



Verizon FiOS TV  
140 West Street, 22<sup>nd</sup> Floor  
New York, NY 10007

August 15, 2013

Robert Andrews  
NRJ TV Philly OpCo LLC  
722 South Denton Tap Road  
Suite 130  
Coppell, TX 75019

**Re: Agreement for Distribution of Low-Power Station WPHY on Verizon's System**

Dear Mr Andrews:

This agreement ("Agreement") between Verizon Corporate Services Group Inc., on behalf of itself and its affiliates, ("Verizon") and NRJ TV Philly OPCO LLC ("Broadcaster"), owner and Federal Communications Commission ("FCC") licensee of low-powered broadcast television station WPHY (f/k/a WZBN) (the "Station"), effective as of July 15, 2012 ("Effective Date"), sets forth the terms and conditions pursuant to which Broadcaster will grant to Verizon the right to retransmit the digital signal (the "Digital Signal" or "Signal") of the Station on Verizon's FiOS TV video distribution system ("System") serving the Philadelphia, PA, Designated Market Area ("Philly DMA").

**1. License and Carriage.**

(a) Grant of Rights. Broadcaster hereby grants to Verizon, and Verizon hereby accepts, a non-exclusive license and right (but not obligation) to retransmit the Signal on the System. In connection therewith, Verizon shall have the right to enhance or modify the Signal in any manner that does not materially degrade or materially interfere with a System subscriber's perception of the audio and video presentations thereof, including without limitation, compression, digitization, remultiplexing, and encryption of the Signal. Broadcaster also grants to Verizon the right to use the channel numbers, call letters and/or logos of the Signal, and programming carried on the Signal, in order to advertise, market and promote the availability of the Signal on the System, including (without limitation) via television, radio, print, and Internet advertising. Broadcaster shall provide the logos for Verizon's use on its electronic programming guide.

(b) Carriage of the Signal; Channel Positioning. Carriage of the Station's Signal shall be on a single channel on the basic level of service provided by a System containing all

signals carried pursuant to the mandatory carriage provisions (must carry) of Section 614 of the Communications Act of 1934 (or any successor provisions thereto) and FCC implementing regulations. If, in addition to the primary feed of the Signal, the Station's Digital Signal includes additional channels of full-screen video and audio programming (whether in high definition format or otherwise) ("Multicast Signals"), Verizon may elect, in its sole discretion, to carry all or any subset of such Multicast Signals. Subject to the mandatory carriage rights of other parties, Verizon shall carry each Multicast Signal (if any) on a designated channel within a range of channels of other broadcast multicast signals transmitted in the Philly DMA.

(c) Delivery of Signals. Broadcaster shall be responsible for all costs associated with the delivery of the Signal to the applicable video hub office ("VHO") of the System, provided that Verizon agrees to use commercially reasonable efforts to cooperate with Broadcaster regarding the facilitation of such delivery. Verizon shall be responsible for all costs associated with the delivery of the Signal to its subscribers via the System.

(d) Downconversion. If at any time during the Term Broadcaster only makes the Signal available in a high definition format feed (minimum 720p or 1080i/p resolution) ("HD Feed"), then Verizon shall have the right, but not the obligation to, downconvert such HD Feed into an industry-standard definition ("SD") digital format (i.e., lower than 720p), and any costs associated with such downconversion shall be borne by Broadcaster.

(e) No License Fees. There shall be no license fees payable by either party in connection with the grant of rights hereunder.

(f) Copyright License. Broadcaster and Verizon hereby acknowledge and agree that the Agreement represents a negotiated license between the parties covering retransmission rights for copyrighted works transmitted by the Station for the entire broadcast for each day of each copyright accounting period covered by the Term of this Agreement, thereby superseding the compulsory license requirements in 17 U.S.C. § 111 of the Copyright Act that would otherwise be applicable to Verizon's retransmission of the Signal of the Station. Broadcaster hereby agrees to indemnify and hold Verizon and its affiliates, partners, parents, subsidiaries, owners, directors, successors, assigns, shareholders, agents, representatives or employees harmless from any copyright liability, if any, incurred by Verizon arising out of Verizon's carriage of the Signal of the Station.

## **2. Term/Termination.**

(a) Effective Date [REDACTED] (unless earlier terminated in accordance with Section 2(b) or 2(c) below).

(b) Either party may terminate this Agreement in the event of a material breach by the other party of any material representation, warranty, covenant or agreement set forth herein which is not cured within thirty (30) days of receipt of written notice from the non-breaching party specifying the nature of such breach.

(c) Verizon may terminate this Agreement for convenience upon thirty (30) days prior notice to Broadcaster.

## **3. Representations and Warranties.**

(a) Each of the parties represents, warrants and covenants to the other that: (i) this Agreement has been duly authorized, executed and delivered, and constitutes a valid and legally binding agreement enforceable in accordance with its terms; (ii) it has the right and will continue to have the right during the Term, to enter into and perform fully its respective obligations under this Agreement; (iii) it has not and will not during the Term enter into an agreement or arrangement which limits the full performance of its obligations hereunder; and (iv) it is and will remain in full compliance with all applicable material Federal, state and local laws, rules, and regulations.

