

CHANNEL LEASE AGREEMENT

This Agreement is entered into as of _____, by and between _____ ("Lessor") and _____ ("Lessee").

RECITALS

- A. Lessor operates a CABLE TELEVISION system serving the community of _____ (the "System").
- B. Lessee desires to distribute cable television programming (the "Programming") on the System pursuant to Section 612 of the Communications Act and subject to the terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and other good and sufficient consideration, Lessor and Lessee agrees follows:

AGREEMENT

1. **Use of Channel.** Lessor will distribute Lessee's Programming as set out in Schedule A to this Agreement ("Schedule A"). Ownership and control of any and all channels on the System (and the signal distribution capacity contained within the bandwidth of such channels, including the vertical blanking interval) shall at all times be and remain with Lessor. Lessee shall have no right to any particular channel or to any rights or priorities for further or future access to the System, and Lessor expressly reserves the right at any time and from time to time, upon reasonable notice to Lessee, to cablecast Lessee's programming on a different channel. Lessor may without limitation enter into agreements for the use of its channels by others or make use of any channel time reserved by Lessee during any time when Lessee fails to provide programming for such channel that complies with this Agreement.

2. **Term of Agreement.** The term of this Agreement shall begin on _____ and shall end on _____ unless terminated sooner pursuant to Section 11 below.

3. **Technical Requirements.** Except for technical support provided by Lessor pursuant to Schedule A, Lessee shall be responsible for supplying all facilities necessary to deliver its programming to the System's distribution or headend facilities. Lessee shall ensure that neither Lessee's access hereunder nor its use of any equipment in connection therewith shall impair or interfere with the quality of any audio, video or data signals cablecast by Lessor, any of its other licensees, or other authorized users. Lessee's programming shall meet reasonable production standards which will no be any higher than those applied to public, educational and government access channels.

4. **Indecent Programming.** Lessor may refuse to transmit any leased access program or portion of such a program that contains indecent materials or that otherwise fails to comply with Lessee's Policy Concerning Indecent Programming on Commercial Leased Access Channels.

5. **Financial Terms.**

(a) **Fee for Channel Use.** Lessee agrees to pay a fee for the use of the System in accordance with the payment schedule set out in Schedule A. Lessor may change the lease rate from time to time upon thirty days' notice to Lessee.

(b) **Security Deposit.** Contemporaneously with the execution of this Agreement, or on such other date as shall be mutually agreed, Lessee shall pay to Lessor a security deposit as set up in Schedule A.

6. **Warranties of Lessee.** Lessee hereby represents and warrants its compliance with the following conditions. These representations and inducements are material inducements to Lessor to enter into this Agreement, and Lessee's rights under this Agreement shall be dependent on its compliance with these conditions:

(a) **Authority to contract.** Lessee has the right and authority to enter into this Agreement and to perform its obligations hereunder. Lessee is unaffiliated with Lessor within the meaning of Section 612 of the Communications Act.

(b) **Objectionable Programming.** No programming provided by Lessee will be obscene.

(c) **Program Content.** Lessee shall be solely responsible for program content. Lessee hereby warrants and represents that its Programming complies in every respect with every applicable federal, state, and local statute or law, and does not infringe the personal rights or the property rights of any person. By way of example and not by way of limitation, Lessee warrants that its Programming does not violate copyright clearances have been obtained (including synchronization rights and music performance rights); does not infringe any trademark, trade name, service mark, or any other property right; does not contain libelous or slanderous material; and does not constitute invasion of privacy, incitement, obstruction of law enforcement, or create a danger of injury to persons or property.

(d) **Regulatory Compliance.** Lessee shall comply with every applicable federal, state and local statute or law, including without limitation (i) all such laws relating to false and misleading advertising; (ii) the franchise under which the System operates; and (iii) FCC requirements, including Part 76, Subpart G of the FCC Rules.

(e) **Permits and Licenses.** Lessee shall obtain, at its own expense, any local, state or federal permits, licenses or other authorizations required for its promotional materials and the transmission of its Programming, including without limitation (i) all necessary arrangements with copyright holders, sponsors, music licensing organizations (including obtaining any and all music performance rights for all performances through to the subscribers), and performers' representatives; and (ii) compliance with all applicable charitable solicitation registration requirements.

(f) **Compliance Documentation.** Upon Lessor's request, Lessee shall promptly furnish to Lessor all information with respect to Lessee's programming which may be necessary or useful to Lessor to determine Lessee's compliance with this Agreement in general and, in particular, with subparts (c),(d) and (e) above, or that may be necessary for the preparation of any reports or other documents that Lessor may be required or requested to file with any federal state or local governmental authority or agency. Failure or refusal to provide evidence of compliance shall constitute a material breach of this Agreement.

(g) **Subscriber Information.** Lessee will not, without Lessor's prior written consent, obtain access to or use or disclose information concerning Lessor's subscribers, or subscribers of Lessor's affiliates, whether the information concerned is "personally identifiable information" (as described in Section 631 of the Cable Act) or not, and will not engage in any direct mailing or telephone solicitation to Lessor's cable television subscribers.

