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August 23, 2001

VIA HAND DELIVERY

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

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AUG 23 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

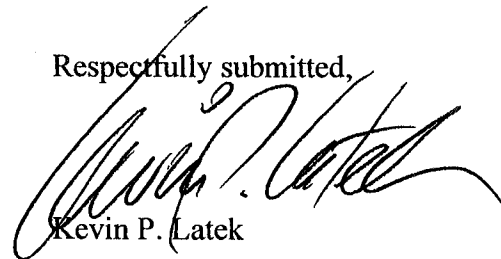
Re: New LPTV station, Channel 43, Caliente, California
Facility Identification Number 130502
FCC File No. BNPTTL-20000830BOG
Amendment to Pending Application

Dear Ms. Salas:

On behalf of Gary M. Cocola Family Trust, Gary M. Cocola, Trustee, we hereby submit an original and four copies of an amendment to the above-referenced application pursuant to FCC Public Notice DA 01-1289. The amendment removes the application from Mutual Exclusivity Group M145 by resolving the conflict between the application and those of the applicants included in MX Group M145. In addition, the applicant agrees to accept interference from the Bakersfield station and proposes to reduce the directional antenna ERP. Also included with this filing are copies of a settlement agreement and request for approval of such settlement agreement, as submitted to the FCC under separate cover earlier this week.

Please contact the undersigned if you have any questions.

Respectfully submitted,



Kevin P. Latek

KPL/bko
Enclosure
cc (w/encl.): Mr. Shaun Maher (FCC)
Mr. Hossein Hashemzadeh (FCC)

August 20, 2001

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
The Portals
445 12th Street, N.W.
Washington, D.C. 20554

Re: New LPTV station, Channel 43, Caliente, California
Facility ID No. 130502
FCC File No. BNPTTL-20000830BOG
Amendment to Pending Application

Dear Ms. Salas:

The Gary M. Cocola Family Trust, Gary M. Cocola, Trustee (the "Family Trust") hereby amends the above-referenced application for a new low power television station on Channel 43, Caliente, California. In addition, the Family Trust hereby consents to interference received by this proposed new station from the Bakersfield Channel 42 facility proposed in FCC File No. BMJPTTL-20000831CNJ. Finally, the Family Trust reports that it has entered into a settlement agreement with certain other applicants

Respectfully submitted,

GARY M. COCOLA FAMILY TRUST


Gary M. Cocola
Trustee

TECHNICAL EXHIBIT
AMENDMENT TO
MINOR CHANGE APPLICATION FOR CONSTRUCTION PERMIT
NEW LOW POWER TV STATION
FACILITY ID 130502
CALIENTE, CALIFORNIA
CH 43 22.0 KW (MAX-DA)

Technical Narrative

The technical exhibit of which this narrative is part was prepared in support of an amendment to the pending application for construction permit (BNPTTL-200008310BOG) for a new Low Power TV station at Caliente, California (Facility ID 130502).

Pursuant to the FCC's Public Notice announcing LPTV Auction No. 81 (released May 25, 2001, DA 01-1289), the pending application for channel 43 at Caliente is listed as being mutually exclusive (MX) with pending applications for new LPTV stations on channel 43 at Bakersfield, CA, BNPTTL-20000831ATZ, channel 42 at Bakersfield, CA, BMJPTTL-20000831CNJ, channel 41 at Bakersfield, CA, BNPTTL-20000831AUF and channel 27 at Bakersfield, CA, BNPTTL-20000831AWJ. It is noted that the pending channel 43 application at Caliente is directly mutually exclusive with only the Bakersfield channel 43 (BNPTTL-20000830ATZ) and channel 42 (BMJPTTL-20000831CNJ) applications. Furthermore, as detailed elsewhere in this instant amendment, an agreement has been reached with the channel 43 applicant at Bakersfield (BNPTTL-20000831ATZ) which eliminates this conflict. Therefore, the purpose of this instant technical amendment is to provide an engineering solution which resolves the mutual exclusivity between the Caliente channel 43 application and the Bakersfield channel 42 application (BMJPTTL-20000831CNJ). Specifically, it is proposed to reduce the directional antenna maximum effective

radiated power (ERP) from 150 kW to 22 kW which will permit compliance with the FCC's rules. The applicant also agrees to accept any interference caused by the Bakersfield channel 42 application to its proposed facilities. No other changes are proposed.

