

Must Carry Retransmission Agreement

This Must Carry Retransmission Agreement (the "Agreement") is made between Google Fiber Inc. on behalf of itself and its subsidiaries ("Google Fiber") having offices at 1600 Amphitheatre Parkway, Mountain View, California 94043 USA and KCSM/San Mateo County Community College District, having offices at the address set forth on the signature block below ("Licensee"). Licensee is the owner, manager or operator of the television stations listed on Exhibit A (the "Station").

1. Consent to Carriage. Pursuant to Section 325(b) of the Act, Licensee hereby grants to Google Fiber the non-exclusive right (but not the obligation) to receive, retransmit and distribute to Subscribers the Station's Signal (including any portion thereof), in an analog, SD and/or HD format, over each System on any video platform and, in addition, by any distribution technology(ies) or platform(s), and to promote the availability of the Station through the System(s) including using the Station's channel number, call letters and/or logo, and the names and logos of programming carried by the Station. Licensee and Google Fiber acknowledge that Licensee elected "must carry" with respect to the Stations for the Term hereof.
2. Manner of Carriage.
 - 2.1 Primary Signal. Except as set forth herein, Google Fiber will carry the primary Signal on any System located primarily within the Station's Market. Google Fiber will retransmit the primary Signal in the manner that a cable operator is required to retransmit television station signals under Section 76.56 and Section 76.62 of the FCC's rules. Carriage of the primary Signal will be in the same channel "neighborhood" as the primary Signal of other broadcast television stations carried on the Systems on a basic tier of digital service that is available to and viewable by all Subscribers.
 - 2.2 Quality of Signal. Other than as would be mandated by applicable FCC rules if Google Fiber were a cable operator or as otherwise set forth in this Agreement, Google Fiber will carry the Station's primary Signal without material degradation or interruption and in a manner that ensures its technical integrity and quality, provided that Google Fiber will not be required to retransmit a higher quality signal than the signal it receives from the Station. Google Fiber and the Station will use commercially reasonable efforts to permit Google to obtain a "good quality" signal (as defined by the FCC). In the event that Google Fiber does not receive a "good quality" signal, Google Fiber will have no obligation to retransmit the Station.
 - 2.3 HD. If Licensee has access to HD formatted version(s) of the programming stream(s) contained within the Station's Signal, Licensee will make commercially reasonable efforts to provide such HD versions to Google Fiber for retransmission. If Licensee provides both the HD and the SD version(s) of the programming stream, then Google Fiber is only required to distribute the HD version under the terms of this Agreement.
 - 2.4 EAS Messages. To the full extent permitted by the FCC rules and subject to applicable law and franchise regulations, the parties agree that Google Fiber will not force-tune, preempt, override, interrupt or alter any Station's Signal to transmit EAS messages, news, or weather related emergency information so long as Station complies with its obligations under the FCC's EAS rules.
 - 2.5 Test or Demonstration Sites. The parties agree that Google Fiber has the right to test or demonstrate the System in one or more locations primarily used for testing, monitoring, or public marketing of the System (each, a "Demo Site"), including retransmission of the Station's Signal; provided that each Demo Site is within a location owned, managed, or under the control of Google.
3. Copyright and Trademark. It will remain the obligation of Google Fiber to ensure, and Google Fiber warrants that it will ensure, that Google's retransmission of all copyrighted programs included in the Station's broadcast signal(s) is appropriately licensed for retransmission on the applicable System, as long as such clearances can be obtained under compulsory copyright license pursuant to 17 U.S.C. § 111 and at costs substantially similar to such costs as of the date hereof. Station will be solely responsible for obtaining all necessary rights for the exhibition of all materials included in Station's signal(s) on over-the-air broadcast television. Notwithstanding anything to the contrary contained in this Agreement, Google Fiber will have no obligation to retransmit any broadcast signal(s) of a Station in any geographical area if such retransmission would subject Google Fiber to any incremental increase in its compulsory copyright fee.
4. Confidentiality.
 - 4.1 Obligations. The recipient will not disclose the Confidential Information, except to affiliates, employees, agents or professional advisors who need to know it and who have agreed in writing (or in the case of professional advisors are otherwise bound) to keep it confidential. The recipient may also disclose Confidential Information when required by law after giving reasonable notice to the discloser if allowed by law.

