and all matters, including but not limited to, validity, construction, effect, performance and remedies.

32. Section and Other Headings

The section and other headings contained in this Settlement Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

33. Counterparts

This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all, of which together shall constitute one and the same instrument. Counterparts executed and received by telecopier transmission shall be deemed valid and binding upon the Parties.

IN WITNESS WHEREOF, the Parties have duly executed this Settlement Agreement as of the day and year first above written.

WESTEL SAMOA, INC.

By: 
Name: QUENTIN L. BREEN
Title: PRESIDENT

WESTEL, L.P.

By: 
Name: QUENTIN L. BREEN
Title: PRESIDENT OF GENERAL PARTNER

QUENTIN L. BREEN

Quentin L. Breen

ROMULUS TELECOMMUNICATIONS, INC.

By: _____
Quentin L. Breen
President

By: _____
Anthony T. Easton
Secretary

CLEARCOMM, L.P.

By: _____

Name: Javier O. Lamoso
Title: President

SUPERTEL COMMUNICATIONS CORP.

By: _____

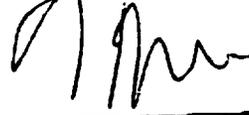
Name: Javier O. Lamoso
Title: President

BREEN FAMILY TRUST

By: _____
Name:
Title:

- 26 -

QUENTIN L. BREEN



Quentin L. Breen

ROMULUS TELECOMMUNICATIONS, INC.

By: 

Quentin L. Breen
President

By: _____
Anthony T. Easton
Secretary

CLEARCOMM, L.P.

By: _____
Name:
Title:

SUPERTEL COMMUNICATIONS CORP.

By: _____
Name:
Title:

BREEN FAMILY TRUST

By: _____
Name:
Title:

- 26 -

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QUENTIN L. BREEN

Quentin L. Breen

ROMULUS TELECOMMUNICATIONS, INC.

By: _____
Quentin L. Breen
President

By: _____
Anthony T. Easton
Secretary

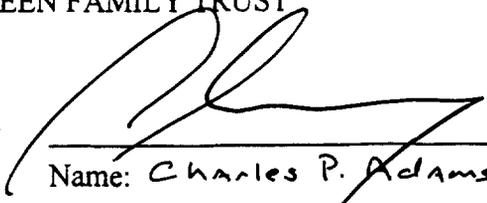
CLEARCOMM, L.P.

By: _____
Name:
Title:

SUPERTEL COMMUNICATIONS CORP.

By: _____
Name:
Title:

BREEN FAMILY TRUST

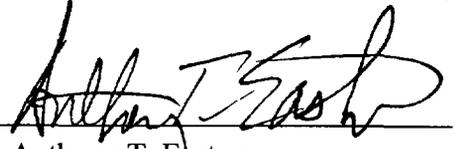
By: 
Name: Charles P. Adams
Title: Trustee

QUENTIN L. BREEN

Quentin L. Breen

ROMULUS TELECOMMUNICATIONS, INC.

By: _____
Quentin L. Breen
President

By: 
Anthony T. Easton
Secretary

CLEARCOMM, L.P.

By: _____
Name:
Title:

SUPERTEL COMMUNICATIONS CORP.

By: _____
Name:
Title:

BREEN FAMILY TRUST

By: _____
Name:
Title:

ANTHONY T. EASTON

Anthony T. Easton

Anthony T. Easton

SDE TRUST

By: *M. Eloise Rosenblatt*

Name: *M. ELOISE ROSENBLATT*

Title: *TRUSTEE*

CALIFORNIA THEOLOGICAL CHARITABLE
TRUST

By: *John H. Elliott by M. Eloise Rosenblatt*

Name: *under power of atty*

Title: *TRUSTEE*

CALIFORNIA THEOLOGICAL CHARITABLE
TRUST, INC.

By: *John H. Elliott by M. Eloise Rosenblatt*

Name: *under power of atty*

Title: *Trustee*

UNICOM CORPORATION

By: _____

Name:

Title:

ANTHONY T. EASTON

Anthony T. Easton

SDE TRUST

By: _____
Name:
Title:

CALIFORNIA THEOLOGICAL CHARITABLE
TRUST

By: _____
Name:
Title:

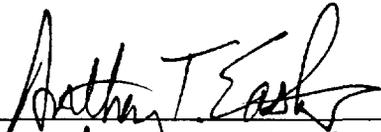
CALIFORNIA THEOLOGICAL CHARITABLE
TRUST, INC.

By: _____
Name:
Title:

UNICOM CORPORATION

By: 
Name: Javier O. Lamoso
Title: President

SAN MATEO GROUP, INC.

By: 
Name: ANTHONY T. EASTON
Title: PRESIDENT

PARKS FAMILY TRUST

By: _____
Name:
Title:

PEARL TRUST

By: _____
Name:
Title:

WIRELESS TELECOMMUNICATIONS BUREAU

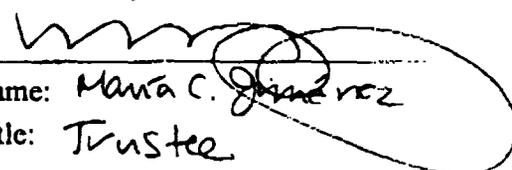
By: _____
Name:
Title:

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SAN MATEO GROUP, INC.

By: _____
Name:
Title:

PARKS FAMILY TRUST

By: 
Name: Maria C. Jimenez
Title: Trustee

PEARL TRUST

By: _____
Name:
Title:

WIRELESS TELECOMMUNICATIONS BUREAU

By: _____
Name:
Title:

- 28 -

SAN MATEO GROUP, INC.

By: _____
Name:
Title:

PARKS FAMILY TRUST

By: _____
Name:
Title:

PEARL TRUST

By: _____
Name:
Title:

WIRELESS TELECOMMUNICATIONS BUREAU

By: Catherine W. Seidel
Name: Catherine W. Seidel
Title: Chief, Enforcement Division
Wireless Telecommunications
Bureau
Federal Communications
Commission