W. Jeffrey Reynolds
W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237
(941) 329-6000
JEFF@DLR.COM

August 16, 2001

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.

TECH BOX

1. Channel: 43 [Caliente, CA/Facility ID 130502]

2. Frequency Offset

☐ No offset

☐ Zero offset

☐ Plus offset

☒ Minus offset

3. Translator Input Channel No. n/a

4. Primary station proposed to be rebroadcast:

Call Sign	City	State	Channel

5. Antenna Location Coordinates: (NAD 27)

35° 15' 21" ☒ N ☐ S Latitude

118° 37' 39" ☐ E ☒ W Longitude

6. Antenna Structure Registration Number: _____

☒ Not applicable

☐ FAA Notification Filed with FAA

7. Antenna Location Site Elevation Above Mean Sea Level: 899.2 meters

8. Overall Tower Height Above Ground Level: 22.9 meters

9. Height of Radiation Center Above Ground Level: 18.3 meters

10. Maximum Effective Radiated Power (ERP) Towards Radio Horizon: 22.0 kW

11. Maximum ERP in any Horizontal and Vertical Angle: 22.0 kW

12. Transmitting Antenna: ☐ Non-directional ☒ Directional "Off-the-shelf" ☐ Directional composite

Manufacturer
Dielectric

Model
TLP8-E (Antenna ID 19180)

Directional Antenna Relative Field Values:

Rotation: 290° ☐ No rotation ☐ N/A (Nondirectional)

Degree	Value	Degree	Value	Degree	Value	Degree	Value	Degree	Value	Degree	Value
0	1.000	60	0.470	120	0.140	180	0.240	240	0.150	300	0.460
10	1.000	70	0.370	130	0.130	190	0.240	250	0.190	310	0.570
20	0.950	80	0.280	140	0.150	200	0.200	260	0.220	320	0.690
30	0.860	90	0.230	150	0.170	210	0.160	270	0.250	330	0.820
40	0.730	100	0.200	160	0.200	220	0.120	280	0.300	340	0.930
50	0.600	110	0.160	170	0.230	230	0.120	290	0.370	350	0.980
Additional Azimuths											

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.

CERTIFICATION

13. **Interference.** The proposed facility complies with all of the following applicable rule sections. Check all those that apply. ☒ Yes ☐ No See Explanation in Exhibit No.

TV broadcast analog system protection.

- a. ☒ 47 C.F.R. Section 74.705.

Digital TV station protection.

- b. ☒ 47 C.F.R. Section 74.706.

Low Power TV and TV translator station protection.

- c. ☒ 47 C.F.R. Section 74.707.

14. **Environmental Protection Act.** The proposed facility is excluded from environmental processing under 47 C.F.R. Section 1.1306 (i.e., the facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine RF compliance. An Exhibit is required. ☒ Yes ☐ No See Explanation in Exhibit No.

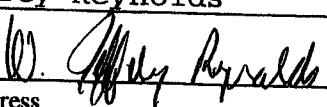
Exhibit No.

By checking "Yes" above, the applicant also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.

PREPARER'S CERTIFICATION ON PAGE 6 MUST BE COMPLETED AND SIGNED.

Section III - PREPARER'S CERTIFICATION

I certify that I have prepared Section III (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name W. Jeffrey Reynolds		Relationship to Applicant (e.g., Consulting Engineer) Consulting Engineer	
Signature 		Date August 16, 2001	
Mailing Address 201 Fletcher Avenue			
City Sarasota		State or Country (if foreign address) Florida	ZIP Code 34237-6019
Telephone Number (include area code) 941-329-6000		E-Mail Address (if available) jeff@dlr.com	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001),
AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)),
AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of

COCOLA FAMILY TRUST
Facility ID 130502
Caliente, California

VENTURE TECHNOLOGIES GROUP, LLC
Facility ID 131315
Bakersfield, California

For Construction Permits for
New Low Power Television Station
to Operate on Channel 43