- 4.2 Permitted Disclosure. Either party may disclose publicly and without the other's approval the following: (i) the fact that the parties have entered into the Agreement, but not the terms of the Agreement itself, and (ii) any public information or marketing material provided by Google Fiber.
5. Representations. Licensee and Google Fiber each represents that (i) it is duly organized, validly existing and in good standing under the laws of the State of its formation; (ii) it has the requisite power and authority to enter into this Agreement and to perform fully its obligations hereunder; (iii) it is under no contractual or other legal obligation which will in any way interfere with its full, prompt and complete performance hereunder; and (iv) it is and will remain in compliance with all federal, state, and local laws, rules and regulations to the extent applicable to its performance hereunder. Licensee represents that (i) the Signal, as delivered to or received by Google Fiber, complies with all applicable FCC rules; (ii) it has the right to use applicable Station trademarks, if any, and grants Google Fiber the right to use such trademarks in connection with marketing and promotion efforts; and (iii) Licensee has obtained all the necessary rights, licenses, consents, permissions or authorizations necessary for the broadcast of the material contained in the Signals and during the Term it will continue to maintain or obtain the same.
6. Disclaimer. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NONINFRINGEMENT.
7. Term and Termination.
- 7.1 Renewal. Following the Term, this Agreement will automatically renew for an additional term of the next election cycle. If a party does not want this Agreement to renew, then it must provide the other party written notice at least sixty (60) days prior to the end of the Initial Term. The notice of non renewal will be effective upon the conclusion of the then-current term.
- 7.2 Termination. Either party may suspend performance or terminate this Agreement if: (i) the other party is in material breach of the Agreement and fails to cure that breach within thirty days after receipt of written notice; (ii) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within ninety days; or (iii) the other party has been in material breach of this Agreement more than two times notwithstanding any cure of such breaches.
- 7.3 Effects of Termination. If this Agreement terminates, then: (i) the rights granted by one party to the other will cease immediately (except as set forth in this Section 7); and (ii) upon request, each party will promptly use commercially reasonable efforts to return or destroy all Confidential Information in its possession that belongs to the other party.
8. Limitation of Liability.
- 8.1 Limitation on Indirect Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE UNDER THIS AGREEMENT FOR LOST REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY.
- 8.2 Exceptions to Limitations. These limitations of liability apply to the fullest extent permitted by applicable law but do not apply to breach of confidentiality obligations or indemnification obligations.
9. Indemnification.
- 9.1 Mutual Indemnification. Each party agrees to indemnify, defend and hold harmless the other, its officers, directors, and employees from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of a third party claim based on a breach by the indemnifying party of a representation, warranty, or covenant contained in this Agreement.
- 9.2 General. The party seeking indemnification must promptly notify the other party of the claim in writing and cooperate with the other party in defending the claim. The indemnifying party has full control and authority over the defense, except that: (a) any settlement requiring the party seeking indemnification to admit liability or to pay any money will require that party's prior written consent, such consent not to be unreasonably withheld or delayed; and (b) the other party may join in the defense with its own counsel at its own expense. Notwithstanding the foregoing, if the indemnified party settles without the prior written consent of the indemnifying party, the indemnifying party has no obligation of contribution.

10. Additional/Acquired Systems & Stations

- 10.1 General Assignment. Except as otherwise specified in this Section 10, neither party may assign or transfer any part of this Agreement without the written consent of the other party, except to an Affiliate or to a purchaser of the applicable Stations or Systems that agrees in writing to be bound by the terms of this Agreement. Any other attempt to transfer or assign will be void and will not relieve the assignor of its obligations under this Agreement. If Licensee sells or otherwise disposes of its ownership interest in the Station to a third party (the "Station Transferee"), Licensee will require such Station Transferee to assume this Agreement and agree to abide by its terms for the remainder of the Term. In the event that either party assigns this Agreement, the assigning party will give written notice of such assignment within sixty (60) days following such assignment.
- 10.2 Acquired Systems. Any System acquired by Google Fiber following the Effective Date will be added to this Agreement on becoming technically integrated with Google Fiber's pre-existing System. Following technical integration, Google Fiber will provide Licensee with an updated System list (as defined on Exhibit A). In the event that an acquired system (or the entity which formerly owned or managed such acquired system prior to the acquisition by Google Fiber) is a party to an agreement with Licensee regarding the retransmission of the Signal of any Station, then until such time as the acquired system is technically integrated with Google Fiber's pre-existing System, Google Fiber will be required to assume such agreement with respect to such acquired system.
- 10.3 Acquired Stations. With respect to any station acquired by Licensee for the purpose of granting retransmission consent and not currently listed on Exhibit A, and such station is licensed to a community in the same Market as a Station, Licensee will provide Google Fiber with an updated Station list (as defined on Exhibit A).