(b) Broadcaster represents and warrants that: (i) it holds a valid license or other authority granted by the FCC to operate a broadcast television station; (ii) it has obtained (and during the Term will maintain) all, rights, licenses, consents and permissions, including with respect to copyrights, patents, trademarks, trade names, services marks, and rights of privacy and publicity necessary for the transmission by Verizon of the Signals and the material contained therein; (iii) the material contained in the Signals will not be obscene and will not defame or otherwise violate any rights of, any person or entity; and (iv) it is, and shall remain throughout the Term, in compliance in all material respects with the Commercial Advertisement Loudness Mitigation Act of 2011 as set forth in 47 U.S.C. 154, 303, 334, 336, the rules and regulations promulgated by the FCC in Parts 73 and 76 of the Code of Federal Regulations, and the associated Recommended Practice Techniques for Establishing and Maintaining Audio Loudness for Digital Television (A/85).

(c) Broadcaster represents, warrants and covenants that it has procured and shall maintain, beginning not later than the Effective Date and ending not earlier than the end of the Term (other than with respect to the errors and omission insurance, as described below), the following types of insurance policies: (i) commercial general liability insurance written on an occurrence basis (as opposed to a claims made basis), covering bodily injury and death, broad form property damage, advertising injury, personal injury, products liability, and liability arising from the activities of independent contractors, with not less than two million dollars (\$2,000,000) combined single limits arising out of any one occurrence and aggregate where applicable; and (ii) errors & omissions (broadcaster's and advertiser's liability) insurance covering any and all claims arising out of or relating to the Signals, with limits not less than two million dollars (\$2,000,000) for any one occurrence and in the aggregate (such insurance shall be in effect no later than the Effective Date and shall be continuous for not less than three (3) years after the last day of the Term. The continuity of such coverage may be provided by successive renewals of such policy). All policies shall be issued by insurance carriers that are licensed and admitted with a rating of not less than "A+ VII" by A.M. Best or otherwise acceptable to Verizon. Broadcaster represents and warrants that the policies are primary without any noncustomary deductibles or self-insured retentions and they name Verizon, its officers, directors, members, employees, affiliates and agents as additional insureds (primary, non-contributory) and loss payee, as its interests may appear. Broadcaster covenants that no later than ten (10) days after execution of this Agreement it shall deliver to Verizon a certificate (including declaration page and applicable endorsements) which evidences such insurance policies and those named as additional insureds. Broadcaster is responsible for determining whether the above minimum insurance requirements are adequate to protect its interests. The above minimums do not constitute a limitation on Broadcaster liability.

4. **Indemnification.** The parties shall indemnify and hold each other, their respective parent and affiliated entities and the officers, directors and employees of all of the foregoing

harmless from and against any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees and related costs) ("Claims") arising out of the breach or alleged breach of any representation, warranty or undertaking made by the indemnifying party herein. Broadcaster shall further indemnify and hold Verizon harmless from and against any and all Claims arising out of the content of the Signals (including, but not limited to, sponsorship, promotional and advertising spots), Station's advertising and marketing of the Signals, or any other materials, including advertising or promotional copy, supplied by Station to Verizon.

**5. Confidentiality; Announcements.** Neither party shall disclose to any third party (other than advisors, insurers and financial entities of either party that have agreed to keep such information confidential) without the other party's prior written consent the terms and conditions of this Agreement or any confidential information concerning the other, unless required by any court of competent jurisdiction, governmental agency, law or regulation or to enforce its rights hereunder.

**6. General Provisions.** This Agreement and all collateral matters related thereto shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of New York applicable to agreements made and to be performed within such state, without giving effect to any conflicts or choice of laws principles that would result in the application of any law which otherwise might be applicable. Neither Broadcaster nor Verizon shall have any liability to the other with respect to any failure to perform any of its obligations hereunder if such failure is due to a force majeure event. Termination or expiration of this Agreement for any reason shall not relieve either party of any of its liabilities or obligations under this Agreement that shall have accrued on or prior to the date of such termination, and Sections 3, 4, 5, and 6 shall survive the expiration or earlier termination of this Agreement. Neither party shall be entitled to assign its rights or obligations under this Agreement without the prior written consent of the other, which shall not be unreasonably withheld or delayed; provided, however, that any permitted assignee must assume in writing all of the obligations of the assignor. Notwithstanding the preceding sentence, this Agreement may be assigned or otherwise transferred without the prior written consent of the other party in the case of an assignment to an entity under common control with, controlled by or in control of, the assignor. The parties also agree that this Agreement shall be binding upon the transmission by each party of a signed signature page thereof to the other party via electronic means (including facsimile), and such signatures shall have the same force and effect as original signatures, and this Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts together shall constitute but one and the same instrument. This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter hereof, and supersedes all prior agreements, proposals or understandings as to such subject matter.

**7. Notices.** Any notices required by this Agreement shall be in writing and shall be deemed given when personally delivered; if mailed by certified or registered mail, return receipt requested, five (5) days after the notice is deposited in the United States Mail postage prepaid; or if sent by overnight courier or express overnight mail service, on the business day following delivery of the notice to the overnight delivery service. All such notices shall be directed as follows:

If to Broadcaster: Attn: Robert Andrews at the address set forth above

If to Verizon: Attn: Michelle Webb, Director Programming, Verizon Corporate Services Group Inc., at the address set forth above

*With a copy (not constituting notice) to:*

Verizon  
1320 North Courthouse Road – 9<sup>th</sup> Floor  
Arlington, VA 22201  
Attn: FiOS TV Business & Legal Affairs, Assoc. General Counsel


Sincerely,

  
VERIZON CORPORATE SERVICES  
GROUP INC.

By: \_\_\_\_\_  
Name: Michelle Webb  
Title: Director  
Date: 8/16, 2013

**Acknowledged and agreed:**

**NRJ TV PHILLY OPCO LLC**

By:   
Name: Robert Andrews  
Title: Sr VP  
Date: 8-15, 2013