To: Chief, Low Power Television Branch
Video Services Division
Mass Media Bureau

) Auction No. 145

) File No. BNPTTL-20000830BOG

) File No. BNPTTL-20000831ATZ

JOINT PETITION FOR APPROVAL OF SETTLEMENT

1. Cocola Family Trust, Gary M. Cocola, Trustee ("Cocola") and Venture Technologies Group, LLC ("Ventech") hereby petition the Commission to approve the attached Settlement Agreement, to accept an amendment to the Cocola application listed in the caption above ("Cocola Application"), to grant the Cocola Application as amended, and to dismiss the mutually exclusive application of Ventech ("Ventech Application"). The Cocola Application and the Ventech Application are mutually exclusive and have been listed as subject to Auction No. 81. The Settlement Agreement merges the interests of the applicants and leaves the surviving application not mutually exclusive with any other application and ready for grant.

2. Cocola and Ventech have entered into a Settlement Agreement, which is attached hereto. The Agreement provides for Cocola to amend the Cocola Application to specify a new entity, owned 50% each by Cocola and Ventech, as the surviving applicant. The Ventech Application will

be dismissed. The new entity will then construct and operate the new station.

3. The Settlement Agreement provides that Cocola and Ventech will each contribute 50% of all capital, loans, and loan guarantees to the joint entity for at least one year after the new station begins operation under program test authority ("PTA"). It also provides for either party to sell its interest to the other party, or to purchase the other party's interest, but not until after the Station has been constructed and is operating under PTA.

4. Neither party has paid or promised any consideration to the other in return for entering into or implementing the settlement other than the agreement to merge their interests, to jointly finance the new station, and to participate in a buy-sell arrangement after the Station is in operation.^{1/} Declarations of each party to that effect are attached. These declarations also recite that neither party filed its application for the purpose of being paid or entering into a settlement.

5. The Settlement Agreement is contingent upon dismissal of the Ventech application and grant of the application of the merged entity with no conditions materially adverse to either Cocola or Ventech. If the contingencies are not met, both applications should remain in pending status, and in the absence of any further amendment or settlement, should be set for a future auction.

6. The parties submit their settlement serve the public interest, because it will enable a new low power television station to be constructed promptly on Channel 43 to serve the population of Bakersfield.

^{1/} The buy-sell arrangement is not mandatory and becomes effective only if one party chooses to initiate it.

7. In light of the foregoing, the parties respectfully request that their respective amendments be accepted and that the amended Cocola application be granted.

Respectfully submitted,

COCOLA FAMILY TRUST

By


Peter Tannenwald

Jason S. Roberts

Counsel for Cocola Family Trust

Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Ave., N.W., Suite 200
Washington, DC 20036-3101
Tel. 202-728-0400
Fax 202-728-0354

VENTURE TECHNOLOGIES GROUP, LLC

By


Brooke Temple

General Counsel
to Venture Technologies Group, LLC

Venture Technologies Group, LLC
5670 Wilshire Boulevard
Suite 1300
Los Angeles, CA 90036
Tel. 323-965-5400
Fax. 323-965-5411

August 23, 2001

DECLARATION OF GARY M. COCOLA

GARY M. COCOLA hereby declares as follows:

1. I am the trustee of the Cocola Family Trust (the "Trust") an applicant for a construction permit, Facility ID 130502, on Channel 43 at Caliente, California, FCC File No. BNPTTL-20000830BOG.

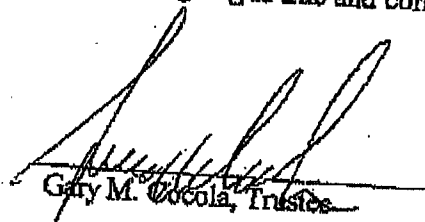
2. The Trust has agreed to a settlement with Venture Technologies Group, LLC ("Ventech"), a mutually exclusive applicant, resulting in a merger of the interests of the two applicants. The terms of the settlement are set forth in the Settlement Agreement which will be filed with the Federal Communications Commission in accordance with Section 73.3525 of its Rules and Regulations.