(h) **Affiliation.** Lessee is unaffiliated (within the meaning of Section 612(b)(1) of the Cable Act and related regulations) with Lessor or with any affiliate of Lessor.

7. **Warranties of Lessor.** Lessor hereby represents and warrants that it has the right and authority to enter into this Agreement and to perform its obligations hereunder and that the person executing this Agreement on behalf of Lessor has been authorized to do so by Lessor.

8. **Indemnification.** Lessee shall indemnify, defend and hold harmless Lessor and its affiliates, and all officers, directors, partners, agents, shareholders and employees of each such entity from and against any and all liabilities, damages, losses, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses of defending claims or litigation) or other injury or claim of injury arising, directly or indirectly, from or related to:

- (a) Lessee's use of the System pursuant to this Agreement;
- (b) Breach by Lessee of any representation, warranty, covenant or other provision of this Agreement;
- (c) Any claims which may be made by any governmental body or agency or any person or entity (including, but not limited to, Lessee or Lessee's agents or employees) in connection with Lessee's Programming or use of the System;
- (d) Any injury to any person (including without limitation Lessor's agents, employees, or invitees) or damage

to any property (including without limitation Lessor's equipment or other assets) resulting from Lessee's use of the System;

(e) The content of Lessee's programming and/or Lessor's use and delivery thereof;

(f) The violation of the rights of any third party, including without limitation any claims based on alleged or proven libel, slander, defamation, invasion of privacy, wrongful publicity, misrepresentation, obscenity, indecency or other forms of speech, whether protected or no by the Constitution of the United States or any state; infringement of common law or use of any trademark, trade name or service mark; breach of contractual or other obligations; and any other claim arising from the production, or insertion or transmission of Lessee's programming or any advertisements in connection therewith.

9. Indemnification Procedure. Lessor shall give notice to Lessee within a reasonable time after receiving notice of any claim, event or condition giving rise to a claim of indemnification. Lessor shall have the right to defend any claim by a third party with counsel of its own choosing (and to be indemnified for the reasonable fees and expenses of such counsel), but Lessee may participate in any such defense with its own counsel at its own expense. Lessor shall have the right to settle any such third party claim subject to the consent of Lessee, such consents not to be unreasonably withheld or delayed.

10. Insurance. If Lessor, in its discretion, determines that liability insurance is reasonably necessary, Lessor may require Lessee, at Lessee's sole expense, to obtain and keep in force, throughout the term hereof, with a reputable insurance company approved by Lessor and authorized to do business in the state in which the System is located, a policy or policies of liability insurance as described in Schedule B hereto, generally insuring against all perils and hazards and any negligent, willful, intentional or other conduct of Lessee, and all other risks reasonably associated with Lessee's obligations under this Agreement. If such insurance is required, the terms of coverage shall be summarized in Schedule B.

11. Termination.

This Agreement may be terminated in the event of any of the following:

(a) By either party in the event of any material breach by the other of any provision of this Agreement;

(b) By Lessor, if Lessee fails to make any channel lease payment due hereunder and if, upon notice from Lessor, Lessee fails to cure the default within a reasonable time.

(c) By Lessor if Lessor ceases to provide cable television service over the System or if Lessee's use of the System would violate or would cause Lessor to violate any obligation of Lessor imposed by any governmental authority; or if, in the reasonable judgement of Lessor, the renewal of its franchise or license would or could be endangered by the continuation or implementation of this Agreement;

(d) By either party, if termination is required by a final order of any court, governmental body or agency having jurisdiction;

(e) By Lessor if Lessee should file, or should have filed against it, a petition in bankruptcy (voluntary or involuntary), or become insolvent;

(f) By Lessor if the obligations of Lessor to lease channel space pursuant to Section 612 of the Communications Act are repealed or are adjudged unconstitutional or otherwise invalid or unenforceable in a final, unstayed decision of any court of competent jurisdiction.

12. Disposition of Lessee's Equipment. Upon termination of this Agreement, Lessee shall promptly remove any of its equipment from the facilities of Lessor. If Lessee fails to remove its equipment, Lessor shall have the right to remove and store Lessee's equipment at Lessee's expense, and following reasonable notice to Lessee, to sell such equipment at public or private sale and apply the proceeds of such sale against any balance owing to Lessor.

13. Limitation of Liability. This Agreement shall create no rights in any party other than Lessee. If Lessor fails

or is unable for any reason to perform any of its obligations pursuant to this Agreement and as a result subscribers do not receive Lessee's programming or receive Lessee's programming in a technically degraded form, Lessee's sole and exclusive remedy shall be a refund or credit for the amount of any lease payments attributable to the time period during which Lessee's programming was not delivered. Similarly, Lessor shall not be liable for the safety of equipment, tapes, or other materials of Lessee that are in Lessor's possession, and in the event of any damage to any such equipment, tapes or other materials, for which Lessor is adjudicated liable, Lessor's liability shall be limited to the replacement cost. Lessor has no duty to prescreen or monitor Lessee's programming.

14. Use of Company Name.

(a) Lessee is prohibited from using Lessor's name, service marks or trade names in Lessee's advertising or in any other manner or for any purpose without the prior written consent of Lessor, which consent may be withheld or delayed in Lessor's absolute discretion.