11. Miscellaneous

- 11.1 Notices. All notices must be in writing and addressed to the other party's legal department and primary point of contact. Notice will be treated as given on receipt, as verified by written or automated receipt or by electronic log (as applicable).

If to Google Fiber:

Google Fiber Inc.
1600 Amphitheatre Parkway
Mountain View, CA 94043
(650) 253-0000
Attn: General Manager (googlefibernotices@google.com),
With a copy to Google Fiber Legal Department (legal-notices@google.com)

If to Licensee:

KCSM/Engineering]
1700 W Hillsdale Blvd
San Mateo, CA 94402
(650)524-6908
Attn: Michele Muller (michele_muller@kcsms.net)

- 11.2 Force Majeure. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control.
- 11.3 No Agency. This Agreement does not create any agency, partnership or joint venture between the parties.
- 11.4 No Waiver. Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under this Agreement.
- 11.5 Severability. If any term (or part of a term) of this Agreement is invalid, illegal or unenforceable, the rest of the Agreement will remain in effect.
- 11.6 No Third-Party Beneficiaries. This Agreement does not confer any benefits on any third party unless it expressly states that it does.
- 11.7 Equitable Relief. Nothing in this Agreement will limit either party's ability to seek equitable relief.
- 11.8 Amendments. Any amendment must be in writing, signed by both parties, and expressly state that it is amending this Agreement.

- 11.9 Survival. The following Sections will survive expiration or termination of this Agreement: 4 (Confidentiality), 5 (Representations), 6 (Disclaimer), 7.3 (Effects of Termination), 8 (Limitation of Liability), 9 (Indemnification), and 11 (Miscellaneous)
- 11.10 Entire Agreement. This Agreement sets out all terms agreed between the parties and supersedes all other agreements between the parties relating to its subject matter. In entering into this Agreement, the parties have relied solely on the express statements in this Agreement
- 11.11 Counterparts. The parties may execute this Agreement in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument.
- 11.12 Governing Law. This Agreement is governed by California law, excluding that state's choice of law rules. FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PARTIES CONSENT TO PERSONAL JURISDICTION IN, AND THE EXCLUSIVE VENUE OF, THE COURTS IN SANTA CLARA COUNTY, CALIFORNIA .

12. Definitions.

"Act" means the Communications Act of 1934, as amended.

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with a party.

"Confidential Information" means information disclosed by a party to the other party under this Agreement that is marked as confidential or would normally be considered confidential under the circumstances.

"EAS" means the Emergency Alert System.

"Effective Date" means the date last signed by a party below.

"FCC" means the Federal Communications Commission (or any successor) and "FCC Rules" means the rules and regulations of the FCC, as amended.

"HD" means broadcasting in high definition format.

"Market" means the Station's "market," as defined by Section 76.55(e) of the FCC Rules.

"Program Related Material" means the primary video and audio of the Signal of the station and any material necessary for the delivery or distribution of the Signal or otherwise required to be carried as program related material by the FCC with respect to "must carry" stations.

"SD" means broadcasting in standard definition format.

"Signal" means the digital broadcast signal of the applicable Station (including any required video and Program Related Material) originating from the Station's FCC-authorized digital channel or such other programming delivery means as the FCC may specifically authorize for the Station.

"Subscriber" means all customers (both residential and commercial) authorized by Google Fiber to receive television services through any portion of a System.

"System" means a multichannel video distribution system that (i) makes available "multiple channels of video programming" (as defined in Section 602 of the Communications Act of 1934, as amended, and FCC rules and policies) through traditional cable, MMDS, MDS, SMATV, DSL and/or internet protocol technology to residential and/or commercial locations via closed signal paths to the subscribers or (ii) qualifies as a "cable system" under 17 U.S.C. § 111(f). A System may be owned or operated by Google Fiber in the Station's Market, or in an area in which the Station is significantly viewed, whether or not such System exists as of the date hereof.

"Term" means the term of the Agreement, which will begin on the Effective Date and ending December 31, 2014 or the end of the last renewal pursuant to Section 7, unless terminated as set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement by persons duly authorized as of the Effective Date.

Google Fiber

By: _____

Name:

Title:

Date: _____

Licensee

By: Michele I. Muller

Name: Michele I Muller

Title: Director of Technology/TV Station Manager

Date: 11-07-2013

Exhibit A

The Station's covered by this Agreement are listed below and may be amended as per Section 10:

Station Call Sign	DMA	City of License
KCSM	San Francisco/Oakland/San Jose	San Mateo

Existing Systems subject to this Agreement are listed below and may be amended as per Section 10:

System Name	Headend Address	Franchise or Operating Area