3. The Trust did not file its application for the purpose of reaching or carrying out a settlement.

4. Neither the Trust nor any trustee or beneficiary thereof has been paid or promised any money or other consideration in order to induce the Trust to enter into the subject Settlement Agreement or to amend the Trust's application as provided for in the Settlement Agreement; nor has the Trust or any trustee or beneficiary thereof paid or promised any money or other consideration to Ventech or any of its officers, directors, stockholders, employees, or agents to induce Ventech to enter into the subject Settlement Agreement and to dismiss Ventech's application for a construction permit to operate on Channel 43 at Redding.

5. The proposed settlement is in the public interest in that it will promote the more rapid initiation of service to the Caliente and Bakersfield community than would be possible were the Trust and Ventech applications to be placed in an auction.

I declare under penalty of perjury, the foregoing is true and correct. Executed this 20 day of August, 2001.


Gary M. Cocola, Trustee

(3)

DECLARATION OF ~~XXXXXXXXXXXX~~ *LAWRENCE ROGOW*

LAWRENCE ROGOW hereby declares as follows:

1. I am the Chairman of Venture Technologies Group, LLC ("Ventech"), an applicant for a construction permit, Facility ID 128232, on Channel 43 at Bakersfield, California, FCC File No. BNPTTL-20000831ATZ.

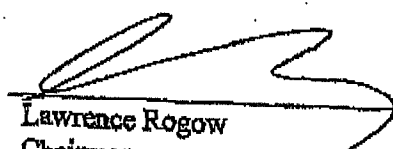
2. Ventech has agreed to a settlement with the Cocola Family Trust (the "Trust"), a mutually exclusive applicant, resulting in a merger of the interests of the two applicants. The terms of the settlement are set forth in the Settlement Agreement which will be filed with the Federal Communications Commission in accordance with Section 73.3525 of its Rules and Regulations.

3. Ventech did not file its application for the purpose of reaching or carrying out a settlement.

4. Neither Ventech nor any officer, director, stockholder, employee, or agent of Ventech has been paid or promised any money or other consideration in order to induce Ventech to enter into the subject Settlement Agreement or to dismiss Ventech's application as provided for in the Settlement Agreement; nor has Ventech or any of its officers, directors, stockholders, agents, or employees paid or promised any money or other consideration to the Trust or any trustee or beneficiary thereof induce the Trust to enter into the subject Settlement Agreement and to amend the Trust's application for a construction permit to specify an applicant owned jointly by the Trust and Ventech.

5. The proposed settlement is in the public interest in that it will promote the more rapid initiation of service to the Bakersfield and Caliente community than would be possible were the Trust and Ventech applications to be placed in an auction.

I declare under penalty of perjury, the foregoing is true and correct. Executed this 2 day of August, 2001.


Lawrence Rogow
Chairman

SETTLEMENT AGREEMENT

1. This Agreement is entered into by and between the Gary M. Cocola Family Trust, Gary M. Cocola, Trustee ("Cocola"), a California trust, at 706 West Herndon Ave., Fresno, CA 93650, and Venture Technologies Group, LLC, a California limited liability company ("Ventech"), at 5670 Wilshire Boulevard, Suite 1300, Los Angeles, CA 90036.

2. Cocola has filed an application with the Federal Communications Commission ("FCC") for a construction permit for a new low power television ("LPTV") station to operate on Channel 43 at Caliente, California, FCC File No. BNPTTL-20000830BOG (the "Cocola Application"). Ventech has likewise filed an application with the FCC for a construction permit for a new LPTV station to operate on Channel 43 at Bakersfield, California, FCC File No. BNPTTL-20000831ATZ (the "Ventech Application"). The FCC has found the two applications to be mutually exclusive in that it is not possible for both proposals to be effectuated without causing interference in violation of the FCC's Rules, and the FCC has announced that it will hold an auction to determine which of the two applications will be granted.