(b) Lessee shall take all necessary measures to insure that there is no confusion between the programming offered by Lessee and the services offered by Lessor and no confusion concerning the absence of any legal relationship between Lessee and Lessor. Lessor retains the right to insert messages into Lessee's programming stating that Lessor is not responsible for Lessee's programming and to review and approve Lessee's advertising and promotional materials, which materials will set forth a separate telephone number, different from that of Lessor, for parties to call who desire information about Lessee's programming.

15. Sublease of Time on Leased Access Channel. If Lessee subleases time that it has leased pursuant to this Agreement, Lessee shall require any sublessee to adhere to all terms and conditions of this Agreement except for financial terms set out in Schedule A. If Lessor and Lessee have negotiated a rate that is less than the maximum allowable rate for commercial leased access, any subleasing pursuant to this paragraph shall cause the negotiated rate to immediately be set at the maximum allowable rate for commercial leased access.

16. Miscellaneous.

(a) **Notices.** All notices and other communications provided for hereunder shall be in writing. If sent by mail, they shall be deemed received three days after mailing. If sent by courier, overnight courier or fax, they shall be deemed received when receipt is confirmed. Notices and communications shall be sent to the following addresses:

If to Lessor: _____

If to Lessee: _____

or to such other addresses as either party may designate to the other in writing.

(b) **Assignability.** Except for subleases entered into pursuant to paragraph 15 above, Lessee shall not relinquish, sublease, assign, sell or otherwise transfer its rights and obligations under this Agreement to any other person or entity without the express prior written consent of Lessor.

(c) **Paragraph Headings.** Paragraph headings are for ease of reference only and are not to be utilized to expand, limit or otherwise modify the terms of this Agreement.

(d) **Legal Status.** It is understood and agreed that the business to be operated by Lessee is separate and apart

from any which may be operated by Lessor and no representation will be made by either party which would create an apparent agency, independent contractor or partnership relationship or suggest or imply a joint venture.

(e) **Entire Agreement.** This document constitutes the entire agreement between the parties and supersedes all prior agreements and understandings concerning the subject matter hereof. Except as provided for herein, this Agreement may not be altered except by an instrument in writing signed by all parties hereto.

(f) **Force Majeure.** Lessor's performance hereunder shall be excused by the occurrence of any Act of God, natural disaster, act of war, terrorist attack or other cause or occurrence beyond Lessor's reasonable ability to control.

(g) **Late Payments.** Lessee agrees to pay interest at the rate of 1.5% per month on any amounts that are not paid when due. Lessee further agrees to pay all reasonable attorneys fees and costs incurred in the collection of any such amounts.

(h) **Reservation of Rights.** All rights not specifically granted to Lessee under this Agreement are reserved to Lessor for its sole and exclusive use, and are exercisable by Lessor in its sole discretion.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Lessee:

Name: _____

By: _____

Name(printed): _____

Title: _____

Lessor:

Name: _____

By: _____

Name (printed) : _____

Title: _____

SCHEDULE A

CHANNEL PLACEMENT AND PAYMENT TERMS

1. Channel Placement

Lessor will cablecast Lessee's Programming on Channel _____ on the following days and times:

Date and time Programming will be cablecast for the first time: _____

Subsequent cablecasts:

Day(s): _____ Time(s): _____

Note: Channel placement and times of cablecast are subject to change at the discretion of the Lessor. Lessee will be informed of any such change. Every effort will be made to cablecast Lessee's Programming at the requested time or in a reasonably comparable time period. See Paragraph 13 of foregoing agreement for limitation of Lessor's liability.

2. Payment Terms.

Lessee agrees to pay for the use of the Channel as set out in the foregoing agreement on the following terms:

Dollar amount: \$ _____ per _____ (time period)

Date of first payment: _____ Frequency of payment: _____

Lessee agrees to pay a security deposit of \$ _____. The Security Deposit is due on _____ and will be refunded within sixty days after the termination of the foregoing Agreement, less any amounts owing and unpaid by the Lessee at that time.

3. Technical Support

Lessee will pay the following charges for technical support:

Lessee:

Name: _____

By: _____

Name (printed): _____

Title: _____

Date: _____

SCHEDULE B

LIABILITY INSURANCE

Lessee shall obtain insurance coverage complying with the following requirements:

Amount of coverage: _____

The following requirements apply if checked:

1. Terms to cover any and all perils, hazards, negligent and willful conduct of Lessee.
2. Terms to cover broadcaster liability and errors and omissions.
3. Lessor to be additional insured.
4. Presentation of evidence of coverage will be required before Lessor will sign the Channel Lease Agreement.
5. Certificate to warrant that insurance shall not be canceled or modified except upon the delivery of 30 days' prior written notice to Lessor.
6. Certificate to indicate coverage for the entire term of this Agreement or Lessee shall provide (and shall continue to provide) subsequent certificates of insurance so as to provide to Lessor evidence of continuous insurance coverage that satisfies the above requirements throughout the term of this Agreement.

Name: _____

By: _____

Name (printed): _____

Title: _____

Date: _____