3. The parties have decided to merge their interests to avoid the need for an auction and to own and operate an LPTV station (the "Station") on Channel 43 in Bakersfield or Caliente jointly. To that end, they hereby agree to take the following steps, within three (3) business days after execution of this Agreement, but no later than 7:00 p.m. Eastern Daylight Time on August 23, 2001:

a. Cocola shall amend the Cocola application: to substitute an unincorporated association, general partnership or limited liability company ("LLC") owned equally by Cocola and Ventech ("Newco"); to change the city of service from Caliente to Bakersfield; and to demonstrate non-interference to and acceptance of interference from the existing and proposed facilities of K42EI, Bakersfield, California (FCC Facility ID 65763). Cocola shall not amend its application, nor shall the Newco application be amended, in any other respect, except as may be required by law or regulation for reasons not within the control of the applicant, without the consent of both Cocola and Ventech, which consent will not be unreasonably withheld.

b. Cocola and Ventech shall jointly file a petition ("Joint Petition"), in the form attached hereto, with the FCC, requesting approval of this Settlement Agreement, dismissal of the Ventech Application, and grant of the Cocola application as amended (the "Newco Application"). Ventech's dismissal of its application will be contingent upon approval by the FCC of this Settlement Agreement and grant of a construction permit for Channel 43 to Newco with no conditions materially adverse to Ventech. Cocola's amendment to substitute Newco as the applicant will be contingent upon approval by the FCC of this Settlement Agreement and grant of a construction permit for Channel 43 to Newco with no conditions materially adverse to Cocola. The parties agree to prosecute the Joint Petition and the Newco application vigorously before the FCC, except that neither party shall be required to participate in a trial-type hearing or to appeal any denial or dismissal with prejudice of the Joint Petition.

4. Each of Cocola and Ventech will own 50% of the Newco and have 50% of the voting power in Newco. Is the intention of the parties that Newco be an LLC. An unincorporated association or general partnership will be utilized only temporarily and only if there is not time to form an LLC by August 23, 2001. If an unincorporated association or general partnership is used initially, an LLC will be formed thereafter, and either the Newco application will be amended to substitute the LLC as the applicant or the construction permit will be assigned to the LLC after it has been granted. Cocola will undertake formation of the LLC under California law. The LLC must be formed and hold the construction permit before the Station commences operation.

5. The Station will be constructed and operated at the site and with the technical parameters specified in the Cocola application, unless both Cocola and Ventech agree otherwise, however both parties anticipate that the station would receive significantly less interference if it were co-sited with K42EJ or would have superior coverage if sited at one of the main Bakersfield broadcast sites.

6. The parties agree that apart from the filing of an amendment to the Cocola Application, dismissal of the Ventech Application, and operation of the Station by Newco (owned jointly by the parties), no consideration has been or shall be paid or promised by either party to the other party or to any of the other party's principals in return for entering into or implementing this Settlement Agreement.

8. All costs of preparation of this Agreement, any FCC application preparation and filing fees, and prosecution of the Newco application before the FCC will be paid equally by Cocola and Ventech. All other expenses of either party will be paid by that party. Once the construction permit for the Station has been granted, all costs of construction and operation will be borne by Newco. The parties shall contribute equal amounts of capital to fund Newco, contribute 50% of any funds loaned by principals to Newco, and accept equal liability for any guarantee of third party loans to Newco. Any distributions of moneys by Newco, whether profits or return of capital, shall be made equally to Cocola and Newco. This 50-50 funding arrangement shall not be altered within the first year after the Station begins operation under program test authority from the FCC.

9. Cocola will act as the day-to-day manager of Newco for the purpose of constructing and operating the Station. Cocola will consult with Ventech on the selection of programming for the Station. The following transactions will require the agreement of both Cocola and Ventech, which agreement will not be unreasonably withheld:

- a. A change of transmitter site or technical parameters of the Station.
- b. Sale of the Station, the FCC construction permit or license for the Station, or all or any substantial portion of the assets of the Station or Newco to a third party.
- c. Shutting down the Station, except for temporary shut downs in case of involuntary destruction of or damage to the transmission plant, or voluntary cancellation of

the FCC license for the Station.

d. The sale, transfer, or other disposition of all or any part of the interest of Cocola or Ventech in the Station or Newco to any third party within the first year after the Station begins operation under program test authority.

e. Establishment of a business plan and construction and operating budgets for the Station, including, but not limited to, the number and cost of employees for the Station and the cost of any programming contracts.

10. At any time after the Station begins operation under program test authority, either party may make an offer to the other party to terminate joint ownership of Newco by either selling all of its interest in Newco to the other party or purchasing all of the other party's interest in Newco.

a. The Offeror shall establish a price at the time it makes its offer. The Offeree shall respond to the offer within 30 days and will have the choice of selling its interest at that price or purchasing the Offeror's interest at the same price. The parties shall then proceed to negotiate in good faith, to enter promptly into a purchase agreement on customary commercial terms, and to apply to the FCC for consent to a transfer of control of Newco to the surviving party. Both parties will prosecute the transfer application in good faith, provided, however, that neither party will be required to participate in a trial-type hearing or to appeal any denial or dismissal of the application with prejudice.

b. If the transaction is not consummated for any reason, the right of each party to make a new offer will be reinstated.

c. Although the prohibition in Section 9(c) hereof on the sale, transfer, or other disposition by either party of any interest in Newco to a third party without the consent of the other party expires one year after the Station begins operation under program test authority, the right of either party to make an offer under this Section 10 and the obligation of the other party to respond will not expire one year after program test authority. However, once an offer under this Section 10 has been made, ownership of Newco shall be frozen, and neither party shall sell, transfer, or otherwise dispose of all or any part of its interest in Newco to any third party, until the transaction contemplated by the offer has been completed or abandoned by both parties or unless both parties consent to such disposition.

11. The parties agree that the opportunity to have an interest in the Station and to avoid an FCC auction for aware of a construction permit is unique to each of them. Accordingly, the parties agree that either party, if aggrieved by a breach of this Agreement, may seek enforcement by means of an order of specific performance in lieu of monetary damages. In the event that a party elects to seek monetary damages, punitive damages may not be sought or recovered, and the parties agree to waive trial by jury and to seek alternative dispute resolution if practicable.

14. Either party may terminate this Agreement, resume prosecution of its application, and request that its application be returned to pending status and placed into an auction if appropriate, upon written notice to the other and without liability to the other, (a) if the Joint Petition has not been approved and Newco's application for a construction permit granted by eighteen (18) months after the date of submission of the Joint Petition to the FCC, with no conditions materially adverse to the party seeking to terminate, or (b) if the Cocola, Ventech, and/or Newco Applications are designated for hearing by the FCC for any reason.

15. This agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective heirs, successors, and assigns.

16. This Agreement may be executed in one or more counterparts, each of which shall have the full force and effect of an original but all of which shall be deemed one and the same document.

17. This Agreement will be construed to the maximum extent possible to comply with all rules, regulations, and policies of the FCC, and shall be reformed to comply if it is found out of compliance in any respect, provided that the basic purposes of the Agreement to provide for joint ownership of the Station and to avoid an FCC auction are preserved. To the extent not governed by federal law, this Agreement will be governed by the laws of the State of California applicable to transactions conducted entirely within that state.

18. This Agreement represents the entire understanding of the parties with respect to the subject matter hereof and may be altered or amended only in writing signed by the party against which enforcement is sought.

19. Each individual executing this Agreement warrants that he has the authority to legally bind the party for which he has signed.

20. Each party will designate one individual as its representative with the authority to speak for it in connection with the governance of Newco. The initial designees are Gary M. Cocola for Cocola and Lawrence Rogow for Ventech. Either party may change its designated representative at any time by giving notice to the other party.

21. Notices from one party to the other shall be deemed effective five business days after mailing if given by first class United States mail, postage prepaid, or overnight courier delivery, evidenced by a delivery receipt, and addressed to a party at its address set forth above.

22. No waiver of any right or provision of this Agreement by either party will obligate that party to the same or any other right or provision in any future instance.

23. This Agreement will become effective as of the date on which the latter party to sign executes the Agreement.

COCOLA FAMILY TRUST

By: 

Gary M. Cocola
Trustee

Date: August 20, 2001

VENTURE TECHNOLOGIES GROUP, LLC

By: 

Lawrence Rogow
Chairman

Date: August 20, 2001